



HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

DIRECTIVE

2023-001

Effective Date: February 28, 2023	Commission Minutes: CM 2023-012, CM 2023-013, CM 2023-014 and CM 2023-015
Subject: Amendments to <u>Guidelines on Reimbursement of Legal Fees for Members of the House of Assembly</u>	Reference: Commission Meeting – February 22, 2023 Agenda Item 2 https://www.assembly.nb.ca/ManComm/Meetings/2022-23/feb22-23/HoaMCPBriefingMaterials2023-02-22.pdf
Issued To: Members of the House of Assembly; Comptroller General; Directors of Government Accounting, Professional Services and Internal Audit, Financial Systems Control, and Corporate Services; Office of the Auditor General; Office Managers of Government Caucus, Official Opposition Caucus, NDP Caucus; Deputy Clerk, Executive Council; Deputy Chief of Staff, Office of the Premier.	Contact: Kim Hawley George, Law Clerk Bobbi Russell, Policy & Communications Officer

BACKGROUND

The Management Commission approved the Guidelines on Reimbursement of Legal Fees for Members of the House of Assembly (the Guidelines) at its December 4, 2019 meeting (CM 2019-033 refers). The policy provisions were general in nature and did not address the reimbursement of legal fees specific to a matter (e.g. Code of Conduct, Harassment-Free Workplace Policy, actions in the courts, etc.).

At its meeting on February 22, 2023, the Commission considered amendments and issued policy direction specific to certain circumstances respecting the reimbursement of legal fees for Members. In addition, the Commission issued direction further to an outstanding order of the House related to the eligibility of legal fees for Members and employees of the Legislative branch respecting complaints under the Harassment-Free Workplace Policy Applicable to Complaints Against MHAs.

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CM 2023-012 The Commission directed that the Guidelines for Reimbursement of Legal Fees for Members be amended to provide that legal fees relating to court actions resulting from a decision of the House of Assembly respecting MHA Code of Conduct matters will be reimbursed as follows:

- If the Member initiates the court action, no reimbursement;
- If the Member has court action brought against them, the request for reimbursement will be considered in accordance with the current policy provisions, on a case-by-case basis.

CM 2023-013 The Commission directed that the Guidelines for Reimbursement of Legal Fees for Members be amended to provide that, where requested, legal fees incurred by Members in all other court actions, whether those actions were initiated by or against a Member, will be considered in accordance with the current policy provisions, on a case-by-case basis.

CM 2023-014 The Commission directed that the Guidelines for Reimbursement of Legal Fees for Members be amended to provide that legal fees incurred by a Member relating to participation in a review under the MHA Code of Conduct, whether the review was initiated by or against the Member, will not be reimbursed.

CM 2023-015 The Commission directed that legal fees incurred by Members and employees of the Legislative branch relating to a complaint under the Harassment-Free Workplace Policy Applicable to Complaints Against MHAs will not be reimbursed.

The amended Guidelines on Reimbursement of Legal Fees for Members of the House of Assembly are attached.



Sandra Barnes
Clerk of the House of Assembly



House of Assembly

**Guidelines on the Reimbursement of Legal Fees for Members of the
House of Assembly**

February 2023

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1.0 Approval

Under the authority of subparagraph 20(6)(b)(ii) of the *House of Assembly Accountability, Integrity and Administration Act*, the House of Assembly Management Commission establishes these guidelines respecting the reimbursement of legal fees for Members of the House of Assembly.

2.0 Purpose

These guidelines are intended to provide guidance to Members of the House of Assembly as to the various considerations that will be applied by the Management Commission in considering requests for reimbursement of legal fees for Members.

3.0 Guidelines

The Commission's consideration of requests for reimbursement of legal fees will be considered based on the **circumstance under which the legal fees are incurred**, as follows:

<u>Circumstance</u>	<u>Provisions as directed by the Commission</u>
Actions in courts resulting from a decision of the House of Assembly respecting MHA Code of Conduct matters	<ul style="list-style-type: none"> – If the Member initiates the court action, there will be no reimbursement of legal fees; – If the Member has court action brought against them, the request for reimbursement of legal fees will be considered in accordance with the policy provisions proceeding the table, on a case-by-case basis. <p>(CM 2023-012 refers)</p>
Actions in courts regarding all other matter	<ul style="list-style-type: none"> – Whether the actions were initiated by or against a Member, reimbursement of legal fees will be considered in accordance with the current policy provisions proceeding the table, on a case-by-case basis. <p>(CM 2023-013 refers)</p>
Participation in MHA Code of Conduct review	<ul style="list-style-type: none"> – Whether the review was initiated by or against the Member, there will be no reimbursement of legal fees. <p>(CM 2023-014 refers)</p>

<u>Circumstance</u>	<u>Provisions as directed by the Commission</u>
Complaints under the <u>Harassment-Free Workplace Policy</u> <u>Applicable to Complaints Against MHAs</u>	<ul style="list-style-type: none">– Whether the Member is the complainant or respondent, there will be no reimbursement of legal fees. <p>(CM 2023-015 refers)</p>

Requests that will be considered for reimbursement by the Commission, according to the direction outlined in the table, will be dealt with on a **case-by-case basis**, with consideration of the following:

- Whether the legal expenses arise out of, or are directly related to the Member carrying out duties as a Member (e.g. not electoral or personal in nature);
- Whether the Member initiated the proceedings;
- Whether the allegations against the Member have been substantiated at the conclusion of the matter;
- The Commission determines that the reimbursement is appropriate in the circumstance.

The Management Commission may, at its discretion, grant an exception to the above-noted if it determines that reimbursement of legal expenses is appropriate and in the public interest.

4.0 Requests for Reimbursement

Requests for reimbursement **can only be made** to the Management Commission **at the conclusion of the matter**, once all applicable recourse mechanisms have been exhausted (i.e. appeals, court costs awarded, etc.).

Requests must be submitted to the Speaker (as Chair of the Management Commission), and must include the following supporting documentation:

- Details with respect to the legal matter for which expenses were incurred;
- Total amount of legal expenses incurred;
- Detailed invoices for legal expenses incurred; and
- Any other information the Member feels pertinent to include with the request.

The Management Commission may, at its discretion:

- Request additional information from the Member; and/or
- Grant an exception to the above-noted guidelines if it determines that it is appropriate and in the public interest.

In accordance with Section 19 of the *House of Assembly Accountability, Integrity and Administration Act*, requests will be considered at an *in camera* meeting.

Any amounts approved for reimbursement and the name of the Member will be disclosed in the public Minutes of the Commission.

5.0 Financial Assistance for Initial Legal Consultation

While requests for reimbursement of legal expenses will only be accepted and considered at the conclusion of the matter, a Member may submit a request for financial assistance toward the initial legal consultation.

Requests must be submitted to the Speaker (as Chair of the Management Commission), and include details with respect to the matter for which legal counsel is being sought.

Should the Member later proceed with a request for reimbursement of additional legal expenses on the same matter, the amount approved for financial assistance will be deducted from any future reimbursement approved by the Management Commission.

Requests for financial assistance for the initial legal consultation will be considered within **30 business days of receipt of the request** by the Chair. Should the Commission not be able to deal with the request within 30 business days, authority is delegated to the Speaker to consider the request in consultation with the Government House Leader, Official Opposition House Leader and representative of the Third Party on the Commission. Any amounts approved for reimbursement under this delegated authority and the name of the Member will be reported at a subsequent meeting of the Management Commission, and recorded in the public Minutes.

In accordance with Section 19 of the *House of Assembly Accountability, Integrity and Administration Act*, the matter will be considered at an *in camera* meeting. Any amounts approved for reimbursement and the name of the Member will be disclosed in the public Minutes of the Management Commission.