

Annual Report 2019

Commissioner for Legislative Standards



April 28, 2020

Honourable Scott Reid
Speaker
House of Assembly
Main Floor, East Block
Confederation Building
St. John's, NL

Dear Speaker:

I am pleased to present this Report of the Commissioner for Legislative Standards pursuant to Section 35 of the *House of Assembly Act - Part II Conflict of Interest*.

Copies of this Report, as well as those from previous years, in addition to being available at the Office of the Commissioner, are also available through our web site at www.legislativestandardscomm.gov.nl.ca. The site also contains links to other jurisdictions.

Sincerely yours,



Bruce Chaulk
Commissioner for Legislative Standards

Introduction

This report covers the period January 1, 2019 to December 31, 2019.

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 members involved is acknowledged and their desire to ensure their compliance with the provisions of the legislation is appreciated.

During the year, the Commissioner prepared a Guide for Members providing clarification about the Gift Rules contained in section 26 of the House of Assembly Act. This guide was sent to all members and was posted on the Commissioner's website.

Referred Questions - Reports

The Commissioner's Office may also receive a request from a member to investigate 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.

During the year, the Commissioner received four separate requests under s.36(1) of the House of Assembly, Accountability, Integrity and Administration Act to investigate the conduct of four members with respect to their compliance with the members' code of conduct. One resulted in a clearance certificate being issued to the member in accordance with s.42(1) of the HOAIA Act. A second request was rejected on the basis that it was related to a issue that was protected by Parliamentary Privilege and as such was not within the jurisdiction of the Commissioner.

The other two resulted in reports being issued. The first related to the conduct by MHA Pamela Parsons (Harbour Grace - Port de Grave) and second was a report issued as a result of an investigation by the Citizen's Representative into the conduct of MHA Christopher Mitchelmore (St. Barbe – L'Anse aux Meadows). The reports were sent to the Management Commission and were tabled in the Legislature. The links for the reports are as follows: <https://www.legislativestandardscomm.gov.nl.ca/reports/ParsonsReport.pdf> and <https://www.legislativestandardscomm.gov.nl.ca/reports/MitchelmoreReport.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.

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.

During the year there was the annual filing on April 1, 2019 and a second filing for those members that were elected during the General Election held on May 17, 2019. All members submitted the required statements for the report period in compliance with the Act. The resultant Public Disclosure Statements are on file in the Commissioner's office for public inspection.

Public Office Holder Appeals

During the year, there was one appeal received from a public office holder in accordance with s.17 of the Conflict of Interest Act, 1995.

Blind Trusts

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 has been made to follow the legislation instead of the policy. Accordingly, the commissioner is reviewing all trusts to determine if they are necessary given the nature of the private interests currently held by the members.

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. In that regard, the Commissioner attended the Annual Conference of the Canadian Conflict of Interest Network (C-COIN) held in Regina from September 3rd to 5th, 2019.

In addition, the Commissioner was a panelist at the Council of Canadian Administrative Tribunals (CCAT) conference held from May 26-28th, 2019 in Montreal.