

Report of the Commissioner for Legislative Standards

January 1, 2022 – December 11, 2022



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Introduction

This report covers the period January 1, 2022 to December 11, 2022.

Member Consultations

The Commissioner's Office regularly deals with requests from members seeking clarification, interpretation, or guidance respecting the obligations of the member under conflict of interest legislation and/or the member's code of conduct. In accordance with section 40(3) of the *House of Assembly Act*, an opinion offered by this office to a particular member is privileged. The member may, if they so choose, release a copy of such an opinion but the Office of the Commissioner may only do so with the consent of the member in writing.

As such, member consultations and opinions offered can only be referenced in this report in a manner that respects the confidential nature of that activity. Without referencing dates or specific issues, the cooperation of the member involved is acknowledged and their desire to ensure their compliance with the provisions of the legislation is appreciated.

Referred Questions – Reports

The Commissioner's Office may also receive a request from a member to conduct an inquiry and report on the activity of another member with respect to conflict of interest provisions of the *House of Assembly Act* ("HOA") and/or the *House of Assembly, Accountability, Integrity and Administration Act* ("HOAIA"). In such a case, the findings of the Commissioner are not privileged and would typically result in a report to the member involved and to the House itself.

Alternatively, the Commissioner may initiate an inquiry into the activity of a member with respect to conflict of interest provisions of the *House of Assembly Act* ("HOA") and/or the *House of Assembly, Accountability, Integrity and Administration Act* ("HOAIA") when it is in the public interest to do so. In such a case, the findings of the Commissioner are not privileged and would typically result in a report to the member involved and to the House itself.

During the year, the Commissioner initiated an inquiry under s.42(2) of the *House of Assembly Act* ("HOA") to determine if MHA Chris Tibbs (Grand Falls - Windsor – Buchans) had fulfilled his/her obligations with respect to the HOA Act. This inquiry resulted in a report being issued. The link for the report is below.

<https://www.legislativestandardscomm.gov.nl.ca/reports/CLSTibbsReportOctober2022.pdf>

Disclosure Statements

Paragraph 36(1)(b) of the Act requires every elected member or appointed minister to file a Disclosure Statement on or before April 1 of each calendar year. In addition, Paragraph 36(1)(c) requires every elected member or appointed minister to file a Disclosure Statement within 60 days of his/her election/appointment. There was no annual filing due on April 1, 2022 due to the wording of paragraph 36(1)(b).

Once filed, these disclosure statements are reviewed by the Commissioner and a Public Disclosure Statement is prepared for the signature of the member. The review process can take a considerable amount of time as it often involves back and forth communication between the member and the Commissioner. In some cases, the Commissioner may recommend that a member place some or all of their business interests in a blind trust.

To ensure compliance with the timelines required in the legislation and to enhance transparency it has been determined that, similar to the process followed by the Federal Commissioner, a status report be published on the Commissioner's website showing the progress of the review of each member's submission.

All of the resultant Public Disclosure Statements are on file in the Commissioner's office and are available for public inspection.

During the year, MHA Joyce, Bay of Islands, refused to provide supporting documentation required by the Commissioner in order to prepare his Public Disclosure Statement. As the financial disclosure requirements of the House of Assembly Act are the foundations of the conflict of interest provisions, a report was issued into his non-compliance.

<https://www.legislativestandardscomm.gov.nl.ca/reports/CLSJoyceReportApril2022.pdf>

Public Office Holder Appeals

During the year, there were no appeals received from a public office holder in accordance with s.17 of the Conflict of Interest Act, 1995.



Blind Trusts

As previously reported an issue that often arises is with respect to the requirement for a Minister to place certain private interests in a blind trust. Currently, there is a conflict between the legislation and policy. The policy requires all Ministers to put private interests in a trust without any consideration about whether or not the private interest could actually result in a potential conflict. This is in contradiction with the legislation, which requires the commissioner to make a determination on a case by case basis about whether or not a private interest should be placed in a trust. Given the cost to the taxpayers associated with establishing and maintaining a trust, a decision was made to follow the legislation instead of the policy. Currently only one Minister is required to place their private interests in a trust.

Conferences/Meetings

Annual Conferences and meetings provide Commissioners with an opportunity to exchange information on issues of common interest and review legislative and regulatory differences and trends. With the lessening of travel restrictions, the Commissioners held one virtual meeting and one in-person meeting. During the year, the Commissioner attended virtual meeting and the COGEL Conference in Montreal.