

# GUIDE TO THE RULES RELATING TO THE CONDUCT OF MEMBERS

## A. Introduction

The Code of Conduct provides a set of rules to which Members must adhere pursuant to section 75 of the *Legislative Assembly and Executive Council Act*, S.N.W.T. 1996, c. 22. The purpose of the Guide is to assist Members of the Legislative Assembly of the Northwest Territories in understanding how the provisions of the Code of Conduct apply in particular circumstances.

The Guide to the Rules and amendments to it are approved by resolutions of the Legislative Assembly. This Guide therefore carries the full authority of the Legislative Assembly.

As with all complaints of failing to comply with Part 3 of the *Legislative Assembly and Executive Council Act*, a Member of the Legislative Assembly or any other person who has reasonable grounds to believe the Code of Conduct has been contravened may make a complaint to the Integrity Commissioner pursuant to section 100 of the Act. The process that follows the receipt of a complaint by the Integrity Commissioner, including dismissal of frivolous, vexatious or trivial complaints, is set out in sections 100 to 107 of the Act.

Responsibility for disciplining or censuring a Member of the Assembly lies with the Legislative Assembly itself, and is a fundamental aspect of the privileges enjoyed by the Legislative Assembly as a house of parliament. Neither the Code of Conduct nor this Guide impinges upon, restricts or narrows the Legislative Assembly's fundamental right to regulate its internal affairs. Any role assigned to the Integrity Commissioner is for the purpose of assisting the Legislative Assembly in exercising this authority.

This Guide contains commentary on Part 2, which sets out a Member's substantive obligations under the Code of Conduct.

## B. Code of Conduct - Provisions and Commentary

2. Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

### Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold

themselves to a high standard of conduct. While this expectation is largely directed at a Member's public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member's integrity is fundamental to maintaining public confidence, both in the individual Member and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

Excessive public consumption of alcohol, cannabis or other drugs or intoxicants, particularly where such consumption results in behaviour that could lessen the dignity of the Legislative Assembly, is unacceptable and constitutes a breach of the Code of Conduct.

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.

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| <p>3. Members must treat members of the public, one another and staff appropriately and without harassment. All Members must take all reasonable steps ensure their work environment is free from harassment.</p> |
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### **Commentary**

Conduct by a Member that is alleged to constitute harassment, sexual harassment or discrimination of or against another Member, Constituency Assistant, employee or contractor of the Legislative Assembly is addressed through the Legislative Assembly's Workplace Harassment Policy, found in the Members' Handbook. The prohibition against harassment in the Code of Conduct is not intended to duplicate the process, found in the Workplace Harassment Policy, for addressing such complaints.

Complaints of harassment that fall outside the Workplace Harassment Policy may be made to the Integrity Commissioner pursuant to the process set out in Part 3 of the *Legislative Assembly and Executive Council Act*. Harassment means engaging in a course of vexatious comment or conduct, based on one or more prohibited grounds of discrimination, which the Member knows or ought reasonably to know, is unwelcome by any person.

The following grounds of harassment are prohibited in the Northwest Territories:

- race
- colour
- ancestry
- nationality
- ethnic origin
- place of origin
- creed
- religion
- age
- disability
- sex (including pregnancy)
- sexual orientation
- gender identity or expression
- marital status
- family status
- family affiliation
- political belief
- political association
- social condition
- a conviction that is subject to a pardon or record suspension

Harassment includes sexual harassment. Sexual harassment means any conduct of a sexual nature, including comments, gestures or physical contact, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation. Examples of sexual harassment include:

- inappropriate or unwanted physical contact such as touching, patting or pinching;
- inappropriate enquiries or comments about an individual's sex life;
- comments, gestures, or practical jokes of a sexual nature that cause discomfort or embarrassment;
- demands for sexual favours; and
- sexual assault.

Members of the Legislative Assembly may, in some contexts, be excluded from the authority of the Human Rights Commission and Human Rights Adjudication Panel under the *Human Rights Act* by virtue of parliamentary privilege. Where the *Human Rights Act* does not apply, the Legislative Assembly retains the power to inquire into and respond to allegations of

Member misconduct as an incident of privilege, including through the process set out in Part 3 of the *Legislative Assembly and Executive Council Act*. However, Members should be aware that the *Human Rights Act* may apply to aspects of their personal and professional lives, including in tenancy relationships, employer-employee relationships, and the provision of services to the public.

4. Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

### **Commentary**

This section of the Code of Conduct reflects a Member's obligation to avoid conflicts of interests, to declare conflicts that cannot be avoided, and to ensure a Member's actions reflect a commitment to the public interest, and not a Member's own personal or financial interests. The specific obligations of all Members regarding conflicts of interest, contracts and financial matters, gifts and benefits, and disclosure are set out in Part 3 of the *Legislative Assembly and Executive Council Act*.

Members must comply with the provisions of the *Legislative Assembly and Executive Council Act* and any other statutes, regulations, Board of Management resolutions or decisions of the Integrity Commissioner relating to ethics and conflicts of interest. Where a Member is uncertain about their compliance with conflict of interest rules, a Member should seek the advice of the Integrity Commissioner.

Members must conduct themselves professionally in their dealings with staff and contractors of the Legislative Assembly. Where a personal relationship may exist beyond a Member's professional interactions with an employee or contractor of the Legislative Assembly, Members are expected to make appropriate disclosure of the relationship. What constitutes appropriate disclosure will depend on the circumstances. Where there is any uncertainty regarding the need for disclosure of such relationships, Members are encouraged to consult the Integrity Commissioner for advice.

It is inappropriate for a Member of the Legislative Assembly to use the privileges of their office to seek special benefits or treatment for friends or family members of the Member.

5. In performing their official duties, Members must use public resources prudently and only for the purposes for which they are intended. Members of the Assembly shall not use, or allow the use of, public property or services for personal gain.

### **Commentary**

Members must not use government-issued credit cards or any other source of public funds for personal expenses or personal benefit. Members must also refrain from using Legislative Assembly or government property, including Legislative Assembly vehicles, for personal purposes.

In accessing any allowances or other Legislative Assembly resources to which a Member may be entitled, including a Member's housing allowance, Members must accurately and completely disclose all information relevant to establishing their entitlement. Members must not represent their personal circumstances in a way that would give access to benefits to which they are not entitled.

Personnel resources, including constituency assistants, contractors and Legislative Assembly staff, must only be used for purposes related to the conduct of a Member's duties as a Member of the Legislative Assembly. It is not acceptable for Members to use such public resources for private purposes.

6. Members must give priority to their duties as a Member over all other duties and offices they hold and must dedicate themselves to fulfilling their duty to effectively represent residents of the Northwest Territories.

### **Commentary**

As is acknowledged in the Statement of Commitment, all Members have accepted a responsibility to serve the people of the Northwest Territories. In keeping with the seriousness of this responsibility, Members are expected to attend all sittings of the Legislative Assembly and all meetings of caucus and

standing committees of which they are a member, unless there are compelling reasons why they cannot attend.

While occasional absences may be unavoidable, chronic absences from sittings of the Legislative Assembly, caucus or committee meetings without a compelling explanation undermine the integrity and capacity of the Legislative Assembly. Failure to attend committee meetings may result in quorum not being achieved, impairing the committee's ability to conduct its important legislative work. For this reason, Members are expected to attend the entirety of each meeting where their presence is required, and to notify the Chair in advance if they will not be able to attend.

The Board of Management has recognized the following explanations for a Member's failure to attend a meeting of a committee, found at page 32 of the Members' Handbook:

- The absence is in the course of the Member's duties as a Member or Minister or as the Premier or Speaker;
- The absence is a result of the Member's illness or injury or due to bereavement;
- The absence is due to factors outside a Member's control (i.e. weather, road closure or state of emergency);
- The absence is due to personal reasons.

The Legislative Assembly also recognizes that a Member's caregiving obligations, such as caring for an ill or injured dependent, and reasonable absences related to a Member's maternity or parental leave are valid explanations for a Member's absence from the Legislative Assembly.

While the Legislative Assembly will not generally inquire into the substance of a Member's personal reasons for absence, if a Member is absent for six meeting days in a calendar year without a valid explanation, the Committee in question is expected to seek the Member's removal from the Committee in the Legislative Assembly in order to ensure the proper functioning of the Committee and its ability to carry out its work.

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| <p>7. Members must take appropriate steps to protect the confidentiality of any personal information, personal health information, or other confidential information that comes into their possession.</p> |
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## **Commentary**

In the course of their legislative duties, Members may frequently be provided with confidential information. Such information may be received from constituents or as part of their work in the legislative process at the Legislative Assembly.

### ***Constituent Information***

Although the *Access to Information and Protection of Privacy Act* and *Health Information Act* do not apply to the Legislative Assembly or the offices of its Members, the Legislative Assembly recognizes the importance of protecting confidential information that may be received by a Member in the course of their legislative or constituent work.

Constituents and other members of the public may provide personal information to a Member as part of a request for assistance or other communication that may not be intended to be shared with a broader audience. Members must take care to obtain consent to collect, use, or disclose personal information or personal health information, and in all dealings with members of the public, must determine whether an individual agrees to share their information in confidence or in a public way.

### ***Confidential Committee or Government Information***

In consensus government, Members are frequently privy to expressly confidential and sensitive information through their work in caucus, standing committees, or in cabinet. Respect for the confidentiality of this information is critical to the Legislative Assembly's ability to conduct its business, and respect for such confidentiality is part of a Member's obligations under the Code of Conduct.

8. This Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

## **Commentary**

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Public confidence in an individual Member and in the Legislative Assembly as an institution requires

that Members hold themselves to a high standard of conduct, in both their personal and professional lives. The Legislative Assembly may at times find it necessary to respond to a Member's conduct that is found to undermine public confidence and trust, even if the provisions of this Code and all applicable laws have been respected.

### **C. Enforcement of the Code of Conduct**

The Code of Conduct is binding on all Members of the Legislative Assembly. Any person who believes on reasonable grounds that a Member has contravened the Code of Conduct may make a complaint to the Integrity Commissioner. The enforcement process set out in Part III of the *Legislative Assembly and Executive Council Act* applies to complaints regarding alleged Code of Conduct violations.

The Integrity Commissioner is responsible for conducting an initial investigation after a complaint is received. The Integrity Commissioner may then decide to dismiss the complaint or to direct an inquiry be held before a Sole Adjudicator. The decision is communicated in a written report, including reasons for decision, which must be tabled in the Legislative Assembly.

If the complaint is referred to a Sole Adjudicator, he or she must conduct an inquiry into the complaint and report their findings to the Speaker. Where the Sole Adjudicator finds the Member guilty of contravening the Code and does not dismiss it, for example as being a minor contravention or the result of inadvertence, the Sole Adjudicator can impose financial penalties, including a fine, restitution, compensation or costs, without requiring the approval of the Legislative Assembly.

The Sole Adjudicator also has the power to recommend a range of punishments to the Legislative Assembly. These punishments include, but are not limited to:

- A reprimand;
- A fine;
- An order to pay restitution or compensation;
- A suspension of the Member's privileges to sit in the Legislative Assembly;
- A declaration that the Member's seat is vacant.

The Legislative Assembly may choose to impose the punishment recommended by the Sole Adjudicator, or may reject the recommendation.