

Annual Report 2020

Commissioner for Legislative Standards



April 21, 2021

Honourable Derek Bennett
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 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, 2020 to December 31, 2020.

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 (HOA)*, 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.

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 one request under s.36(1) of the HOAIA to investigate the conduct of MHA Jim Lester, Mount Pearl North with respect to his compliance with the members' code of conduct. This request resulted in a report being issued which was sent to the Management Commission and tabled in the legislature. The link for the report is below.

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

Disclosure Statements

Paragraph 36(1)(b) of the HOA 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, 2020 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.

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 HOA are the foundations of the conflict of interest provisions a report was issued into his non-compliance.

<https://www.legislativestandardscomm.gov.nl.ca/reports/JoyceReport4.pdf>

To ensure compliance with the timelines required in the legislation, and the obligations upon Members to provide disclosure of the interests to the Commissioner, it has been determined that a report should be issued to the legislature when members have not fulfilled their statutory obligations.

With the exception of MHA Joyce, all of the resultant Public Disclosure Statements are on file in the Commissioner's office and are available for public inspection.

During the year there was one by-election held on October 6, 2020 that resulted in the election of a new member. The statement for that member was received on time.

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

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. With the travel restrictions in place the in-person meetings did not take place. In its place the Commissioner's held a couple of virtual meetings.