



# Policy Planning and Dispute Management *in the Non-Profit Sector*

by Rachel Corbett, MCIP, RPP

***THE CHARITABLE AND NON-PROFIT SECTOR IN CANADA*** has experienced unprecedented changes in the 1990s. As senior levels of government spend less and transfer more responsibilities downwards to municipalities and community agencies, Canadian charities and non-profit organizations have been left with fewer resources to meet rising demand for services. Thus, they have been forced to find new ways of supporting themselves.

At the same time, technological, economic, legal and demographic changes are putting pressure on non-profit organizations to improve their knowledge and management capacity, while increasingly sophisticated donors, volunteers and members of the public are insisting on greater accountability from charities and other publicly-funded agencies. The terms innovation, entrepreneurship and governance, once restricted to the vocabulary of corporate board rooms and business managers, are now buzzwords in volunteer board rooms, and represent required competencies for volunteers and others in positions of non-profit leadership.

The following snapshot of this sector shows it to be large and economically significant:<sup>1</sup>

- In Canada, the sector is comprised of over 75,000 registered charities and over 100,000 other non-profit organizations.
- One in three Canadians over the age of 15 volunteers time to a charitable or non-profit organization.
- One in two Canadians are members of a non-profit community organization.
- In 1994, registered Canadian charities had over \$90 billion in revenue, representing approximately 12 percent of Canada's GDP.
- The time that Canadians volunteer to non-profit organizations is equivalent to almost 580,000 full-time jobs – more than the entire labour force of Manitoba.

About one-fifth of all volunteers in Canada devote their energies to the fields of sport, recreation and fitness. The sport and recreation sector generates significant economic activity and produces important social, cultural and health-related benefits for its participants and for Canadian society.

This sector has also had to grapple with enormous challenges in the 1990s – challenges made even more acute by the funding policies of federal and provincial governments in the '80s that created a virtual welfare state for amateur sport. In the early '90s, it was not unusual for a national or provincial sport governing body to derive over 90 percent of its revenues from government sources.

The hard reality of the '90s is that the sport and recreation sector has had to learn how to pay its own way through membership development, event promotion, product sales, sponsorship and advertising. Moreover, sport organizations have had to learn how to manage human and financial resources more wisely, to govern more effectively and, in particular, to create and maintain a positive image in the eyes of funding agencies, sponsors and the public.

The sport sector, as a component of the Canadian non-profit sector, also posts some impressive numbers:<sup>2</sup>

- Nine million Canadians aged 15 or older participate regularly in sports, and half of this number participate through organized sport leagues or clubs.
- The Canadian amateur sport system supports over 3 million

registered athletes and involves 400,000 trained, registered coaches.

- As an economic sector, sport makes a greater contribution to the Canadian GDP than the food industry, mining, logging and forestry, or printing and publishing.
- The amateur sport system in Canada is run almost entirely by volunteers – nearly two million of them.

Over the years these volunteers have had to become increasingly sophisticated and skilled in the business of leading and managing voluntary organizations. Today's volunteer leaders in the sport and recreation sector require knowledge of marketing, business, personnel management and information technologies, as well as dispute resolution, risk management and the law.

A decade ago, I began work as a policy development and risk management consultant in the non-profit sector. During this time I have concluded that improved skills in policy-making would provide the most important contribution to the effectiveness of this sector. Ranking a close second would be an infusion of skills in managing and resolving disputes. Coincidentally, the two skill-sets are closely related, and are both essential components of governance.

## **Policy-making skills**

Virtually all charitable and non-profit organizations in Canada are governed by volunteer boards. Boards are comprised of individuals who are elected or appointed to represent the membership or constituency that the organization serves. The board of

directors is the legal entity having authority over and responsibility for the organizational structure that has been created to fulfill the organization's goals.

Creating policy is the primary role and function of every governing board. Policies for non-profit organizations can be divided into three types:

- **Framework policies:** written statements of the vision, values, beliefs, mission and mandate of the organization.
- **Governance policies:** the legal documents relating to incorporation, as well as the policies relating to organizational structure; to roles, responsibilities and duties of the board, committees and volunteers; to the awarding and revoking of privileges of membership; and to dispute resolution.
- **Operational policies:** the policies relating to the operational details of programs, personnel, finance and advocacy.

In my work with this sector, I have developed certain definitions and tools. My definition of "governance" is "setting rules for an organization, conducting the affairs of the organization according to the rules, and exercising the leadership required to steer the organization when the rules don't apply or are in dispute." Sport people can relate to this approach immediately, because they know that the integrity and essence of sport are based squarely on the "rules of the game." The same can be said about the entities and individuals who develop and deliver sport programs and events.

It is my premise that sound policies lead to informed and transparent decision-making, and that such decision-making results in improved management of time, resources, disputes and risk exposures. Taken together, these are the hallmarks of good governance.

## **Where planners fit in**

A training in planning is ideal for creating career opportunities in the burgeoning non-profit sector in Canada. This training provides analytical and practical tools that enable the planning professional to assist others in balancing the needs of the many with the rights of the few, and in devising reasonable and fair strategies for allocating scarce resources. These are precisely the challenges facing the non-profit sector in Canada.

As such, planners are ideally suited to the following tasks:

- Crafting sensible, understandable, practical policies that help a non-profit organization award privileges and impose obligations on its members and users.
- Helping a non-profit organization maximize its effectiveness by developing and implementing strategic plans that focus on its values, beliefs, vision, mission and mandate.
- Helping a non-profit organization negotiate mutually beneficial and economical partnerships with other organizations and businesses, a process that involves the all-important task of putting the working details of the partnership on paper.
- Writing clear and lean governing documents that empower a non-profit organization to function smoothly, efficiently and without internal conflict.
- Helping a non-profit organization restructure itself to be more responsive, accountable, entrepreneurial and innovative. For example, a thirty-five-member board of directors and fourteen standing committees, all of them inherited from the early 1990s, are not going to provide much value for money in the early 2000s.
- Working with an organization and its members to establish practical indicators for measuring its own performance and effectiveness over time.



## Dispute management skills

One final area of the non-profit sector where planners' skills are welcomed is in the designing of dispute management systems that allow non-profit organizations to accommodate their own structures, correct the inherent power imbalance between parties and, at the same time, respect both legal rights and resource limitations. With the appropriate supplementary training, planners can also make very effective investigators, mediators and arbitrators in disputes.

Techniques for alternative dispute resolution (or ADR) are presently very much in vogue in nearly every sector of law, international business, commerce and social services. For example, in most Canadian jurisdictions divorce and custody matters are dealt with through court-ordered mediation; only when this fails can the parties seek the services of the courts. ADR is also becoming more widely used in planning and development disputes. Most readers will be familiar with the advantages that these techniques have over traditional dispute settlement through litigation: ADR is less costly, more timely, less adversarial, and more conducive to preserving a relationship between the parties after the dispute is settled.

ADR techniques are not commonly used in the sport and recreation sector, but this is changing. In the period from 1993 to 1995 the Centre for Sport and Law worked closely with representatives of national sport organizations and national team athletes to create interest in developing a mediation and arbitration program for sport at the national level. Support and modest funding were obtained, and a fledgling program was launched in 1996. Through this program, mediators and arbitrators assist in disputes between organizations and athletes, organizations and coaches, and athletes and coaches. Furthermore, independent arbitration has become standard practice in addressing athletes' rights to appeals and reinstatements under the Canadian anti-doping program.

Such is the success of this mediation and arbitration program that the Secretary of State for Amateur Sport recently appointed a working group to review it and recommend ways to make participation in it mandatory, as well as to identify ways of increasing its financial support (until now it has oper-

ated strictly on a user-pay basis), and of extending it to all of the provinces and territories.

In general, dispute management within any organization can be enhanced by policy tools that keep a dispute from getting out of hand, going public or ending up in court. These policy tools, all of which can be developed by planners, include:

- By-laws that give the board explicit power to implement policies for dispute resolution.
- Unambiguous, clearly-written policies to guide all decision-making about the granting and revoking of rights and privileges.
- An appeal policy to review decisions which may involve procedural errors.
- A policy to indicate that, whenever it is suitable and disputing parties consent, a dispute may be referred to mediation.
- A policy stating that beyond an appeal level, all disputes will be referred to independent, binding arbitration.
- A provision in policy that allows individuals to pursue a dispute in court only if all other internal and independent remedies have been exhausted.

In summary, effective dispute management and effective governance consist of four elements. The first is prior planning, which means ensuring that all governance policies are sound. The second is proper execution of policies – making sure, in other words, that policies are interpreted and implemented properly. The third element involves providing reviews when appropriate, by implementing a legally sound internal appeals policy.

Finally, effective dispute management sometimes requires outside intervention: that is, whenever the need arises, organizations should consider obtaining the services of an independent investigator, mediator or arbitrator. Because a dispute is by definition messy and ugly, referring it to a skilled outsider is often the best means to ensure positive internal relationships, open channels of communication, and future goodwill.

The non-profit sector in Canada is large and growing larger. This sector needs help to perform the tasks that society places upon its shoulders. Planners have traditionally done their work in the public and private sectors, but have had little formal involvement in this third sector comprised of private organizations committed to public objectives.

Helping non-profit organizations to govern themselves more effectively can be extremely rewarding, both professionally and personally. For the planner who has skills in communication and consensus-building, and who enjoys crafting policy on paper, the opportunities are unlimited.

## Summary

The non-profit sector in Canada presents several challenges and opportunities to professional planners interested in exploring non-traditional careers. This article describes the size and diversity of the sector, and explains its critical need of skills and tools for formulating policy, managing conflict and improving governance. The author identifies two areas where planners can make crucial contributions to this burgeoning sector of society, and encourages planners to pursue professionally rewarding opportunities outside the standard planning field.

## Sommaire

*Au Canada, les organismes sans but lucratif offrent défis et opportunités aux urbanistes qui envisagent des carrières non traditionnelles. C'est un monde vaste et diversifié, qui a grand besoin d'habiletés et d'outils en matière d'élaboration de politiques, de résolution de conflits et de gestion. L'auteur identifie deux orientations particulières au sein de ce secteur de plus en plus important de notre société, où les urbanistes peuvent apporter leur expertise et sortir des sentiers battus de leur profession.*

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1 Statistics Canada, 1998. National Survey on Giving, Volunteering and Participating. Additional information is also available from the Canadian Centre for Philanthropy.

2 See The Contribution of Coaching in Canada, published by the Coaching Association of Canada in 1998. See also Sport in Canada: Leadership, Partnership and Accountability – Everybody's Business, report of the Standing Committee on Canadian Heritage, Sub-Committee on the Study of Sport in Canada, published by the House of Commons in 1998.

