
The Nunavut Legislative Assembly and its Independent Officers

by Hunter Tootoo, MLA

Canada's newest territory, Nunavut, came into existence on April 1, 1999. Upon its creation Nunavut inherited the majority of its statutes from the Northwest Territories. A number of these statutes established independent officers of the Legislative Assembly including the Conflict of Interest Commissioner, the Languages Commissioner, the Chief Electoral Officer, and the Information and Privacy Commissioner. This article looks at the functions of these and other independent officers as well as recent developments in Nunavut.



At the first sitting of the Legislative Assembly of Nunavut in April, 1999, the Assembly approved terms of reference for its Standing Committees. Each Standing Committee consisted of five Regular MLAs (MLAs not sitting on Cabinet). The Standing Committee Ajauqtiit was empowered to conduct the initial recruitment and selection process

for the Information and Privacy Commissioner, Conflict of Interest Commissioner and Languages Commissioner. The Clerk of the Legislative Assembly initially held the position of Chief Electoral Officer.

The Standing Committee undertook a competitive, merit-based recruitment and selection process. All positions were advertised in the media and prospective candidates were interviewed by the Committee sitting as a panel, using an agreed-to set of standardized questions. The Standing Committee's recommendations were

brought to Full Caucus (all 19 MLAs) for review and ratification. In all cases, the Committee's recommendation was approved, and formal motions to recommend the appointments of the successful candidates were unanimously adopted by the House in the fall of 1999 and the spring of 2000. The Standing Committee tabled a final report on each of the following appointments:

- Conflict of Interest Commissioner (Robert Stanbury)
- Languages Commissioner (Eva Aariak)
- Information and Privacy Commissioner (Elaine Keenan Bengts) who also served as the Information and Privacy Commissioner of the Northwest Territories)

A number of developments have taken place since the initial appointments of independent officers were made. In 2001, the Legislative Assembly passed a new *Integrity Act* during its spring sitting, which was held in the community of Cambridge Bay. This Act was the final product of a comprehensive review undertaken by the Conflict of Interest Commissioner. The new Act consolidated conflict of interest provisions and other related matters applying to MLAs into a single statute, and replaced the position of Conflict of Interest Commissioner with an Integrity Commissioner. The incumbent office-holder was appointed as Integrity Commissioner.

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Roles, Responsibilities and Reporting Relationships of the Independent Officers of the Nunavut Legislative Assembly

Office	Appointed by	Term	Reports
<p>Integrity Commissioner Robert Stanbury \$100,000 has been allocated for this office in 2007-2008</p>	<p>Appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly, pursuant to the <i>Integrity Act</i>. The Integrity Commissioner advises MLAs on the ethical performance of their official duties and administers a system of standards and accountability under the <i>Integrity Act</i>.</p>	<p>Five year appointment. The appointment of the present incumbent expires on May 12, 2009.</p>	<p>Submits an annual report to the Legislative Assembly, which is tabled by the Speaker. To date, the Integrity Commissioner has reported only one breach of the Act. The Member in question undertook a number of actions to meet the recommendations in the report.</p>
<p>Languages Commissioner Johnny Kusugak \$620,000 has been allocated for this office in 2007-2008</p>	<p>Appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly, pursuant to Nunavut's <i>Official Languages Act</i>. The Languages Commissioner has a broad range of responsibilities under the Act, including monitoring government compliance with the legislation, receiving and resolving public complaints and promoting the language rights of Nunavut's residents.</p>	<p>Four year appointment. The appointment of the present incumbent expires on March 7, 2009</p>	<p>Submits an annual report to the Legislative Assembly, which is tabled by the Speaker. The Standing Committee Ajauqtiit holds public hearings on these annual reports.</p>
<p>Information and Privacy Commissioner Elaine Keenan Bengts \$40,000 has been allocated for this office in 2007-2008</p>	<p>Appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly, pursuant to the <i>Access to Information and Protection of Privacy Act</i>. The Information and Privacy Commissioner has a broad range of responsibilities under the Act, including monitoring government compliance with the legislation.</p>	<p>Five year appointment. The appointment of the present incumbent expires on November 25, 2009.</p>	<p>Submits an annual report to the Legislative Assembly, which is tabled by the Speaker. The Standing Committee on Government Operations and Accountability holds public hearings on these annual reports.</p>
<p>Chief Electoral Officer Sandy Kusugak \$750,000 has been allocated for this office in 2007-2008</p>	<p>Appointed by the Commissioner of Nunavut on the recommendation of the Legislative Assembly, pursuant to the <i>Nunavut Elections Act</i>. The Chief Electoral Officer is responsible for the administration of Nunavut's territorial elections and plebiscites, including local plebiscites held under the <i>Liquor Act</i>.</p>	<p>Seven year appointment. The appointment of the present incumbent expires on November 28, 2008.</p>	<p>Submits an annual report to the Legislative Assembly, which is tabled by the Speaker. The report on the 2004 general election contained a number of recommendations for amendments to the <i>Elections Act</i>. This report was referred to the Committee of the Whole for scrutiny by all Members. Subsequently, a bill was introduced to implement a number of these recommendations</p>

In 2001, the Standing Committee Ajauqtiit undertook a competitive recruitment and selection process for a new Chief Electoral Officer. Sandy Kusugak was appointed by the Commissioner on the recommendation of the Legislative Assembly. The Management and Services Board (MSB) of the Legislative Assembly approved the relocation of the Office of the Chief Electoral Officer (Elections Nunavut) to Rankin Inlet.

In 2002, a new *Legislative Assembly and Executive Council Act* was passed. This Act provided clear definitions of the positions considered to be independent officers of the Legislative Assembly. The Act also confirmed the ability of the MSB to determine the remuneration of independent officers of the Legislative Assembly, as well as approving the budgets for the operation of their offices for inclusion in the annual main estimates of the

Legislative Assembly. In 2007-2008, the total amount approved for the operations of all offices of independent officers was \$1,510,000.

In 2002, the Legislative Assembly passed a new *Nunavut Elections Act*. In 2004, the second general election was held. The Integrity Commissioner and the Information and Privacy Commissioner were reappointed by the Commissioner of Nunavut following the passage of motions in the House to recommend their reappointments.

The Standing Committee Ajauqtiit undertook a recruitment and selection process for a new Languages Commissioner, following the previous incumbent's decision to not accept re-appointment. Interviews with potential candidates were held in the fall of 2004. The new Languages Commissioner, Johnny Kusugak, was appointed by the Commissioner of Nunavut in early 2005 following the passage of a motion in the House. In 2007, the Report of the Integrity Commissioner on his statutorily-required 5-Year review of the Act was tabled in the Legislative Assembly. The Assembly approved a motion to confirm the Act in its present form.

The Auditor General of Canada, Shelia Fraser, also serves as the auditor for the three territories. The Reports of the Auditor General are tabled in the Legislative Assembly by the Speaker and referred to the Standing Committee on Government Operations and Accountability for scrutiny.

The Auditor General has appeared publicly a number of times before the Standing Committee to present her reports. Her most recent appearance was in June 2007. The Standing Committee has subsequently presented its own reports to the Legislative Assembly.

The Rules of the Legislative Assembly require the government to table, upon request, a formal response to Standing Committee reports and recommendations. Earlier this year, a formal motion was passed without opposition in the Legislative Assembly requesting that the Auditor General undertake a performance audit of the financial management practices of the territorial Department of Health and Social Services. The Auditor General has indicated that this audit will be undertaken and its results reported publicly to the Legislative Assembly.

The June 2007 Report of the Auditor General to the Legislative Assembly on the Financial Assistance for Nunavut Students Program marked the first stand-alone performance audit of a specific government program. Reports on the territorial Business Credit Corporation and Housing Corporation are expected before the end of the year.

Looking to the Future

The Government of Nunavut has recently introduced a proposed new *Official Languages Act* and a proposed new *Inuit Language Protection Act*. The position of Languages Commissioner is proposed to remain an independent officer of the Legislative Assembly. Discussion is anticipated with respect to the proposed powers and duties of the Languages Commissioner. The establishment of a new body, the Inuit Uqausinginnik Taiguusiliuqtiit (Inuit Language Authority) is being proposed with the mandate to expand the knowledge and expertise available with respect to the Inuit language and make decisions and recommendations about Inuit language use, development and standardization.

In his annual reports, the Integrity Commissioner has recommended that consideration be given to the issue of codifying in law a set of conflict of interest rules for senior public servants and other appointments. It is anticipated that the forthcoming new *Public Service Act* may address this issue. A number of MLAs have also raised the issue of establishing a formal mechanism for regulating the activities of lobbyists.

The idea of establishing a new "Children's Advocate" position as an independent officer of the Legislative Assembly has been raised in the House. The idea of consolidating the independent officers into a single "Ombudsperson" model has also received informal consideration.

Elections Nunavut is developing a new *Plebiscite Act*. The concept of having this office also administer municipal elections and elections to such entities as Nunavut Tunngavik Incorporated (the land claims organization which represents the Inuit of Nunavut) may be achieved in the longer term.