



## **Annual Report**

**Ethics and Integrity Commissioner**

**April 1, 2017 – March 31, 2018**

# ANNUAL REPORT 2017-2018

## INTRODUCTION

Established on March 31, 2015, the principal responsibilities of the Ethics and Integrity Commissioner position 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 third full year of operation on March 31, 2018.

## PART I – GENERAL

### Administration and Reporting

Appointed for a five year term effective March 31, 2015, 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 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 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

A key role of the office is to field inquiries and requests for advice. This year there were thirty documented inquiries. The inquiries were wide-ranging in nature, both in terms of topic and in terms of the time required to address the inquiry. They included conflict of interest questions, general ethical advice, as well as procedural questions.

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.

### 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.

In the spring of 2017, a new leadership program was launched by the Public Service Commission. The first cohort of *Leaders in Action* participants included twenty-four employees from the provincial public sector. In June 2017, I provided them a half-day workshop on public sector values and ethics. This was a highly engaged group, eager to discuss both the theory and the practice of public sector values and ethics.

A half-day session on Ethics and Accountability has been incorporated into the Learning and Development calendar of the Public Service Commission. Initially intended to begin in this fiscal year, scheduling challenges delayed its launch. I look forward to presenting this offering beginning in the fall of 2018.

In August 2017 at the national conference of the Institute of Public Administration of Canada held in Charlottetown, I was a panelist at a well-attended session entitled “Leadership through Values, Ethics and Open Government”. Other presenters on the panel included Karen Shepherd, the Commissioner of Lobbying for the Government of Canada; Kevin Page, Chairholder at the University of Ottawa and former Parliamentary Budget Officer; and Taran Wasson, Policy Analyst at federal Treasury Board and a member of its Open Government team. The discussion provided keen insight into the various ways in which governments can engage with and build public confidence with citizens.

On February 12, 2018 I made a presentation to a University 2030 Introduction to Leadership class at the University of Prince Edward Island, on the topic of values and ethics from a practitioner’s perspective. The class had been studying theoretical aspects of ethics and various models of application of ethical decision-making, and welcomed information regarding these topics in the public sector setting.

## **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 must read the two together.

This year I met with several 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. This year some deputy ministers have sought my advice before finalizing conflict of interest decisions regarding employees of their departments.

Employees who serve as acting deputy ministers for six months or longer are subject to the Executive Division policy, six months also being the point at which certain provisions of the Senior Compensation Plan apply to those persons. 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.

Prior to the due date, I contact Executive Division employees to remind them of their responsibility to submit annual confidential disclosure statements. 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. Generally speaking, employees have been diligent in filing their statements with me. In one case, an employee has never filed confidential disclosure statements despite several requests. The Clerk and the Premier have been informed of this circumstance.

Special advisors and assistants to members of Executive Council are considered part of the Executive Division. This includes cabinet liaison officers. When reminders regarding annual filings were sent out to some cabinet liaison officers this year, I found out that they were no longer serving in those roles. Their successors had not been informed of the application of the Executive Division policy to their roles, nor of the need to file disclosure statements with me. Cabinet liaison officers are employed by the Department of Rural and Regional Development, and therefore I have asked the deputy minister of that department to ensure that I am kept informed of changes in these positions. Timely communication of changes in positions is important in order to respect the letter and the spirit of the Executive Division policy.

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 2017-2018. In two cases, the submissions expected in 2017-2018 were received after the end of the fiscal year.

The requirement to file disclosure statements is also triggered by a change in circumstances, which includes a change in assignment. At times the change in assignment comes shortly after the filing of annual disclosure statements. This year I devised 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 statements, or to accept the change of circumstances form and annual disclosure statements as one.

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 2017-2018.

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. This year I provided information and advice to some employees leaving 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, 2018, 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 no disclosures of wrongdoing or reports of reprisals under the policy in 2017-2018. Given that the government announced approximately a year after the effective date of the policy that it would be replaced by legislation, it is perhaps not surprising that there has been very little activity under the policy. Upon proclamation, the new Act will provide improved procedures and protections.

In last year's annual report, I referred to a disclosure of wrongdoing having been made to a deputy minister pursuant to the policy. This year, I report that I have been advised that the matter was investigated and resolved within the department.

## CONCLUSION

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

Thanks also go to the Hon. Wade MacLauchlan, 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.

At its creation, the expectation was that the Office of Ethics and Integrity Commissioner would become a trusted resource for conflict of interest and ethics advice and direction. At the three year mark, I believe it is fair to say that this goal is being achieved.

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 2017-18**

\*Clerk of the 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

Deputy Minister, Economic Development and Tourism

Deputy Minister, Education, Early Learning and Culture

Deputy Minister, Family and Human Services

Deputy Minister, Finance

Deputy Minister, Health and Wellness

Deputy Minister, Justice and Public Safety and Deputy Attorney General

Acting Deputy Minister, Transportation and Infrastructure Renewal

Deputy Minister, Workforce and Advanced Learning

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

Secretary to Treasury Board

Senior Advisor, Executive Council Office

Special Advisor on Social Policy, Executive Council Office

Chief Executive Officer, Finance PEI

Chief Executive Officer, Innovation PEI

Chief Executive Officer, Island Waste Management Corporation

Acting Chief Executive Officer, Liquor Control Commission

Chief Executive Officer, Public Service Commission

Chief Executive Officer, Tourism PEI

Acting Director of Communications, Premier's Office

Special Assistant, Premier's Office

Cabinet Liaisons (2)

\*Received after the end of the fiscal year.