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**Municipal Affairs and Housing
Office of the Minister**

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DEC 19 2019

Juanita Spencer
Chief Executive Officer
Nova Scotia Federation of Municipalities
Suite 1304, 1809 Barrington Street
Halifax, NS
B3J 3K8

Dear Ms. Spencer:

Re: Notice under Section 519 of the *Municipal Government Act* of Regulations under the *Police Act*

Please accept this letter as official notice to the Nova Scotia Federation of Municipalities under Section 519 of the *Municipal Government Act* of anticipated changes to the *Police Regulations* made under the *Police Act*. These changes were discussed with you at a meeting on October 24, 2019 with representatives from the Departments of Justice and Municipal Affairs and Housing. While the effective date of this regulatory change has yet to be determined, it will be at least one year from the date of this letter to ensure the required notice is provided.

The Minister of Justice has sought an amendment to Section 29 of the *Police Regulations* made under the *Police Act* to extend the timeframe for filing a public complaint against municipal police from 6 months to one year, with the ability for the Police Complaints Commissioner to further extend the timeline where the Commissioner considers there to be good reasons for doing so and it is not contrary to the public interest. This change will align with that for RCMP officers in the *Royal Canadian Mounted Police Act*. This change is prospective in effect and will not permit complaints where the conduct complained of was more than one year before the date the regulatory amendment takes effect.

The change was formally requested by the Halifax Board of Police Commissioners following Dr. Scot Wortley's report on street checks issued earlier this year which stated the 6-month timeframe was identified as a concern during community consultations. The independent Office of the Police Complaints Commissioner has also requested this timeframe be extended. At its core, the current timeframe of 6 months for a public complaint against municipal police is an issue of access to justice for those who wish to file a complaint because of alleged police misconduct, and an amendment is relevant province-wide.

The Office of the Police Complaints Commissioner currently tracks the number of complaints denied for being outside the existing 6-month filing timeframe. For 2016-2018 the following outlines the number of total complaints and the number denied as untimely:

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- 2016 – 121 public complaints filed within the 6-month timeframe; four complaints not processed due to being filed outside of the 6-month timeframe;
- 2017 – 154 public complaints filed within the 6-month timeframe; 10 complaints filed outside of the 6 months were not processed;
- 2018 – 197 public complaints filed within the 6-month timeframe; nine complaints filed outside of the 6 months were not processed.

We understand additional costs are not incurred for most complaints as these are investigated by the Chief or delegate. Costs are primarily incurred when:

- A complaint results in a meeting of the police agency and the member under Section 44(3) of the *Police Regulations* following the police chief's determination that there *may* be some merit to the allegation as a member is entitled to legal representation at this meeting (may be provided by union legal counsel);
- A complaint is advanced to the Review Board and a hearing takes place;
- A complaint is advanced to the Review Board but a settlement is negotiated prior to a hearing taking place;
- A complaint involves a police chief and is investigated by a barrister instead of another police chief.

Costs associated with Review Board hearings can vary considerably based on the complexity and length of the hearings and what, if any, settlement discussions take place. Other costs relate to the provision of legal representation to members at disciplinary meetings; this expense is often limited as members are frequently represented by legal counsel for their union. Of the total number of public complaints filed each year, few proceed to a Review Board hearing. Between 2016 and 2018, 472 public complaints were filed but only three Review Board hearings were held. There were two hearings in 2016, one hearing in 2017, none in 2018, and five heard or pending for 2019.

It is possible that increasing the time frame for filing a public complaint will result in increased expenditures to municipalities, but the extent of increase may be difficult to predict. Representatives of the Department of Justice discussed this regulatory change with members of the Association of Municipal Administrators during a call on July 18, 2019. Following the call, municipal CAO's provided the following breakdown of costs by municipality as provided by the CAO's for 2016-2018. Several municipalities did not provide any costing to support the number of complaints listed and the costs provided included both public and internal complaints, however, the proposed amendment will only apply to public complaints.

Municipality	# Public Complaints	# Internal Complaints	Total Complaints (2016-18)	Cost
Cape Breton	58	20	78	\$156,493
Halifax	340	78	418	
Amherst	13	9	22	
Annapolis Royal*	0	0	0	
Bridgewater**	1	2	3	\$65,000
Kentville	8	0	8	
New Glasgow	8	18	26	
Stellarton	17	1	18	
Truro	21	13	34	
Westville	4	0	4	
Total	470	141	611	

* No hearings in 2016-18 but paid \$150,000 over 5 years ago (\$30,000 paid by municipality, \$120,000 under insurance policy). ** Covers costs from 2014-2018.

In addition, HRM and CBRM have collective agreements (CA) addressing costs paid by the municipalities toward public complaints. Section 30.01 of the CBRM CA requires the employer to provide a solicitor at no cost to the employee where a public complaint has been filed under the *Police Act*. Article 23, section 10 of the HRM CA requires the municipality to pay a maximum of \$75,000 per fiscal year, cumulatively, for legal representation on all public complaints under the *Police Act* for which the complaint is not sustained.

I trust this information sufficiently identifies the anticipated changes to the *Police Regulations* and the potential associated costs. I ask that you please bring this letter to the attention of the Board of Directors of the Nova Scotia Federation of Municipalities at your earliest opportunity.

Should you require further information please do not hesitate to contact Wanda Fletcher, Department of Justice at 424-3178 regarding this important issue.

Yours truly,



Chuck Porter
 Minister

- c. Honourable Mark Furey, Attorney General and Minister of Justice
 Mark Peck, Executive Director, Municipal Affairs and Housing
 Wanda Fletcher, A/Executive Director, Department of Justice