

ANNUAL REPORT 2020-2021

INTRODUCTION

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 sixth year of operation on March 31, 2021. I was reappointed Ethics and Integrity Commissioner for a second five year term, effective March 31, 2020.

PART I – GENERAL

Administration and Reporting

The Commissioner's position is part-time. 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, pending the proclamation of the *Public Interest Disclosure and Whistleblower Protection Act*, Stats. PEI 2017, Cap. 11.

This was a comparatively quiet year for the office, due in large part to the public health measures in place relating to the COVID-19 pandemic which restricted in-person gatherings. Many of the interactions during the year were by telephone or online.

Consultation and Inquiries

This was a quiet year for inquiries and requests for advice, with fourteen documented inquiries spanning various topics. These included requests from deputy ministers for advice on the administration of the Conflict of Interest Policy within their departments, ethical advice for Executive Division employees, an inquiry about the process around public interest disclosure and whistleblower protection, as well as some questions from the general public.

Where an inquiry is not within the mandate of my position, if feasible I try to assist the person by offering options about where they might turn to have their issues addressed. For example, a person wishing to register a complaint or concern about a government service would be advised how to do so.

Presentations

It has been my practice to offer presentations on public service values and ethics to employee groups and some outside groups. This year the pandemic meant that there were no such presentations.

Pathways for Learning, one of the Learning and Development offerings of the Public Service Commission, usually includes a half day workshop on Public Sector Values and Ethics. This year the workshops were not offered. I intend to offer them again once it is safer to gather in groups.

PART II – CONFLICT OF INTEREST

I continue to devote most of my time as Commissioner to the administration of the Executive Division Conflict of Interest Policy as well as providing advice to deputy ministers and chief executive officers on conflict of interest matters.

The Executive Division Conflict of Interest Policy includes requirements which differ from, or are in addition 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 be knowledgeable about both policies, to ensure that they comply themselves and also because employees who are deputy heads are responsible for the administration of the Conflict of Interest Policy within their own departments and agencies.

I continue the practice of meeting with every new Executive Division employee to explain my mandate, review the conflict of interest policies, and go over their initial conflict of interest disclosure statements in detail. For persons coming into the Executive Division from the private sector, the public sector conflict of interest regime is completely new to them. I inform new deputy ministers and chief executive officers that they have the option of seeking advice from me on conflict of interest matters relating to employees within their department or agency.

Persons acting in deputy minister or chief executive officer positions for six months or longer are subject to the Executive Division Conflict of Interest Policy. This practice captures the longer-serving acting deputy ministers and chief executive officers, while not requiring the many persons who serve for short periods throughout the year due to the temporary absence of an incumbent to be subject to the Executive Division regime.

The Executive Division also includes special advisors and assistants to members of Executive Council; therefore, the executive assistant to the Premier and the ministerial assistants are subject to the enhanced conflict of interest rules in the Executive Division Conflict of Interest Policy.

Approximately one month before their annual conflict of interest disclosure statements are due, I send out a reminder to Executive Division employees of the due date of their statements. Once the statements are submitted and I have reviewed them, I meet with each employee. This provides the

opportunity to address any questions which may arise from the statements (particularly year-over-year changes), as well as any other ethics or conflict of interest matters which the employee may wish to bring up with me. This year, due to the pandemic, many such meetings took place over the phone.

Following each meeting, I prepare and file a disclosure statement 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 2020-21.

Changes of assignment, or other changes in circumstances, trigger the requirement to file disclosure statements. If the change in circumstances comes shortly after the filing of annual disclosure statements, I ask the employee to submit a brief descriptive form for changes in circumstance. Once the form is filed, I 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. I always meet with each employee who has a new assignment within the Executive Division to review the documentation and identify and consider any conflicts of interest or ethics issues which could arise due to the change in circumstances. For example, in the case of a change in assignment, I review with the employee any potential circumstances or relationships in their new department or agency which may give rise to a conflict of interest.

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 are to be posted on the Commissioner's website. No such disclosures have been received to date.

Employees leaving the Executive Division must comply with post-employment restrictions as outlined in the policy, including a six-month cooling-off period. The purposes of these post-employment restrictions are to safeguard confidential government information and to protect against departing employees receiving preferential treatment from their former colleagues within government. 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

The Public Interest Disclosure and Whistleblower Protection Policy, announced on October 13, 2015, remains in effect until the *Public Interest Disclosure and Whistleblower Protection Act*, Stats. PEI 2017, Cap. 11 is fully proclaimed into force.

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 did not receive any disclosures of wrongdoing or reports of reprisal in 2020-21.

CONCLUSION

In conclusion, I thank the Executive Division employees for their cooperation in the conflict of interest disclosure process.

I also extend thanks to the Hon. Dennis King, Premier; Paul Ledwell, Clerk of Executive Council; Tanya Rowell, 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.

Respectfully submitted,

Shauna Sullivan Curley
Ethics and Integrity Commissioner

Appendix A – Disclosure Statements 2020-2021*

Clerk of Executive Council and Secretary to Cabinet

Chief of Staff to the Premier

Principal Secretary and Senior Policy Advisor to the Premier

Deputy Minister, Agriculture and Land

Deputy Minister, Economic Growth, Tourism and Culture

Deputy Minister, Education and Lifelong Learning

Deputy Minister, Environment, Water and Climate Change

Deputy Minister, Finance

Deputy Minister, Fisheries and Communities

Deputy Minister, Health and Wellness

Acting Deputy Minister, Justice and Public Safety and Acting Deputy Attorney General

Deputy Minister, Social Development and Housing

Deputy Minister, Transportation, Infrastructure and Energy

Clerk Assistant of the Executive Council

Special Advisor, Executive Council Office

Secretary to Treasury Board

Senior Director responsible for Greater Charlottetown Area Economic Development/Partnership for Growth

Assistant Deputy Minister, Health and Wellness

Assistant Deputy Minister, Intergovernmental and International Affairs

Chief Executive Officer, Finance PEI & Executive Director, Island Investment Development Inc.

Chief Executive Officer, Innovation PEI

Chief Executive Officer, Island Waste Management Corporation

Acting Chief Executive Officer, Liquor Control Commission & Cannabis Management Corporation

Chief Executive Officer, PEI Energy Corporation
Chief Executive Officer, Public Service Commission
Chief Executive Officer, Tourism PEI
Executive Director, Climate Change Secretariat
Executive Director, Public Affairs, Premier's Office
Executive Assistant, Premier's Office
Ministerial Assistants (9)

*Position titles as of date of disclosure