

Date : 8/13/2013 8:25:22 AM
From : "Thompson, Robert"
To : "Reid, Ross"
Subject : Fw: Reading
Attachment : The Job of Clerk (2) (2).doc;

Ross.

Here is the document that I prepared for Julia's transition. It is written for the Clerk but has some useful process stuff that will be interesting for you. It is also my perspective, and of course Julia and you may wish to do things differently.

Robert

From: Thompson, Robert
Sent: Monday, August 5, 2013 10:26 PM
To: Mullaley, Julia
Cc: Thompson, Robert
Subject: Reading

Hi Julia,

I have documented a bunch of stuff related to the job of Clerk/Secretary. It contains some advice, tips, as well as a description of the way I carried out a number of functions. I hope you find this a good reference point for grabbing hold of the reins. Over time you will create your own approach.

The document is attached. I will send the appendices tomorrow.

Robert

-----Original Message-----

From: Mullaley, Julia
Sent: Mon 8/5/2013 6:40 PM
To: Thompson, Robert
Subject: Re: release

This is good from my perspective with exception that does not reference AES (says most recently served as DM of MA). Also, just wondering if appropriate to indicate recipient of the 2009 Public Service Awards of Excellence. Thanks for opportunity to review.

Julia
Julia Mullaley, C.A.
Deputy Minister
Department of Advanced Education and Skills

From: Thompson, Robert
Sent: Monday, August 05, 2013 04:33 PM Newfoundland Standard Time
To: Mullaley, Julia
Subject: FW: release

For your review.

From: Tulk, Jennifer L
Sent: Monday, August 05, 2013 4:16 PM
To: Thompson, Robert
Cc: Burt, Paula
Subject: release

Hi Robert - as discussed, can you please ask Julia to review.

Thanks,

Jenn

Draft

The Role of Clerk of the Executive Council and Secretary to Cabinet

August 5, 2013

Robert Thompson

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1. Mandate and Position Description

The job of Clerk of the Executive and Secretary to Cabinet is not established in legislation. The position has evolved over time to include the following major functions: 1) supporting the operations of Cabinet; 2) providing support and advice to the Premier (e.g., Deputy Minister to the Premier); and 3) providing leadership as head of the public service. Given that the duties have evolved over time rather than enshrined in a legal document, it can be expected that the roles will continue to evolve to meet the changing needs of the government.

Legislation

While the Clerk and Secretary roles are not established by law, there are a number of statutes that make reference to the Clerk of the Executive Council and impose obligations and duties on this position. There are no references to the Secretary to Cabinet in statute. The following list is not exhaustive of all references to the Clerk, but captures the ones that require the Clerk to take certain kinds of actions.

In section 5.(2) of the Executive Council Act, it states that, “As soon as practicable after the creation of a department under subsection (1), the Clerk of the Executive Council shall publish a notice in the Gazette containing the name of the department and the powers, duties and functions of the minister responsible for the department.”

In section 3 of the Tax Agreement Act, it states that, “The Comprehensive Integrated Tax Coordination Agreement between the Government of Canada and the Government of Newfoundland and Labrador, a copy of which is on file with the Clerk of the Executive Council, is ratified and confirmed.”

Section 6.3 of the Public Service Commission Act states that “A commissioner shall before entering upon his or her duties take and sign before the Clerk of the Executive Council the oath or affirmation set out in Schedule B, and that signed oath or affirmation shall be retained by the Clerk of the Executive Council as part of the records of the clerk's office.”

Section 4.2 of the Volunteer Service Medal Act appoints the Clerk as a member of the Selection Committee.

Section 12.1 of the Order of Newfoundland and Labrador Act appoints the Clerk as a member of the Order's Advisory Committee.

Section 19 of the Auditor General Act states that:

19. (1) Notwithstanding sections 17 and 18, the auditor general shall not be permitted to access records referred to in section 18 of the Access to Information and Protection of Privacy Act where the Clerk of the Executive Council or his or her delegate has certified that release of those records would involve the disclosure of

(a) the deliberations of the Executive Council or a committee of the Executive Council; or

(b) the proceedings of the Executive Council, or a committee of the Executive Council, relating to matters of a secret or confidential nature and would be injurious to the public interest.

(2) The delegate of the Clerk of the Executive Council referred to in subsection (1) shall be limited to the Deputy Clerk of the Executive Council and the Secretary of the Treasury Board.

Section 18 of the Access to Information and Protection of Privacy Act includes the following:

(3) The commissioner may review the refusal of a Cabinet record by the head of a public body under subsection (2) except where the decision relates to a Cabinet record which has been certified as an official Cabinet record by the Clerk of the Executive Council or his or her delegate.

(4) Where a question arises as to whether a Cabinet record is an official Cabinet record, the certificate of the Clerk of Executive Council or his or her delegate stating that the record is an official Cabinet record is conclusive of the question.

(5) The delegate of the Clerk of the Executive Council referred to in subsections (3) and (4) shall be limited to the Deputy Clerk of the Executive Council and the Secretary of the Treasury Board.

Section 7 of the House of Assembly Accountability, Integrity and Administration Act states that:

7. (1) Upon nomination by the House of Assembly, the Lieutenant-Governor in Council shall, by Commission under the Great Seal, appoint the following officers:

(a) the Clerk of the House of Assembly;

(b) the Clerk Assistant of the House of Assembly;

(c) the Law Clerk; and

(d) the Sergeant-at-Arms of the House of Assembly.

(2) Before a nomination is made under subsection (1), the speaker shall consult with the commission, the Clerk of the Executive Council and the chairperson of the Public Service Commission to determine an appropriate process for recruitment of suitable candidates for appointment.

Position Description

A position description for the Clerk of the Executive Council was developed in 1995 for the separate positions of Clerk and Secretary. At that time the positions were divided between two different people. This occurred for a short period under Premier Wells, but the position was re-united under Premier Tobin and has remained unchanged ever since. The position description has not been updated. It is attached as Appendix A.

Performance Contract

The Performance Contract for the Clerk is entered into with the Premier. It follows the same format as for all Deputy Ministers. The current contract is attached as Appendix B. The priorities are mainly focused on the work of Cabinet Secretariat and the Communications Branch. While the responsibilities and expectations of the Clerk will extend to government-wide initiatives, it has been difficult to capture these precisely in the contract without wandering into the territory of line Deputy Ministers or becoming very subjective.

The Executive Director of PIAO assists the Clerk in preparing the contract and completing the self-assessment. The self-assessment is sent to the Premier with a request for a meeting to discuss the results. Sometimes the Premier asks for input from the Chief of Staff before finalizing the assessment.

2. Secretary to Cabinet

Role of Cabinet Secretariat

The role of Cabinet Secretariat is to support the decision-making process of Cabinet and its committees by providing administrative, analytical and coordinating activities. The Cabinet Secretariat also houses several functions that address general planning and coordination functions. The units of Cabinet Secretariat and their main functions are as follows:

- Core Cabinet Secretariat support – analyzing Cabinet submissions from Departments, preparing analytical summaries and recommendations for committees, preparing the Cabinet agenda and committee agendas for circulation to Ministers (including preparing and circulating the electronic Cabinet books), recording the minutes of Cabinet meetings, distributing minutes to Ministers, preparing Orders in Council as necessary, liaising with the Office of the Lieutenant Governor for execution of Orders, and maintaining control over the records associated with the Cabinet process;
- Policy, Innovation and Accountability Office – administering and supporting the planning and accountability functions under the Transparency and Accountability Act including departmental planning, performance contracts and annual reports; supporting the Clerk in the administration and review of Deputy Minister performance contracts and monitoring

the implementation of performance management down to the Director level throughout government; administering the requirements of the government-wide Evaluation Policy; and administering the regulatory reform initiative. This Office also supports the PolicyNL initiative to enhance policy capacity across government, monitors achievement of commitments as requested, supports the Clerk in preparing for F/P/T Clerks meetings, and other related duties.

- Protocol Office – provides support to the Premier’s Office and to various departments in the hosting of dignitaries and diplomats on official visits, and providing advice and planning assistance for events that require the observation of protocol rules and procedures.
- Government House – for administrative purposes the Private Secretary, management and staff of Government House report through the Clerk. However, the activities of Government House in support of the Lieutenant Governor are overseen by the Lieutenant Governor.

Support for Cabinet Meetings and Operations

The Clerk has a general accountability for ensuring that the Premier and Ministers are well prepared to discuss and decide on the issues on the Cabinet agenda. Good preparation and good process generally allow for good decisions that are well-considered and based on a true consensus. If the Clerk can anticipate flaws or omissions in the progress of an issue towards the Cabinet table, efforts should be made to trouble-shoot the matter, coordinate meetings, clarify misunderstanding, supply additional analysis, or otherwise lay the ground for productive deliberation. Sometimes it is not possible to resolve disputes or misunderstandings among Ministers, so it is the Clerk’s job to ensure the Premier is prepared with an understanding of these circumstances and a possible solution. The Clerk may wish to engage the Chief of Staff periodically if the issue is politically sensitive, though the Clerk has full authority to consult directly with any Minister to aid the smooth conduct of Cabinet processes.

Cabinet meetings typically occur on a weekly basis outside the summer months. Preparation for the Cabinet meeting begins when a Cabinet submission arrives from a department. It is the responsibility of the Deputy Clerk to route the submission to one of the standing Cabinet Committees. Generally papers dealing with policy are routed to the Social or Economic policy committees, papers of a financial, administrative or human resource nature are routed to Treasury Board and papers of a routine or appointments nature are routed to the Routine Committee of Cabinet. There has been a trend in recent years that more papers have been routed to policy committees that previously were deemed to be operational and sent to Treasury Board. The Clerk may wish to review the criteria from time to time to ensure the proper balance is being observed.

Once the submissions are in the hands of one of the Assistant Secretaries, they are usually assigned to Cabinet Officers for analysis. There is a standard approach to analysis that involves consultation with central agencies and several departments. A guideline is being developed for Cabinet officers to

standardize and ensure the quality of these analyses. The implementation of this guideline is a good idea for a new Clerk.

The Clerk is not normally involved at the analysis stage and does not normally review draft analyses before circulation. This may vary, however, depending on the issue. If a major issue of importance to the Premier is being addressed in a submission, the Clerk may ask to see the analysis before it goes to committee so that it properly deals with the aspects of importance to the Premier.

It is at the analysis stage that Cabinet Secretariat performs its most valuable function in ensuring that a submission is ready for decision and sorting out any cross-departmental conflicts that have not been addressed by the originating Department.

The Assistant Secretaries are responsible for setting the agendas of Cabinet Committees, briefing the Chairs in advance of committee meetings, circulating the completed analyses, and recording the decisions of the committees. It is important that the Assistant Secretaries keep the momentum of committee meetings at a good pace to ensure that submissions are forwarded for Cabinet consideration on a timely basis.

The rule, though often unobserved, is that a submission addressed at committee in one week will appear on the Cabinet agenda in the following week. This is a good rule and should be enforced more diligently. However, in order to accelerate the business of government there has been a tendency to allow papers at Committee to proceed to Cabinet in the same week.

On each Friday at the senior staff meeting, the Assistant Secretaries brief the senior staff about the content of upcoming papers on the Cabinet agenda. If the paper has not yet been to committee the briefing focuses mainly on observations from the Cabinet Officer analysis. This meeting provides an opportunity to discuss looming difficulties with certain submissions and sometimes results in new questions to be posed to departments before the committee or Cabinet meeting occurs.

The Friday briefing also serves as a “dry run” for the pre-Cabinet briefing for the Premier which usually happens on the day before the Cabinet meeting. The agenda, submissions and analytical notes are provided to the Premier, Chief of Staff, and Director of Communications up to several days prior to the briefing. This is usually the first time the Premier and staff will have seen the materials or engaged in discussion on most issues on the agenda. The pre-Cabinet briefing is normally conducted at a highly summarized level, where the Assistant Secretaries (and the ADM Finance) review the decisions being sought in the submissions, the views of the committee, and any difficulties encountered at the committee meeting. The Clerk usually acts as moderator of the pre-Cabinet briefing, signaling the pace of the summaries or highlighting follow-up actions, and telling the Premier about late breaking issues that need to be considered as part of the open-ended agenda item called “Premier’s Update”. The Premier sometimes offers her perspective on the submissions during the meeting, and this information sometimes needs to be passed onto Ministers prior to the Cabinet meeting, or may require fact-checking back to the department.

During the Cabinet meeting, the Clerk and the Deputy Clerk sit in the room at all times except for political discussion for which the Premier explicitly asks officials to leave the room. The Clerk and Deputy Clerk are sometimes asked to speak to points on the agenda, though this happens infrequently. Both the Clerk and the Deputy Clerk take notes on the decisions reached in the meeting. It is a good practice, where the decision is not absolutely clear, for the Clerk to interrupt the Premier to ask for a clarification. The opportunity to seek clarification after a meeting is often unsatisfactory, and the benefit of making the interruption in the room is that extra debate can occur if it is required.

After the Cabinet meeting the Deputy Clerk normally notifies Deputy Ministers of the specific outcomes related to their departments and also briefs the Assistant Secretaries and Cabinet officers. On Friday morning the Deputy Clerk provides a comprehensive review of decisions to the weekly meeting of all Deputy Ministers, and the Clerk will usually make general observations about issues that arose in the meeting that may have an impact on all DMs. It is a good practice to tell DMs about shifts in general approach of the Cabinet that may be articulated during Cabinet meetings, on such matters as policy, issues management, decision making processes, and the conduct of Cabinet meetings. While many ministers may pass on key messages to their DMs, these messages are not passed on universally and are often interpreted in different ways.

The Deputy Clerk is responsible for preparing the draft minutes of the Cabinet meeting for review by the Clerk. Sometimes there will be variances of interpretation of decisions that will need to be resolved in discussion for the final draft. The minutes and orders are then signed by the Clerk. The Deputy Clerk oversees the final distribution as well as liaison with Government House.

Records management is a crucial function in Cabinet Secretariat and must be conducted with the highest of professionalism. In addition to functional storage and retrieval systems for a variety of functions, Cabinet Secretariat is responsible for the records of Cabinet Ministers and the Premier when they leave office. The Clerk is the ultimate authority in ensuring a high standard of records management for Cabinet records across government.

3. Deputy Minister to the Premier

Advising and Supporting the Premier

The Clerk advises and supports the Premier in respect of the day to day, and longer term, conduct of government business. This role is distinguishable from the Chief of Staff in that the Chief provides day to day and longer term advice to the Premier, management of the Premiers Office, and liaison with the caucus, the party and with Ministers, in respect of political management of the government. However there are many intersection points between the Clerk and the Chief of Staff (see below).

The Clerk is expected to proactively raise issues with the Premier, provide advice and seek direction. The Clerk must have a clear understanding of the priorities of the Premier for the running of the

government and the functioning of government departments and agencies. The Premier will expect the Premier to be well-briefed on the agenda of the government and the status of all priority issues. Sometimes the Premier will ask the Clerk to carry out specific tasks to implement or coordinate the agenda of government business, and on other occasions the Premier may discuss and debate issues with the Clerk but communicate directly with Ministers on how the action should proceed.

It is essential for the proper coordination of government business that the Clerk has regular meetings with the Premier in addition to access to the Premier on short notice. Sometimes it may be necessary to have daily meetings if the flow of issues is high, but often 2-4 meetings a week will suffice. When ad hoc issues arise it may be necessary to request a meeting with the Premier immediately or within a few hours, and the Premier's assistant will facilitate such a meeting. Depending on the preferences of the Premier, the use of email, text and BBM are efficient means of communication, especially when the purpose is to ensure the Premier is aware of a piece of information. It can also be very effective in getting approval or direction on a straightforward issue. Loss of this type of access, or any tilting of the relationship such that it is mediated by the Chief of Staff, is detrimental to the role of Clerk and severely diminishes productivity.

Ideally each meeting with the Premier will have an agenda and the Clerk will note the directions and decisions being sought. Often, the preparation of an agenda will not be possible and the Clerk will bring a list of issues to discuss. The directions and decisions do not have to be maintained in a formal record on file, though this is a matter of style for the Clerk to decide. The key point is that clear communication of the directions occurs from the Clerk to others after the meeting occurs.

Relationship with Chief of Staff and Premier's Office

The relationship with the Chief of Staff must be frequent and based on a high degree of teamwork and trust. While the roles are different, the issues on which the Clerk is advising the Premier are often the same ones occupying the attention of the Chief. The Clerk may bring forward advice primarily informed by officials, and the Chief will often have advice informed by confidential discussions with Ministers. The Chief should always be invited to the meetings the Clerk has with the Premier in order to sustain the benefit of the three way relationship, but sometimes it may be necessary to meet with the Premier alone if the Chief is unavailable. Sometimes it is advisable to discuss issues with the Chief prior to raising them with the Premier, mainly for ensuring awareness of each other's perspectives and preventing surprises, though there is no requirement to agree on a common recommendation before raising the items with the Premier.

Best practice suggests that any issue on which the Chief of Staff meets with officials of the government, where the subject matter addresses government business, the Clerk or a representative of Cabinet Secretariat should be present. The reason for this procedure is to ensure good coordination and follow through. If Cabinet Secretariat is not aware of communication between Departments and the Chief of Staff there is no ability of Cabinet Secretariat to ensure that appropriate actions are being completed by the line Department.

The Briefing Note System

The Briefing Note system in government was reviewed in 2008 and a new policy was adopted at that time. This policy is very effective and should be reviewed and updated from time to time. The policy has resulted in a high degree of uniformity of information notes and decision notes from line departments to Cabinet Secretariat and the Premier's Office. All decision and information notes that go to the Premier are routed through Cabinet Secretariat. Any lapse in this policy will harm the coordinating role of Cabinet Secretariat on government business.

Cabinet officers review each note, before they are circulated to the Premier's Office and other Cabinet Secretariat officials, in order to ensure coherence and to add information if necessary.

Decision Notes from Ministers comprise a substantial part of each agenda between the Clerk and the Premier. The Premier expects that the Clerk will raise all decision notes for discussion and seek direction. Sometimes, though rarely, the Premier will act on a decision note prior to meeting with the Clerk. If so, it is important that the Clerk obtain the direction that the Premier has provided so that coordination of follow-through can be undertaken.

Information notes are not usually raised in discussion with the Premier given the pressure of time, unless there is a particularly noteworthy issue that the Clerk deems worthy of raising.

Decision notes can address anything from simple to complex issues. Very complex issues should not actually be contained in decision notes and the Clerk should use discretion to ask the Deputy Minister to withdraw such a decision note and revise it into a Cabinet paper.

Given the volume of information that inundates the Premier, the Clerk should be prepared to provide a highly summarized explanation of each decision note and seek specific direction. If the Premier believes there are matters that need to be discussed directly with the relevant Minister, then the Clerk will ask the Premier's Assistant to arrange a meeting.

Communicating Instructions of the Premier

Instructions of the Premier, whether from decision notes or other issues, are communicated by telephone or email from the Clerk to the Deputy Minister. Sometimes the Deputy Clerk is asked to pass along these instructions. At the present time this system of instruction is relatively informal and the instructions are not usually captured as part of the formal records management system. The Clerk may wish to review this approach to determine if it remains effective or whether a more formal approach is required. The key benefits of the current approach are that it is very efficient and flexible for handling both sensitive and non-sensitive issues.

Relationship with Ministers

While most communication with Departments is held with DMs or ADMs, the Clerk is free to communicate with Ministers on any aspect of government business and may be asked by the Premier to

relay specific messages to Ministers. The Clerk needs to be careful, of course, that the Chief of Staff is kept generally aware of communication with Ministers on key issues.

On a more formal basis, there are several other forms of interaction with Ministers. The first is at swearing-in ceremonies when Ministers are first appointed to Cabinet or when they take on a new portfolio. The Clerk is the moderator of swearing-in ceremonies at Government House, following a standard protocol that is supported by the Deputy Clerk and the Director of Protocol. Part of the preparation for swearing-in ceremonies is for the Clerk to brief the ministers-designate on how the ceremony will be conducted. This briefing usually occurs 30 minutes prior to the ceremony. Just prior to this briefing the Clerk will meet privately with the Lieutenant Governor to present the appointment orders-in-council for review and signing.

After a swearing-in ceremony, the Clerk should quickly arrange a briefing for each new Minister, separately, to review how the Cabinet system works, the relationship between central agencies and departments, and the role of the Clerk in assisting the Premier with coordination of government business. A standard package of materials has been prepared for these meetings to be left behind with Ministers. This briefing normally happens in the Minister's office in their new department. Depending on the wish of the Minister, the new Executive Assistant could also attend this briefing as well because the information will be useful for both.

The Clerk will also meet with Ministers to review DM performance contracts. This meeting is strictly private and no political staff or departmental officials should participate. (Note: when the Clerk meets with a Minister, at the request of the Clerk, especially on a topic arising from direction by the Premier, the Clerk is free to dictate who, if any, officials or political staff will attend the meeting.)

Meetings between Ministers and the Premier

Normally, on matters of government business, when a Minister requests a meeting with the Premier, the Clerk, the Deputy Clerk or an Assistant Secretary should attend the meeting as well, and record the outcomes as a basis for follow-through and coordination. Sometimes Ministers may need private discussions with the Premier, though it is not uncommon that government business will be discussed in such meetings as well. It is important for the Clerk to ascertain the direction or preference of the Premier on government business arising from these meeting, though sometimes it is difficult to obtain this information. The Clerk should try and establish a norm with the Premier, the Chief and the Premier's Assistant that a Cabinet Secretariat official will always be called for such meetings, or else the practice will quickly fall into disuse. Indeed, the practice should be established that once a meeting is set on the Premier's agenda that the Clerk's attendance, or that of a designate, will be automatically requested. The Premier should be made aware that this function assists the agenda of the Premier and the support that Cabinet Secretariat can provide. It is not best practice for the Premier to expect the Chief of Staff to record outcomes and relay them to the Clerk. The Chief is usually not expecting to have to carry out this function, and it mixes government coordination with management of the Premier's Office.

Meetings between the Premier and External Groups

In general, the procedure for meetings with Ministers is also useful when the Premier meets with outside groups or individuals. Having the Clerk or a designate present, when the subject matter is government business, is a useful way to record outcomes, communicate them to line departments as necessary, and coordinate activities afterwards. The Clerk must be aware of course that the Premier will often meet with outside groups on excursions outside headquarters, and frequently government business will be discussed. There is no perfect system for recording the outcomes of these meeting, so the Clerk should try and debrief the Premier, Chief or other staff who may have attended these meetings to ascertain what outcomes are relevant.

Appointment of Deputy Ministers, Assistant Deputy Ministers and Executive Directors

The advisory role to the Premier regarding senior appointments is one of the most important functions of the Clerk. The formal authority to appoint officials is part of the Premier's prerogative power and is executed by Order-in-Council. The positions covered by this power have customarily been all Deputy Ministers, Assistant Deputy Ministers and Executive Directors. (Note: Appointments of heads of agencies and officers of the House of Assembly are governed by legislation, and the role of the Clerk may vary from position to position depending on past practice and the Premier's view on how much control should be exercised over the process.) Collectively these positions are the "executive team" of government. The Premier expects that the Clerk will operate a system of executive development, performance assessment and recruitment that will produce timely and suitable candidates for consideration when the need arises. The Clerk's role in this process is critical to reinforcing the relationship between the Clerk and all executives across government.

While circumstances may vary, the normal procedure for appointment starts when it is clear a vacancy will soon occur. Internal options are assessed first. The Assistant Deputy Clerk (ADC) assists the Clerk in maintaining records on all executive positions and all executive personnel. Sometimes the ADC will prepare a list of options for discussion, drawing on experience from previous competitions, discussions with the Clerk, or discussions with Deputy Ministers. Alternatively, the Clerk may assemble options for consideration privately, particularly if there are sensitivities associated with the appointment. If there is a single candidate that emerges as the best option based on file review, the Clerk will normally call the relevant Minister or Deputy Minister in the candidate's current department to obtain insight on recent performance. In addition to gathering performance information, these calls also alert the Minister and DM that an executive may soon be taken from their team. The Clerk may also discuss the experience of the Deputy Clerk or the Assistant Secretaries in dealing with the candidate. Often an interview is not needed if there is a high degree of familiarity with a candidate. However, if the assignment is likely to be a promotion opportunity, or if the Clerk is not thoroughly acquainted with the candidate, or if there are two or more good options for a position, interviews may be conducted. Given that this is an internal unadvertised process, and the number of candidates is small, the interviews would normally be conducted by the Clerk, the Chief of Staff (or the Deputy Chief), and either the ADM of the Human

Resources Secretariat or the ADC. Questions are prepared according to normal interview protocol, but generally the interview is informal and wide-ranging in scope. The purpose is to engage the candidates in discussion and determine if they are ready for a new challenge.

Internal appointments are the norm because quite often there are multiple experienced candidates for executive promotion, and the institutional knowledge and acculturation necessary to operate effectively makes external appointments somewhat riskier. However, external appointments can also be valuable when the list of internal candidates does not contain an obvious choice, when there is a highly desirable external candidate known (or recommended to) to the Clerk, or when a department needs an injection of fresh ideas. When there is a decision to pursue an external competition, the Premier's Office is advised of the rationale and the steps in the process. The external competition process is normally handled by the ADM responsible for staffing in the Human Resource Secretariat, in consultation with the ADC. These two officials also screen the applicants and conduct first round interviews with a "long list" of the best applicants. The Clerk and the Chief, or Deputy Chief, will conduct the short list interviews. If the vacant position is below the DM level, the DM will participate in both sets of interviews. After the short list interviews, the Clerk will ask each of the interview team for their views on the candidates, however a recommendation is not formulated by the team. The ultimate recommendation to the Premier will be from the Clerk.

Whether the process is internal or external, the Clerk will meet with the Premier, briefly review the process and considerations in reaching a recommendation, and then seek approval for the selection. The meeting will give the opportunity for the Chief of Staff to add comments. Normally the Premier concurs, though periodically there may be additional questions that arise during the meeting that require reconsideration or more data gathering.

The role of the Minister varies in each instance. The norm is that prior to advising a candidate of their selection, the Minister is advised of the Premier's decision and asked whether there are any issues or concerns with the course of action. If there are none, the Clerk makes a call to the candidate (or invites them to a meeting) and makes a job offer. Sometimes it is necessary to involve a Minister at an earlier stage, especially if the position is critical and if the Minister has a preference or option that can be included in the Clerk's early consideration. Sometimes Ministers will call to inform the Clerk of their preferences. Ultimately, however, the process is built around the Clerk's recommendation and the Premier's decision.

If the candidate is being promoted from non-executive ranks or is an external candidate, the job offer is truly an offer, and the candidate may need to ask many questions in order to understand the pros and cons of accepting the offer. While the job offer and key terms are extended by the Clerk, questions about compensation and related details are normally handled by the ADC. If there is a negotiation, it can be handled either by the Clerk or the ADC, depending on the circumstances. The ADC will review negotiating positions with the Clerk. Although most aspects of compensation and work conditions are covered by the Executive Compensation Policy or other H.R. policies, the Clerk has discretion to vary these elements within reason, ensuring there is good logic to break with past practice. The discretion is

not unlimited and is usually confined to upscaling, moving expenses, amount of paid leave, and similar matters. If a candidate asks for extraordinary consideration and the Clerk wishes to entertain the negotiation to ensure the candidate accepts the job, another conversation with the Premier may be necessary. Such conversations are rare.

If the candidate is being appointed from one executive position to another, whether promotion or lateral, the job offer is accompanied with an expectation that it will be accepted without delay. Sometimes the job offers are conveyed as instructions: “we (or the Premier) is moving you to the DM of xxx.” More often the job offer is conveyed as an expectation: “we would like you to take on the ADM of xxx.” In these circumstances, if an executive refuses the new assignment, such refusal is tantamount to resignation unless there are significant extenuating circumstances. If the job requires a large imposition on the individual, such as a move to a new community, the job offer will normally be genuine, giving the executive the option to refuse the position. Regarding compensation, normal rules will apply to all moves within the executive ranks.

Relationship with Deputy Ministers

General

The Clerk is one of the three most important relationships that a DM must maintain; the other two being with the Minister and the Premier. While the Clerk does not usually have a daily exchange with a DM, there is an ongoing relationship that takes into account performance management and information flow to coordinate the business of government. The Clerk may relay instructions of the Premier, provide directions to improve coordination, provide directions to facilitate the processing of an issue through Cabinet or through the Premier’s Office, or seek information on current issues. DMs will call or contact the Clerk from time to time to seek advice or similar matters, or to provide early warning about emerging issues. The Clerk tries to stay outside of Departmental operations and issues management, leaving that space entirely to the DM and the Minister unless it intersects with an area of priority for the Premier or a government-wide issue.

Learning and Development

Every DM is expected to have a learning plan. Learning is a behaviour that should be modeled by all DMs and promoted actively within their departments. The Clerk should also have an active learning plan. In 2013 the ADC started a new series of learning forums for ADMs and DMs. This curriculum was welcomed by these groups and will become a permanent feature of orienting new executives. For the last two years there has also been a mentoring system where every new DM or ADM is matched with a more experienced peer to provide an opportunity for dialogue and learning. These relationships must continue for at least 6 months. The mentoring program appears to be valuable to new executives and should be continued.

Weekly Meetings

The Clerk meets with the Deputy Minister group every Friday morning, except during the summer. This meeting has a standard agenda: update by the Deputy Clerk regarding the last Cabinet meeting, plus updates from other central DMs – Finance, HRS, IGA and the Associate Secretary for Communications. The meeting also provides the Clerk an opportunity to raise issues common to all DMs, especially expectations of the Premier, Cabinet or observations from Cabinet Secretariat to improve coordination. Any DM can raise issues at this meeting, preferably if the topics are of interest to multiple DMs. Special presentations are also regularly provided at the meetings either on government-wide initiatives, or on topics of major importance on the government agenda. These meetings are excellent networking and communication opportunities, in addition to building a team atmosphere among DMs.

Deputy Minister of Finance

With the possible exception of the DM of HRS, the most important relationship is between the Clerk and the DM of Finance. This relationship needs to feed information back and forth regularly, at least weekly, and it must not be compromised by any filters or misunderstanding. The DM of Finance must understand that the Clerk is keeping the Premier apprised of the financial health of government, and so must be aware of every late-breaking issue that has a material impact, or may have such an impact. The Minister of Finance of course will contact the Premier's Office directly from time to time, but this must not replace the solid communication channel between the Clerk and the DM.

This relationship becomes especially important when preparing the budget. While the budget is clearly the responsibility of the DM and Minister of Finance, the DM and the Clerk should meet and discuss process, assumptions, strategic issues, and fit with long term goals. The Clerk can make the DM aware of any relevant views of the Premier so these can be calibrated into the budget process. The Clerk does not provide direction to the DM as part of this process unless the direction comes from the Premier.

Organizational Resources Committee

The ORC was established as a vehicle to coordinate activity between the Department of Finance, HRS, OCIO and Cabinet Secretariat. Although these areas of responsibility are coordinated at the decision-making level – Cabinet and Treasury Board – the ongoing dialogue between the Permanent Heads of these departments before and after discrete decisions was not as fulsome as necessary for good management of the organization. This committee meets every two weeks and is chaired by the Clerk. It is not the purpose of the committee to make decisions that are the domain of Ministers or the domain of individual DMs. Rather, it is designed to ensure that decisions in each area benefit from the dialogue at the Committee. The dialogue will also help identify new areas of coordination where gaps currently exist.

Collective Bargaining

Collective Bargaining is carried out by the DM of HRS in consultation with the Minister of HRS/Finance. Strategy for collective bargaining is also regularly discussed with the Clerk and the Chief of Staff, and for

major decisions the Premier is consulted. As bargaining becomes intense, regular meetings are held of the Clerk, Chief, DM HRS and Associate Secretary for Communications.

Major Natural Resource Projects and Nalcor

Although the Clerk has no specific line responsibility for major natural resource projects or Nalcor, these projects and Nalcor's involvement in these projects are central to the success of the government and the province's economy. Therefore the Clerk is expected to maintain a high degree of familiarity with these files, enter into routine dialogue with the DM of NR, and periodically meet with the DM and the CEO of Nalcor to review forthcoming activities (especially to ensure the Premier is briefed on key milestones, that project decisions fit into the Cabinet schedule, and to trouble-shoot interdepartmental difficulties. In particular, there is an ongoing interdepartmental DMs committee on the Lower Churchill Project that has proven to be an excellent way to coordinate activities on this critical file, and to ensure every department is aware of the priorities of the Premier.

Operation of the Office of Executive Council

The Office of the Executive Council is an unwieldy organization that does not operate as a distinct department, even though it is presented that way in budget estimates. Executive Council consists of several units that report to the Clerk (Cabinet Secretariat, Communications, Protocol and Government House staff), plus units that are headed by DMs (or ADMs) reporting to Ministers (IGAA, OCIO, HRS, OPE, WPO, and OCCEET). It is not necessary for all these functions to belong to Executive Council. New departments could be created for some or all, without incurring any substantive costs. However, traditionally IGAA and HRS were located in Executive Council, and the others were moved in to establish them as central agencies that would attract a degree of stature and significance befitting of the priority when they were created.

Role of Cabinet Secretariat

General

The role of Cabinet Secretariat in carrying out the Clerk's role as Deputy Minister to the Premier is mainly to operate the briefing note system, and to troubleshoot coordination issues as requested from time to time. Certain issues and priorities may require the presence of a Cabinet Officer on an interdepartmental committee, or simply to monitor and report on an issue. These mechanisms offer Cabinet Secretariat the ability to brief the Premier as necessary, with an independent perspective from the Department.

Rotation of Personnel

Cabinet officers are usually senior analysts, managers or directors from line departments, rotated into Cabinet Secretariat for a 6 month to 2 year stint, to benefit from the learning opportunity in a central agency, and to allow them to be evaluated for their promotion potential in the future. Cabinet officers can be selected from a competition, or identified based on conversations with DMs and ADMs.

Generally before they come to Cabinet Secretariat they are regarded as people with promotion potential. The Deputy Clerk and the ADC manage the rotation system and check with the Clerk on decisions periodically.

Role of Communications Branch

The Communications Branch is headed by the Associate Secretary to Cabinet and provides central agency communications coordination across government. The Branch works closely with the Premier's Director of Communications to ensure coordination and alignment of messaging and communications events. As well, the Branch oversees the communications planning calendar, the media centre, the web site, news release distribution, brand development and media production. The Associate Secretary is responsible for placement of communications directors in all departments. The Communications Branch reviews the communications plan in every Cabinet submission and provides comments that are part of the Secretariat analysis that is distributed to ministers.

Current issues facing the Communications Branch are: a social media policy currently in front of Treasury Board; a reorganization currently in front of Treasury Board, and the full implementation of the Fleishman Hillard report.

The Clerk does not take a daily role in the operation of the Communications Branch, but does expect the Branch to send news alerts on breaking issues, to support the Clerk's role in communicating with the public service, and to participate in discussions on strategic issues. For example, the Associate Secretary is included in the pre-Cabinet briefings as well as in all budget meetings that the Premier has with Departments.

Intergovernmental Affairs

The current plan is that IGAA will be restructured late summer or early fall, 2013), resulting in the IGA component reporting to the Clerk through the ADM of IGA. The Clerk will then effectively be the DM of IGA, similar to New Brunswick. The Aboriginal Affairs component will be reunited with Labrador Affairs and form a new entity headed by a DM. The Clerk will need to develop a plan for how the IGA activities will be integrated into the normal work schedule. This will undoubtedly place a larger burden than at present on the ADM of IGA.

Notwithstanding the above, the involvement of the Clerk in IGA matters can be characterized as follows.

COF and CAP Meetings

The Clerk attends COF and CAP meetings at the request of the Premier (which has been every meeting in recent years). These meetings often present opportunities to network with other Clerks and can be quite useful from that perspective. The preparation for the meetings is directed by the DM of IGA and the Clerk normally aids the Premier by raising questions, observations and options during strategic discussions of the agenda.

F/P/T Clerks Meetings

The federal Clerk invites all Clerk's to Ottawa once a year for meetings, and also convenes a conference call once a year, that normally include exchanges of views on human resource, management and leadership issues, or briefings by the federal governments on such issues as cyber-security or pandemic preparedness. The regularity of these meetings may vary as the federal Clerk changes.

Provincial clerks also schedule an annual meeting in association with the summer COF meeting. This meeting has a similar agenda as the meeting with the federal Clerk, though the discussions and comparisons are even more useful as they allow for useful and relevant comparisons of issues, organizations, processes and financial issues. The Clerks are also a useful network throughout the year for advice and information.

Strategic Planning

Cabinet Secretariat prepares a three-year strategic plan under the Transparency and Accountability Act. The PIAO takes responsibility for coordinating the plan, consulting throughout the organization, and preparing the final product. The approval of the Premier is sought for this plan, with substantial involvement of the Chief of Staff.

4. Head of the Public Service

The role of the Clerk as head of the public service has evolved considerably in recent years. At its core is the duty to ensure that the public service is ready and capable of delivering the agenda of the government. Therefore, it requires a leadership and communications focus, but more critically it requires oversight of the human resource development function in government. As the Human Resources Secretariat is partly mandated to deliver learning and development programs, much of the human resource development component of the Clerk's role is institutionally captured by the DM of HRS.

Readiness of the Public Service to Implement the Agenda of the Government

The Premier and Cabinet expect the public service to implement the agenda of government in a faithful, honest, respectful and skillful manner. Apart from entirely new functions that may require the establishment of new agencies and skill sets, the public service needs to have the values and the competencies to deliver high quality public services across every domain, continuously, without interruption.

Maintenance of good public service values is essential. The Clerk can model these values, speak about values at every speaking opportunity, communicate about values through other channels, and enlist DMs to model and communicate values. Reinforcement of public service values is the foundation on

which many of the other traditional public service behaviours are built, such as non-partisanship, fairness, and teamwork across government. Maintenance of values should be a high priority of the Clerk.

Maintaining competencies is a key function of the HRS. The Clerk can monitor the activity on this front as part of the agenda of the DMs committee on Human Resources. See more below.

Leadership and Communication

Although Clerks remain in the background when it comes to the public communication of government's agenda, it is necessary to actively communicate to the public service about the direction, health and priorities of the public service. Communication opportunities arise in regard to the Public Service Award of Excellence, Public Service Week activities, Christmas messages, and sometimes in regard to key developments in government (e.g., restraint measures, layoffs. Etc.) Consistency of communication will help develop a clear understanding of the key values and priorities among public servants.

Relationship with Human Resources Secretariat

In addition to direct meetings with the DM of HRS, the best channel for dialogue with the HRS is through the DMs Committee on Human Resources. This committee is chaired by the Clerk but it is actually owned by the DM of HRS. The agenda comes from HRS and the meeting is usually attended by all the HRS executive. It also includes 4-5 other DMs. The meetings are held every 2-4 weeks and allow HRS to generate dialogue on HRS plans, obtain input on difficult issues, etc. The Clerk also has the opportunity to provide guidance as head of the public service on how the readiness of the public service is best achieved.

Deputy Minister's Performance Contracts

The performance contract system is well established. Though not currently connected with a bonus component, the requirement to prepare contracts and have them evaluated by the Clerk and the Minister remains. The Clerk normally drives this system given the need for consistency across government. There are 2 meetings a year between the Clerk and each DM. The system allows for structured conversations that, experience has shown, are seen as valuable by both the Clerk and the DMs.

Performance Management in the Public Service

In 2013-14 there is an expectation to drive performance management in every department down to the Director level. Though Cabinet Secretariat will not coordinate this system, it will monitor its achievement and create expectations for every DM to ensure it is done.

Cabinet has also asked for options for a performance management system down to the front line. A report is currently being prepared by HRS for consideration.

Public Service Award of Excellence

This award program is well-established and is the highest honour that can be received by a public servant. It should remain a priority for the Clerk. Proposals may come forward this year to create additional recognition awards, possibly within the same program, for innovation and policy excellence. The award selection committee and DMs should be consulted on these proposals. The selection committee has a direct relationship with the Clerk, and the Clerk recommends new members to the Premier. The program is supported through the combined efforts of the Protocol Office, Communications Branch and Cabinet Secretariat.

5. Miscellaneous

Transition Planning

The Clerk is responsible for preparing a transition plan prior to each election in the event there is a change of government. There is a well-established framework for the Transition briefing books that addresses the basic constitutional framework, how a government is formed, how decisions are made, and how the government is structured. Each DM is also responsible for preparing for a possible change in Ministers, so the Clerk should ensure good coordination and somewhat similar formats. The start of transition planning should be no later than the issuance of the election writ.

During an election there is a special relationship with the Premier's Office. Firstly, there is a general expectation that there will be no major expenditure decisions made by the Cabinet or individual Ministers during an election. The Clerk needs to provide oversight on this matter. Second, the senior official in the Premier's Office and the Clerk need to consult daily on issues management to provide oversight on public services and, if necessary, to discuss issues and get direction from the Premier.

Order of Newfoundland and Labrador

The Order of NL is a program administered by the Cabinet Secretariat and the Clerk sits on the selection committee. The Deputy Clerk provides support to the committee, along with the Protocol Office.

Public Service Week

Public Service Week is an opportunity for the Clerk to be seen and heard by public servants, especially regarding the values of public service and through recognition events. The Clerk is also consulted each year about basic guidance to Departments on the extent and nature of Departmental spending and events.