



Legislative Assembly of Nunavut

ANNUAL REPORT APRIL 2023 -MARCH
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OFFICE OF THE INTEGRITY COMMISSIONER

Katherine R. Peterson, K.C.
Integrity Commissioner

COMMISSIONER'S MESSAGE



It has been my distinct pleasure and honour to serve as Integrity Commissioner for the Legislative Assembly of Nunavut during the period October 2018 - 2023. This spanned the last two years of the Fifth Assembly and the first half of the Sixth Assembly. In October 2023 I was requested to undertake a further 5 year term, which I accepted. I wish to thank the Legislative Assembly of Nunavut for their confidence in my commitment to this role and its various responsibilities. Throughout my time as Integrity Commissioner, I have witnessed the honesty and devotion of the elected members of the Assembly. The commitment to the often onerous duties as an elected member is both inspiring and significant. It requires that elected members balance the needs of constituents and Nunavummiut generally with the core ethical values required of them. I have noticed over my tenure as Integrity Commissioner an increased awareness by members regarding the duties imposed by both the Integrity Act and by the trust of the people of Nunavut. There has been a positive trend of seeking advice in advance of an activity or situation. This confirms the serious commitment of members to their ethical responsibilities.

The Integrity Commissioner is an independent officer of the Legislative Assembly of Nunavut. This means he or she is free from all influences and outside direction in carrying out his or her duties. The Integrity Commissioner is responsible to the entire Legislative Assembly and to all of Nunavummiut. Some jurisdictions refer to the person as the Conflict of Interest Commissioner, others call him or her the Ethics Commissioner. All provinces and territories, as well as the House of Commons and Senate have an officer with similar responsibilities as

Nunavut's Integrity Commissioner. As will be outlined in more detail in this Report, the main duty of the Integrity Commissioner is to assist elected members of the Assembly with their fundamental duty to perform their functions with transparency and honesty, in accordance with the provisions of the Integrity Act.

The Act requires the Integrity Commissioner to report annually to the Speaker and to the Legislative Assembly on his/her activities for the previous fiscal year. Accordingly, this report details activities during the period April 2023 to March 2024.



OVERVIEW

Public confidence in the integrity of elected members of the Legislative Assembly is essential to the operation of the Assembly and the Government of Nunavut as a whole. Nunavummiut expect that elected members will conduct themselves in a way that puts the public interest before any private interest of the member. This is a position of trust. Nunavummiut deserve to have the trust that they have given to elected members respected and honoured. This is the fundamental and overall duty of elected members. Elected members must not use their position to benefit themselves, their family or any other person or business. They must conduct themselves with honesty, transparency and dignity. Their efforts must be steady and focussed on the needs and aspirations of all people of Nunavut.

After the creation of Nunavut, the First Legislative Assembly passed the Integrity Act in 2001. The Act affirms in law the commitment of the members of the legislature to always serve the common good and to act with integrity. It establishes a system of standards and accountability for fulfilling that commitment. It creates the position of Integrity Commissioner, an independent officer of the Legislative Assembly.

The obligations of elected members set out in the Integrity Act are separate and distinct from the Members' Code of Conduct in which members have agreed to conduct themselves in accordance with broad principles of honourable conduct. The Integrity Commissioner does not have the statutory authority to monitor or enforce adherence to the Members' Code of Conduct.

The obligations of elected members set out in the Integrity Act are specific and fall into two broad categories:

1. The duty to avoid conflicts of interest in their ongoing duties as an elected member and to arrange their personal affairs and businesses in a way that prevents conflicts of interest arising;
2. Provide disclosure in the form of a Public Disclosure Statement each year so that members of the public can be assured of the transparency of the member's interests and the interests of his or her family. If financial circumstances, business interests or other activities change during the course of the year, members are required to report this in the form of a Supplementary Statement.

In addition to the broad areas of obligations set out above, there are a number of detailed obligations set out in the Integrity Act. These include:

- To refrain from accepting any gift or benefit that may be connected to or affect the member's performance of his or her duties;
- Not to misuse confidential information that a member may have as a result of being an elected official, which information is not available to the public;
- Not to use their position as an elected member to influence the decisions of other organizations, boards, tribunals or other persons;
- Not to engage in paid lobbying to advance the interests of other entities, organizations or individuals.

Ministers or members of Cabinet have a more rigorous set of obligations which prevent them from engaging in other employment or profession, participating in active business interests or investments or acting as a director or officer in any such undertaking. If a Minister has an active business, or investments, those interests must be placed in a blind trust. The Minister can have no involvement or knowledge regarding the ongoing business or investment interests, which must be operated or managed by an independent third party.

All of these obligations are in place to maintain the confidence of the public that elected members' first and only focus in doing their work is the interests of the public and Nunavut as a whole.



ROLE OF THE INTEGRITY COMMISSIONER

The Integrity Commissioner is appointed by the Commissioner of Nunavut, on the recommendation of the Legislative Assembly. I was appointed on October 23, 2018 for a term of five years, which term was renewed for a further five years in October 2023.

The Integrity Commissioner is an independent officer of the Legislative Assembly and cannot be removed from office except for cause or incapacity. As Integrity Commissioner I am responsible for impartially administering the Integrity Act. I have taken an oath to perform the duties of the office impartially and not to disclose any confidential information or advice except in accordance with the Integrity Act. Decisions made by the Integrity Commissioner are not subject to any appeal.

The main role of the Integrity Commissioner is to help members understand their obligations under the Integrity Act and to provide guidance to prevent conflicts of interest from arising and to properly deal with those conflicts that do arise. Following a Territorial election, members attend an orientation given by the Integrity Commissioner in order to acquaint members with their obligations under the Integrity Act. The orientation is given to all members whether newly elected or returning incumbents. It also outlines procedures under the Act and the possible consequences of failing to abide by the obligations imposed.

The Integrity Commissioner also provides ongoing advice regarding gifts and benefits which may be offered to a member, proper activities and appropriate exercise of a member's duties of office and handling of confidential information. The Integrity Commissioner is an important resource for the MLAs. This advisory role is considered to be the most important function of the Integrity Commissioner. As such, the Integrity Commissioner must be detached from local

interests and influences, be reasonably available to members seeking advice, and to provide that advice clearly and promptly.

Each member is required to meet with the Integrity Commissioner within ninety days of his or her election, and annually thereafter. The main purpose of the meeting is to review the contents of the member's Public Disclosure Statements, and to obtain advice on the member's general and specific obligations under the Integrity Act. This past year I had in person meetings with elected members in Iqaluit.

The Integrity Commissioner also has an important role to enforce the provisions of the Integrity Act. This can include investigating a matter which has come to my attention that appears to violate the Act, as well as receiving complaints that allege that an elected member has breached one or more provisions of the Act.

If a person is of the view that a member has not adhered to his or her obligations under the Integrity Act, he or she may file a complaint with the Integrity Commissioner. I am obliged to investigate the complaint. If it appears that it may be a valid complaint that is within the jurisdiction of the Integrity Commissioner, a review will be conducted. This can involve obtaining information from those who are familiar with the facts of the situation. It can also involve compelling the production of documents and/ or the attendance of witnesses at a hearing. The Integrity Commissioner must prepare a Report respecting any Review conducted under the provisions of the Act, which Report is tabled in the Legislative Assembly. The Report must set out the conclusions of the Integrity Commissioner as to whether the member has contravened any provision of the Integrity Act, and the basis of that conclusion. If the Integrity Commissioner finds or concludes that a member has failed to meet the obligations set out in the Act, the Report must set out any recommended sanctions or penalties to the member.

These recommended actions can include anything from recommending that no further action be taken, to the imposition of fines, suspension or that the member be expelled from the Assembly and lose his or her seat as an elected representative.

The Report must be tabled in the Assembly, thus making it a public document. The Assembly must either wholly accept or wholly reject the findings and

recommendations of the Integrity Commissioner. The Assembly cannot substitute its own findings of fact, decision or sanction.

Reports arising from reviews conducted by the Integrity Commissioner are posted on the website of the Integrity Commissioner (www.integritycom.nu.ca).



ACTIVITIES DURING THE APRIL 2023 – MARCH 2024 YEAR

Public Disclosure Statements

With the exception of one member, all members of the Sixth Assembly filed their initial Public Disclosure Statements for the period covered by this Report within the time specified by me. The member who failed to file the required Disclosure Statement within the time stipulated by me was Joeline Kaerner, representative for Ammittuq. He has since filed the required Statement.

The contents of the Form 1 Public Disclosure Statement are prescribed in the Act, and in addition to assets, liabilities, incomes, contracts, shareholdings, etc, include details of any activity which is otherwise prohibited but which has been authorized by the Integrity Commissioner pursuant to the Act. The form of the Disclosure Statement can be revised by the Integrity Commissioner and I have done so. This revision requires elected members to disclose whether they reside in subsidized housing, and if so, the details of the subsidy (for example, whether the subsidy is provided as a result of a spouse's employment, or whether it is in the form of public housing).

During the past fiscal year, members filed a Supplementary Disclosure Statement (Form 2) or a Disclosure Statement of Gifts and Personal Benefits (Form 3), when required by me or on the member's own initiative.

All filed public disclosure statements are available for examination by members of the public at the Office of the Clerk of the Legislative Assembly upon appropriate arrangements being made for that purpose. The Management and Services Board of the Legislative Assembly accepted a recommendation from me that the public have better and more convenient access to Statements by posting the Statements on the website of the Integrity Commissioner. Steps have been initiated to amend the Integrity Act to implement this recommendation. It is anticipated that this will allow Statements to be viewed on line commencing in the 7th Assembly.

Annual Meetings with Integrity Commissioner

Members are required under the Integrity Act to meet with the Integrity Commissioner once each year. This meeting can occur in person or by telephone. The purpose of the annual meeting is to review the contents of the Public Disclosure Statement made by the member and to discuss any other issues or concerns that the member may have.

As stated, in person meetings were conducted and members made themselves available to me for this purpose. Two members who were unable to meet with me while I was in Iqaluit due to their absence from the community at the time of my visit. Arrangements were made with members to meet by telephone.

These meetings are an important aspect of the relationship between members and myself as Integrity Commissioner. It allows the member to explain any aspects of his or her Disclosure Statement that may be unclear, to make required revisions, and to obtain advice on any current issue or circumstance. For myself, it allows me the opportunity to better know each member, their background, family and their aspirations and priorities. It also allows me to better learn and understand the motivating cultural values of members, creating a more fulsome perspective of the unique blending of cultural values with parliamentary institutional structures and norms.

Advice and Guidance for Members

Any elected member of the Assembly can at any time consult with the Integrity Commissioner to obtain advice or guidance on his or her obligations under the Integrity Act. The consultations, and the advice given, whether verbal or in writing, are confidential, subject to a few specific exceptions. The MLAs are encouraged to seek advice **before** acting. By availing themselves of the advice and guidance of the Integrity Commissioner, they can effectively avoid conflicts of interest or other contraventions of the Integrity Act from arising, and avoid any later formal investigation. A pro-active preventative approach is preferable. If a member requests the advice of the Integrity Commissioner in writing, and if

the member follows the advice given by the Commissioner, there can be no complaint or sanction of the member regarding the activity about which the member sought advice.

During the past fiscal year, many members sought the advice of the Integrity Commissioner, particularly **in advance** of an action or activity being contemplated by the member that the member believed might possibly constitute a contravention of the Integrity Act. Most of these consultations were by e-mail, some by telephone. At times members were requested to provide documents or other information which would assist in providing advice. Without exception, members provided information as requested and followed advice which was provided to them. Failure to follow advice sought from the Commissioner can result in the recommendation to the Assembly of sanctions to the member under the provisions of the Integrity Act.

As indicated in the Overview of this Report, the incidence of seeking advice has steadily increased over the course of my tenure as Integrity Commissioner. I estimate, that such interactions have increased by approximately 25% to 30% over the level in existence at the beginning of my involvement. Members are to be commended for their increased sensitivity to their ethical obligations and their translation of that awareness into positive action.

The topics on which members sought advice were varied:

- possible conflict of interest (sections 8 and 15 of the Act);
- specific information to include/not include in Public Disclosure Statements (section 5 and Forms 1, 2 and 3);
- the requirement to file a Supplementary Disclosure Statement;
- prohibition against receipt of additional remuneration, gifts or benefits connected to the performance of the member's duties of office (section 13);
- prohibition against additional remuneration outside of the member's duties of office, and whether such an activity can be authorized by the Integrity Commissioner as an exception to the general prohibition;
- provision of letters of support or reference for a member or members of the public;
- Involvement in volunteer or community activities;

- The reporting of travel or token gifts arising from the member's duties of office.
- The activities of a member's family and whether such activities conflict with the member's duties under the Act.

The most frequent areas for which advice was sought were:

- the contents of Public Disclosure Statements;
- activities or circumstances that may give rise to a conflict of interest;
- gifts and benefits and remuneration in addition to a member's Legislative Assembly salary and benefits.

I reiterate that my communications with the individual MLAs in carrying out this advisory function are confidential in nature. Neither the request for advice, nor the advice given can be disclosed without the express agreement and consent of the member. This allows for a completely frank and open discussion of issues which the member communicates to the Integrity Commissioner.

Inquiry Role: Formal Investigations

As stated earlier in this Report, the main role of the Integrity Commissioner is an advisory one, namely, assisting the MLAs to understand their obligations under the Integrity Act and providing guidance to avoid conflicts arising between public and private interests. While the focus is on prevention, the Integrity Commissioner also has an investigative role under the Act to determine whether an MLA has contravened the Act.

Allegations of an MLA's misconduct (i.e., a contravention of a specific provision of the Integrity Act) are received by the Integrity Commissioner and investigated and reported upon pursuant to a process detailed in sections 36-45 of the Act. In addition to an investigation arising from a complaint made in writing to me, I may commence an investigation if a matter has come to my attention by some other means. As Integrity Commissioner, I have extensive powers granted by the legislation to compel the provision of documents, information or for a


person to attend for the purpose of providing information necessary for the conduct of the investigation.

Any member of the public can request that the Integrity Commissioner review an alleged contravention of the Integrity Act by an MLA. A complaint made to the Integrity Commissioner which requests that the conduct of an MLA be investigated must be in writing and must be accompanied by a sworn affidavit. This is required by sections 36(2) and (3) of the Integrity Act. The complaint must specify which particular obligation in the Integrity Act is alleged to have been breached.

There is a class of senior public officials who are excluded from initiating a review by the Integrity Commissioner. These officials are listed in subsection 36(1.1) of the Act. The Legislative Assembly itself can, by resolution, request a review by the Integrity Commissioner. The Premier can request a review with respect to a Minister.

Any report arising from an investigation by the Integrity Commissioner is tabled by the Speaker in the Legislative Assembly once it is in session.

Absent the express and clear consent of a member who is the subject of a complaint, the existence or lack of a complaint with the Office of the Integrity Commissioner remains confidential unless or until a report arising from such a complaint is tabled in the Legislative Assembly. This assists in ensuring that the complaint process does not become a political tool for improper purposes. During the period April 1, 2023 and March 23, 2024 no reviews were conducted.



OTHER ASSIGNMENTS FROM THE MANAGEMENT AND SERVICES BOARD

In addition to the statutory duties of the Integrity Commissioner described earlier in this Report, subsection 24 (2.1) of the Integrity Act provides further:

24(2.1).The Integrity Commissioner may undertake any assignment the Integrity Commissioner considers appropriate that is requested by the Legislative Assembly or the Management and Services Board.

• Executive Assistants and Executive Secretaries

The Management and Services Board (MSB) has given an additional assignment to the Integrity Commissioner in relation to the personal staff employed by each Minister of the Government of Nunavut (GN), i.e., executive assistants(EA) and executive secretaries (ES). It is my interpretation of this direction that it includes Ministerial Political Advisors, or MPA's.

Upon commencement of employment, senior staff sign a written contract with his or her Minister and the GN. In addition to the usual employment terms regarding duties, compensation and other benefits, there are provisions regarding conflict of interest. In order to avoid any real or perceived conflict of interest senior staff are required to make a confidential disclosure to the Integrity Commissioner within 30 days of commencing employment (and thereafter as appropriate) regarding the employee's business activities, personal holdings and volunteer and related outside activities in which GN policies or funds may be impacted. The contract provides that the Integrity Commissioner is to review the disclosure and to give direction for resolution of any perceived or actual conflict of interest.

In my last Annual Report I indicated that contact from senior staff for advice has occurred. There have been inquiries from senior staff about possible conflict situations involving themselves, and in some instances, circumstances that could affect both the staff person and elected member for whom they work. However, the requirement (set out in the Ministerial Procedures Manual) that Disclosure Statements be completed by senior assistants upon **commencing** employment, and revised with changes in circumstances, has not been fulfilled, nor is there a protocol which entrenches the need to access advice regarding conflicts of interest. Both of these requirements need to be adopted and entrenched in protocols involving senior administrative staff.

- **Deputy Heads**

Prior to 2014, Deputy Heads of government (Deputy Ministers and other senior government officials) were required to annually disclose in a confidential report to the Premier a statement of any current business activities or personal holdings or investments that may represent a conflict of interest, as well as volunteer or community positions or businesses pursued without remuneration. It was then for the Premier to determine whether any activities or holdings were in conflict with the Deputy Head's obligations to the Government of Nunavut, and to take action where necessary.

This changed in 2014 when the Management and Services Board, pursuant to a request by the then Premier Peter Taptuna, directed that this assignment be undertaken annually by the Integrity Commissioner. The accepted practice now is for the Integrity Commissioner to contact the Deputy Minister of the Department of the Executive and Intergovernmental Affairs to request submission of disclosure statements by a date specified by the Commissioner.

I received Disclosure Statements from the Deputy Ministers and heads of public bodies as requested and in the time frame required. Apart from completion of a few informational items, the Statements raised no concerns and were reported as such to the Premier.

I again wish to extend my thanks to the Deputy Minister of EIA for facilitating this process.

- **Independent Officers of the Legislative Assembly**

Also in 2014 the Management and Services Board (MSB) of the Legislative Assembly made a determination, with a view to consistency at the most senior level of government, to require the Clerk of the Legislative Assembly, and four Independent Officers of the Legislative Assembly (Languages Commissioner, Information and Privacy Commissioner, Representative for Children and Youth, and Chief Electoral Officer) to submit confidential disclosure statements (with respect to assets, liabilities, sources of income, GN contracts and outside activities) to the Integrity Commissioner for his or her review. The MSB directed that the Integrity Commissioner then report any findings of concern to the MSB. The format of the confidential disclosure statement adopted is broadly consistent with the format of the public disclosure statement submitted by MLAs pursuant to the Integrity Act.

All Disclosure Statements were received as requested in a timely manner. The review of these Statements is reported to the Speaker. My review indicated no areas of concern regarding the information provided by the Independent Officers.

To a greater degree, Independent Officers have sought my advice and opinion regarding activities, volunteer positions and possible contracts. The continued sensitivity of these Officers to conflicts of interest and commitment to transparency is to be commended.

- **Nunavut Elections Act**

Subsection 24(2) of the Integrity Act provides:

24(2). The Integrity Commissioner shall perform the duties set out in this Act and the duties assigned to the Integrity Commissioner by any other Act.

In the Elections Act, the legislature established a “diversion process” whereby a person charged with an offence under the Elections Act (for example, failure to

file a required Financial Return with the Chief Electoral Officer) can avoid a formal prosecution in Court for such a summary conviction offence by entering into a voluntary Compliance Agreement with the Integrity Commissioner.

This is an assignment given to the Integrity Commissioner by the legislature in the Elections Act and it is unrelated to, and separate and apart from, the Integrity Commissioner's main responsibilities under the Integrity Act, discussed earlier in this Report. Generally speaking, a referral under the Elections Act has usually involved relatively minor infractions, such as a failure to file the required return following the election.

The two matters referred to in my prior Report were addressed by Compliance Agreements and no matters were referred to the courts for prosecution. I continue to be of the view that there is merit in the discussion between the Offices of the Integrity Commissioner and the Chief Electoral Officer which should include a consideration of the effectiveness of this process as well as the difficult logistics that often accompany the process.



INQUIRIES FROM THE PUBLIC

During the period of this Report, there were no requests from members of the public to investigate complaints or initiate an investigation.



INTERACTION WITH OTHER COMMISSIONERS

As Integrity Commissioner for Nunavut, I belong to a national network of Commissioners with similar mandates in the other northern territories, the provinces, the federal House of Commons and the federal Senate. It is called the Canadian Conflict of Interest Network, or CCOIN for short. This group of Conflict of Interest Commissioners, Ethics Commissioners and Integrity Commissioners normally meets annually, usually in September, and keeps in close contact throughout the year to share common experiences, challenges and best practices to assist each other with their duties of office. Decisions made by Commissioners are kept in a central database which can be accessed by Commissioners.

In September 2023 the Commissioners met in Halifax Nova Scotia. This Annual Meeting is truly a working meeting. Issues of relevance in the various jurisdictions are reviewed and discussed. Guest speakers are often invited to make presentations which assist Commissioners in how they undertake their responsibilities. There are updates of current reviews and investigations. One of the most important aspects of the Annual Meeting is to reinforce the collegial network of Commissioners. It is not unusual for a Commissioner to seek advice from Commissioners from other jurisdictions. I have benefited from the advice and perspectives of my colleagues, as well as the data base of decisions and opinions maintained for the benefit of all Commissioners.



LEGISLATIVE STAFF AND FACILITIES

My work as Integrity Commissioner for Nunavut could not be accomplished without the assistance of the staff of the Legislative Assembly. My office does not maintain any administrative staff and the Clerk's Office assists greatly in all manner of functions. These include arranging meetings with elected members while I am in Iqaluit, facilitating contact with elected members, transmitting annual Disclosure Statements of the members to me and providing information and context regarding past practices of the Assembly. In addition to this, other staff members provide technical assistance, legal perspectives, research and travel arrangements. I could not fulfil my responsibilities without this ongoing support. I extend my sincere gratitude to all those who have continued to assist me in fulfilling my duties of office.

Katherine R. Peterson, K.C.

Integrity Commissioner, Nunavut.