

THE CANADIAN MUSEUM FOR HUMAN RIGHTS

Interim Governance Policy

This Policy is in effect as at September 3, 2008

INTERIM GOVERNANCE POLICY

1. PREAMBLE

Corporate governance refers to the structure and processes used to direct and manage the business and affairs of an organization, with the objective of fulfilling its mandate. Good corporate governance contributes to the achievement of the organization's objectives. In a Crown corporation, the structure and processes define the division of responsibilities and powers among the Crown, usually represented by a Minister, the Board and Management and establish key accountability mechanisms.

Canadians expect their governments and public institutions to govern themselves in a manner that embodies the highest standards of efficiency, effectiveness and accountability. The Canadian Museum for Human Rights (CMHR) is committed to fulfilling its mandate in a way that reflects best practices in corporate governance so it can be fully accountable for the public and private funds with which it has been entrusted. The purpose of this policy is to define the corporate governance practices the Museum is committed to use as it pursues its mandate.

As a Crown corporation, the Museum is a distinct legal entity wholly-owned by the Crown. Its mandate, as expressed in the *Museums Act*, is:

" to explore the subject of human rights, with special but not exclusive reference to Canada, in order to enhance the public's understanding of human rights, to promote respect for others and to encourage reflection and dialogue."

Like other Crown corporations, the CMHR has greater managerial autonomy than a Government department. To balance its autonomy with accountability to both the public and Parliament, the Museum is required to comply with Part X of the *Financial Administration Act (FAA)*, which outlines the control and accountability framework for Crown corporations.

The *Museums Act* requires the establishment of a Board of Trustees, responsible for the direction and control of the Museum. Through its Chairperson, the Board is accountable to the Minister of Canadian Heritage. The Minister can thus be considered to represent the sole shareholder of the Museum—the government. The Minister answers to Parliament for the operations of the Museum and acts on behalf of the Museum in Cabinet and to the Treasury Board; the Minister brings forward policy submissions to Cabinet involving the Museum, signs Treasury Board submissions on behalf of the Museum. The Minister also tables each year a summary of the Museum's Corporate Plan and the Museum's Annual Report in Parliament.

Other persons and bodies within the government have important roles with regard to the Museum. The Treasury Board annually approves the Museum's budgets, reviews the Museum's Corporate Plan and recommends the Plan to the Governor in Council for approval. The Prime Minister, supported by the Prime Minister's Office and the Privy Council Office, is actively involved with the appointment of the Museum's Director/CEO, its Chair and Trustees.

In addition to the *Museums Act* and the *Financial Administration Act*, the Museum is also required to comply with the relevant provisions in other statutes, including, among others:

- *The Access to Information Act*;
- *The Criminal Code of Canada*;
- *The Official Languages Act and Regulations*;
- *The Privacy Act*; and
- *The Canada Labour Code*

2. ROLES AND RESPONSIBILITIES OF THE BOARD AND MANAGEMENT

Although all the staff and Board members of the Museum have a responsibility to adhere to and carry out the governance policy, once it has been adopted, the principal responsibility for implementing the policy and ensuring compliance with it rests with the Board of Trustees and Management, led by the Museum's Director/CEO. An effective relationship between the Board and Management is key to how well Trustees fulfill their fiduciary responsibilities and to how well the Museum achieves its mandate. The ability of the Board to work closely with Management and at the same time function with a perspective independent of that of Management is central to good corporate governance.

The Board, in conjunction with the Director/CEO strives to ensure an appropriate allocation of responsibilities between itself and Management. The following sections describe the respective roles, responsibilities, duties and functioning of the Board of Trustees and Senior Management.

a. THE BOARD OF TRUSTEES

The 1990 *Museums Act* states that:

"The Board is responsible for the fulfillment of the purposes and the management of the business, activities and affairs of the museum." [Subsection 18(3)]

A strong Board of Trustees is essential if the CMHR is to fulfill the objectives established for it. The Museum's Board, comprising up to 11 members, has the primary responsibility for ensuring that the resources provided to the institution are administered so that the mandate the government has given it is carried out in the best way possible.

i. DUTIES AND RESPONSIBILITIES OF TRUSTEES

The Board of Trustees of the CMHR should explicitly assume responsibility for the stewardship of the institution. As part of this responsibility, the Board oversees the conduct of the business, supervises Management, and endeavors to ensure that all major issues affecting the business and affairs of the Museum are given proper consideration.

While Trustees are removed from the day-to-day decision making of the corporation, their role is vitally important. The Museum's Management presents information, seeks advice, and requests the approval of proposals from the Board of Trustees. Each Trustee is called upon to exercise his/her judgment and the independence of his/her position in formulating the Board's decisions and may seek further information on, challenge, request deferral of, and ultimately approve or reject the proposals brought by Management.

- FIDUCIARY DUTY

Board members must act in the best interest of the Museum and avoid placing themselves in a conflict of interest situation. In addition to their general responsibilities as Public Office Holders under the *Conflict of Interest Act*, Board members must, with regard to the Museum, meet the obligations of Board members in respect of conflict of interest as outlined in the Museum's By-Laws and any Code of Ethics adopted by the Museum.

- TO ACT HONESTLY AND IN GOOD FAITH; TO ACT IN THE BEST INTERESTS OF THE MUSEUM

In every circumstance, members of the Board of Trustees are bound by a duty to act honestly, in good faith, and in a manner consistent with the best interests of the Museum. This basic duty is founded on the conviction that decisions taken in the best interests of the Museum will also uphold the best interests of its stakeholders. Board members must avoid the promotion of any personal interests and those of any one stakeholder or stakeholder group.

- TO DISCLOSE CONFLICTS OF INTEREST

Trustees must promptly disclose any situation that may place them in a real or perceived conflict of interest. Trustees must also excuse themselves from any discussion or votes when they are or may appear to be in a conflict of interest position with the Museum. The responsibility lies with the Trustee to bring any such actual or potential conflict of interest situation to the attention of the Board or Committee on Governance and Nominations for its consideration at the earliest opportunity.

- DUTY OF CARE AND DUE DILIGENCE

The "statutory duty of care," requires that the Director/CEO and all officers of a corporation, in exercising their powers and discharging their duties, must "exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances."

Related to the duty of care is the duty of due diligence, which is the demonstration that the Board members have exercised reasonable and appropriate duties of care and loyalty in discharging their responsibilities for organizational governance. Trustees are expected to use good judgment in decision-making, keep current on relevant issues, attend meetings regularly and come to meetings prepared to participate and make a significant contribution. Specific duties of Board members for attending meetings, avoiding conflict of interest, voting and

performing duties assigned by the Chairperson are defined in the Museum's By-Laws and the *Financial Administration Act*.

- **TO ACQUIRE KNOWLEDGE OF THE CMHR AND ITS LEGISLATIVE FRAMEWORK**

To exercise their responsibilities, Trustees should become familiar with the general parameters of the legislation that created the Museum; any other legislation applicable to the corporation; its general By-Laws; and Part X of the *Financial Administration Act*. In addition, annual reports, the Corporate Plan and various policies prepared by Management provide further material for study.

Each Board member should also acquire a more specific knowledge of the Museum, how it is organized, how it is financed, its products and services, and its major suppliers and customers. This knowledge can normally be acquired during actual meetings of the Board of Trustees. For most Trustees, the experience of working on the Board with the other members proves to be the most effective means of acquiring the necessary working knowledge of the Museum.

ii. MANDATE, POWERS AND ROLE OF THE BOARD OF TRUSTEES

The General By-Law of the CMHR defines the mandate and powers of the Board of Trustees as follows:

"The Board has all the powers and duties which fall to it under the Act, the FAA and any other applicable statute or regulation, and shall exercise those powers and perform those duties, except where the Board deems it appropriate to delegate them through a By-law or resolution.

In addition, and without limiting the generality of the foregoing, the Board shall oversee the development and implementation of all aspects of the design and construction of the facilities required to house the Museum and its collection."

The Board holds Management accountable for the Museum's performance, its long-term viability and the achievement of its objectives. The Board is responsible for ensuring the Museum is managing its intellectual and capital assets, its installations and exhibitions, its collections, and its human and financial resources in accordance with best management practices and professional museum standards.

Trustees establish the CMHR's strategic direction, safeguard its resources, monitor its performance and report to the Crown. They are also involved in stakeholder strategies and communications and succession planning for the Board and Senior Management of the Museum:

- ESTABLISHING THE MUSEUM'S STRATEGIC DIRECTION

The Board's primary function is to establish the Museum's strategic direction. How it performs this role, and the extent to which it assumes responsibility for the stewardship and control of the Museum's resources and assets, are key to effective governance of the Museum. The Board fulfils its responsibility for establishing strategic direction largely through its role in developing the Museum's Corporate Plan, but also by periodically assessing the Museum's mandate.

The Board of Trustees sets the Museum's strategic direction, and reviews and approves the Corporate Plan. The Corporate Plan is the centerpiece of the accountability regime adopted by Parliament for Crown corporations. The Plan establishes and keeps the Government informed of the Museum's priorities, objectives, strategies and performance indicators. It commits the Museum to a planned strategic direction over a five-year period.

The Corporate Plan provides a way to bring issues to the attention of Ministers, to identify opportunities and to initiate change. It also serves to guide the actions of the Board, Management and staff and to ensure that everyone in the Museum is aware of the Museum's objectives, priorities, and strategic direction. A summary of the Corporate Plan provides a means of communicating this information to Parliament, the public and key stakeholders, in a coherent and transparent fashion.

Management works together with the Board to formulate the Museum's strategic direction. The Board has the responsibility to:

- Provide input, leadership and direction to the development of the Corporate Plan;
- Ensure the Museum's strategic direction is consistent with its legislated mandate, as well as its legal and ethical responsibilities; and
- Formally endorse the Plan and submit it through the Minister for the approval of the Governor in Council. Management prepares a summary for the Minister to table in Parliament and for the information of the public and staff.

In establishing the strategic direction, the Board must be satisfied that Management has considered all relevant factors that will influence the future direction of the Museum. Once approved, the Plan provides a basis for evaluating performance.

- ASSESSING THE RELEVANCE OF THE MANDATE:

Periodically, the fundamental purpose underlying the creation of Crown corporations should be assessed. This is the responsibility of the Board of Trustees, in partnership and under the leadership of the Museum's Director/CEO. In rare cases, the Board may consider that the legislated mandate of the Museum may be no longer valid in the current economic and/or social context. If so, the Board should advise the Minister of the situation. Where practical, the Board should recommend an appropriate course of action.

- SAFEGUARDING THE MUSEUM'S RESOURCES

The Board must ensure that the principal risks of the Museum's business have been identified and that appropriate systems to monitor and manage these risks have been implemented. All major decisions involving the Museum's assets and their financing must be reviewed and approved by the Board.

To this end, the Board is responsible for:

- Reviewing and approving the Museum's annual operating and capital budgets, major new project proposals, and all significant decisions involving the Museum's assets and their financing;
- Ensuring that the principal risks of the Museum's business have been identified and that appropriate systems to manage these risks have been implemented;
- Ensuring the integrity of the Museum's internal control and management information systems, and the quality of its management practices;
- Assessing financial results, ensuring the integrity of financial reporting, and approving the year-end audited financial statements;
- Ensuring appropriate ethics and values are maintained; and
- Ensuring compliance with laws and regulations, audit and accounting principles, and the Museum's By-laws and policies.

In managing financial risk, the Board must ensure that an appropriate balance is being struck between incurring an acceptable level of risk and operating within the financial resource levels established by the government. The Crown's position should be protected and the financial exposure of the Museum should be contained within the authorized limits approved in the Corporate Plan.

To obtain assurance about the integrity of the information it receives and the internal control system of the Museum, the Board relies heavily on the Museum's audit system. The Museum's internal and external audit regime is set out in Part X of the *Financial Administration Act*. External audit consists of an annual audit and, at least once every five years, a special examination, both performed by the Auditor General of Canada. The special examination provides the Board with an independent opinion on the extent to which:

- The assets of the Museum are being safeguarded and controlled;
- The financial, human and physical resources are managed economically and efficiently; and
- The Museum's operations are carried out effectively.

- MONITORING THE MUSEUM'S PERFORMANCE AND REPORTING

The Board has an oversight role that requires regular monitoring of corporate performance, periodic assessment of the performance of the Director/CEO, and annual reporting to Parliament. Regular monitoring of corporate performance assists the Board in formulating positions on current and upcoming decisions. It helps Trustees to learn about the Museum, its management and the overall appropriateness of the Museum's strategic direction. It also alerts the Board to new developments inside the Museum and in its external environment.

To these ends, the primary monitoring and reporting responsibilities of the Board are:

- Ensuring the information provided by Management meets Board requirements
- Monitoring the Museum’s performance against the objectives defined in the Corporate Plan, including assessing operating results to evaluate whether the Museum’s business is being properly managed;
- Ensuring the information provided to the Government is sufficient to allow an evaluation of how well the Museum has fulfilled its objectives;
- Ensuring the Annual Report to Parliament provides comprehensive, relevant and timely information on actual performance;
- Setting objectives and performance measures for the Museum’s Director/CEO and annually assessing the Director/CEO’s performance; and
- Assessing the Board’s own effectiveness in fulfilling Board responsibilities, including monitoring the effectiveness of the Chairperson and individual Trustees.

- STAKEHOLDER STRATEGIES/COMMUNICATIONS

The Board is responsible for ensuring that the Museum has in place policies to enable Management and the Board to communicate effectively with the Minister of Canadian Heritage, Parliament, stakeholders and the public generally.

Annually, the Museum provides the Minister of Canadian Heritage with its Corporate Plan, Annual Report, capital and operating budgets, and the audited financial statements. In addition, the Board is at liberty throughout the year to instruct the Chairperson to inform the Minister of any matter it believes deserves the Minister's attention.

While the main tools for communicating with Parliament and stakeholders are the Museum’s Annual Report and the Summary of its Corporate Plan, the Museum will also develop appropriate plans and strategies to communicate with them and with the general public on an ongoing basis. To this end, the Board should:

Ensure key stakeholders are identified and appropriate communications plans and strategies are developed by management;

Contribute to strategies aimed at strengthening the image of the Museum with the public and key stakeholders.

Treasury Board guidelines caution Trustees about public statements concerning the Museum. Depending on the circumstances, the spokesperson for the Museum is usually the Director/CEO, the Chairperson of the Board or the Minister. Before an individual Trustee acts as a spokesperson, he/she should first receive clearance from the Chairperson of the Board.

- SUCCESSION PLANNING

The Board has a key role to play in the effective succession of Trustees and key management positions in the Museum. Notwithstanding the government's prerogative to appoint Trustees, the Board is expected to play an active role in making recommendations to the government.

The Board, in consultation with the Director/CEO, identifies the knowledge, skills and core competencies required by individual Trustees and the Board as a whole in a "Board Competency Profile." The profile articulates to the Minister of Canadian Heritage, the Director/CEO of Appointments in the Prime Minister's Office and any Parliamentary Committee that may play a role in the appointment process, the desired mix of attributes required by the Board. Because the skills needed on the Board may change over time, the Board should regularly update the skills profile to ensure the continuing relevance.

The Competency Profile is the basis on which the Board develops a short list of nominations to fill upcoming vacancies. The Chairperson, on behalf of the Board, provides the Board's short list (3-4 names) of potential nominees for each vacancy to the government for its consideration.

Trustees' terms are usually restricted to two terms. Whenever a current member is proposed for reappointment, the Board needs to provide a justification for the reappointment of that Trustee.

The Board is also expected to plan for the succession of the Board's Chairperson by establishing criteria and providing nominations to the Minister of Canadian Heritage. As well, the Board appoints the Director/CEO of the Museum, with the approval of the Governor in Council, based on the criteria it establishes. Exceptionally, the legislation establishing the corporation directs the Government of Canada to appoint the first Director/CEO.

The Board is also responsible for ensuring the Museum has in place appropriate succession plans for its senior officers to ensure that skilled management will be available for the ongoing and longer-term fulfillment of the Museum's mandate.

To better appreciate the importance of their role, Trustees should receive, on an ongoing basis, orientation and education, aimed at increasing the Trustees' familiarity with their unique responsibilities as Trustees of a federal Crown corporation, with the Museum, the legislative restraints within which it operates, and with the government milieu and arts and education communities with which the Museum interacts. The Museum should give particular consideration to the training of new Board members, but also provide continuous training of all members. It should also keep them informed on an ongoing basis of the Museum's activities and issues.

- CORPORATE POLICIES

The Museum will have a number of corporate policies, covering a range of areas. The corporate policies govern the institution's operations, and they clarify expectations and Management's authority and responsibilities. The Board of Trustees regularly reviews the policies to ensure they provide the needed direction in areas critical to the delivery of the Museum's legislated mandate and to the sound management of its human and financial resources. The policies, and revisions to them, are developed by Management and submitted to the Board for review and

approval. Once approved, the Director/CEO then establishes the specific guidelines and procedures needed for implementation of the policies.

b. THE MANAGEMENT TEAM

The operations and the handling of the day-to-day business and affairs of the CMHR are functions of Management. In this regard, the competence, skills, integrity and prudence of Management are the most important factors in the effective delivery of the Museum's management. Managers are expected to function, and be seen to be functioning, in an ethical, transparent manner in all their endeavors so as to enhance the public's trust and confidence in its national institutions.

i. ROLE OF THE DIRECTOR/CEO

The Museum's Director/CEO is ultimately accountable for the institution's organizational and procedural controls. Both the *Museums Act* and the By-laws of the Museum provide the fundamental basis for the terms of reference for the Director/CEO. Section 23 of the *Museums Act* states:

"There shall be a Director/CEO of each museum, who shall be appointed by the Board of the museum, with the approval of the Governor in Council, to hold office during pleasure for a term not exceeding five years¹...The Director is the chief executive officer of the museum and, under the direction of the Board, has control and supervision of the work and staff of the museum. The Director is responsible to the Board for the exercise of the powers and the performance of the duties and functions of that office and, subject to the by-laws of the museum...may attend meetings of the Board or of any committee established by or pursuant to the by-laws"

The Director/CEO brings the needed support to the Chairperson in order that the Board fulfils its governance responsibilities and facilitates the interaction between Management and the Board. He or she is responsible for the formulation of the Museum's general orientation and for providing the needed leadership for the realization of the institution's mandate, vision, strategic choices and objectives.

The Director/CEO is in charge of the daily management of the Museum's activities and ensures that the Museum's achievements respect the Corporate Plan. He/she must respect the strategic framework and the policies approved by the Board. The Director/CEO sees to the optimum allocation of resources and to the appointment and direction of the management team. He/she sees to the professionalism and development of the Museum's staff in a climate conducive to excellence. The Director/CEO is also the main spokesperson for the institution and sees to the Museum's good relations with key stakeholders and the general public.

¹ Exceptionally, the legislation creating the CMHR stipulates that the Government shall appoint the first Director.

The Director/CEO works with the Chairperson of the Board to develop the agendas for the Board's meetings to ensure that all Board responsibilities are respected. The Director/CEO submits to the Board the Corporate Plan and any recommended policy revisions. He/she keeps the Board updated on the important factors affecting the realization of the strategic choices.

One of the Director/CEO's key responsibilities is to work with the Board to develop an information system that meets the needs of the Board. The Board needs to receive the information it deems necessary to perform its work. The information regularly sent to the Board should assist the Board to participate in the formulation of strategic direction and to hold Management accountable for achieving objectives. The Board should be able to evaluate the Museum's progress and the appropriateness of its strategic direction. The Board should discuss and define with Management the parameters—the quantity, timing, frequency, and the usefulness of the information it receives.

Because the Board's information needs will likely change over time and with experience, the usefulness of the information should be a periodic consideration for the Board. The Board should also be satisfied that the Museum's information systems and management practices meet its needs and give the Board confidence in the integrity of information produced.

ii. THE MUSEUM'S SENIOR MANAGEMENT STRUCTURE

To be added by amendment to the Policy once the structure has been established.

3. STRUCTURING AND FUNCTIONING OF THE BOARD OF TRUSTEES AND ITS COMMITTEES

The Museum's enabling legislation, the *Museums Act*, specifies the number of Trustees, the conditions governing their appointment, and the powers and duties of the Board of Trustees. *The Museums Act* provides for nine Trustees in addition to a Chairperson and a Vice-Chairperson.

a. ROLE OF THE CHAIRPERSON

Both the *Museums Act* and the By-laws of the Museum provide the fundamental basis for the terms of reference of the Chairperson.

The Governor in Council appoints the Chairperson as a part-time appointment. The Chairperson provides leadership and presides over the activities of the Board. In consultation with Management, he/she determines the agenda of the meetings. The Chairperson must ensure that the relationship among the Board, Management, and

Minister furthers the best interest of the Museum. In performing this role, the Chairperson works closely and in partnership with the Director/CEO, manages the affairs of the Board, and together with the Director/CEO ensures effective relations with the Minister, other stakeholders and the public.

The Chairperson ensures that the Board fulfils appropriately its governance responsibilities and sees to the quality of the Board/Management relations.

b. BOARD MEETINGS

Board meetings are the main fora for Board members to fulfill their responsibilities. Board members should prepare well for these meetings and actively participate in them. These meetings provide an opportunity for Trustees to receive information, to develop their understanding of the important issues, and to influence the decisions of the Museum. The legislation requires the Board to meet at least once each year. It will be the practice at the Museum for the Board to meet four times a year (usually twice in Winnipeg and twice outside of Winnipeg). Regularly, the Board holds in-camera meetings without representatives of Management to discuss issues privately, such as an evaluation of the Director/CEO's performance.

The agenda, minutes of previous meetings and the relevant information relating to matters requiring Board approval are sent to Trustees in advance. All material provided for Board meetings is accessible under the *Access to Information Act*.

It is customary to assume that the affairs of the Museum are deliberated in confidence and that their disclosure only follows from authorized decisions and according to agreed procedures. The frankness of the discussions at Board and committee meetings requires that both their nature and their content be kept confidential. Notwithstanding the foregoing, the Board may wish to hold Board meetings in public, especially when dealing with issues of interest to the general public. Formal communication of decisions by the Board is the responsibility of the Chairperson and the Director/CEO.

The Board should also ensure that Board members use discretion when contacting employees outside the context of committee and Board activities and that any such contact should normally be directed through the Chairperson and/or Director/CEO. Similar guidelines are appropriate when dealing with the press.

c. BOARD COMMITTEES

Although the full Board of Trustees is ultimately accountable for its responsibilities, certain functions are delegated to Board committees for more in-depth deliberation. The creation of such committees, and the establishment of their terms of reference, requires a formal resolution of the Board or through the Museum's By-laws. Generally, committees examine issues and prepare recommendations for full Board action. Authority to act on behalf of the Board is normally reserved for specific circumstances and needs prior approval of the Board.

There are currently 2 standing committees of the Museum's Board:

- An Executive Committee; and

- An Audit Committee.

On the recommendations of the Governance and Nominating Committee, the Board appoints members to the committees based on their interests, expertise and availability, and ensures Board members are appropriately represented on the committees. Terms of reference for the committees include the following provisions:

- A Trustee acts as Chairperson;
- The Chairperson of the Board is a voting member of all committees;
- The Director/CEO is ex officio (non-voting) member of all committees;
- The Board and committees other than the Executive Committee may recommend the appointment of advisors; committees should determine the core competencies and skills required of such advisors before considering appointments; and
- Committees will inform the Board of their activities, findings, conclusions and recommendations.

d. ASSESSING THE BOARD AND ITS COMMITTEES

The Board assesses its own performance and that of its committees on an annual basis. These appraisals cover the planning, preparation, presiding, participation and follow-up of meetings, as well as the contribution of Trustees to the Museum's governance.

The Board delegates to its Governance and Nominating Committee the responsibilities of developing and monitoring the CMHR's overall approach to corporate governance issues and, subject to approval by the Board, implements and administers the system. The Committee recommends, establishes and administers the Board's annual performance review and reviews with the Board, on a regular basis, but not less than annually:

The terms of reference and membership of each of the committees of the Board;
The methods and processes by which the Board assesses its performance;
The Board's information needs and the extent to which they are being met.

Periodically, the Board also reviews its own roles and responsibilities to ensure they reflect best practices, and the challenges facing the Museum. It may also wish to review its responsibilities relative to those of management to ensure these responsibilities are appropriately allocated.

The Museum's Annual Report shall include a description and assessment of the Museum's corporate governance policies and practices.

4. EFFECTIVE DATE

This Policy is in effect as of September 3, 2008.