



Annual Report

Ethics and Integrity Commissioner

April 1, 2018 – March 31, 2019

ANNUAL REPORT 2018-2019

INTRODUCTION

The position of Ethics and Integrity Commissioner was established, and the first Commissioner appointed, effective March 31, 2015. The principal responsibilities of the Ethics and Integrity Commissioner are conflict of interest disclosure and administration for employees of the Executive Division of the Government of Prince Edward Island, and administration of the Public Interest Disclosure and Whistleblower Protection Policy. The office completed its fourth full year of operation on March 31, 2019.

PART I – GENERAL

Administration and Reporting

I serve as Commissioner on a part-time basis, as required. For administrative purposes, the office is associated with the Public Service Commission, which provides office space, administrative and records management support, and budget. The office has a web page on the government site.

On conflict of interest and ethics matters relating to Executive Division employees, I report to and advise the Premier and the Clerk of Executive Council.

On public interest disclosure matters, I continue to fulfill the role and responsibilities outlined in the Public Interest Disclosure and Whistleblower Protection Policy. Upon the coming into force of the *Public Interest Disclosure and Whistleblower Protection Act*, Stats. PEI 2017, Cap. 11, this role will be undertaken by a newly-appointed Public Interest Disclosure Commissioner.

Consultation and Inquiries

One of the duties of the office is to receive and respond to inquiries and requests for advice. This year there were nineteen documented inquiries, down from thirty in each of the previous two years. While the inquiries continued to cover a variety of topics, this year many came from deputy ministers (or senior directors on their behalf) requesting advice on potential conflict of interest matters within their departments. Requests from deputy ministers for advice on the administration of the *Conflict of Interest Policy* within their own departments often relate to questions such as permissible community involvement or outside employment by an employee. In these cases, I provide advice and the deputy minister makes the decision.

Other types of inquiries included general ethical advice, questions about public interest disclosure and whistleblower protection, as well as various procedural questions. I also received a request for an investigation into the alleged actions of a member of Executive Council; however, the requested investigation was not within the mandate of the office.

Presentations and Education

Education and awareness on public sector values and ethics, including conflict of interest rules, are critical to building and supporting a culture of integrity.

Pathways for Learning, the Learning and Development calendar of the Public Service Commission, now includes a half day workshop which I developed on Public Sector Values and Ethics. The workshop opens with an explanation of the roles of the Ethics and Integrity Commissioner and then offers an overview of public sector values and ethics, with a particular focus on the key aspects of the Conflict of Interest Policy. The presentation format incorporates case studies which are worked on by small groups of employees. In 2018-2019, I presented two sessions of this workshop. Feedback surveys from employees who attended were extremely favourable. The workshop will continue to be offered in 2019-2020.

In May 2018 I attended the “Building Trust in Government 2018: Public Sector Ethics Conference” sponsored by the Office of the Conflict of Interest Commissioner of Ontario, the Institute of Public Administration of Canada (IPAC), the Faculty of Law at the University of Toronto, and the Office of the Public Sector Integrity Commissioner of Canada. This is a biennial conference initiated by Hon. Justice Sidney Linden, the recently retired Conflict of Interest Commissioner of Ontario, as a means to bring together persons working on public sector ethics issues from all levels of government across the country. The 2018 conference was a useful and practical learning experience.

In March 2019 I attended a one day course, “Facilitating Adult Learning for Subject Matter Experts in the Public Service”, at the University of Prince Edward Island. Sponsored by the Public Service Commission and delivered by an experienced adult educator, the day included a review of a comprehensive set of adult learning principles and techniques considered critical to developing and delivering effective workplace training. I will be refreshing my Pathways for Learning presentation on Public Sector Values and Ethics to better reflect the adult learning principles taught in that course.

Near year end, I received a request from the Director of Legal and Policy Services to present to Legal Services lawyers on the topic of public sector ethics. This presentation will be developed and delivered in the fall of 2019.

PART II – CONFLICT OF INTEREST

Much of my time as Commissioner continues to be focused on the administration of the Executive Division Conflict of Interest Policy. This policy includes requirements which differ from, or are supplementary to, the provisions of the Conflict of Interest Policy generally applicable to public service employees. Many of the provisions of the general policy apply to Executive Division employees, in particular, the purpose, certain definitions, principles, financial gain, preferential treatment, community activities and political activity provisions. For this reason, I describe the Executive Division Conflict of Interest Policy as “layering over” the general policy. Executive Division employees are expected to be familiar with both policies.

Every year I meet with persons new to the Executive Division to explain the role of the Ethics and Integrity Commissioner and to provide an orientation on the conflict of interest regime applicable to their positions. For deputy ministers, I point out my availability to provide advice to them on conflict of interest matters which may arise within their own departments. Once again this year a number of deputy ministers sought my advice before finalizing conflict of interest decisions regarding employees of their departments.

Persons serving as acting deputy ministers for six months or longer are subject to the Executive Division Conflict of Interest Policy. Six months was the time period chosen to bring them under the Executive Division policy, as it is also the point at which certain provisions of the Senior Compensation Plan apply to them. This practice captures the longer-serving acting deputy ministers, while not requiring the many persons who serve for short periods throughout the year due to the temporary absence of a deputy minister to be subject to the Executive Division regime.

Approximately one month prior to the due date, I contact Executive Division employees to remind them of their responsibility to submit annual confidential disclosure statements and to advise them of the due date. Following receipt and review of the statements, I meet with each employee as required under the policy. This provides the opportunity to address any questions which may arise from the statements, as well as any other ethics or conflict of interest matters which the employee may wish to discuss with me.

Special advisors and assistants to members of Executive Council are Executive Division employees. In last year's report, I noted the importance of timely communication to my office in the event of changes in cabinet liaison officers. My thanks go to the deputy minister and human resources manager for the Department of Rural and Regional Development for keeping me informed of changes in these positions.

As the final step in the annual process, I prepare and file disclosure statements for the Clerk containing the information outlined in the policy. In the case of the Clerk, the statement is provided to the Premier.

Appendix A is a list of positions for which conflict of interest disclosure statements were filed in 2018-2019.

The requirement to file disclosure statements is also triggered by a change in circumstances, which includes a change in assignment. If the change in assignment comes shortly after the filing of annual disclosure statements, the employee is asked to file a brief descriptive form for changes in circumstance. Once filed, this form enables me to decide whether to require the submission of a complete new set of disclosure statements, or to accept the change of circumstances form and annual disclosure statements as one. Either way, I always meet with each employee who has a new assignment within the Executive Division.

The Executive Division Conflict of Interest Policy includes a requirement to disclose gifts and personal benefits with a value exceeding two hundred dollars, or if the total value received from one source in a twelve month period exceeds two hundred dollars. Disclosures will be posted on the Commissioner's website. No such disclosures were received in 2018-2019.

Post employment restrictions are intended to safeguard confidential information of the government and to protect against departing employees receiving preferential treatment due to their contacts in the system. Employees leaving the Executive Division are subject to post employment restrictions as outlined in the policy, including a six month cooling-off period. Section 17 of the *Lobbyist Registration Act* also includes post employment restrictions applicable to certain positions within the Executive Division.

PART III – PUBLIC INTEREST DISCLOSURE AND WHISTLEBLOWER PROTECTION

On December 20, 2017 the *Public Interest Disclosure and Whistleblower Protection Act*, Stats PEI 2017, Cap. 11 received Royal Assent. The Act comes into force on a date fixed by proclamation of the Lieutenant Governor in Council. As of March 31, 2019, the Act was not in force.

The Public Interest Disclosure and Whistleblower Protection Policy, announced on October 13, 2015, remains in effect pending the coming into force of the Act. The policy is intended to contribute to open, ethical, accountable and transparent government by providing avenues for reporting of wrongdoing and for protection from employment-related reprisals for good faith reporting of wrongdoing. The policy applies to employees of entities listed in the schedules to the *Financial Administration Act*, with the exception of the Legislative Assembly, the Office of the Auditor General, the Island Regulatory and Appeals Commission and the Human Rights Commission.

Wrongdoing is defined as a violation of provincial or federal law; the gross mismanagement of public funds or governments assets; an act or omission that creates a substantial and specific danger to the life, health or safety of persons or the environment; or directing or counseling to engage in the foregoing acts. A disclosure of wrongdoing may be made by employees to their supervisor, their deputy minister or to the Commissioner. The policy also provides employees considering making a disclosure of wrongdoing with the option of seeking advice from the Commissioner.

I received two formal disclosures of wrongdoing and one report of reprisal in 2018-2019. One disclosure of wrongdoing and one report of reprisal were beyond the jurisdiction of this office, as the person making the disclosure and report was not an employee of an entity covered by the policy. At year end, the file regarding the second disclosure of wrongdoing was ongoing.

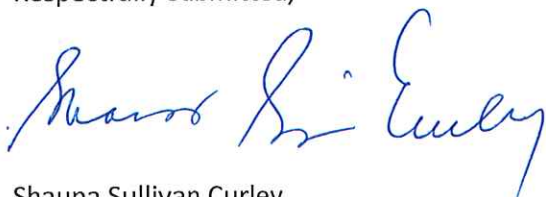
CONCLUSION

Again this year, I express appreciation to Executive Division employees for their continuing cooperation in the conflict of interest disclosure process.

Thanks also go to the Hon. Wade MacLauchlan, former Premier; Paul Ledwell, Clerk of Executive Council; Andrew Thompson, Chief Executive Officer of the Public Service Commission; and Delma Good, Executive Assistant at the Public Service Commission for their support in the execution of my duties.

I look forward to working with the Hon. Dennis King, Premier.

Respectfully submitted,

A handwritten signature in blue ink, reading "Shauna Sullivan Curley". The signature is fluid and cursive, with the first name "Shauna" being the most prominent.

Shauna Sullivan Curley

Ethics and Integrity Commissioner

Appendix A – Disclosure Statements Filed in 2018-19

Clerk of Executive Council and Secretary to Cabinet

Chief of Staff to the Premier

Deputy Minister, Agriculture and Fisheries, and Rural and Regional Development

Deputy Minister, Communities, Land and Environment (2)

Deputy Minister, Economic Development and Tourism and Chief Executive Officer, Innovation PEI

Deputy Minister, Education, Early Learning and Culture

Deputy Minister, Family and Human Services (2)

Deputy Minister, Finance

Deputy Minister, Health and Wellness

Deputy Minister, Justice and Public Safety and Deputy Attorney General

Deputy Minister, Transportation, Infrastructure and Energy

Deputy Minister, Workforce and Advanced Learning

Children's Commissioner and Advocate

Clerk Assistant to Executive Council and Secretary to the Cabinet Committee on Priorities

Secretary to Treasury Board

Special Advisor on Social Policy, Executive Council Office

Chief Executive Officer, Finance PEI

Chief Executive Officer, Island Waste Management Corporation

Chief Executive Officer, Liquor Control Commission

Chief Executive Officer, PEI Energy Corporation

Chief Executive Officer, Public Service Commission

Chief Executive Officer, Tourism PEI

Executive Director of Public Affairs, Premier's Office

Executive Assistant, Premier's Office

Special Assistant, Premier's Office

Cabinet Liaison Officers (4)