

**Annual Report**

**Ethics and Integrity Commissioner**

**April 1, 2015 – March 31, 2016**



PO Box 2000, Charlottetown  
Prince Edward Island  
Canada C1A 7N8

Office of the  
Ethics and Integrity  
Commissioner

Bureau du  
commissaire à  
l'éthique et à l'intégrité



C.P. 2000, Charlottetown  
Île-du-Prince-Édouard  
Canada C1A 7N8

May 31, 2016

Hon. H. Wade MacLauchlan  
Premier of Prince Edward Island  
PO Box 2000  
Charlottetown, PE C1A 7N8

Dear Premier MacLauchlan:

It is my honour to present the annual report of the office of the Ethics and Integrity Commissioner for the period April 1, 2015 to March 31, 2016.

Sincerely,

Shauna Sullivan Curley  
Ethics and Integrity Commissioner

c: Brian Douglas, Clerk of Executive Council  
Andrew Thompson, CEO, Public Service Commission

## **Introduction**

On March 31, 2015, the Government of Prince Edward Island announced the creation of the position of Ethics and Integrity Commissioner. I am pleased to submit the first annual report for the newly-created office.

During the first year of its existence, the focus of the office has been on the development and implementation of a new Conflict of Interest Policy for deputy ministers and other senior executives, as well as providing advice on the development of the new Public Interest Disclosure and Whistleblower Protection Policy.

## **Reporting and Administration**

Appointed by Executive Council for a five year term, the Commissioner reports and provides advice to the Premier and the Clerk of Executive Council on ethics and conflict of interest matters relating to the named group of deputy ministers and senior executives.

With regard to public interest disclosure, the Commissioner fulfils the roles and responsibilities outlined in the Public Interest Disclosure and Whistleblower Protection Policy, and will work closely with prospective complainants, the Public Service Commission and other public sector employers as appropriate.

The Commissioner serves on a part-time basis. Administratively, the office is aligned with the Public Service Commission for the provision of office space, administrative support and budget.

## **Conflict of Interest**

Coincident with the announcement of the creation of the position of Ethics and Integrity Commissioner, the Government of Prince Edward Island announced that conflict of interest requirements would be strengthened for deputy ministers and senior advisors and would include post-employment restrictions similar to those in place for Ministers of the Crown. With that backdrop, the Commissioner worked with the Clerk of the Executive Council and the Clerk Assistant of Executive Council to develop and implement a new and more rigorous system.

The Conflict of Interest Guidelines for the general public service, based on the principle of self-identification of potential conflicts of interest, were considered progressive when implemented some twenty years ago. The guidelines have stood up reasonably well to the test of time in terms of their specific provisions. Initially, consideration was given to continuing to use these guidelines for the senior executive group, with the addition of post-employment restrictions and more frequent filing of disclosure statements. However, on the advice of the Commissioner, it was decided that a system based on self-identification of potential conflicts (rather than full disclosure of assets, liabilities and interests) would not achieve the policy goal of a more rigorous system for this group of senior government employees. The Commissioner would not be in a position to “sign off” on conflict of interest matters without the benefit of full disclosure.

In the summer of 2015, the Commissioner circulated confidential disclosure statements to be completed by the twenty-four persons occupying the positions set out in Appendix A. These statements required the full disclosure of all assets, liabilities, income, business and community interests of the employee, the employee's spouse and dependent children. The Commissioner met separately with each employee to review the disclosure statements. While the finalization and formal approval of the separate conflict of interest policy was pending, the Commissioner provided interim advice on certain matters arising from the disclosure statements or the private meetings. During the course of this process, the three assistant deputy minister positions were eliminated by government, bringing the size of the group to twenty-one.

On January 12, 2016, Executive Council approved the Conflict of Interest Policy for Senior Compensation Plan Members and directed that its terms be incorporated into the Senior Compensation Plan. The policy was subsequently re-named the Executive Division Conflict of Interest Policy. Among the provisions of the policy was a new requirement to disclose gifts and personal benefits with a value exceeding two hundred dollars, or a total value received from the same source in a twelve month period exceeding that amount. These gift disclosures will be publicly available on the Commissioner's web page. To date, no such disclosures have been filed.

Following formal approval of the policy, the Commissioner processed twenty-one employee files, preparing a Disclosure Statement for the Clerk of Executive Council in accordance with subsections 8(6) and (7) of the policy. In the case of the Clerk, the disclosure statement was provided to the Premier. By memorandum from the Commissioner, employees were informed of any action they were to take to avoid potential conflicts of interest. One such example would be avoiding involvement in an identified matter which might give rise to a conflict of interest. This is essentially the same process which deputy ministers undertake with employees of the department or agency to which they are assigned.

With the new policy in place and the first cycle complete, the Commissioner will continue with the annual process, as well as dealing with disclosures required by reason of employees leaving or joining the senior executive group, change of circumstances (including change of assignment), upon request of the Clerk of Executive Council, or on the Commissioner's own initiative. As experience with the policy is gained, it is anticipated that amendments will be brought forward from time to time to refine the policy.

The Commissioner has also fielded questions and provided advice on the new post-employment restrictions for senior executives. These restrictions essentially serve two purposes: to guard against former employees receiving preferential treatment due to their former positions, and to ensure that government's interests are not disadvantaged by reason of the information former employees would have obtained in the course of their employment.

One of the consequences of the creation of the Commissioner's role has been heightened awareness of the importance of ethical issues in the government context. This is not to suggest that such matters were unattended to in the past, but rather to say that there has been a renewed emphasis on the critical relationship between adherence to conflict of interest standards and public confidence in the public service. The availability of the Commissioner to provide confidential advice on an *ad hoc* basis has

assisted with this process. During the course of the past year, senior executives have regularly sought the advice of the Commissioner on matters of public service values and ethics related to their day to day work. Those who have availed themselves of advice have reported that it is valuable for them to have access to the Commissioner for this purpose.

### **Public Interest Disclosure and Whistleblower Protection**

The Speech from the Throne in June 2015 included the announcement of government plans to implement a whistleblower protection policy with protections linked to the Commissioner's office. The speech also stated that the Commissioner would play an active role in the development of the policy.

Working in collaboration with the Public Service Commission and Executive Council Office, and having researched the public interest disclosure systems in place in various other Canadian jurisdictions, the Commissioner prepared a draft policy for consideration by Executive Council. On October 13, 2015, government announced the new Public Interest Disclosure and Whistleblower Protection Policy. Shortly thereafter, the Commissioner drafted the required forms, enabling the policy and its forms to be incorporated into the Human Resource Manual of the Public Service Commission.

The policy is broad in its coverage, applying to employees of all 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. The policy provides employees with the option to report a wrongdoing to their supervisor, their deputy minister or the Commissioner. Wrongdoing is defined as any violation of a provincial or federal law; the gross mismanagement of public funds or government 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 forgoing acts. Employees who report a wrongdoing in good faith are protected from any workplace reprisals which may result from the report.

The policy also provides that an employee who is considering making a disclosure of a wrongdoing or a report of a reprisal may request advice from the Commissioner before doing so.

To date, the Commissioner has received no reports of wrongdoing or reprisals.

The Public Service Commission will be setting up training and awareness sessions on the policy during 2016-17. The Commissioner will be involved in the development and presentation of the sessions.

### **Conclusion**

I express my appreciation to the senior executives for their cooperation and forbearance during the development and implementation of the new conflict of interest policy. This was a new and different process, requiring the disclosure of considerable personal and family information. I asked them to bear with me as the process unfolded, and they did so.

I am grateful to Steve MacLean, former Clerk of Executive Council; Brian Douglas, Clerk of Executive Council; and Wendy MacDonald, Clerk Assistant of Executive Council, for their contributions to policy development in the inaugural year of this office. Andrew Thompson, Chief Executive Officer of the Public Service Commission, and Delma Good, Executive Assistant at the Public Service Commission, have assisted me greatly in the discharge of my responsibilities.

I am honoured by the confidence placed in me by Premier MacLauchlan and the members of Executive Council who have appointed me to this position.

I believe we are building valuable and evolving components of a public service that is both accountable and well-supported.

Respectfully submitted,



Shauna Sullivan Curley  
Ethics and Integrity Commissioner

## **Appendix A**

Clerk of Executive Council and Secretary to Cabinet

Chief of Staff to the Premier

Deputy Minister, Policy and Planning

Deputy Minister, Agriculture and Fisheries

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

Deputy Minister, Transportation, Infrastructure and Energy

Deputy Minister, Workforce and Advanced Education

Chief Executive Officer, Public Service Commission

Clerk Assistant of Executive Council

Secretary to Treasury Board

Chief Executive Officer, Finance PEI

Chief Executive Officer, Innovation PEI

Chief Executive Officer, Liquor Control Commission

Secretary, Economic, Trade Policy and Strategy

Executive Director, Strategic Initiatives

Assistant Deputy Minister, Communications PEI

Assistant Deputy Minister, Environment

Assistant Deputy Minister, Intergovernmental Affairs