



Legislative Assembly of Nunavut

Annual Report

April 1, 2010 to March 31, 2011

Norman Pickell

Integrity Commissioner

Integrity Commissioner's Annual Report 2010 - 2011

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Annual Report for 2010-2011 of the Integrity Commissioner

Ullukkut

Foreword:

This is my third Annual Report to the Legislative Assembly. It covers the period from April 1, 2010 until March 31, 2011.

Since July 3, 2008, it has been my honour and privilege to be the Integrity Commissioner of Nunavut. The Integrity Commissioner is an independent officer of the Legislative Assembly of Nunavut. This means he or she is free from all influences and outside direction in carrying out his or her duties. The Integrity Commissioner is responsible to the entire Legislative Assembly and to all of Nunavummiut.

Introduction:

Ethics and integrity remain at the heart of public confidence in government. Avoiding a conflict of interest is part of “integrity.” But integrity embraces much more. Integrity is about values and behaviour.

The document that gave birth to Nunavut’s *Integrity Act* was entitled *For a Culture of Integrity*. The following quote from J. Richard Finlay appeared at the beginning of that document:

“... there is no substitute for a culture of integrity compliance alone with the law is not enough. History shows that those who make a practice of skating close to the edge always end up going over the line.”

When you have a culture of integrity, you bring integrity to the forefront. You openly discuss it. You constantly practice it. Integrity becomes a way of life.

Integrity is doing the right thing, even when no one is watching.

The *Integrity Act* establishes a system of standards and accountability for the conduct of Members of the Legislative Assembly. The Act states that integrity is the first and highest duty of elected office. Each Member must act in a manner that will bear the closest public scrutiny. Nunavummiut expect this of their elected representatives.

Activities During 2010-2011

Members’ Disclosure Statements:

Transparency of Members’ private interests is a fundamental feature of the *Integrity Act*.

All Members of the Legislative Assembly are required to file a Public Disclosure Statement at the times set out in the *Integrity Act*. These statements list the nature and source of their family assets, liabilities and income. I am pleased to report that all Members except one filed their Public Disclosure Statements on or before Thursday March 31, 2011, being the date that I had established pursuant to the *Integrity Act*. I have given James Arvaluk an extension for health reasons.

Copies of these disclosure statements, including any supplementary ones, are available to the public by contacting the Office of the Clerk of the Legislative Assembly.

Annual Meeting with Members and Their Spouses:

The *Integrity Act* requires all Members of the Legislative Assembly to meet, at least annually, with the Integrity Commissioner to obtain advice on their obligations under the *Integrity Act*. The word “annually” is not defined in the Act. In the past, “annually” has been interpreted to mean “at least once during the calendar year,” as opposed to during the Government’s fiscal or financial year.

The period of time that is covered by this Annual Report is the Government’s fiscal year. I did not meet with all of the Members during the fiscal year April 1, 2010 to March 31, 2011. My last such meeting was the first week of March 2010. That meeting fulfilled the requirements for 2010. I will be in Iqaluit again at the beginning of June 2011 to meet with all of the Members. These upcoming meetings will meet the requirements for 2011.

I give the above explanation because I do not want anyone to think that any of the Members have breached their obligation to meet with me.

Section 34(2) of the Act also requires Members of the Legislative Assembly to use their best efforts to have their spouses attend the annual meeting with the Integrity Commissioner.

Other Meetings with Members and Their Spouses:

I did meet with some Members of the Legislative Assembly and one spouse when I was in Iqaluit at the end of May and the beginning of June 2010. These meetings were arranged because of specific circumstances.

Advice:

All Members of the Legislative Assembly, including regular Members, Cabinet Ministers and the Premier, know that they can ask the Integrity Commissioner at any time for advice on their obligations under the *Integrity Act*. In fact, I welcome them to do so. This advice is usually given on a confidential basis.

My focus is on prevention. I would rather provide advice before something is done which might be a violation of the *Integrity Act*, instead of receiving a complaint that alleges that a Member has breached the Act.

I received requests throughout the year for advice and guidance from the Members as well as from their staff. I encourage this to continue.

Blind Trust Agreements:

The *Integrity Act* recognizes that the public benefits from having Members of the Legislative Assembly who come from a variety of occupations and experience. It is too much of a sacrifice to expect a Member who has a business to sell it upon being elected. Likewise, if a Member has an extensive investment portfolio, he or she should not normally be required to sell the investments.

Accordingly, the *Integrity Act* provides for Blind Trust Agreements as one method of giving the public the confidence it needs in those Members who have a business or investment portfolio. A Blind Trust Agreement allows the business or investments to continue. However, the Member is restricted on what information he or she can receive about the business or the investments and generally does not have any input on the decisions made.

During the period covered by this Annual Report, one Member signed a Blind Trust Agreement. A total of 3 Members now have such Agreements.

From time to time the trustees of the Blind Trust Agreements consult with me on various issues having to do with the trusts.

I encourage any Member of the Legislative Assembly to contact me at any time about blind trusts and how they can be used in their particular circumstances.

Review of the Conduct of Members of the Legislative Assembly:

While the emphasis should be on preventing a breach of the statute, from time to time it is necessary to look at whether a Member has contravened the *Integrity Act*.

In some jurisdictions, only an elected Member can ask the Integrity Commissioner to conduct a Review of an alleged breach. However, under Nunavut's legislation, any person in Nunavut or elsewhere can ask for a Review of a Member.

Pursuant to section 31 of the *Integrity Act*, no employer can take or threaten any action with respect to the employment of any person because the person has provided information to the Integrity Commissioner.

The Reports from the two Reviews that I have been conducted during my time as Integrity Commissioner, as well as the two Reviews conducted by my predecessor, are available on the Integrity Commissioner's website.

Executive Assistants and Executive Secretaries:

The Integrity Commissioner has a role in helping the Executive Assistants and Executive Secretaries to Cabinet Ministers avoid conflicts of interest.

I receive inquiries throughout the year from Executive Assistants and Executive Secretaries on their own behalf, as well as on behalf of their Ministers. I encourage this to continue.

Other Inquiries:

In addition to receiving inquiries from the Members of the Legislative Assembly and their staff, the media and the public also contact me from time to time. I respond to the media and the public as best I can. However, much of the work that I do, including most of the advice that I provide, is confidential. Therefore, when speaking to the media and the public, I often have to restrict my remarks to those of a general nature.

Contact with my Colleagues:

Every territory and province in Canada, as well as the House of Commons and the Senate has an Integrity Commissioner, Ethics Commissioner or Conflict of Interest Commissioner. We all belong to the Canadian Conflict of Interest Network - CCOIN.

I attended the CCOIN Annual Meeting in Toronto, Ontario in September 2010. The topics discussed at the Annual Meetings have been and will be of great assistance to me as I carry out my responsibilities as Integrity Commissioner of Nunavut.

There have been occasions throughout the year when I have needed to consult with my territorial, provincial and federal colleagues. At this time I want to express my appreciation for the collegiality and support shown to me by them. They have helped to make my job much easier.

Statistics for the Period from April 1, 2010 to March 31, 2011:

Number and source of inquiries under the *Integrity Act*:
(not counting when I was actually in Iqaluit):

MLA/Minister/Premier or their Staff on their behalf	15
Trustees of Blind Trusts	7
Deputy Ministers	2
Media	2
Public	3

Other Commissioners	3

Total Inquiries	32

All three inquiries from the public were from residents of Nunavut. Two of them had to do with inquiries about Members. The third one concerned a matter over which I had no jurisdiction.

Nunavut Elections Act

All Canadian territorial, provincial and federal election statutes have enforcement provisions. Usually these enforcement provisions include the laying of charges by the police and the prosecution of those charges in the courts.

Nunavut and Canada's House of Commons are unique. At the present time, they are the only jurisdictions in Canada which provide for Compliance Agreements as an alternative to judicial enforcement.

Under the *Nunavut Elections Act*, the Integrity Commissioner has the authority to negotiate a Compliance Agreement with persons alleged to have committed offences under that Act. Compliance Agreements may provide for a variety of sanctions.

Even though there was a by-election held in 2010, there was no need for my services or for any Compliance Agreements. With two by-elections set for later this year, I hope that I will be able to say the same thing in next year's Annual Report.

Travel to Nunavut:

While I have an office in the Legislative Assembly Building in Iqaluit, my main working office is in Goderich, Ontario.

With the assistance of the telephone, email and fax, most of my work as Integrity Commissioner is done from Goderich. I travel to Nunavut whenever the need arises. The only trip to Nunavut that was needed during the period covered by this Report was at the end of May and the beginning of June 2010 when I met with some Members, the spouse of one of the Members and some other officials.

Gifts, Personal Benefits and Hospitality:

In my first Annual Report, I talked about Members' activities on behalf of Constituents. Last year I commented on Gifts, Personal Benefits and Hospitality.

As I said last year, the issues around "gifts, benefits and hospitality" are complex. It is very difficult to come up with absolute rules. Often each situation will be slightly different.

That is why it is preferable for a Member to contact me about a potential gift, benefit or some free hospitality. Then we can discuss the specific situation in order to determine if the Member should accept the offer.

I ask that all Members keep in mind section 4(b) of the *Integrity Act* which states:

“Each member shall refrain from accepting any remuneration, gift or benefit the acceptance of which **might** erode public confidence and trust in the integrity, objectivity or impartiality of the member, and in all other respects **act in a manner which will bear the closest public scrutiny.**”

The *Integrity Act* states that if a Member or his or her spouse or another family member receives a single gift, benefit or hospitality which exceeds \$400 in value, the Member must file a Public Disclosure Statement of Gifts with the Clerk of the Legislative Assembly. The Disclosure Statement must also be filed if the Member and his or her family receive gifts and benefits from one source which exceed \$400 in any 12-month period. These Disclosure Statements must be filed within 30 days after receipt of the gift or personal benefit.

However, the filing of the Gift Disclosure Statement only applies if the gift, personal benefit or hospitality should have been received in the first place. The filing of the Gift Disclosure Statement does not make an inappropriate gift an acceptable gift. In other words, first decide if the gift is acceptable. If the answer is “No,” then the Member should not accept the gift. If the gift is acceptable, then look at the value of the gift to decide if a Public Disclosure Statement needs to be filed.

Several Disclosure Statements were filed during the time-period covered by this Report.

Copies of the Public Disclosure Statement of Gifts and Personal Benefits Form which Members file are available to the public by contacting the Office of the Clerk of the Legislative Assembly.

Observations and Recommendations

Behaviour of the Members in the Legislative Assembly:

In some jurisdictions in Canada, the Members’ conduct in the Legislative Assembly falls below the standard of acceptable behaviour. However, based on my personal observations whenever I have observed the proceedings, this is not true in Nunavut. I commend all Members for their good behavior in the Legislative Assembly.

Amendments to the Integrity Act:

It is up to the Legislative Assembly, and not up to me, to decide if and when the *Integrity Act* will be amended. In my first two Annual Reports, I made some suggestions for possible

amendments to the *Integrity Act*. I am pleased to see that many of my suggestions were adopted by the Legislative Assembly in 2010.

Expansion of Accountability:

The *Integrity Act*, which covers only Members of the Legislative Assembly, sets an example of honesty, openness and accountability for all who govern and administer the Territory.

In *For a Culture of Integrity*, which formed the basis of Nunavut's *Integrity Act*, the Northwest Territories Review Panel made the following recommendations:

34. Deputy Ministers and those functioning at an equivalent level should be subject to the same standards as Ministers. Those standards should be legislated and should include the filing of an annual financial statement and an annual meeting with the Conflict of Interest Commissioner.
36. Such appointed officials should be subject to post-employment restrictions with respect to lobbying activities and assuming employment with organizations that had significant dealings with their department or agency. The period of restriction should be six months.

When the Legislative Assembly of Nunavut passed the *Integrity Act* in 2001, it was decided the Act should focus at that time exclusively on persons elected to the Legislative Assembly.

Since then, the first Integrity Commissioner, the Honourable Robert Stanbury, suggested on several occasions that perhaps the time has come to complete the system of standards and accountability to cover senior unelected officials in expanded or parallel legislation.

In his 2004-2005 Annual Report, Commissioner Stanbury made the following comment:

“Remaining unresolved is the longstanding recommendation that Deputy Ministers and those functioning at an equivalent level be subjected to the same legislated standards as Ministers.”

The 2006-2007 Annual Report of the Integrity Commissioner had the following paragraph:

“Attention could ... be turned to expanding the reach of now-established principles of public integrity to the entire governance and administration of the Territory. Senior officials still lack a system of legislated standards and accountability similar to that self-imposed by legislators. A code of conduct for all Government of Nunavut employees is said to be under study, as well as “whistle-blowing” protection for disclosure of wrong-doing. The value of lobbyist regulation, introduced by other jurisdictions, might be considered. All these initiatives have the potential to contribute to a Nunavut-wide culture of integrity in its public institutions.”

From my reading of past Annual Reports of the Integrity Commissioner, it appears that the “code of conduct” referred to above has been under study in Nunavut since 2003.

As I have already mentioned, Executive Assistants and Executive Secretaries to Cabinet Ministers now have some of their actions scrutinized by the Integrity Commissioner. I am also aware that some of the terms of employment for Deputy Ministers and Heads of Crown Corporations are similar to many of the concepts in the *Integrity Act*. Those are good first steps.

Last year I made some comments about lobbyists. As I said then, perhaps it is time to give the topic of lobbyist regulation more consideration in Nunavut. In my respectful opinion, there should be rules to ensure that lobbying is done ethically and transparently.

Closing Remarks

Integrity Commissioner’s Website:

The Integrity Commissioner’s website has been given a new look. At this time I would like to thank those who were responsible for that work. The website is found at **www.integritycom.nu.ca**.

The website includes general information about the *Integrity Act* and a complete copy of the Act. In addition, all of the Integrity Commissioner’s Annual Reports which are submitted to the Legislative Assembly, any Special Reports which are prepared by the Integrity Commissioner, Reviews that have been done concerning the conduct of Members, the blank Public Disclosure Forms, and information about the Integrity Commissioner, including how to contact him, are found on the website.

Tributes and Appreciation:

I am thankful for the cooperation and assistance that I received throughout the year from the Clerk of the Legislative Assembly and all of his staff.

I also appreciate the courtesy and cooperation that I have received from the Members of the Legislative Assembly this past year.

I am grateful for the opportunity to be of service to Nunavummiut.

Nakurmiik.

Norman Pickell
Integrity Commissioner
May 12, 2011