
Discussion Paper

GUIDING PRINCIPLES FOR AN EFFECTIVE RELATIONSHIP



unsm


NOVA SCOTIA



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Executive Summary

The Union of Nova Scotia Municipalities (UNSM) and the Province of Nova Scotia have initiated this joint exercise to strengthen municipal-provincial relations. It is the aim of this initiative to develop principles to guide municipal-provincial relations, and recommend actions which can be taken to strengthen the relationship. This initiative is not examining substantive issues such as fiscal transfers, service responsibilities or divisions of powers.

This discussion paper precedes a series of meetings to be held around the province at which the ideas and thoughts of municipal and provincial officials about these principles and actions will

be gathered. If the relationship can be strengthened then services will be better coordinated, citizen and business confidence in government will increase, planning will be more consistent and sound, and we will have the best chance to achieve the full potential of communities and the province as a whole.

To help guide the discussion you will be asked a series of questions. These questions appear in the main body of the discussion paper.

Aims of Initiative

This initiative aims to strengthen municipal-provincial relations in Nova Scotia by developing a series of principles to guide the

relationship, and recommending concrete actions which can be taken. A strengthened UNSM-provincial relationship is included as part of a strengthened municipal-provincial relationship.

Provincial-municipal relations have seen several reviews in the past decade: The Task Force on Local Government in 1991, Service Exchange in 1995, the introduction of the Municipal Government Act in 1998, and the Roles & Responsibilities Review in 1999. This initiative is unlike these other processes that have gone before it.

Financial arrangements, division of powers, services provided – none of these are part of this initiative. Instead, this initiative is about the process; the process of

the relationship between the Province and the municipalities of Nova Scotia. What can be done to strengthen the interaction between the two orders of government; to improve cooperation, reduce the bickering and move forward together to maximize Nova Scotia's potential?

The Union of Nova Scotia Municipalities and the Province of Nova Scotia have jointly launched this exercise to get your input. You're being asked to provide your ideas and thoughts around a number of questions about how the relationship should be strengthened. From these thoughts and ideas a series of guiding principles for the relationship will be developed.



Process

We need your ideas and thoughts, and we'll come to you to get them. A series of sessions have been set-up around the province. We're hoping that you'll be able to attend one of them, in order to provide your thoughts and to hear the comments of others.

In addition to these sessions there will be a separate meeting with several cabinet ministers and MLAs. The Minister of Service Nova Scotia and Municipal Relations will attend as many of the above sessions possible, depending on the schedule of the legislature.

At each of these sessions a facilitator will walk the group through the discussion questions that are at the end of this paper. Comments from all of these sessions will be recorded, and will be the basis for a report delivered to the UNSM and the Province in January of 2003. The report will make recommendations on a process to manage and

strengthen municipal-provincial relations, including specific guiding principles and concrete actions.

We hope that you will attend one of these sessions. Please register in advance for the session by contacting:

Susan Pace
Service NS & Municipal Relations
telephone: (902) 424-7919
facsimile: (902) 424-0821
e-mail: PACESD@gov.ns.ca

It is important that you register in advance so that we may plan for the number of attendees.

If you can't get to one of the sessions we'd still like to hear from you. Please send your thoughts and ideas in writing to one of the addresses on the right.

Please provide any written comments by:

Friday, 13 December 2002.

Schedule of Sessions

Location	Date & Time	Attendees
Yarmouth Rodd Grand Hotel	Mon, 25 Nov 1pm-3pm	municipal representatives, President UNSM and some MLAs
Bridgewater Wandlyn Inn	Mon, 25 Nov 7pm-9pm	
Truro Glengarry Inn	Tue, 26 Nov 6:30pm-8:30pm	
Middleton NSCC – Annapolis	Wed, 27 Nov 6:30pm-8:30pm	
Baddeck Inverary Inn	Thu, 28 Nov 1pm-3pm	UNSM executive, some cabinet ministers and MLAs
Halifax Westin Hotel	Fri, 29 Nov 1pm-3pm	
Halifax Westin Hotel	Fri, 13 Dec 10am-12pm	municipal representatives, President UNSM and some MLAs

Addresses for Written Submissions

Ken Simpson
Executive Director
Union of NS Municipalities
Suite 1106, 1809 Barrington Street
Halifax, NS B3J 3K8
facsimile: (902) 425-5592
e-mail: mainunsm@hfx.eastlink.ca

David Darrow
Exec. Director, Municipal Services
Service NS & Municipal Relations
PO Box 216
Halifax, NS B3J 2M4
facsimile: (902)424-0821
e-mail: ddarrow@gov.ns.ca



Strengths and Weaknesses of Current Relationship

Nova Scotian municipalities and the province face some of the same challenges in their relationships as other municipalities and provincial governments across Canada.

- The relationship between the two orders of government often has an adversarial tone, as opposed to a spirit of partnership in public service.
- Sometimes the two orders of government have different ideas of what specific provisions of legislation mean.
- There are so many provincial departments who affect and have relations with municipal governments.
- Occasionally, the two orders of government deal with each other through the media instead of through face-to-face dialogue or direct communication.
- For a lot of provincial departments municipalities are just one part of their interest. It can be difficult for municipalities to get the attention of these government departments, especially their ministers. At the same time, provincial governments are often responsible for, and preoccupied by, a number of other significant issues such as health and education matters.
- There is a dramatic power imbalance between the two orders of government; provincial governments have a stronger constitutional status, often have greater specialized resources at their disposal, and in some cases have greater funds at their disposal though there are often greater demands on those funds.
- The elected leadership of both orders of government changes on a regular basis.
- Provincial officials sometimes don't understand what makes municipalities different from

other local area boards, like health boards or school boards.

- Citizens can see one of the orders of government as a watchdog on the other; they'll call their MLA if they're not happy with the decision their municipal council made, or they'll approach the council if they don't like the direction provincial government is going.

The scope and effectiveness of local government and therefore the contribution it can make to community, regional and national well-being rests largely on the nature of inter-governmental relations.

Alan Norton

And somehow, even with these challenges, provinces and municipalities across Canada have managed to patch the relationship together. Deep personal relations, which have shown remarkable strength, have been created, in part through consultations, both informal and formal. Individual municipalities and provincial departments have been able to create valuable and effective relationships.

But beyond these common strengths and weaknesses the provincial-municipal relationship in Nova Scotia has a few special things going for it:

- All of the province is incorporated into municipal governments.
- Each of the municipalities in the province belongs to a single municipal association. While that undoubtedly makes it difficult on occasion for the UNSM to find a common municipal viewpoint it does mean that municipalities in the province have one, united voice.



- Within that one, united voice, the province and individual municipalities have still been able to discuss one-on-one issues which are specific to an area.
- The Nova Scotia legislation has recently been updated to include many relationship provisions such as mandatory consultation, recognition of municipalities as an order of government, and advance notice of funding changes. There is not always a common understanding of the meaning of these provisions.

Benefits of A Strong Relationship

The only position of long-term strength is interdependence: win/win.

Greg Anderson

It is impossible for municipalities and the Province to separate themselves from each other; they are inextricably linked together. Not just in terms of the transfers they make between each other, the fees one order of government charges the other or the regulations that each creates, but in terms of the broad goals they share. Both orders of government want the citizens of Nova Scotia to prosper, but neither holds all the levers, and neither order of government acting alone can achieve the kind of results that the two can working together.

Beyond that, many of the decisions one government makes unavoidably impacts the other. Municipal decisions about the level of recreation programs to provide helps determine the health of Nova Scotians and the extent to which they'll need provincially-funded medical services. Provincial decisions about where to locate services like schools or courthouses will have impacts on the economic activity of communities. Municipal decision

on where to encourage or provide new development have an impact on new school or courthouse location and construction. These impacts are unavoidable. Public policy issues are complex, often transcend political boundaries, and require coordinated, cooperative responses from governments. So, while it's important for both orders of government to have clear roles, the roles will never be so separate that the Province and the municipalities of Nova Scotia don't have to work together.

The citizens of the province demand that the two orders of government cooperate. A strong provincial-municipal relationship will provide citizens with the confidence that the affairs of government are being well managed, and are not simply an exercise in finger-pointing. For businesses, positive municipal-provincial relations are a sign of a mature, progressive political system and a good place to invest. Effective cooperation between municipalities and the

Province increases the likelihood of sound, coordinated planning, which leads to certainty and predictability of governmental performance.

It has become trite to say that there is only one taxpayer. And while one can debate the details of that statement, it is clear that these taxpayers are best served when the relationship between municipalities and provincial governments is characterized by mutual respect and fosters cooperative approaches to matters of mutual interest.

Only when both orders of government cooperate, and pull together, can the full potential of the province and its citizens be realized. When mutual respect and trust is earned and built over time, creativity in the delivery of public services can be unleashed.



Other Jurisdictions

Municipal-provincial relations have been studied and examined from coast to coast, and from the creation of municipalities to the present. Viewpoints and actions implemented vary, but there have been some common approaches to strengthen relationships, the most frequent of which has been consultation. In a variety of provinces special standing committees of elected municipal and provincial representatives have been struck to discuss, on a periodic basis, issues in the relationship. While some of these committees have had some staying power, many have collapsed either from lack of attention; frustrations with other, often financial, changes in the relationship; or, on occasion, conflicts between participating municipal associations.

More recent initiatives have been included as part of the reviews of municipal government legislation occurring across Canada. Many of the new municipal acts

recognize municipalities as an independent, responsible and accountable order of government. Some have also required or suggested consultation with municipalities before changes in municipal legislation is made. A very few have vaguely discussed joint decision-making on areas of shared responsibility. And the Nova Scotia legislation has required one year's notice of negative financial changes, though there is not always a common understanding of the meaning of this provision. These are all recent developments and the success of any of them is not yet known.

The most recent relationship developments are bilateral agreements between provincial governments and provincial municipal associations. These agreements usually contain a number of broad principles about how the municipal-provincial relationship will be conducted such as prior consultation, mutual respect, flexibility and information sharing. Samples of these

agreements are attached in the appendices.

One of the keys of these bilateral agreements is the statement of a set of principles that will guide the municipal-provincial relationship.



Principles

The Oxford English Dictionary defines a principle, in part, as "fundamental truth or law as basis of reasoning or action". The Cambridge International Dictionary of English defines a guiding principle as "an idea which influences you greatly when making a decision or considering a matter."

As examples, the United Nations is based on a number of

principles, one of which is "the sovereign equality of all its Members". "In the interests of all British Columbia the parties are committed to discharge their responsibilities within their respective areas of jurisdiction, while respecting the jurisdictions of others," is a principle outlined in British Columbia's bilateral agreement on municipal-provincial relations.

Principles, for the project, can be thought of as broad, foundational statements of policy upon which more specific decisions will be made. They're not intended to provide specific direction, or to contain fine points of law, but to speak to key values which will guide decisions and direction. We're looking for those type of broad statements for our municipal-provincial relationship. What are the key points of that relationship? The next section proposes a few questions to help guide your thoughts.



Discussion Questions

We want your ideas on how to strengthen municipal-provincial relations. To help you think about that we've included a number of questions below that we'll be focusing on during the sessions around the province. Please don't feel constrained by these questions; give us any good idea you have about how to strengthen the process of the relationship.

1. *What are the benefits of an strengthened municipal-provincial relationship?*

An earlier section suggested a number of possible benefits such as improved coordination of services, increased citizen and business confidence in government, more consistent and sound planning, and greater ability to achieve the full potential of the province. Do you agree that these are likely benefits? Are there other benefits to be considered?

2. *What are the characteristics of a positive municipal-provincial relationship?*

How would you describe a positive municipal-provincial relationship? What are some of the adjectives or phrases that would help illustrate that relationship? How should the disputes which will inevitably arise between the two orders of government be resolved?

3. *How should consultation between the orders of government occur?*

Should there be a formal consultation process; can informal consultations also occur? Should there be a standing municipal-provincial committee? Should the method of consultation vary depending on the topic and which municipalities are involved? What matters should be consulted on; is there a danger of "consultation fatigue"?

Should consultation with individual municipalities or groups of municipalities occur, or should there only be consultations with the municipal association? Should the results of consultation be formally documented?

Consultation is one of the most significant aspects of the municipal-provincial relationship. While the range of options for consultation is straightforward – from unilateral decisions to achieving full consensus with all parties – there are many facets to how the consultation will be carried out. Most municipal theorists strongly recommend consultation on any significant changes in legislation, policies, programs, or services; significant is not usually defined. Formal standing committees are usually struck, but a range of consultation methods are used. In particular, informal consultation is almost always used to supplement formal processes. The range of consultation methods usually includes consultations both with

municipal associations as well as individual municipalities. Some consultation agreements or provisions define the various elements of consultations, such as: provision of sufficient information about the change, discussions sufficiently in advance of the change, serious consideration of the input received, etc. Consultation agreements or provisions can either be established as part of policy or as part of law. One of the largest challenges in establishing a consultation program is managing the expectations of participants about the impact consultation will have on decisions to be taken.

4. *What process should be used to amend responsibilities (including changes in regulation, programs or services)?*



There are a number of options when considering the amendment of responsibilities. At one end of the spectrum is the unilateral imposition of a change without consultation. Consultation prior to making the change is a more restrictive option, and no changes without mutual agreement or some other type of amending formula would be the most restrictive. Within these options there are other considerations such as should advance notice of a change (such as a one-year notice period) be required? Some jurisdictions require a full evaluation be conducted of costs and revenues associated with the change, and perhaps even an allotment of adequate authority or resources to carry out the change. Most jurisdictions in Canada require advance consultation, but don't go further than that.

Some municipal theorists have also suggested that legislation could include amending formulas that would restrict a legislature's ability to amend legislation unless some other process also occurs

(e.g. 50% of all municipalities also vote for the change). There is debate on the legality of such amending formulas. Most jurisdictions require advance consultation with municipal associations.

5. Is joint decision-making appropriate?

There are a number of areas where municipalities and provincial governments have a joint interest: economic development, land-use planning and environmental protection to name a few. In these areas of joint interest should there be some form of joint decision-making? How should that decision-making be structured: consultation, a standing committee, joint agencies, etc.? As discussed earlier, very few public issues fall neatly into one of the orders of government's responsibility. Given that, what characterizes an area of interest deserving of joint decision-

making? Joint decision-making occurs on an ad hoc basis now, and we are not aware of any Canadian jurisdiction which requires joint decision-making in all areas of joint interest.

6. Should there be a dispute resolution procedure to settle disagreements between the Province and municipalities?

In most provincial jurisdictions, disagreements between the two orders of government which cannot be settled through discussions can be referred to the courts for interpretation. British Columbia is proposing to allow voluntary binding arbitration to settle disputes between the provincial government and a municipality. Should Nova Scotia allow for arbitration to settle disputes between the Province and municipalities? Should this arbitration procedure be mandatory or voluntary? Who should be able to use the

procedure: individual municipalities, groups of municipalities or municipal associations?

7. What else should be done to strengthen the municipal-provincial relationship?

Can you suggest some specific initiatives that could be jointly undertaken to promote this relationship? This is your opportunity to suggest other actions that should be taken to strengthen the relationship. Feel free to make other suggestions to strengthen the process.

8. How should the principles developed through this process be approved?

This project should recommend a series of principles to guide the municipal-provincial relationship as well as other actions which could be taken to strengthen the



municipal-provincial relationship. What process should be used to approve those recommendations? Should the recommendations be circulated for further comment? Should the recommendations be voted on by individual municipalities or members of cabinet? Should the recommendations be introduced as provincial policy, established as a bilateral agreement between municipalities and the province, or included in legislation?

Conclusion

This is a remarkable opportunity to strengthen municipal-provincial relations in Nova Scotia, and better the future for our citizens. We need your thoughts and ideas to succeed. We look forward to meeting with you or receiving your comments in writing.