

**2024**  
**Report of the Auditor General  
to the Nova Scotia  
House of Assembly**

**Report on Misuse of Public Funds  
at the Liberal Association  
of Nova Scotia**



**Investigation**  
**Independence • Integrity • Impact**

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February 27, 2024

Honourable Karla MacFarlane  
Speaker  
House of Assembly  
Province of Nova Scotia

Dear Madam Speaker:

I have the honour to submit herewith my Report to the House of Assembly under Section 18 of the *Auditor General Act*.

Respectfully,



**Kim Adair, FCPA, FCA, ICD.D**  
Auditor General of Nova Scotia

5161 George Street  
Royal Centre, Suite 400  
Halifax, NS B3J 1M7  
Telephone: (902) 424-5907  
[www.oag-ns.ca](http://www.oag-ns.ca)

 [/company/oag-ns](https://www.linkedin.com/company/oag-ns)

 [@OAG\\_NS](https://twitter.com/OAG_NS)

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# Report on Misuse of Public Funds at the Liberal Association of Nova Scotia

## Key Messages

- Former employee of the Liberal Association of Nova Scotia (the Association) made unauthorized disbursements totaling at least \$131,795
- Former employee reimbursed \$194,557 to cover amount taken, as well as legal and forensic costs
- The Association:
  - engaged legal and forensic support to address the situation
  - did not report full knowledge of missing funds to their auditors before finalizing the 2020 audit in the Spring of 2021
  - chose not to complete a forensic audit
  - chose not to file a complaint with the Royal Canadian Mounted Police (RCMP)
  - signed a settlement agreement with confidentiality provisions with the former employee
  - appeared to potentially conceal and delay reporting of a multi-year misuse of funds until after the 2021 election (based on the information available to us at this time)
- Accountability over misuse of public funds diminished when publicly funded organizations do not pursue criminal complaints
- Former employee subsequently hired at another publicly funded organization
- *Nova Scotia Elections Act* does not:
  - require that the Chief Electoral Officer be notified of inappropriate use of public funds
  - provide Chief Electoral Officer powers to investigate registered party general expenses when wrongdoing is suspected
- The Association's delay in providing information to our Office was not in compliance with the *Auditor General Act*

## Why We Did This Report

- Inappropriate use of public funds
- To make recommendations to prevent similar situations in the future
- The Liberal Association of Nova Scotia's delay in providing information to the Auditor General delayed reporting on this matter to the House of Assembly
- To inform the House of Assembly of Auditor General intent to file a complaint with the RCMP

### Recommendation 1.1

We recommend the Liberal Association of Nova Scotia file formal complaints and fully cooperate with the RCMP relating to:

- the misuse of public funds, and
- the apparent misrepresentation of the Association's audited financial statements

### Recommendation 1.2

We recommend the Chief Electoral Officer, in consultation with the Minister of Justice and Attorney General, and the Election Commission amend the *Nova Scotia Elections Act* as follows:

1. Require timely notification from the registered party, candidate, or electoral district association to the Chief Electoral Officer if there is a suspected misuse of any public funds.
2. Require registered parties, candidates, and electoral district associations make reasonable efforts to recover all misused public funds.
3. Provide the Chief Electoral Officer investigative authority and powers similar to that of the Auditor General to investigate the general expenses of registered parties.
4. Require Elections Nova Scotia publicly report instances of significant misuse of public funds.

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# 1 Report on Misuse of Public Funds at the Liberal Association of Nova Scotia

## Background



### Notification from Elections Nova Scotia

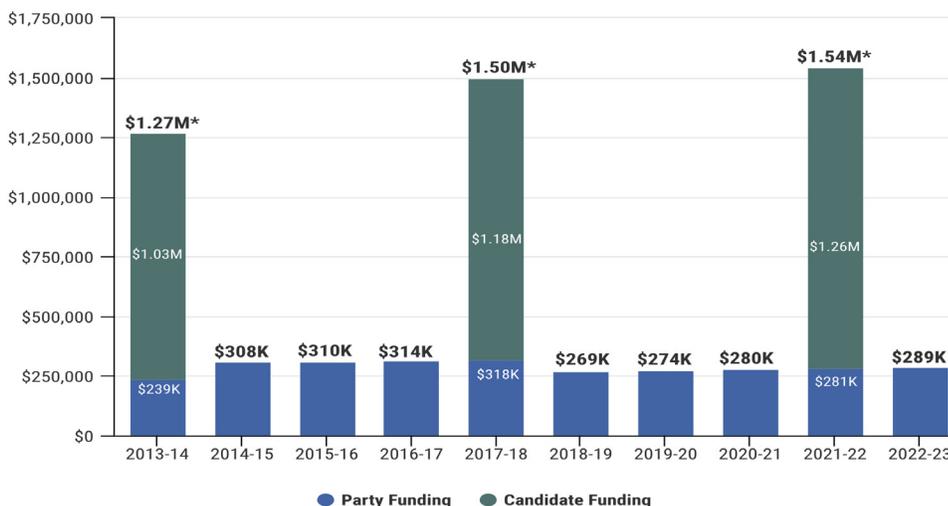
- 1.1 In April 2022, the Chief Financial Officer of Elections Nova Scotia became aware of a significant misuse of funds over several years at the Liberal Association of Nova Scotia (the Association). According to the Chief Electoral Officer, given the *Elections Act* only regulates political contributions and election expenses, the Chief Electoral Officer did not have authority to act on this matter involving general expenses of the Association. Consequently, Elections Nova Scotia notified the Auditor General based on the authority provided under the *Auditor General Act* to conduct audits or investigations of organizations that receive public funding.



### The Liberal Association of Nova Scotia received almost \$6.4 million in public funding over the past 10 years

- 1.2 The *Auditor General Act* authorizes the Auditor General to audit or investigate organizations that receive funding from the Province. The Association is considered a “*funding recipient*” because of the funding the party receives from Elections Nova Scotia, as determined under the *Elections Act*. Therefore, our Office has unrestricted access to the records of the Association relating to the government funding it receives. The *Nova Scotia Elections Act* (s.191) outlines the annual payments of public funding to registered parties. The Association has received annual public funding since 2006. Payments are made in April and October of each fiscal year and are based on the votes received by a registered party in general elections.
- 1.3 In addition to annual public funding to registered parties, Elections Nova Scotia reimburses candidates for eligible expenses in election years through payments to the parties. For the 2013, 2017, and 2021 elections, Elections Nova Scotia paid the Association \$1.03 million, \$1.18 million, and \$1.26 million, respectively, for eligible candidate expenses.
- 1.4 Public funding to the Association over the last 10 years totaled \$6.4 million, consisting of \$2.9 million for party operations and \$3.5 million for candidate expense reimbursements.

### Public Funding to the Liberal Association of Nova Scotia and Candidates, 2014-2023



\*Elections Nova Scotia reimburses candidates for eligible election expenses through a payment to the Association and some reimbursements are paid subsequent to the election year.

Source: Office of the Auditor General of Nova Scotia; Elections Nova Scotia



### Auditor General Act provides the power to conduct an audit or investigation of organizations that receive public funding

- 1.5 Based on Elections Nova Scotia notifying the Auditor General on April 21, 2022, and following the public release of the 2021 financial statements of the Association in early May 2022, the Auditor General began contacting the Association in June 2022.
- 1.6 The Auditor General's authorization to conduct an investigation is outlined in Section 18 of the *Auditor General Act* which states: "The Auditor General may at any time conduct any audit or investigation that the Auditor General considers appropriate under the terms of this Act with respect to (c) activities of a funding recipient relating to the receipt and expenditure of Government funding." This report, which was prepared in accordance with Section 18, is an investigation, not an audit.
- 1.7 Following the Auditor General's initial request on June 16, 2022, a preliminary meeting with the Office and party officials was held in June of 2022. Over the next four months, the Auditor General made repeated formal requests for information regarding the unauthorized disbursements disclosed in the Association's financial statements.
- 1.8 The Association acknowledged each formal request and provided the Office an opportunity to speak with its auditors. However, by October 2022, the Association had not yet provided key information requested by the Auditor General. On October 21, 2022, the Association's President informed our Office it did not appear timely arrangements for voluntary release of the materials in question was possible.
- 1.9 On October 24, 2022, a solicitor for the Association requested that if we confirm the privileged nature of the requested information, they would provide the documents. We were unable to agree to these terms, so we decided to prepare a report using the information we did have and inform the RCMP of the situation regarding the misuse of public funds.

- 1.10 Twelve months later, after the Association reviewed a draft of our report, we did receive the requested information from the Association's solicitor on October 30, 2023.
- 1.11 We acknowledge some information was provided upon request; however, the difficulties in obtaining certain documents delayed reporting on this matter to the House of Assembly.

## Misuse of Public Funds



### **Former employee made unauthorized disbursements of at least \$131,795<sup>1</sup> over several years**

- 1.12 In 2020, all Nova Scotians were subject to non-essential travel restrictions that began with the onset of the COVID-19 pandemic. According to the Association's auditor, the discovery of the false travel claims submitted by an Association employee during the first year of the pandemic led to their resignation, triggered an investigation, with the former employee ultimately reimbursing the Association for \$194,557 for unauthorized disbursements and recovery of legal and forensic-related costs.
- 1.13 When the misuse was discovered, the employee resigned shortly thereafter. The Association deposited the first repayment cheque from the employee totaling \$9,285 on January 5, 2021, for the claimed amount taken.
- 1.14 In a conversation with our Office, Association officials blamed weak internal controls as the root cause of the misuse of funds. According to the Association's auditor, the audit committee regularly questioned internal controls. The auditor told our Office the financial controls in place were not working as intended.
- 1.15 The auditor indicated party officials and board members trusted the former staff member too much. And in fact, officials from the Association noted a new "No trust" philosophy was instituted after the employee left the organization. However, it is unclear how this significant, multi-year misuse of funds was not detected earlier by the former Executive Director, Association Executive, Board or their auditor.
- 1.16 The Association engaged a professional accounting firm to perform forensic work to assist with the unauthorized disbursements made by the former employee. Forensic procedures uncovered additional questionable transactions incurred on Association credit cards. As a result, on March 31, 2021, the Association deposited a second repayment cheque from the former employee for \$10,272. By March 31, 2021, the former employee had reimbursed the Association \$19,557.
- 1.17 We confirmed that during the finalization of the 2020 audit in late April 2021, the Association confirmed in writing that all actual, alleged, or suspected fraud involving management and employees had been disclosed to their auditors.
- 1.18 According to the auditor, during the completion of the 2020 audit, the Association's reporting of actual, alleged or suspected fraud was restricted to 2020 transactions and at no point during this time did the Association convey an estimated amount relating to previous fiscal years.
- 1.19 The audited financial statements for 2020 were signed and submitted to Elections Nova Scotia in time for the deadline of April 30, 2021, without any disclosure relating to the unauthorized

<sup>1</sup> Total reimbursement \$194,557 – legal and forensic-related cost \$62,762 = \$131,795

disbursements. It was not until the Spring of 2022 that the public was made aware of the misuse of funds. In May 2022, the Association's 2021 financial statements were publicly released and included a Prior Period Restatement note regarding the unauthorized disbursements and the impact on previous periods.

1.20 The 2021 financial statement note states:

*“During the year, it was discovered that a former employee made unauthorized disbursements over several years. The Association has received reimbursement for these disbursements and related costs.*

*A total of \$194,557 was received during the year. \$19,557 of the reimbursement related to unauthorized disbursements in 2020. This was recovered by February 2021 and was included in accounts receivable at December 31, 2020. The investigation continued subsequent to release of the 2020 financial statements, and it was discovered that there were more unauthorized disbursements for years prior to 2020. As a result, an additional \$175,000 was reimbursed which consists of \$62,762 for recovery of legal and forensic audit costs incurred during 2021 and \$112,238 for unauthorized disbursements prior to 2020.”*

## Settlement Agreement With Confidentiality Provision With Former Employee



### Settlement agreement signed

1.21 In 2022, the President of the Association informed our Office they entered into a settlement agreement with the former employee that contained a confidentiality provision. Both former presidents explained their objective was to recover the funds taken by the former employee.



### Holding individuals accountable for the misuse of public funds is diminished when organizations choose not to pursue criminal complaints with authorities

1.22 Holding individuals accountable for the misuse of public funds is diminished when publicly funded organizations do not file criminal complaints. The Association informed our Office it was their understanding that if they filed a complaint with the authorities, they would be in breach of the settlement agreement. However, additional discussions with a solicitor for the Association revealed the Association was still able to pursue a criminal complaint.

1.23 When contacted by the RCMP on the unauthorized disbursements, the Association told the RCMP it was an internal matter that had been resolved and no police action was required.

1.24 The Auditor General contacted the RCMP in November 2022. In April 2023, the RCMP Commercial Crime Section (CCS) informed our Office they would not be proceeding with an investigation.



### Former employee became employed at another publicly funded organization

1.25 We were informed the former employee took a position at another publicly funded organization following their resignation from the Association. According to the Association, when the new employer contacted the Association for a work reference, they only confirmed the employment dates of the former employee and did not comment on suitability.

## Auditor General Access Provisions Granted Under Legislation Not Respected



### Key information not provided to Auditor General after numerous requests

1.26 During 2022, the Association did not provide certain information as requested by the Auditor General on numerous occasions under the *Auditor General Act*. The Association quickly acknowledged each request and provided the Office an opportunity to meet with their auditors to discuss the misuse of funds. However, after four months our Office still did not have key documents we requested.

1.27 The Auditor General made the following requests to the Association for information.

Summary of OAG Requests for Information June 2022 to October 2022			
Date of OAG Request for Information	Association's President or Solicitor Response	Forensic Investigation Report Included in Reply from the Association	Employee Settlement Agreement included in Reply from the Association
June 16, 2022	June 23, 2022, response: Offers to meet with Auditor General to discuss request	N/A*	N/A*
July 6, 2022	July 14, 2022, President response: <i>"We are gathering all the information you have requested. We have met and expect to be able to provide an answer within 10-14 days."</i>  July 29, 2022, President response: <i>"We want to be responsive to your request regarding unauthorized disbursements ... We feel our external auditor is best able to do that."</i>	Not Provided	Not Provided
August 18, 2022	August 30, 2022, President response: <i>"We felt that having our external auditor meet in-person with you concerning the 2021 financial statements was the most direct and timely way to address your inquiry."</i>  <i>With regards to the items noted in your letter, I can advise as follows:</i>  1. <i>...we've requested (the professional accounting firm's) consent to make the relevant communications available in response to your request;</i> 2. <i>the settlement agreement is subject to a confidentiality agreement; we've requested the former employee's consent to release the document;</i> 3. <i>legal documents regarding employment termination are subject to the same confidentiality agreement; we've requested the former employee's consent to share any such documents."</i>	Not Provided	Not Provided

Summary of OAG Requests for Information June 2022 to October 2022			
Date of OAG Request for Information	Association's President or Solicitor Response	Forensic Investigation Report Included in Reply from the Association	Employee Settlement Agreement included in Reply from the Association
August 18, 2022 (continued)	<p>September 15, 2022, President response: <i>"We are working with (our professional accounting firm) to settle parameters for voluntary release of (their) materials per your request. We have also followed up with legal counsel for the former employee ... We will provide whatever materials we can resulting from those discussions as soon as we can.</i></p> <p><i>"I ... commit to getting back to you regarding the additional disclosure you've requested before month's end."</i></p>	Not Provided	Not Provided
	<p>October 13, 2022, President response: <i>"... we've now received the below response from (professional accounting firm's) in-house legal counsel to our request for disclosure of the reports in question.</i></p> <p><i>"Although the initial engagement was to complete a forensic audit over the course of the engagement the parameters were altered and ultimately a forensic audit was not completed. As a result, the Reports do not contain the same level of review or safeguards that a forensic audit would and we draw your attention to the limited scope of review that was completed."</i></p> <p>The professional accounting firm states they are prepared to consent to the release of the reports on the following basis:</p> <ul style="list-style-type: none"> <li>• Auditor General agrees not to make reports public</li> <li>• The reports are to be treated with the upmost confidence and is for: <i>"need to see eyes only"</i></li> <li>• If contents of report are to be made public, accounting firm contracted for forensic investigation can object and propose redactions</li> </ul>	Not Provided	Not Provided
October 18, 2022	<p>October 21, 2022, President response: <i>"Despite our best efforts, it does not appear that timely arrangements for voluntary release ... are possible. Accordingly, we have requested that our solicitor on the matter prepare a document package to forward next week in keeping with the requirements of the Auditor General Act."</i></p>	Not Provided	Not Provided
	<p>October 24, 2022, Solicitor response: <i>"We have prepared a document package to send along to you to assist with your inquiry.</i></p> <p><i>"... the records in question ... are privileged records, subject to s.14 (5). We propose to deliver them to you on that basis."</i></p> <p><i>"If you would be good enough to confirm your request for the disclosure on this basis, we will forward the subject documents forthwith to your attention."</i></p>	Auditor General confirmed receipt of the letter but would not agree to the conditions	

Source: Office of the Auditor General of Nova Scotia  
 \* Forensic Investigation Report and Employment Settlement Agreement not requested

1.28 The position taken by the Association was there was no need to provide the settlement agreement and forensic investigation report after our initial requests because the Auditor General had:

- not initially expressed an intention to complete an audit. This position was based on the initial wording of the Auditor General's July 6, 2022 letter which stated that, *"Although we have not yet decided to audit the Association, to assist in determining how our Office will proceed, we ask that you please provide...a copy of the forensic audit report relating to the unauthorized disbursements."*
- not issued a notice under Section 12(1) of the *Auditor General Act* for the forensic investigation report and settlement agreement.
- requested documents that, in their view, were subject to privilege.

1.29 We take issue with the Association's position they were not obligated to provide our Office with the information we requested because we had not expressed an intention to complete an audit. The Liberal Association of Nova Scotia receives government funding from Elections Nova Scotia in accordance with the *Elections Act*; thereby making the Association a funding recipient. The *Auditor General Act* provides the Office with strong unrestricted access to the records of any organization that receives public funding:

*"The Auditor General has unrestricted access to the records of any funding recipient or public contractor directly related to the Government funding of any program of the Government or an agency of government."*

*Auditor General Act, s.14 (3)*

1.30 As well, it is important to note that Section 11(3) of the *Auditor General Act* provides the Auditor General with the same power as a judge of the Supreme Court to require funding recipients like the Liberal Association of Nova Scotia to produce documents when requested in *"conducting an audit or performing any other duty or function..."* under the Act.

1.31 Our power to access the records of funding recipients, like the Liberal Association of Nova Scotia, are in place once an organization receives funding from the Province. In the end, we did not conduct an audit; however, the Association was still obligated to supply our Office with all requested information when first requested.

1.32 Regarding the Association's position our Office did not file a notice for the requested information under Section 12(1) of the *Auditor General Act*, we strongly disagree. We consider all written, Auditor General-signed letters to the Association as notices under our legislation. Also, the Act does not permit a funding recipient to withhold information from our Office because they object to the nature of the written request.

1.33 As for the Association claiming the requested information was privileged and therefore prevented immediate forwarding to our Office, the *Auditor General Act* is very clear that disclosing information to the Auditor General does not constitute a waiver of privilege. Therefore, the Association was able to immediately provide our Office all of the requested documents after our initial requests.

- 1.34 On October 13, 2022, the Association responded to the Auditor General stating that its forensic investigator claimed confidentiality *“over the entirety of the Reports and requests that they not be filed on the public record.”* The Reports are for *“need to see eyes only”* and if public disclosure of information were to occur, the investigator wanted an opportunity to object, and propose redactions. The President then stated that *“If you would be good enough to confirm acceptance of the disclosure conditions, we will forward the reports in question for purposes of your current inquiry.”*
- 1.35 On October 18, 2022, the Auditor General responded the conditions were *“unacceptable”* and wrote: *“I consider the continued delay an obstruction to this office’s ability to assess the unauthorized disbursements.”* The Auditor General requested that *“all information”* from the Association be provided within a week.
- 1.36 On October 24, 2022, the Association’s solicitor wrote to the Auditor General, offering to provide the forensic investigation and settlement agreement:

*“The intended disclosure is made pursuant to section 14 of the Auditor General Act. I attach a brief chronology confirming, among other things, the timing of our retainer and the course of events culminating in settlement in July 2021. As you can see, the records in question fall within that time span and, accordingly, are privileged records subject to s.14 (5). We propose to deliver them to you on that basis.*

*If you would be good enough to confirm your request for the disclosure on this basis, we will forward the subject documents forthwith to your attention.”*

- 1.37 In the view of the Auditor General, this was an unacceptable request because there is no legal mechanism in the *Auditor General Act* that enables a funding recipient to place conditions on providing information to our Office. Under the *Auditor General Act*, the Auditor General is not required to do what the Association’s solicitor was requesting of us.
- 1.38 At this point, rather than asking again for the information to be provided in accordance with the *Auditor General Act*, our Office opted to prepare a report detailing the difficulties experienced, bring forth recommendations to prevent this situation from happening in the future and inform the RCMP of the misuse of public funds.



### **Key information subsequently provided to the Auditor General**

- 1.39 In the Fall of 2023, the Office of the Auditor General re-engaged with the Association during the validation of this report. On October 30, 2023, our Office received the settlement agreement, forensic information and other information without having to agree to conditions.



### **Association should have promptly provided all requested information after the Auditor General’s initial request**

- 1.40 From July 2022 to October 2022, our Office made multiple requests for the settlement agreement and what we understood to be a forensic investigation report. On multiple occasions, we were informed by the President the delay in providing the documents related to securing release clearances from the former employee and the professional accounting firm that conducted the limited forensic procedures. However, eventually we later determined this was not a valid reason to withhold the information. Therefore, the Association should have provided the information in a timely manner after our initial request.

- 1.41 We question why the Association made an easy-to fulfill information request a costly endeavor for our Office. Considerable time and resources were spent dealing with this lack of compliance to our access provisions granted under the *Auditor General Act* and delayed our ability to report on this matter to the House of Assembly.

## Financial Reporting Concerns

- 1.42 We identified concerns with how the Association reported this matter to their auditor and within their 2021 financial statements.



### **The Association did not fully convey the extent of the misuse of public funds to their auditor during the 2020 audit**

- 1.43 Prior to the finalization of the Association's 2020 audit, the President of the Association did not convey their full knowledge of the extent of misuse to their auditor.
- 1.44 According to the former President, they did not feel comfortable disclosing all known information on the misuse to their auditor during the finalization of the 2020 financial statements because the extent of the missing funds was still being assessed and the Association was focused on recovering all amounts from the former employee.
- 1.45 Still, the Association was required to disclose all knowledge of suspected, alleged or actual fraud events to their auditor.



### **Inaccurate note disclosure contained within the Association's 2021 financial statements relating to the misuse of funds**

- 1.46 We question the following statements contained within the Association's notes to the 2021 financial statements:

- *"The investigation continued subsequent to release of the 2020 financial statements, and it was discovered that there were more unauthorized disbursements for years prior to 2020."*

This sentence implies the Association was not aware that unauthorized disbursements went back further than 2020 before the release of the 2020 financial statements at the end of April 2021. However, before the release of the 2020 financial statements, the Association was aware the misuse of funds was significant and occurred over several years.

- *"As a result, an additional \$175,000 was reimbursed which consists of \$62,762 for recovery of legal and forensic audit costs incurred..."*

A forensic audit was not conducted. The Association instructed the forensic investigators to carry out limited forensic procedures. A forensic investigation report was not prepared. There is a significant difference between limited forensic procedures and a forensic audit.



### **Auditor General to file complaint with the RCMP regarding apparent concealment of the misuse of funds until after the 2021 provincial election**

- 1.47 During the later stages of readying this report in 2024, our Office became aware of concerning information pertaining to the Association's handling of the misuse of funds. The information reveals an indication the Association sought to conceal and delay disclosing the misuse of funds until after the 2021 provincial election.
- 1.48 As a result of this, and based on the information available to us at this time, our Office will be filing a formal RCMP complaint on what appears to be concealment of the misuse.



### **Current leader of the Liberal Party agrees to follow and support our recommendations**

- 1.49 We reviewed this report with the current leader of the Liberal Party, who agreed to follow and support our recommendations.
- 1.50 Since we will be filing a criminal complaint based on the subsequently provided information and because the Liberal leader agreed to file their own complaints, the RCMP will need to revisit if police action is warranted.

#### **Recommendation 1.1**

We recommend the Liberal Association of Nova Scotia file formal complaints and fully cooperate with the RCMP relating to:

- the misuse of public funds, and
- the apparent misrepresentation of the Association's audited financial statements

## **Chief Electoral Officer Powers**



### ***Nova Scotia Elections Act* limits Chief Electoral Officer's ability to investigate misuse of funds**

- 1.51 As mentioned previously, the Chief Electoral Officer does not possess the authority to investigate general expenses of registered parties. Furthermore, the *Nova Scotia Elections Act* does not require notification to the Chief Electoral Officer when public funds are used inappropriately. As well, the *Nova Scotia Elections Act* does not require registered parties make reasonable efforts to recover misused public funds.
- 1.52 Stronger investigative and reporting powers would enhance the control environment and accountability around the public funds provided by Elections Nova Scotia to registered parties.
- 1.53 For this reason, after consulting with the Chief Electoral Officer, we recommend amending the *Elections Act*.

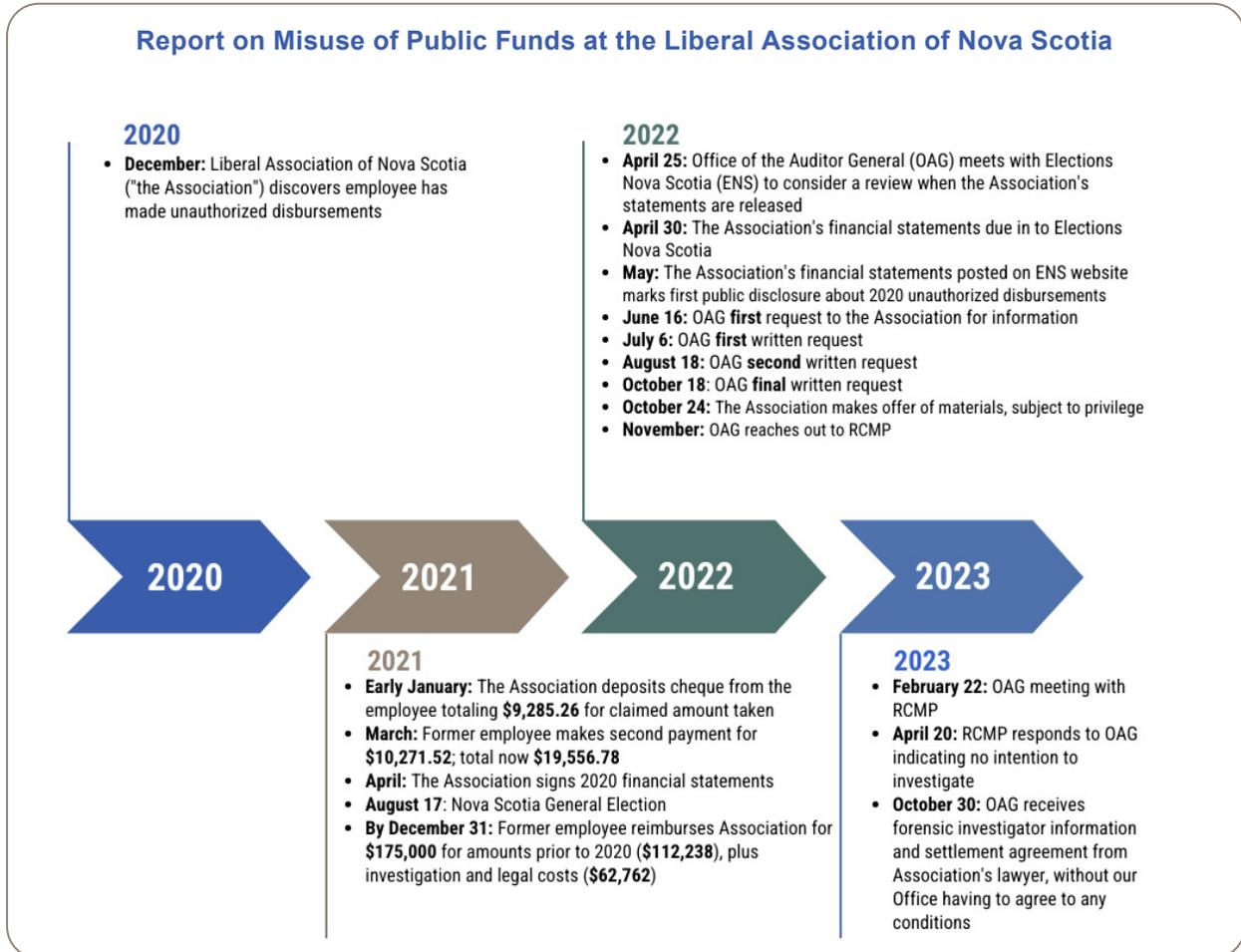


**Recommendation 1.2**

We recommend the Chief Electoral Officer, in consultation with the Minister of Justice and Attorney General, and the Election Commission amend the *Nova Scotia Elections Act* as follows:

1. Require timely notification from the registered party, candidate, or electoral district association to the Chief Electoral Officer if there is a suspected misuse of any public funds.
2. Require registered parties, candidates, and electoral district associations make reasonable efforts to recover all misused public funds.
3. Provide the Chief Electoral Officer investigative authority and powers similar to that of the Auditor General to investigate the general expenses of registered parties.
4. Require Elections Nova Scotia publicly report instances of significant misuse of public funds.

## Timeline



Source: Office of the Auditor General of Nova Scotia

• • • Office of the Auditor General • • •

5161 George Street, Royal Centre, Suite 400

Halifax, Nova Scotia

B3J 1M7

[www.oag-ns.ca](http://www.oag-ns.ca)

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