



INDEPENDENT APPOINTMENTS COMMISSION ACT

Statutory Review 2023



David Conway, Review Consultant

MAY 2023

VOLUME 1: THE REPORT

VOLUME 2: THE APPENDICES

**STATUTORY REVIEW OF THE
*INDEPENDENT APPOINTMENTS COMMISSION ACT***

**VOLUME 1:
REPORT**

David Conway, Review Consultant

Submitted to:

**The Honourable Siobhan Coady
Minister of Finance and Minister Responsible for the Public Service Commission**

May 2023



**Statutory Review of the
Independent Appointments Commission Act**

**David Conway
Review Consultant**

May 31, 2023

The Honourable Siobhan Coady
Minister of Finance and Minister Responsible for the Public Service Commission
P. O. Box 8700
St. John's, NL A1B 4J6

Dear Minister Coady:

In accordance with the Terms of Reference for the Review of the *Independent Appointments Commission Act*, I am pleased to present you with this Report.

The results of the review have been produced in two Volumes. The Report is contained within Volume 1, and the Appendices are contained within Volume 2. Recommendations are being submitted for your consideration as part of the Report.

I would like to thank all of the individuals and organizations that participated in the review and who made submissions as part of the review. Without their participation this Report would not have been possible.

In the Mandate section of the Terms of Reference for the review dated March 16, 2023, which is included in the Appendices, it was noted, in part, that:

The review of the Act will be comprehensive and established with the goal of identifying improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes which support its administration.

I trust that this Report and its recommendations will assist in achieving the goal set out in the Terms of Reference, given the critical role that public agencies, boards and commissions play within Newfoundland and Labrador.

Yours truly,

DAVID G. CONWAY
Review Consultant

ACKNOWLEDGEMENTS

This Report was made possible through the assistance and input of a large number of individuals, many of whom have served or presently serve on public agencies, boards and commissions within Newfoundland and Labrador.

The *Independent Appointments Commission Act* is unique legislation that facilitates certain merit-based appointments in the province. I trust that this Report and its recommendations will serve to enhance the efficiency, effectiveness and outcomes of the *Act*, and the processes that support its administration.

I would like to extend my sincere thanks to George Joyce, Chair & C.E.O. of the Public Service Commission (“PSC”), and the PSC staff along with Karen McCarthy, Chair of the Independent Appointments Commission (“IAC”), and all IAC members. Without the support and assistance of these individuals this Report would not have been possible.

I would also like to extend my sincere thanks to Minister Coady and the officials within her Department for making this Report possible.

Finally, I would like to extend my sincere thanks and appreciation to all of the individuals, organizations and members of the public who gave freely of their time to participate in the review, facilitate the review or to provide written submissions as part of the review process. I trust that this Report will make a positive ongoing contribution to merit-based appointments within Newfoundland and Labrador.

Yours truly,



DAVID G. CONWAY
Review Consultant

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INTRODUCTION

INTRODUCTORY COMMENTS

1. This Report is based upon a statutory review of the *Independent Appointments Commission Act* (“*Act*”), a copy of which is included in the Appendices to the Report.
2. This Report identifies improvements to enhance the overall efficiency, effectiveness and outcomes of the *Act* and the processes which support its administration.
3. The Independent Appointments Commission (“IAC”) came into existence in 2016. The appointment process through the IAC represents a new approach to how appointments are made to certain public agencies, boards and commissions (“entities”) within Newfoundland and Labrador.
4. This is the first statutory review that has occurred under the *Act*. The mandate of the review is broad, as are the recommendations that follow. Some of the recommendations in this Report will be straight forward to implement while others will require time, resources and the realignment of responsibilities in order to be implemented.
5. The key recommendations in this Report focus on shortening the time periods required to make appointments, allowing for meaningful consultation to occur with entities during the appointment process, attracting more candidates to apply for appointments, increasing the diversity of applicants and improving regional representation.
6. Although the review is focused on “Tier 1” entities and appointments made under the *Act* and the IAC process, some of the recommendations in this Report may be applicable to “Tier 2” entities and appointments made under the Public Service Commission (“PSC”) process.
7. The fact that there are two merit-based appointment processes for Tier 1 and Tier 2 entities has resulted in a considerable amount of confusion and uncertainty, both for stakeholders and for the general public.
8. While it might be challenging to implement a single unified merit-based appointments system for public entities in the province, having two appointment processes is far from ideal.
9. Despite the foregoing, the value of having a fair, efficient, independent and merit-based public appointments system cannot be understated. It is critically important to the province

to have public entities that are properly constituted, properly functioning and properly fulfilling their legislative mandates.

10. The consultations and written submissions that arose from this review demonstrate that there is universal support for the concept of a merit-based independent appointments process for entities. That being said, it is widely acknowledged that changes and improvements to the current system must follow.

TERMS OF REFERENCE

11. The Terms of Reference for the review, a copy of which is included in the Appendices, are as follows:

Terms of Reference – Independent Appointments Commission Act Review

Consultant

The consultant reviewing the legislation is David Conway, who shall complete the review in accordance with these terms of reference.

Mandate

The review of the Act will be comprehensive and established with the goal of identifying improvements to enhance the overall efficiency, effectiveness and outcomes of the legislation, and the subsequent processes which support its administration. The review will incorporate, but not be limited to, an examination of potential improvements in the following areas:

- *The processes and timelines associated with the generation of recommendations through the merit-based appointment process. Vacant positions on agencies, boards and commissions must be filled in a timely manner;*
- *Ways to maximize the diversity of candidates identified as qualified and recommendable for appointment, including but not limited to Indigenous candidates;*
- *Ways to maximize regional representation from all parts of the province;*
- *Ways to encourage more citizens to seek appointment and to ensure that lists of qualified and recommendable candidates are continually refreshed; and*
- *To ensure that the positions and appointments which are part of the merit-based appointment process are included or excluded as appropriate.*

Methodology

The consultant may receive written submissions and/or conduct consultations with interested parties, including but not limited to residents, media and public bodies.

Public consultation sessions may be scheduled at the discretion of the consultant. In consultation with the Public Engagement and Planning Division consideration will be given to the methods of consultation that promote the engagement of interested parties, regardless of regional location (e.g., online), and are cost-effective and safe.

The consultant will have access to existing data and documentation utilized by the Independent Appointments Commission and the Public Service Commission in the conduct of the review.

Timeline

The consultant shall terminate his work and deliver his final report to the Minister Responsible for the Public Service Commission on, or before, May 31, 2023.

THE REVIEW PROCESS

12. A News Release was issued by the Executive Council dated March 16, 2023, announcing the review and providing the Terms of Reference. A copy of this News Release is included in the Appendices to this Report.
13. A Public Advisory was issued by the Executive Council dated March 28, 2023, outlining the ways in which interested parties and individuals could participate in the review. A copy of this Public Advisory is included in the Appendices to this Report.
14. The Public Advisory noted that individuals and parties could:
 - (i) provide written comments or written submissions as part of the review;
 - (ii) arrange a time to speak with the Review Consultant about the review; and/or
 - (iii) observe or participate in the public consultation meetings scheduled as part of the review.
15. The Review Consultant contacted each Tier 1 entity to provide details of the review and to invite participation in the review process.
16. The Review Consultant contacted all Tier 2 entities for which contact information was made available to provide details of the review and to invite participation in the review process.

17. The Review Consultant also contacted and was contacted by a number of individuals and organizations, including public bodies, who participated in the review process. This included present and past members of the IAC.
18. The Review Consultant consulted with the media to provide details of the review and to invite public participation. A webpage for the review was also set up on the website of EngageNL, which contained all of the information about the review and the different ways to participate.
19. Most individuals and organizations chose to participate in the review by emailing, speaking or meeting with the Review Consultant directly on a non-attribution basis. A list of individuals who were consulted as part of the review process is included in this Report.
20. A public consultation meeting was held on May 10, 2023, using an online video platform for individuals to observe or make a presentation as part of the review. One individual made a presentation at the public consultation meeting, with members of the public observing.
21. Written submissions from individuals and organizations were received as part of the review. A list of the written submissions received as part of the review is included in this Report.
22. The Privacy Statement for the review noted, among other things, that written submissions made as part of the review could be made publicly available, including identifying information such as name, address etc., unless the provider requested otherwise.

BACKGROUND

CONTEXT OF THE *INDEPENDENT APPOINTMENTS COMMISSION ACT*

23. The concept of a merit-based public appointments system arose prior to and during the provincial election in 2015.
24. Historically, most appointments to public entities in Newfoundland and Labrador were made without a publicly available application process and without any publicly stated qualifications related to the appointments.
25. In March 2016, the new government of the province introduced its inaugural legislation related to merit-based appointments, Bill 1, which was entitled “*An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments*”.

26. As per a News Release dated March 10, 2016, which is included in the Appendices to this Report, the Premier of the province at that time publicly stated the following concerning Bill 1:

By taking this action my government will bring greater accountability and transparency to the appointment process. We are modernizing how appointments are made, and clearing a path for the most qualified people to apply for a position, be considered and selected on their merits. Once in place, Newfoundland and Labrador will be the only province in the country with a legislated merit-based appointment process.

27. Bill 1 received Royal Assent on May 24, 2016, and the *Act* came into being. The *Act* specified a merit-based appointments process for entities under the IAC and for entities under the PSC.
28. As per a News Release dated May 25, 2016, which is included in the Appendices to this Report, the five inaugural members of the IAC were announced. It was noted in the News Release that a website would be created to include the available opportunities for entities.

THE ACT: KEY PROVISIONS

29. Section 2 of the *Act* defines a merit-based process:

Definitions

...

2(c) "merit-based process" means a process established by the commission in consultation with the Public Service Commission for the purpose of executing their respective duties under this Act

30. Section 4 of the *Act* notes that recommendations are to be considered:

Recommendations to be considered

4. The Lieutenant-Governor in Council or a minister, as appropriate, shall consider the recommendations of the commission in making an appointment.

31. Section 5 of the *Act* notes the non-binding nature of recommendations:

Effect of requirement to consider recommendation

5. *Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4 shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority.*
32. Section 6 of the *Act* establishes the IAC:

Commission established

6. (1) *The Independent Appointments Commission is established.*
- (2) *The commission is an independent, non-partisan body whose mandate is to provide non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process.*
- (3) *The commission shall consist of a minimum of 5 members and a maximum of 7 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly.*
- (4) *The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson.*
- (5) *The members of the commission may elect from among their number one person as vice-chairperson who may act in the absence of the chairperson.*
- (6) *A commissioner shall not be remunerated for his or her duties under this Act but a commissioner shall be paid the expenses actually and reasonably incurred by him or her in carrying out those duties in accordance with Treasury Board guidelines.*
- (7) *The commission shall adopt rules of procedure and keep records of its proceedings.*
33. Section 7 of the *Act* notes that IAC members are appointed for a three-year term, which can be renewed for one additional three-year term. Section 7 also notes that an IAC member may be removed from office and must take an oath to be impartial in carrying out their duties under the *Act*. Finally, Section 7 notes that, other than the inaugural members, IAC members themselves will be appointed as per the *Act*.
34. Section 8 of the *Act* outlines the use of IAC member panels:

Panel

8. *The chairperson of the commission shall appoint a panel of 3 commissioners to review potential appointees for each appointment.*
35. Section 9 of the *Act* sets out the provision of recommendations by the IAC and exceptions to recommendations:

Recommendations of commission

9. (1) *The commission shall provide recommendations respecting appointments in accordance with a merit-based process.*
- (2) *Subsection (1) does not apply to*
- (a) *a renewal or extension of an appointment where that appointment was made further to a merit-based process in accordance with this Act; or*
- (b) *an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances.*
- (3) *Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the minister responsible for the administration of this Act shall report on the circumstances of that appointment in the manner required by section 13.*
36. Section 10 of the *Act* sets out the requirement for a merit-based process and the number of recommendations to be made:

Duties and powers of commission

10. (1) *The commission shall*
- (a) *together with the Public Service Commission, administer a merit-based process for appointments; and*
- (b) *recommend 3 persons for those appointments.*
- (2) *Notwithstanding paragraph (1)(b), where, in the opinion of the commission, it is not possible to recommend 3 persons for an appointment, the commission may recommend fewer than 3 persons but in that case it shall report to the Lieutenant-Governor in Council or minister, as appropriate, outlining its efforts to comply with paragraph (1)(b).*
37. Section 11 of the *Act* notes that the PSC shall support and advise the IAC in the execution of its duties and the conduct of its business.

38. Section 12 of the *Act* outlines the supportive role of the PSC in the IAC process:

Duties of Public Service Commission

12. The Public Service Commission shall

- (a) advertise and otherwise effectively distribute information respecting appointments and receive applications for appointments where vacancies exist;*
- (b) solicit and accept applications and expressions of interest for appointments on an ongoing basis;*
- (c) create and maintain a list of potential appointees based on paragraphs (a) and (b); and*
- (d) further to a merit-based process, provide to the commission a list of all potential appointees, including a list of recommendable potential appointees.*

39. Section 13 of the *Act* notes that the Minister responsible for the *Act* shall report annually to the legislature those appointments exempted from the operation of the *Act* under Section 9(2)(b).
40. Section 14 of the *Act* makes it an offence to directly or indirectly improperly influence the recommendation of a person under the IAC appointment process.
41. Section 16 states that a review of the *Act* shall occur every 5 years to consider the areas in which it may be improved.
42. The *Act* contains a number of amendments to the *Public Service Commission Act* and other pieces of legislation. The *Act* concludes with a Schedule of entities and appointments to which the IAC appointment process applies.

FRAMEWORK

TIER 1 AND TIER 2 ENTITIES

43. One of the least commonly understood distinctions about appointments to public entities within Newfoundland and Labrador is that there are two “tiers” of entities with merit-based appointment processes.
44. First there are the Tier 1 entities, of which there are approximately thirty. These Tier 1 entities include organizations such as WorkplaceNL, the Rooms Corporation, the Newfoundland and Labrador Human Rights Commission and the Newfoundland and

Labrador Liquor Corporation, among others. A list of the current Tier 1 entities is included in the Appendices to this Report.

45. Tier 1 entities are the only entities in the province to which the *Act* and the IAC appointment process applies, although certain individual executive positions are also subject to the IAC appointment process. All other entities, which are referred to as Tier 2 entities, follow a different appointment process.
46. Tier 2 entities are not subject to the *Act* or the IAC appointment process. Tier 2 entities, of which there are approximately one-hundred and thirty, follow a merit-based appointment process that is conducted by the PSC. A list of Tier 2 entities is included in the Appendices to this Report.
47. There is no definition of what constitutes a Tier 1 or a Tier 2 entity or what criteria are used to determine how an entity should be classified. Presumably, and by definition, Tier 1 entities are considered to be top-level entities with greater responsibility that justify their inclusion in the IAC appointment process.
48. The large number of public entities in the province and the very large number of individual appointments required to populate these entities likely did not make it feasible to apply the IAC appointment process to each entity.
49. Separate and apart from the administrative challenge of having two appointment processes for public entities in the province, having two distinct processes has resulted in considerable confusion and misunderstandings.

THE IAC AND TIER 1 APPOINTMENTS

50. The IAC is an independent, non-partisan body established in accordance with the *Act*, whose mandate is to provide non-binding recommendations concerning certain public appointments following a merit-based process.
51. The IAC was initially a five-person body but the *Act* was amended to allow for a maximum of seven IAC members and a minimum of five IAC members.
52. The IAC has established its own *Rules of Procedure* in accordance with Section 6(7) of the *Act*. A copy of the IAC's *Rules of Procedure* is included in the Appendices to this Report.
53. The IAC, although it is independent from the PSC, is dependent upon the PSC for administrative support and services. This is in accordance with Section 12 of the *Act* and the IAC's *Rules of Procedure*.

54. The IAC appointment process follows from the terms of the *Act* and the IAC's *Rules of Procedure*. The following is a summary outline of the IAC appointment process for a Tier 1 entity vacancy or an executive vacancy that is subject to the *Act*:
- when a vacancy has been identified, the government Department responsible for an entity makes a request to the IAC to have that vacancy filled;
 - a vacancy profile is created in conjunction with the Department responsible and the entity;
 - the vacancy profile is posted on the IAC website;
 - once applications have been received for the vacancy then screening of candidates commences;
 - candidates are screened by the PSC based upon the pre-determined criteria established in the vacancy profile;
 - a list of candidates who meet the established criteria will be prepared by the PSC for the vacancy and will be forwarded to the IAC;
 - the IAC uses a merit-based assessment and evaluation process to provide a list of the three most suitable candidates to recommend to the Minister responsible for the vacant position;
 - the three candidates recommended by the IAC for the vacant position are required to consent to a due diligence process to confirm their suitability for appointment; this may include background/reference checks and a personal disclosure declaration; and
 - once the screening, assessment and background checks have been completed, an IAC recommendation report will be prepared listing the names of the three candidates without ranking the candidates.
55. Once the successful candidate is selected then the vacancy is filled and the IAC appointment process is complete.
56. It should be noted that if there are multiple vacancies for a given Tier 1 entity then Section 6.5 of the IAC's *Rules of Procedure* states that:

In the course of making its decision as to the persons it proposes be recommended, the Review Panel shall:

- (a) where only 1 position is to be filled for that office, recommend 3 persons for consideration;*
- (b) where more than 1 but less than 4 positions are to be filled for that office, recommend for consideration the number of positions to be filled plus 3 persons for consideration;*
- (c) where 4 or more but less than 7 positions are to be filled for that office, recommend for consideration twice the number of persons as there are positions to be filled; and*
- (d) where 7 or more positions are to be filled for that office, recommend for consideration the number of positions to be filled plus six persons.*

THE PSC AND TIER 2 APPOINTMENTS

57. The PSC is an independent arm's length government agency established in accordance with the terms of the *Public Service Commission Act*, a copy of which is included in the Appendices to the Report. The PSC is responsible for merit-based appointments and promotions within the public service and public entities within the province.

58. The mandate of the PSC is provided for by its governing legislation. The core mandate of the PSC is the protection of merit, as outlined in its publicly stated merit principles:

Merit in staffing is achieved through practices that are seen to be fair, equitable and transparent.

Fairness means decisions are made objectively, free from bias, patronage or nepotism. Practices reflect the just treatment of all employees and applicants. Equity means equal access to employment opportunities. Practices are free from systemic and attitudinal barriers and duly consider "reasonable accommodations".

Transparency means open communication, without jeopardizing rational confidentiality, between managers and employees or applicants about staffing, its practices and decisions.

59. The PSC is made up of three Commission members, one of whom is designated as the Chair & Chief Executive Officer, along with a professional staff and dedicated offices.

60. The PSC has a number of policies, programs and services related to the protection of merit in public service hiring and in appointments to public entities.

61. The PSC appointment process for public entities follows from the *Public Service Commission Act* and the PSC's policies and procedures. The following is a summary outline of the PSC appointment process:
- when a vacancy has been identified, the government Department responsible for an entity makes a request to the PSC to have that vacancy filled;
 - a vacancy profile is created in consultation with the relevant Department and entity;
 - the vacancy profile is posted on the IAC website;
 - once applications have been received for the vacancy then screening of candidates commences;
 - the PSC staff conducts screening and a merit-based assessment of the candidates based upon the pre-determined criteria established in the vacancy profile;
 - a list of candidates who meet the established criteria for the vacancy will be generated for the PSC;
 - the PSC staff conducts further screening and a merit-based assessment of the candidates;
 - once the screening and assessment have been completed, a recommendation report will be prepared for the appointing authority listing the names of the candidates without ranking the candidates; and
 - prior to final selection of appointees, the Department will request the PSC to complete a due diligence process to confirm the suitability for appointment; this may include background/reference checks and a personal disclosure declaration.
62. Once the successful candidate is selected then the vacancy is filled and the PSC appointment process is complete.

FEEDBACK

CONSULTATION INPUT IN THE REVIEW

63. A significant number of individuals chose to participate in the review process by providing their input directly to the Review Consultant on a non-attribution basis.

64. Allowing individuals to participate in the review on a non-attribution basis facilitated the informal exchange of information and ideas about the merit-based appointment process and how to improve upon it.
65. The names of individuals who provided their direct input as part of the review process are listed at the end of this Report.
66. A number of themes arose during the direct consultations that were conducted as part of the review. Many of these themes are also reflected in the written submissions that were provided as part of the review.
67. What follows is a summarized compilation of the themes and information that emerged from the direct consultations.

Value of Merit-Based Appointments

68. First and foremost, it must be said that there was universal support for the concept of a merit-based appointments system for entities.
69. Many individuals spoke about years gone by and the previous appointment process, when public appointments were perceived as being based upon factors other than merit.
70. There was also very positive feedback about the work that the IAC, the PSC and specific individuals have done in terms of the current merit-based appointments process.
71. This being said, there was also a distinct view that fundamental changes to the merit-based appointments process should be made in order to make the process work better.

Timeliness

72. The first theme that emerged from the consultations concerned the timeliness of appointments.
73. There was a consistent view that the overall amount of time required to make appointments takes too long. It was noted that, from start to finish, it could take up to six months or a year to fill vacancies. This has apparently caused other issues.
74. The delays in the appointment process were viewed as having a direct negative impact upon entities, some of whom struggled to reach quorum on their boards due to ongoing unfilled vacancies.

75. Furthermore, and due to the untimely filling of positions, existing board members who wished to conclude their expired terms were being “held over” on an indefinite basis or choosing to resign their positions in frustration rather than wait to be replaced.
76. There was also a view that the lengthy appointment process was a direct impediment and discouragement to attracting new candidates to entities. Individuals who may have been interested in a given appointment at one time were no longer interested a year or two later when an offer was eventually made.
77. The delays in the appointment process were viewed as particularly problematic for executive positions, such as C.E.O. positions, since they are often singular positions that are critical for the day-to-day operations of entities.
78. Furthermore, there is significant competition for top executive-level candidates, such that having individuals wait up to a year or more for the outcome of an appointment process is viewed as being detrimental to recruitment.
79. There was a general lack of understanding and frustration as to why appointments take so long. There was a view that little to no information is available about what exact step in the appointment process a given vacancy is at.
80. There was also a view that the lack of any timelines in the appointment process made the process “open ended” and that it was difficult to understand who, if anyone, was responsible for keeping the process moving.
81. Finally, there was a view that the “word of mouth” about a lengthy and opaque appointment process is poor, which serves to discourage potential applicants from applying or, even if they do apply, has applicants accepting other opportunities in the meantime.

Consultation with Entities

82. The next theme that emerged had to do with the consultation process with entities, particularly at the selection stage of the appointment process.
83. The recruitment process for private entities and for non-governmental entities is typically controlled by the entities themselves. Board members for private entities, for example, are normally involved in the recruitment and selection process for new board members.
84. The views and experiences of individuals in this review were exactly the opposite of what occurs for non-governmental entities. New appointees for agencies, boards and

commissions are normally selected through the appointment process without any consultation or involvement of the entity itself at the selection stage.

85. Examples were put forward where executive positions were filled for a given entity without the board of that entity being consulted or involved whatsoever in the selection of the successful candidate. This was viewed as being detrimental to governance, accountability and the quasi-independence of entities.
86. It was recognized that the ultimate decision-making power for selecting candidates did not and should not rest with the entities.
87. There was an overwhelming view that excluding entities from any involvement in the selection stage of the appointment process was inappropriate.
88. The view was also expressed that consultation after the IAC stage of the appointment process, when only three candidates may remain, is too late for meaningful consultation to occur. That being said, it was also acknowledged that having entities participate in the IAC selection process may not be appropriate, given the independent nature of the IAC.
89. Individuals expressed the strong view that entities should be consulted or involved in the selection or “shortlisting” of candidates in some manner. Individuals felt that this would lead to better outcomes at the selection stage and would avoid scenarios where more appropriate candidates are excluded or overlooked.
90. It was noted by many individuals that being consulted at the selection stage of the appointment process would allow entities to focus on specific skillsets for candidates. Often, vacancy profiles are quite broad but the entity in question would like a candidate with a specific background for a given vacancy.
91. Finally, there was a view that consulting with an entity at the selection stage of the appointment process would allow for appointments to be made in a more informed manner. Examples were provided where conflicts of interest or fitness issues were only identified after an individual had been appointed to an entity. Examples were also provided where the staggering of terms or succession planning was not considered at the selection stage of the appointment process.

Diversity and Inclusion

92. A major theme that emerged from the consultations was the need for more diversity and inclusion in the appointment process, particularly for Indigenous candidates.

93. It was noted that Newfoundland and Labrador is an increasingly diverse province but that, generally speaking, appointments to entities do not reflect that. Individuals from diverse backgrounds, including younger people, do not see themselves as being represented on entities and, as such, may not feel encouraged to apply for opportunities.
94. Individuals expressed the view that direct outreach and meaningful engagement of diverse groups/organizations and individuals and in particular Indigenous governments, organizations and individuals is needed to address this issue. In Labrador, for example, community Facebook pages were noted as being a simple but effective way to reach people.
95. Individuals expressed the view that appointment opportunities were largely unknown to the general public and that no effective marketing or promotion was occurring about opportunities with entities.
96. There was also a view that addressing diversity and inclusion issues would require overall changes to the current system. For example, it was noted that attracting a parent with young children or a new Canadian working full-time to serve on an entity for little or no compensation was unrealistic, as opposed to attracting a wealthy or retired person.
97. There was also an acknowledgement that the lack of educational and mentoring opportunities for those who serve on entities was an impediment to diversity and inclusion in appointments.
98. Finally, the need for inclusive policies and practices of the entities themselves was viewed as being critical, particularly for disadvantaged groups or people with disabilities. For example, an entity that requires in-person attendance for meetings that occur only in St. John's would effectively preclude or limit participation from a large number of individuals.

Regional Participation

99. Individuals made a number of comments about regional participation or the lack thereof.
100. Generally speaking, individuals felt that appointment opportunities were not well known or well publicized outside of the capital region of St. John's.
101. Individuals also felt that there was a lack of regional diversity on entities and that entities could benefit from the participation of people from different parts of the province.
102. The need for entities to have technology-friendly forms of participation was noted, which could reduce or eliminate the need to travel to St. John's for meetings.

103. The need to provide adequate reimbursement for travel expenses and adequate compensation for serving on entities was also noted in terms of potentially increasing regional participation.
104. Finally, it was noted that having outreach, marketing and promotion of appointment opportunities to different areas and communities in the province would be very helpful.

IT and Technology

105. There were a number of comments made about the need to update or modernize the technology aspects of the appointment process.
106. The application process was viewed as cumbersome and not user friendly. Individuals noted that they did not receive a copy of their application once it was submitted and, even if they remembered to renew their application two years later, an entirely new application had to be submitted.
107. The IAC website was viewed as not being modern or intuitive and not making the distinction between the IAC appointment process and the PSC appointment process clearer. Furthermore, there were issues raised with the lack of details on the website about the steps in the appointment process and the timelines involved.
108. There were also concerns raised with the amount of outdated information contained on the IAC website in terms of current appointees to entities.

Tier 1 Versus Tier 2 Entities

109. Almost all of the individuals that participated in the review did not realize the distinction between Tier 1 and Tier 2 entities and the differences in their respective merit-based appointment processes.
110. Individuals from Tier 2 entities who participated in the review did so with the intent of sharing their experience with the IAC appointment process. Individuals from Tier 2 entities were disappointed and surprised to be told that they were not part of the IAC appointment process.
111. The comments from individuals and the confusion about the merit-based appointment processes has led to an unfortunate result. The IAC is perceived as being involved in the PSC appointment process when, in fact, it is not.

112. Individuals noted that the distinction between the IAC and PSC appointment processes should be made clearer to entities, organizations and the general public.

Education, Training and Mentoring

113. Individuals noted that there appeared to be no publicly available resources or materials to help with the education and training of new appointees to entities. This was seen as something that should be made available.
114. It was felt that educational/training resources and materials were particularly important for new appointees who may not have served on an agency, board or commission before. It was also felt that this was particularly important in terms of attracting more diverse candidates.
115. The lack of mentoring opportunities for new appointees to entities was also noted. This also applied to the lack of mentoring opportunities for disadvantaged individuals or groups of individuals who might consider applying for opportunities.
116. Individuals outlined their experience with training and education in non-governmental entities, or with the training and education available to government entities in other jurisdictions.
117. Individuals felt that the lack of education, training and mentoring was a direct impediment to attracting the average member of the public to entities, and that this resulted in an unintentional bias in the process towards those who had already served on entities.

Transparency and Accountability

118. Individuals noted that there was little or no information provided about the status of their applications once submitted. Individuals also noted that there was no way to know the status of a vacancy in terms of the steps of the appointment process.
119. Individuals stated that the merit-based IAC appointment process could be bypassed entirely based upon “*urgent or extenuating circumstances*”, as per Section 9(2)(b) of the *Act*. Individuals were of the view that there is insufficient transparency at the point in time when this bypass provision is used for the public to know that it is being used. Individuals also noted the lack of any rationale at the time that this bypass provision is used to explain what the “*urgent or extenuating circumstances*” are exactly.

120. Individuals noted a lack of annual reporting about the appointment process and a lack of any published statistics related to the appointment process. Individuals said that annual reporting could include, among other things, statistics on the number of vacancies, the timelines for filing each vacancy, the gender and diversity makeup of applicants/appointees and the regional makeup of applicants/appointees.
121. Individuals noted that there appeared to be no one person or position that was ultimately responsible for the appointment process or the timeliness of appointments. Individuals expressed the view that, although various groups were involved in appointments (PSC, IAC, Department, Cabinet etc.), nobody seemed to “own” or be responsible for the process itself on an overall basis.

Compensation

122. A number of individuals spoke to the inappropriate compensation model for entities. It was noted that members on some entities were not compensated while members on other entities were compensated.
123. For some of the entities that are compensated, it was noted that the Treasury Board compensation guidelines have not changed since the last century. It was also noted that, with inflation, entity members being paid at rates that were set in 1996, were effectively being paid less and less each year.
124. Individuals compared the compensation rates for serving on entities in the province to the compensation rates for public entities in other provinces, public entities at the federal level, not-for-profit organizations and entities in the private sector.
125. Individuals were of the view that, while the compensation rates for entities could never match the private sector, asking individuals to potentially devote weeks or more of their time each year to serve on an entity for little to no compensation was not a viable or attractive model.
126. Individuals also noted that we live in a competitive labour market and that there are many opportunities outside of public entities that are equally or more rewarding and far more attractive in terms of compensation.
127. Individuals also noted that inadequate compensation was a direct impediment to attracting non-retired, non-established or non-wealthy people to serve on entities. Individuals noted that they often had to take vacation time or forego paid work in order to, effectively, volunteer their time on an entity.

WRITTEN SUBMISSIONS IN THE REVIEW

128. The following organizations and individuals made written submissions as part of the review. A full copy of each written submission is included in the Appendices:

- The Independent Appointments Commission
- The Public Service Commission
- The Official Opposition Caucus of the House of Assembly
- Paul Lane, Independent MHA
- The Provincial Advisory Council on the Status of Women
- The Public Utilities Board
- Provident10
- The Board of Governors of the College of the North Atlantic
- The Newfoundland and Labrador Geographical Names Board
- The Newfoundland and Labrador College of Dietitians
- The Newfoundland and Labrador College of Social Workers
- The Newfoundland and Labrador Pharmacy Board
- First Light
- The Office of the Information and Privacy Commissioner
- Thomas Kendell
- David Vardy

Submissions of the Independent Appointments Commission

129. The written submissions of the Independent Appointments Commission included the following points and suggestions, among others:

- the IAC is supported through the existing annual budgetary allocation for the PSC;
- the direct costs for the IAC since its inception have been minimal and no compensation is provided to members of the IAC;
- the IAC is committed to undertaking a review of its *Rules of Procedure*;
- the average time period for IAC members to review candidates normally takes about three weeks, whereas the overall process can take approximately nine months;
- once referrals are made to Government Ministers it takes on average three to four months for appointments to be announced publicly;
- government Department officials and entities are not always clear on the process involved for Tier 1 and Tier 2 appointments and further education would help with this;
- consideration should be given to recruiting a full-time director of appointments for the IAC;
- consideration should be given to implementing a reporting mechanism on the IAC website to capture key dates during, and outcomes of, each competition;
- consideration should be given to updating the *Act* to allow for communication between government and the IAC when exceptions to the normal appointment process are necessary;
- consideration should be given to including a provision within the *Act* which addresses diversity;
- consideration should be given to recruiting a full-time marketing communications resource to work with the director of appointments;
- consideration should be given to providing appropriate budgetary allocation for paid advertising to encourage an increased number of applicants;
- consideration should be given to rebuilding or minimally updating the IAC application registration system;

- consideration should be given to assessing administrative support requirements pending the outcome of the review; and
- consideration should be given to mandating an operational budget to the IAC.

Submissions of the Public Service Commission

130. The written submissions of the Public Service Commission included the following points and suggestions, among others:

- the online application for public appointments needs modernization; at times the information received through the application process is very limited;
- there is no opportunity for an applicant to update or remove their application profile from the system; at times there have been multiple applications by the same applicant;
- the website should provide more information to applicants about the IAC process and transparency around the process could enhance the applicant experience;
- enhanced marketing and branding would increase the visibility of entities; uptake in the early days of the new appointment process was robust but in recent years there has been less interest;
- there is a need to attract and encourage qualified and diverse individuals to contribute to the province by serving on entities, in particular people residing in rural areas; and
- enhanced marketing efforts that focus on the work of entities and the important role that they play will help attract more candidates.

Submissions of the Official Opposition Caucus of the House of Assembly

131. The written submissions of the Official Opposition Caucus of the House of Assembly, which were quite comprehensive, included the following points and suggestions, among others:

- the PSC should be responsible for providing merit-based recommendations of candidates for the public offices of all tiers and the IAC should be eliminated because the PSC will be doing that work;

- Cabinet should be bound to select from the roster of candidates that are recommended, rather than being able to ignore the recommendations as per Section 5 of the *Act*;
- the IAC should be chosen in a non-partisan all-party process involving a select committee of the House of Assembly and the House of Assembly itself by way of resolution;
- an all-party select committee of the House of Assembly should designate one of the IAC members as chairperson of the IAC;
- the IAC rules should be set by a separate non-partisan body, being a select committee, and the IAC should keep comprehensive records of its proceedings;
- tenure of office for IAC members should be subject to a bipartisan process of appointment through the House of Assembly;
- temporary replacements of IAC members should be subject to a non-partisan process;
- three-person panels of the IAC should be filled randomly rather than by the chairperson;
- recommendations of the IAC should reflect different regions and diversity;
- “urgent or extenuating circumstances” under Section 9 of the *Act* should be clearly defined;
- longer rosters of candidates from the IAC should be permitted and rosters should be ranked wherever possible;
- shorter than normal rosters should be publicly reported;
- the PSC is known for doing outstanding work but the PSC should be open and accountable if there issues with the IAC appointment process;
- exemptions under the *Act* should be reported immediately, rather than on an annual basis, and “off-roster” appointments should be reported immediately;
- merit-principle accountability should be the subject of an annual report;

- the lobbying restrictions in the *Act* should be qualified and the schedule of entities under the *Act* should be longer;
- the *Act* should be reviewed more often and other extenuating circumstances should be reported;
- the *Public Service Commission Act* should also require more reporting; and
- the tiering of public bodies should be rationalized.

Submissions of Paul Lane, Independent MHA

132. The written submissions of Paul Lane, Independent MHA, included the following points and suggestions, among others:

- the *Act* should be changed to remove the ability of the Minister/Cabinet to ignore the recommendations of the IAC; and
- if the *Act* is not changed to remove the ability to ignore IAC recommendations, there should be a requirement for the Minister/Cabinet to report publicly to the House of Assembly that this clause has been used for a particular appointment along with the justification for doing so.

Submissions of the Provincial Advisory Council on the Status of Women

133. The written submissions of the Provincial Advisory Council on the Status of Women (“PACSW”) included the following points and suggestions, among others:

- vacancies to the PACSW are not being filled in a timely manner; timeframes to fill appointments should be included within Section 10(b) of the *Act*, to enhance the overall efficiency of the appointment process;
- further and better data collection is needed in order to provide reliable and valid gender diversity statistics within entities; there are several options that would allow for this;
- even if gender parity was perfectly achieved in appointments, compensation rates must be consistent across gender; the currently available metrics on gender and other under-represented groups are not sufficient to examine this;

- there is an inadequate level of advertising and promotion for appointments; there is a lack of awareness, knowledge and understanding about appointments to entities and a public awareness campaign is needed; and
- if a person is appointed outside of the recommended list then it should be reported upon through government.

Submissions of the Public Utilities Board

134. The written submissions of the Public Utilities Board (“Board”) included the following points and suggestions, among others:

- that changes be considered to provide for the participation of the Board at all stages of the recruitment process; this would include developing the position description, providing information to candidates, the interview process, development of interview questions, screening candidates and candidate recommendation;
- that consideration be given to establishing timelines for appointments to the Board; the Board recommends the recruitment and selection process be completed within three months; and
- that consideration be given to providing authority to the IAC to rank the recommended candidates for commissioners to the Board.

Submissions of Provident10

135. The written submissions of Provident10 included the following points and suggestions, among others:

- Provident10 is a unique organization historically and legislatively;
- the Joint Sponsorship Agreement for Provident10 predates the *Act*; this has created some confusion as 6 of the 15 Directors of the Provident10 Board are subject to the *Act*, while the other 8 are solely subject to the *Public Service Pensions Act, 2019* (“*PSPA*”) and the Joint Sponsorship Agreement;
- the proper lens to consider all appointees to the Board should be through the initial lens of the Joint Sponsorship Agreement; this will ensure efficiency, consistency, address the matrix considerations and achieve a suitable mix on Provident10’s Board;

- the specific legislation relating to Provident10 and its Board of Directors should form the basic foundation upon which all appointees to the Provident10 Board are viewed;
- there is a strong argument that the *PSPA* takes precedence over the *Act* by virtue of Section 27 of the *PSPA* which states that where the *PSPA* “*conflicts with another Act of the Province, this Act shall prevail.*”;
- the *Act* should be amended to recognize that, to the extent of inconsistency between the appointment to the Board of Directors of Provident10, the terms of the Joint Sponsorship Agreement shall prevail;
- all appointees should have the basic characteristics and qualifications set out in the Joint Sponsorship Agreement;
- that there be a consistent appointment and reappointment process to ensure there are no vacancies and that appointments are done in a timely fashion;
- ensure that conflict situations, whether actual or perceived, are identified at an early stage by engaging expertise of the existing Board to assist in identifying these conflicts at an early stage;
- ensure the matrix of the Provident10 Board and the pool of candidates is being achieved;
- ensure that interested candidates to the Provident10 Board have a clear and comprehensive place to look to find clearly defined information necessary with respect to the appointment process and the requirements thereof;
- that there be transparency and accountability in the appointment process, given the complex nature and requirements of a Board such as Provident10; and
- that Provident10 be an active participant in ensuring effective government appointees to its Board, with a fully functioning Board at all times.

Submissions of the Board of Governors of the College of the North Atlantic

136. The written submissions of the Board of Governors of the College of the North Atlantic (“Board of Governors”) included the following points and suggestions, among others:

- although the Board of Governors endorses the outcomes of the IAC process in attracting and recommending highly qualified candidates to serve on entities, the Board of Governors has significant frustration with the extensive delays in Board of Governors appointments;
- the Board of Governors acknowledges that delays in Board of Governors appointments may not solely be the responsibility of the IAC since, in the Board of Governors' experience, there have been significant delays within government in processing and deciding upon the recommendations of the IAC;
- the Board of Governors has experienced frustrations with the selection/appointment of student and faculty representatives on the Board of Governors, although the IAC is not involved in this process;
- the overall appointment processes for the Board of Governors are not functioning effectively; there ought to be an automated tracking system that will activate recruitment actions within four to six months in advance of expiration of terms of incumbent Board of Governors members;
- the Board of Governors has concerns about its inability to participate in and/or observe the executive recruitment and recommendation processes; excluding the Board of Governors from participation in the selection of CEOs is most inappropriate;
- the Board of Governors has only one CEO yet the Board of Governors has no input or influence in the CEO recruitment and selection; and
- the maximum six-year term of Board of Governors members negatively impacts members who may wish to seek appointment as Chair of the Board of Governors; experienced Board of Governors members in their second three-year terms are not eligible to appointment as the Chair; having Chairs with strong Board of Governors experience and corporate memory is clearly desirable.

Submissions of the Newfoundland and Labrador Geographical Names Board

137. The written submissions of the Newfoundland and Labrador Geographical Names Board ("NLGNB") included the following points and suggestions, among others:

- unfilled vacancies are a concern;
- in the past, positions have gone vacant and unfilled for a significant period of time;

- two positions on the NLGNB remain vacant and meeting quorum becomes challenging;
- no information is forthcoming from the Department as to when vacancies will be filled;
- the NLGNB vacancies are not listed under the opportunities listed on the IAC website;
- improving the appointment process would support the NLGNB's effectiveness; and
- the criteria listed for candidates demonstrate that meaningful consultation with the Department has occurred in establishing the criteria.

Submissions of the Newfoundland and Labrador College of Dietitians

138. The written submissions of the Newfoundland and Labrador College of Dietitians ("College of Dietitians") included the following points and suggestions, among others:

- in the past there have been vacant College of Dietitians positions, such that the College of Dietitians could not meet quorum;
- there has been inconsistent staffing and information from the Department about the appointment process;
- the information on the IAC website is outdated; up to date information is important for stakeholders;
- there are currently no public representatives on the College of Dietitians' disciplinary panel and this will cause delays if and when a disciplinary panel is needed;
- there is a lack of information on the internal process once an applicant completes the application;
- there is also a lack of timelines once an applicant completes the application; and
- transparency is required in the appointment process so that everyone is aware of the timelines, for work-life and planning purposes.

Submissions of the Newfoundland and Labrador College of Social Workers

139. The written submissions of the Newfoundland and Labrador College of Social Workers (“College of Social Workers”) included the following points and suggestions, among others;
- when vacancies on the Board of Directors occur because public representatives are not appointed, the result can be delays in the review of allegations against practice, delays in the completion of Complaint Authorization Committee decisions and a higher workload for individuals who are appointed to fulfil this vital role;
 - delays in the appointment process to the Disciplinary Panel can result in delays for hearings when there are fewer public representatives to share the responsibility; the unpredictability of the appointment process is difficult for succession planning and training;
 - communication about the appointment process is needed; the appointment process itself is unclear; at any given time, boards are not aware of the status of vacancies and reappointments; there is a need to clarify and differentiate between the roles of the IAC and the PSC and the Department of Health and Community Services;
 - although the College of Social Workers Board has vacancies, they are not listed on the IAC website; despite the College of Social Worker’s best efforts, they have been unable to determine the status of these vacancies and at what stage of the appointment process they may be; the criteria for these appointments are generic with no process for the IAC, PSC or the Department to work with the College of Social Workers to identify competencies required for appointee Board members;
 - it takes years for a vacancy to be filled; currently the College of Social Workers has had a vacancy on the Board of Directors since 2018; there have been two vacancies on the Disciplinary Panel since 2019 and 2022; these vacancies continue despite knowledge that individuals have applied for appointment;
 - the process for reappointment also has substantial delays; public representatives continue to serve past the expiration of their terms under the continuation clause; and
 - appointments to the Board and Disciplinary Panel are not a priority, which has created uncertainty and additional pressure on public representatives by increasing their workload.

Submissions of the Newfoundland and Labrador Pharmacy Board

140. The written submissions of the Newfoundland and Labrador Pharmacy Board (“NLPB”) included the following points and suggestions, among others:

- the NLPB has experienced significant challenges both with understanding the public appointment process and with obtaining the necessary public appointments;
- the NLPB has received only one appointment in the seven years since the *Act* was implemented, despite countless efforts to communicate the need for further appointments;
- the *Act* cannot be read independently of the *Public Service Commission Act*, particularly with respect to Tier 2 status; it appears that the provisions of the *Act* do not apply to Tier 2 entities at all;
- the legislative framework creates challenges in understanding in which circumstances the *Act* applies versus the *Public Service Commission Act*;
- despite the apparent distinction between the IAC application process and the PSC application process, applications for appointments governed by the PSC are made through the IAC and its website and appear to be managed by IAC staff at the initial level;
- it has never been clearly communicated to the NLPB which organization is responsible for which stages in the process and there appear to be elements of the *Act* that are being applied to Tier 2 entities, whether they should be or not;
- it is unclear why there are two parallel processes set up by the legislation and it is also unclear what criteria are used to categorize entities either as Tier 1 or Tier 2; this lack of clarity and the apparent cross-over of the processes appears to be hampering the functioning of the public appointment process;
- the NLPB recommends that the two seemingly parallel but overlapping appointment processes be either separated completely or merged into one and that the process be clearly communicated to the entities that are subject to the process;
- perhaps the biggest concern with the IAC and PSC processes is the lack of transparency; the IAC and PSC both set out that appointments are to be made “further to a merit-based process”, however the NLPB is not aware of any publicly available documents setting out what the “merit-based process” is;

- there is no clear mechanism for organizations that require public appointments to communicate their needs and organizations are generally not consulted with respect to the appointments made; and
- there is no mechanism for organizations to communicate their needs and organizations are generally not consulted with respect to the appointments made; there no mechanism for organizations to track the status of the appointment process with respect to their organization; nor is there a clear avenue by which organizations can notify when appointments have expired and this does not appear to be tracked by the PSC or the relevant Department.

Submissions of First Light

141. The written submissions of First Light included the following points and suggestions, among others:

- the RNC's Panel of Adjudicators must be chosen in a manner that reflects the diversity of the province;
- the diversity of the RNC Panel of Adjudicators should include diversity factors such as gender identity and expression, sexual orientation, religious and racial identity, Indigenous identity (including guaranteed representation by at least one member of an Inuit community and at least one member of a First nations community), language communities (including English, French and at least one Indigenous language), citizenship and residency status and geography (including guaranteed representation for each of Labrador, the West Coast of Newfoundland, Central Newfoundland, rural Newfoundland and the St. John's metro region);
- "merit-based process" is not defined in the *Act*, resulting in confusion and lack of transparency;
- the exemption of renewals or extensions from the merit-based process under the *Act* creates confusion and uncertainty, which results in a lack of public trust in the process;
- "*urgent or extenuating circumstances*" under the *Act* are not defined and they should be; appointments made as per this Section should be brought to the House of Assembly to explain and justify the process; this will increase transparency and public knowledge around the process;

- the exemption clauses of the *Act* undermine the merit-based process since IAC recommendations can be ignored; if a recommendation is not accepted it should be brought to the House of Assembly to justify why;
- the entire process should be strengthened and clarified as it is not always clear how the process works; and
- the recommendations from First Voice's Report titled "*Building Trust, Restoring Confidence: MMIWG Recommendations for Strengthening Police Oversight in Newfoundland and Labrador*" related to the IAC should be reviewed and considered as the official stance First Light takes on these issues.

Submissions of the Office of the Information and Privacy Commissioner

142. The written submissions of the Office of the Information and Privacy Commissioner included the following points and suggestions, among others:

- the IAC appointment process should not be used to appoint the Information and Privacy Commissioner ("IPC") position since this would leave significant discretion in the hands of Cabinet;
- the IPC is a statutory officer of the legislative branch of government, charged with oversight of the executive branch;
- to place the decision-making ability about the appointment of the IPC in the hands of Cabinet would undermine the independence of the IPC and office;
- the potential to use the IAC appointment process to appoint the IPC was raised by the Department of Justice and Public Safety as part of the 2020 Statutory Review of the *Access to Information and Protection of Privacy Act, 2015* ("ATIPPA, 2015");
- the current process for appointing the IPC is provided for by Section 85 of the *ATIPPA, 2015*. This process was designed by the 2014 Statutory Review Committee of the *Access to Information and Protection of Privacy Act* ("ATIPPA");
- it would be inappropriate to include the IPC position in the IAC appointment process [a detailed analysis of why is provided in the OIPC's written submissions];

- the Chair of the 2020 Statutory Review Committee of *ATIPPA, 2015*, considered and recommended against the proposal of the Department of Justice and Public Safety to include the IPC position in the IAC appointment process;
- the IAC could potentially form the selection committee and develop the roster referenced in the *ATIPPA, 2015*;
- the IAC was not formed to support the appointment making power of the legislative branch of government; and
- using the IAC appointment process for the IPC would inappropriately fetter the discretion of the House of Assembly and undermine the independence of the IPC position.

Submissions of Thomas Kendell

143. The written submissions of Thomas Kendell included the following points and suggestions, among others:
- most people do not know what the IAC is and who serves on the IAC, nor their qualifications to choose candidates;
 - some people think that the IAC is just an arm of the government in power and has no independence;
 - people who apply do not seem to get a response when they are rejected for some unknown reason;
 - the IAC does not seem to be transparent and accountable to the public;
 - applications seem to go into a black hole;
 - the website is not updated; Mr. Kendell's name has been listed for a board and, as far as he knows, the board is defunct and has not met in 3-4 years;
 - there are few opportunities and vacancies on the website;
 - people who serve on boards should be listed along with their bios; and
 - people have concerns about the IAC process when it raises more questions than answers.

Submissions of David Vardy

144. The written submissions of David Vardy included the following points and suggestions, among others:

- while the PSC does provide professional support to the IAC it no longer has the authority to perform the strong independent role which was envisaged by the reformers who were seeking to build a stronger and more professional public service;
- the public service plays a vital role in advising the legislative and executive branches of government;
- the best and brightest need to be recruited to advise government and implement policy;
- a broad and independent review of the public service should be commissioned including all Departments, agencies and commissions;
- the Premier's Economic Recovery Team ("PERT") recommendation on consistency in management among entities is endorsed by Mr. Vardy, along with several other PERT recommendations;
- there should be one lead commission for the recruitment of personnel;
- candidates recommended by the IAC should be ranked in order of merit;
- the *Act* should be amended to provide that where the government does not make the appointments recommended by the IAC that they should file the reasons for same and defend the decision before a standing committee of the House of Assembly;
- the IAC should be given a mandate, through amendments to the *Act*, to independently review all job descriptions to make sure that they are appropriate and prevent job specifications from being written around a preferred candidate;
- the IAC should be empowered to review any and all employment contracts for appointments to ensure that they are appropriate;

- the IAC should over time become part of the PSC, whose mandate should be expanded to encompass recruitment and selection for all public servants;
- the IAC should, in addition to the skills of the PSC, seek involvement from external resources, particularly for specialized positions; and
- the government should have one integrated human resource planning agency serving all Departments and agencies; this agency should be the PSC; a new *Public Service Commission Act* should be prepared, drawing on the advice of an independent judicial review of the role of the public service, following the model of the 2007 Green Report entitled “*Rebuilding Confidence*”.

RECOMMENDATIONS

GENERAL COMMENTS

145. The recommendations that follow in this Report are broad. Many of these recommendations do not require changes to the *Act*, but will require changes to the processes that support the administration of the *Act*.
146. It will take time, resources and administrative changes for many of the following recommendations to be implemented. It is acknowledged that implementing the recommendations in this Report will not necessarily be easy.
147. When evaluating the cost and challenges of implementing the following recommendations it is equally important to consider the value and benefit of having a properly functioning merit-based appointment process for agencies, boards and commissions in the province.

MERIT-BASED APPOINTMENTS

148. The consultations and written submissions in the review demonstrate that there is universal support for maintaining a merit-based appointments process for entities within the province.
149. There will always be discussions and debate about which type of merit-based appointments system is best for entities and how it should be implemented. These types of debates and discussions are healthy and normal and they will help to continually improve merit-based appointments.

150. The one outcome that no individual, organization or entity would want to follow from this review is a return to an appointments process in the province that is not perceived as merit-based.
151. If the concept of merit-based appointments for entities is abandoned then there would be a significant erosion of trust and confidence in the ultimate appointments that are made to those entities. That should not happen.
152. **It is recommended that a merit-based appointment process for entities and executive positions within the province be maintained.**

TIMELINESS

153. There is a pressing need to make the appointments process happen in a more timely manner. The delays in the current process have caused other significant issues to arise.
154. Individuals, organizations and entities are willing to accept the outcomes of the appointments process but they are not willing to accept prolonged, unexplained and potentially unjustified delays in those appointments.
155. One of the first delays that can occur is when requests to post positions are not made, or requests are not made in a timely manner. Without an initial request nothing further can follow in the appointment process.
156. Additionally, and although there is nothing in the *Act* that requires it, unexpected vacancies can retrigger the posting process. Current assessed applicants who may be able to accept a vacant position immediately may not be considered for that vacant position without a new posting.
157. The lack of timelines in the appointment process or the sharing of information about which step of the appointment process a position is at has caused a considerable amount of frustration. The process should occur according to expected timelines and with the sharing of information.
158. **It is recommended that positions be posted automatically, well in advance of anticipated or possible vacancies, rather than when a request to post is made.**
159. **It is recommended that unexpected vacancies be potentially filled from the pool of existing assessed candidates, in consultation with the entity in question, without the need for a vacant position to necessarily be posted.**

160. **It is recommended that timelines be introduced for each stage of the appointment process and that applicants, entities and departments be entitled to know which stage a given vacancy is at.**

CONSULTATION WITH ENTITIES

161. A consistent theme that emerged in the review was the need for meaningful consultation with entities to occur in the appointment process. This was raised by nearly every entity that participated in the review.
162. Entities are uniquely situated to work in conjunction with the PSC, the Department, or the director/coordinator of appointments to provide input as to who the most appropriate candidate(s) may be for appointment.
163. That being said, it would not be appropriate for entities to be directly involved with the merit-based appointment process before the IAC makes its recommendations. The screening of candidates should occur without the entity being involved and the recommendation of candidates by the IAC should occur without the entity being involved. Otherwise, the independent nature of the IAC selection and recommendation process could be compromised.
164. Nonetheless, if the IAC narrows down the number of possible candidates that it will recommend to 3 or less as per Section 10 of the *Act*, then very competent and qualified applicants may be excluded from the process before an entity can be consulted. This will preclude meaningful consultation with the entity about the candidates who have been screened and recommended through the IAC process, who are then being considered for possible appointment.
165. **It is recommended that the *Act* be changed to specify that positions will be filled in consultation with the entity in question. The consultation would occur after the IAC has recommended candidates but before an appointment is made. The consultation would normally occur with the chair or head of the entity in question, based upon the recommended candidates.**
166. **It is recommended that the restriction in Section 10 of the *Act* that only allows a maximum of 3 persons to be recommended by the IAC for an appointment be lifted. This will allow for meaningful consultation with entities to occur following the IAC recommendation process, in accordance with the preceding recommendation. The IAC will be able to recommend that number of persons for an appointment that the IAC determines is appropriate.**

DIRECTOR / COORDINATOR OF APPOINTMENTS

167. The *Act*, the IAC and the merit-based appointments process was put in place at a time when the province was facing very significant fiscal challenges. The new merit-based independent appointments system was proposed at that time as a no-cost or low-cost alternative to the previous system of appointments.
168. The existing staff and resources of the PSC, along with the volunteer work of the IAC itself, has been used to allow the IAC appointments process to function, albeit without IAC staff, as such.
169. The lack of dedicated staff and resources for the IAC appointments process has hindered its administrative effectiveness. Furthermore, the lack of a position or individual who is responsible, on an overall basis, for appointments has hindered the appointments process.
170. It is not uncommon to have a director or coordinator for appointments within a provincial government or within the federal government. Having a position that coordinates appointments allows the appointments process to work in a far better fashion.
171. **It is recommended that a director or coordinator of appointments position be created. This individual would work with candidates, entities, Departments, and the IAC itself along with members of the public and other organizations, to facilitate and coordinate the overall appointment process.**

IT AND TECHNOLOGY

172. There is a need to improve the information technology associated with the application process. The application process is not user-friendly and it deters individuals from applying.
173. Furthermore, a system has to be put in place to remind individuals when their applications are close to expiring. Those individuals also have to be able to easily update and resubmit their applications.
174. There is also a need to improve and update the IAC's website. The current information on the website is not set out in a way that makes the appointment process easy to understand. Much of the information on the IAC website about who currently occupies positions with entities is outdated.
175. **It is recommended that the application process be modernized so that applicants receive a copy of their application once it is submitted, along with an email reminder**

if their application will soon be expiring, with the ability to easily update and resubmit their existing application.

176. **It is recommended that the IAC website be changed to make it more user friendly. The website should also have up-to-date information about current appointees to entities, the date of the appointment and the expected end date of the appointment.**

CLARIFYING THE MERIT-BASED APPOINTMENT PROCESSES

177. There is a critical need to make the distinction between Tier 1 and Tier 2 entities clearer, particularly with respect to the merit-based appointment processes that are used for each. If Tier 2 entities themselves do not understand the distinction between the IAC and PSC appointment processes then there is no hope that members of the public will understand it.
178. At minimum, the IAC website should be updated to make the distinction between IAC appointments and PSC appointments very clear. Listing and housing Tier 2 opportunities on the IAC website has led to the presumption that these opportunities follow the IAC appointment process when they do not.
179. **It is recommended the distinction between Tier 1 and Tier 2 entities and their respective merit-based appointment processes be made clearer to the public, potential candidates and the entities themselves. This would involve, at minimum, updated information on the IAC’s website and/or the removal of Tier 2 opportunities from the IAC website.**

DEFINING TIER 1 AND TIER 2 ENTITIES

180. Part of the mandate of the review of the *Act* is “*to ensure that the positions and appointments which are part of the merit-based appointment process are included or excluded as appropriate*”.
181. Without any definitions of what constitutes a Tier 1 entity or a Tier 2 entity, or any criteria to help make this determination, it would be incredibly difficult if not impossible to objectively say what specific positions should be included/excluded from the IAC appointment process.
182. There were no Tier 1 entities who participated in the review that suggested or requested that they be reclassified as Tier 2 entities. Similarly, there were no Tier 2 entities who participated in the review that suggested or requested that they be reclassified as Tier 1 entities.

183. If the IAC and PSC appointment processes for public entities are to be maintained, definitions and criteria should be established for determining what constitutes a Tier 1 entity or a Tier 2 entity.
184. Furthermore, criteria should be established for determining which executive positions should be included in the IAC appointment process.
185. **It is recommended that definitions of “Tier 1” and “Tier 2” entities be established under the Act. Criteria to determine what constitutes a Tier 1 or Tier 2 entity should also be established, along with criteria for which executive positions should be included in the IAC appointment process.**
186. Notwithstanding the foregoing, the submissions of the Office of the Information and Privacy Commissioner (“OIPC”) make a clear and compelling case for not including the position of Information and Privacy Commissioner in the IAC appointment process.
187. The Review Consultant sees no basis to question or disagree with the conclusion that was reached by the Chair of the 2020 Statutory Review Committee of *ATIPPA, 2015*, with respect to this. The comments and conclusion of the Chair of the 2020 Statutory Review Committee of *ATIPPA, 2015*, were quoted verbatim in the written submissions of the OIPC:

Government suggested to this Committee that the appointment of the Information and Privacy Commissioner could be subject to the [IAC appointment] process. I am not prepared to recommend that. The Wells Committee carefully considered the matter and, recognizing the unique and varied role of the commissioner, constructed an appointment process for the commissioner with significant involvement of the legislative branch. Further, the Independent Appointments Commission Act was enacted in 2016, subsequent to ATIPPA, 2015. The schedule to the Independent Appointments Commission Act includes the other statutory offices; the Information and Privacy Commissioner was not, indicating a clear legislative intention to leave the current appointment process in place. Two appointments have been made since 2015. There is no reason to establish a new process and, in my view, good reason to maintain the primary involvement of the legislative branch.

188. The Review Consultant declines to recommend that the position of Information and Privacy Commissioner be included in the IAC appointment process. This is based upon the reasons cited above along with the detailed reasons cited in the written submissions of the OIPC.

EDUCATION AND MENTORING

189. There is a need for education and mentoring to occur as part of the recruitment and appointment process for entities.
190. Certain applicants have a vast amount of experience and education related to serving on agencies, boards and commissions. These individuals may have a background in corporate governance, working with non-governmental organizations and/or have an ICD.D designation through the Institute of Corporate Directors.
191. For individuals who have not served on agencies, boards or commissions there needs to be educational and mentoring opportunities made available. This will encourage individuals to consider applying to entities and make for better appointees if they are selected.
192. Educational opportunities should also be made available to existing individuals on entities, including existing IAC members. This education and training could include modules on inclusive practices, disabilities and Indigenous awareness, among others.
193. The use of exit interviews or surveys for individuals who are leaving entities would be a useful tool to help understand which types of training or educational opportunities are needed.
194. **It is recommended that free online educational and instructional materials be made available to potential applicants and existing members of entities.**
195. **It is recommended that guidelines for a mentoring process be put in place such that potential applicants or new appointees can speak or meet with existing entity members on a mentoring basis.**

DIVERSITY, INCLUSION AND INDIGENOUS PARTICIPATION

196. There is a need for more diversity and inclusion to occur with respect to appointments, particularly for Indigenous candidates.
197. Direct outreach and inclusive policies and practices are needed in order to attract diverse candidates to the appointments process. This will involve liaising with individuals and organizations and creating a network of contacts. This could also include a nominations process.

198. **It is recommended that direct outreach occur to organizations that represent people of diverse backgrounds, organizations that represent people with disabilities and governments/organizations that represent Indigenous peoples.**
199. **It is recommended that postings be carefully reviewed by entities, Departments and the director/coordinator of appointments to ensure that the stated qualifications in a posting do not unintentionally exclude or discourage candidates from diverse backgrounds, people with disabilities or Indigenous candidates.**
200. **It is recommended that entities adopt inclusive policies and practices to facilitate participation from individuals with diverse backgrounds or with special needs. This could include the use of technology, online/remote participation and/or assistive devices.**
201. **It is recommended that a nominations process be implemented such that individuals can put forward the name of a possible candidate for a given position and the director/coordinator of appointments can then reach out to that possible candidate. The possible candidate will still have to go through the normal appointment process like all other candidates, without any preferential treatment.**

REGIONAL PARTICIPATION

202. Regional participation should be increased on agencies, boards and commissions within the province. This will require direct outreach and policies and practices that encourage participation from different parts of the province.
203. **It is recommended that direct outreach occur to community groups, municipalities, chambers of commerce, boards of trade and other regional organizations to promote knowledge of entity opportunities and applications from various parts of the province.**
204. **It is recommended that entities adopt policies and practices that promote the involvement of people from different parts of the province. This could include the use of technology for online/telephone meetings and/or reimbursement for travel costs.**

MARKETING AND COMMUNICATION

205. There needs to be better marking and communication about the appointment process and available opportunities. This will require resources.

206. The appointment process hinges on there being a robust group of applicants available for opportunities. If members of the public are not aware of the appointment process or opportunities then they will be unable to consider applying.
207. **It is recommended that adequate resources be made available to allow for marketing and communication related to the appointment process and available opportunities. Ideally, this would involve a marketing and communications position that works in conjunction with the director or coordinator of appointments.**

TRANSPARENCY AND ACCOUNTABILITY

208. The appointments process should be open, transparent and easily understood by members of the public.
209. There is, unfortunately, a view that appointments are routinely made outside of the IAC appointment process when this is not the case.
210. The lack of timely information about when and why positions are filled outside of the IAC appointment process has led to a negative view of the *Act*. There needs to be more information provided to the public about appointments that are made outside of the IAC appointment process.
211. The lack of published statistics about the appointment process and the results of the appointment process have not helped the public, organizations or entities understand whether the objectives of the *Act* are being met.
212. **It is recommended that any positions that are filled outside of the normal appointment process of the *Act* be immediately publicly disclosed, with reasons being provided as to the urgent, extenuating or other circumstances to justify this.**
213. **It is recommended that annual reporting related to appointments be provided by the director/coordinator of appointments. This reporting would include statistics on the number of appointments, the timeliness of appointments, the anonymized diversity/background of applicants, the anonymized diversity/background of appointees and any other relevant information that is available.**

COMPENSATION

214. There will always be debate about whether individuals should be compensated for serving on an entity or what the appropriate level of compensation should be.

215. Attracting individuals to serve on an entity should not solely be based upon the level of compensation. There is a strong element of public service that should be involved in serving on an entity.
216. Nonetheless, there is a perception and a reality that not adequately compensating individuals for serving on entities severely limits the types of individuals who can consider an opportunity.
217. The overall cost to adjusting compensation levels could be significant but this has to be weighed with the cost of not being able to attract the best or most meritorious individuals to entities, along with the cost of effectively precluding certain individuals from accepting an appointment.
218. **It is recommended that compensation levels for entities be publicly reviewed and potentially adjusted. Increasing compensation levels would attract more candidates, including candidates with diverse backgrounds, while helping to retain existing individuals. The public review could examine, among other things, the compensation levels that are paid for serving on similar/comparable entities in other jurisdictions within Canada.**

SUMMARY OF THE PROPOSED REVISED APPLICATION PROCESS

219. The following is a summary of the proposed revised application process, based upon the recommendations in this Report. Each step in this process should have specified time periods for the step to occur, although any time periods applicable to the IAC itself should be considered and set by the IAC itself:
- vacancy requests are automatically generated and a notice of the request is copied to the applicable Department and entity;
 - a vacancy profile is created in conjunction with the applicable Department and entity;
 - the vacancy profile is posted on the IAC website;
 - once applications have been received for the vacancy then screening of candidates commences;
 - candidates are screened by the PSC based upon the pre-determined criteria established in the vacancy profile;

- a list of candidates who meet the established criteria will be prepared by the PSC for the vacancy and will be forwarded to the IAC;
- the IAC uses a merit-based assessment and evaluation process to provide a list of the recommended candidates for the vacant position;
- consultation with the entity in question occurs, based upon the IAC's list of candidates recommended for the vacant position;
- the list of candidates recommended by the IAC for the vacant position are required to consent to a due diligence process to confirm their suitability for appointment; this may include background/reference checks and a personal disclosure declaration;
- once the screening, assessment, entity consultation and background checks have been completed, a recommendation report will be prepared listing the names of the candidates without ranking the candidates; the consultation input of the entity will be noted in the report; and
- once the successful candidate is selected then the vacancy is filled and the IAC appointment process is complete.

PROPOSALS THAT ARE NOT BEING RECOMMENDED

220. There were a number of proposed changes to the *Act*, the appointment process and other pieces of legislation that are not being recommended. Many of these proposed changes are outside of the scope of the review. In particular, the mandate of the review does not include reviewing or proposing changes to other pieces of legislation.
221. The following is a partial list of proposals that are not being recommended. A brief comment is provided as to why the proposal is not being recommended:
- the inclusion of a diversity clause in the Act – this could certainly be done in the *Act*, although a clause such as this would normally be found within the regulations associated with the legislation or through a policy. In this case, the *IAC Rules of Procedure* could be amended to include a diversity recognition clause;
 - the IAC should be eliminated in favour of the PSC being responsible for all merit-based recommendations – the elimination of the IAC is beyond the scope of this review, based upon the Terms of Reference. This is a Report based upon a review of the *Act* and its administration;

- Cabinet should be bound to pick from the roster of recommended IAC candidates – binding Cabinet to decisions made by an administrative body regardless of the circumstances, even those decisions made by an independent administrative body, is not something that should be undertaken lightly. The recommendations in this Report, particularly those related to public transparency and accountability, along with the ultimate accountability of Cabinet to the electorate, should sufficiently ensure that Cabinet chooses from the roster of recommended candidates. If not, then this proposal can be revisited in the future;
- all-party committees should be used to select members of the IAC and the Chair of the IAC – the fact that members of the IAC are not selected by an all-party committee does not mean that they act, or could be perceived to act, in a non-impartial manner. There has been no suggestion in this review that any IAC member, present or past, has ever failed to act in an impartial manner. In fact, the independence and impartiality of the IAC and the PSC was consistently praised throughout the review. Furthermore, many impartial decision makers in the province, including judges, are not appointed according to an all-party process. The use of an all-party process is not necessary to ensure the independence and impartiality, perceived or otherwise, of IAC members;
- a bipartisan body should be used to establish the IAC's *Rules of Procedure*, tenure of office for IAC members and temporary replacements for IAC members – the foregoing comments are again applicable. A bipartisan body is not needed to decide these matters. Furthermore, the independent nature of the IAC is consistent with it setting its own rules of procedure;
- panels of the IAC should be selected randomly – it is not unusual for panels or decision makers to be selected by a chairperson. This is true of the Labour Relations Board and other administrative tribunals. Again, there has been no suggestion in this review that any IAC member has ever failed to act in an impartial manner;
- the Act should be reviewed more often – although this review process could occur more often, it would be preferable for the PSC, director/coordinator of appointments and the IAC itself to continually receive feedback and look at possible improvements to the IAC appointment process;
- the Act should be amended to recognize the primacy of the governing legislation for Provident10 and its Joint Sponsorship Agreement – although an arguably compelling case for this proposal has been put forward it is beyond the scope of

this review to interpret and consider this type of proposal, since it involves separate legislation;

- the RNC's Panel of Adjudicators must be chosen in a manner that reflects the diversity of the province – while this recommendation is compelling and is consistent with recommendations in this Report, the RNC Panel of Adjudicators is a Tier 2 entity that is selected according to the PSC appointment process, not the IAC appointment process under the *Act*;
- while the PSC does provide professional support to the IAC it no longer has the authority to perform the strong independent role which was envisaged by the reformers who were seeking to build a stronger and more professional public service – this statement is not supported by any of the comments, submissions or conclusions in this Report. There has been absolutely no evidence or information presented in this review to support the suggestion that the PSC no longer has the authority to perform the strong independent role which was envisaged;
- a broad and independent review of the public service should be commissioned including all Departments, agencies and commissions – this proposal is beyond of the scope of this review, since this review is focused on the IAC and its governing legislation, not the broader public service;
- the IAC should independently review all job descriptions and employment contracts – the IAC itself can consider whether these types of reviews should be undertaken. If so, the IAC can undertake these reviews or recommend that the IAC be tasked with doing so; and
- a new *Public Service Commission Act* should be prepared – this is beyond the scope of this review since this review pertains to the IAC and its governing legislation.

CONCLUSION

Concluding Comments

222. As noted at the outset, the mandate for the review is broad as are the recommendations in this Report.
223. This is the first review that has occurred under the *Act*. It is hoped that this Report and its recommendations will assist in improving the extremely important merit-based appointments system in the province.

SUMMARY OF RECOMMENDATIONS

Merit-Based Appointments

224. It is recommended that a merit-based appointment process for entities and executive positions within the province be maintained.

Timeliness

225. It is recommended that positions be posted automatically, well in advance of anticipated or possible vacancies, rather than when a request to post is made.
226. It is recommended that unexpected vacancies be potentially filled from the pool of existing assessed candidates, in consultation with the entity in question, without the need for a vacant position to necessarily be posted.
227. It is recommended that timelines be introduced for each stage of the appointment process and that applicants, entities and departments be entitled to know which stage a given vacancy is at.

Consultation with Entities

228. It is recommended that the *Act* be changed to specify that positions will be filled in consultation with the entity in question. The consultation would occur after the IAC has recommended candidates but before an appointment is made. The consultation would normally occur with the chair or head of the entity in question, based upon the recommended candidates.
229. It is recommended that the restriction in Section 10 of the *Act* that only allows a maximum of 3 persons to be recommended by the IAC for an appointment be lifted. This will allow for meaningful consultation with entities to occur following the IAC recommendation process, in accordance with the preceding recommendation. The IAC will be able to recommend that number of persons for an appointment that the IAC determines is appropriate.

Director / Coordinator of Appointments

230. It is recommended that a director or coordinator of appointments position be created. This position would work with candidates, entities, Departments, and the IAC itself along with members of the public and other organizations, to facilitate and coordinate the overall appointment process.

IT and Technology

231. **It is recommended that the application process be modernized so that applicants receive a copy of their application once it is submitted, along with an email reminder if their application will soon be expiring, with the ability to easily update and resubmit their existing application.**
232. **It is recommended that the IAC website be changed to make it more user friendly. The website should also have up-to-date information about current appointees to entities, the date of the appointment and the expected end date of the appointment.**

Clarifying the Merit-Based Appointment Processes

233. **It is recommended the distinction between Tier 1 and Tier 2 entities and their respective merit-based appointment processes be made clearer to the public, potential candidates and the entities themselves. This would involve, at minimum, updated information on the IAC's website and/or the removal of Tier 2 opportunities from the IAC website.**

Defining Tier 1 and Tier 2 Entities

234. **It is recommended that definitions of "Tier 1" and "Tier 2" entities be established under the *Act*. Criteria to determine what constitutes a Tier 1 or Tier 2 entity should also be established, along with criteria for which executive positions are included in the IAC appointment process.**

Education and Mentoring

235. **It is recommended that free online educational and instructional materials be made available to potential applicants and existing members of entities.**
236. **It is recommended that guidelines for a mentoring process be put in place such that potential applicants or new appointees can speak or meet with existing entity members on a mentoring basis.**

Diversity, Inclusion and Indigenous Participation

237. **It is recommended that direct outreach occur to organizations that represent people of diverse backgrounds, organizations that represent people with disabilities and governments/organizations that represent Indigenous peoples.**

238. **It is recommended that postings be carefully reviewed by entities, Departments and the director/coordinator of appointments to ensure that the stated qualifications in a posting do not unintentionally exclude or discourage candidates from diverse backgrounds, people with disabilities or Indigenous candidates.**
239. **It is recommended that entities adopt inclusive policies and practices to facilitate participation from individuals with diverse backgrounds or with special needs. This could include the use of technology, online/remote participation and/or assistive devices.**
240. **It is recommended that a nominations process be implemented such that individuals can put forward the name of a possible candidate for a given position and the director/coordinator of appointments can then reach out to that possible candidate. The possible candidate will still have to go through the normal appointment process like all other candidates, without any preferential treatment.**

Regional Participation

241. **It is recommended that direct outreach occur to community groups, municipalities, chambers of commerce, boards of trade and other regional organizations to promote knowledge of entity opportunities and applications from various parts of the province.**
242. **It is recommended that entities adopt policies and practices that promote the involvement of people from different parts of the province. This could include the use of technology for online/telephone meetings and/or reimbursement for travel costs.**

Marketing and Communication

243. **It is recommended that adequate resources be made available to allow for marketing and communication related to the appointment process and available opportunities. Ideally, this would involve a marketing and communications position that works in conjunction with the director or coordinator of appointments.**

Transparency and Accountability

244. **It is recommended that any positions that are filled outside of the normal appointment process of the *Act* be immediately publicly disclosed, with reasons being provided as to the urgent, extenuating or other circumstances to justify this.**

245. **It is recommended that annual reporting related to appointments be provided by the director/coordinator of appointments. This reporting would include statistics on the number of appointments, the timeliness of appointments, the anonymized diversity/background of applicants, the anonymized diversity/background of appointees and any other relevant information that is available.**

Compensation

246. **It is recommended that compensation levels for entities be publicly reviewed and potentially adjusted. Increasing compensation levels would attract more candidates, including candidates with diverse backgrounds, while helping to retain existing individuals. The public review could examine, among other things, the compensation levels that are paid for serving on similar/comparable entities in other jurisdictions within Canada.**

LIST OF INDIVIDUALS CONSULTED IN THE REVIEW

247. The following individuals participated in the review by providing comments directly to the Review Consultant:
- Margaret Allan
 - Alastair O'Reilly
 - Paul Lane
 - Kim Campbell-McLean
 - Carey Majid
 - Karen McCarthy
 - Nathan Barnes
 - Regina Coady
 - Elyse Bruce
 - Earle Ludlow
 - Danny Barrett
 - Glenn Barnes
 - Tim Chalker
 - Judy White
 - Paula McDonald
 - Trevor McCormick
 - Sean Kelly
 - Dennis Browne

- Lynn Barter
- Derrick Gill
- Cheryl Brown-McLean
- Cathie Pinsent
- Lynn Zurel
- Don Ash
- Candice Ennis-Williams
- Leanne Lane
- Emily Christy
- John Peddle
- Gregory A. French
- Joe Greene
- Don Dunphy
- Bruce Hollett
- Brian Peach
- Tanya Rogers
- Krista Connolly
- Eddie Joyce
- Steve Tessier
- Kris Aubrey-Bassler
- Karen Gray
- David Oxford
- Fraser Edison
- David Winter
- Kaylah Mercer
- Stanley Oliver
- Ron Sparkes
- Sheldon Pollett
- Lynn Power
- Nancy Reid
- Cathy Bennett
- Michael Ladha
- Rhonda Tulk-Lane
- Alice Kennedy
- Rolanda Lavallee

- Tanya Rogers
 - Thomas Mullins
 - Lisa Crockwell
 - Noelle Patten
 - Natalie Payne
 - Geoff Davis
 - Clyde Wells
 - Ward Sampson
 - Paula Sheppard
 - Leona Barrington
 - Loyola Sullivan
 - Thomas Kendell
 - Ann Chafe
 - Derek Young
 - Peter Miles
 - Roger Grimes
 - Victoria Belbin
 - Jordan Lawrence
248. In addition to those consulted as part of the review, meetings and discussions were held with the Chair & C.E.O. of the Public Service Commission along with PSC staff members in order to gather information.

APPENDICES (SEE VOLUME 2)

| TAB | DOCUMENT |
|------------|---|
| 1 | <i>Independent Appointments Commission Act, R.S.N.L., as amended</i> |
| 2 | <i>Terms of Reference – Independent Appointments Commission Act (March 2023)</i> |
| 3 | News Release, Executive Council (March 16, 2023) |
| 4 | Public Advisory, Executive Council (March 28, 2023) |
| 5 | News Release, Executive Council (March 10, 2016) |
| 6 | News Release, Executive Council (May 25, 2016) |
| 7 | Tier 1 Entities (2023) |
| 8 | Tier 2 Entities (2023) |
| 9 | <i>Independent Appointments Commission Rules of Procedure (Revised June 29, 2020)</i> |
| 10 | <i>Public Service Commission Act, R.S.N.L., as amended</i> |
| 11 | Written submissions of the Independent Appointments Commission |
| 12 | Written submissions of the Public Service Commission |
| 13 | Written submissions of the Official Opposition Caucus of the House of Assembly |
| 14 | Written submissions of Paul Lane, Independent MHA |
| 15 | Written submissions of the Provincial Advisory Council on the Status of Women |
| 16 | Written submissions of the Public Utilities Board |
| 17 | Written submissions of Provident10 |
| 18 | Written submissions of the Board of Governors of the College of the North Atlantic |

- 19** Written submissions of the Newfoundland and Labrador Geographical Names Board
- 20** Written submissions of the Newfoundland and Labrador College of Dietitians
- 21** Written submissions of the Newfoundland and Labrador College of Social Workers
- 22** Written submissions of the Newfoundland and Labrador Pharmacy Board
- 23** Written submissions of First Light
- 24** Written submissions of the Office of the Information and Privacy Commissioner
- 25** Written submissions of Thomas Kendell
- 26** Written submissions of David Vardy