

COMMONWEALTH SECRETARIAT AND THE INTEGRITY COMMISSION OF GRENADA

1ST Commonwealth Regional
Conference for Heads of Integrity
Commissions and Anti-Corruption Bodies
in the Caribbean

Conference Theme:

“Strengthening Integrity Commissions and Anti-Corruption
Bodies in the Commonwealth Caribbean”

Grenada

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Country Paper - Dominica “Work of the Commission in the Fight Against Corruption”

INTEGRITY COMMISSION, DOMINICA

CROSS STREET

ROSEAU

DOMINICA

www.integritycommission.gov.dm

1. INTRODUCTION

- The Integrity in Public Office Act, 2003, No. 6 of 2003 was enacted on 29th May, 2003
- Entered into force on 1st September, 2008 and Integrity Commission appointed with effect 2nd September, 2008.
- Dominica acceded to the Inter American Convention Against Corruption, 1996 on 20th October, 2004
- Dominica acceded to the UN Convention Against Corruption, 2003 on 28th May, 2010

2. Functions, Powers and Duties of the Commission

- To Receive, examine, inquire into and certify declaration of financial affairs of “persons in public life” (Sections 14-16)
- To investigate and inquire into allegations and complaints of non-compliance with the Act. (Section 9)
- To hold inquiry into the source of income of a person in public life where Commission suspects him or any other person on his behalf to be in possession of property or pecuniary resources disproportionate to his legitimate source of income. (Section 47(2))

2. Functions, Powers and Duties of the Commission (CONT.)

- To receive, investigate and hold inquiry into complaints made by a person against a person in public life where the Commission is of the view that investigation is necessary to ascertain whether a breach or any provision of the Act including the Code of Conduct had been committed and report to the DPP. (Sections 33,34) with 11,23,24)
- Required to submit annual report to the Minister of Legal Affairs for tabling in Parliament on the activities of the Commission for the proceeding year. (Section 48)

2. Functions, Powers and Duties of the Commission (CONT.)

- Powers to make rules to regulate the procedures of the Commission (Section 58)
- Required to keep proper accounts to be audited by the Director of Audit or an auditor appointed by the President of Dominica (Section 52)
- To keep confidential and secret the declarations of financial affairs and information relating to such declarations received from persons in Public Life or the Commission business or proceedings thereto (Section 21) with 50)

3. INITIATIVES IMPLEMENTED

- 1. Introduced a Procedures Manual for the receipt, analysis and examination of annual declarations.
- 2. Held sessions with persons in public life, including ministers and other parliamentarians, to sensitize them concerning their statutory obligations and to explain the most important provisions of the Act and how it pertained to them.
- 3. Held a well-attended press conference to interact with the media on the workings of the Commission, its performance and challenges.
- 4. Published various articles concerning aspects of the provisions of the Act to build public awareness of and gain support for their implementation.
- 5. Published a Frequently Asked Questions Booklet, arising from questions of education sessions and press conference for the information of persons in public life and the public and to elucidate some of the more difficult provisions of the Act.
- 6. Established a website to disseminate information concerning the Commission and the carrying out of its functions.

3. INITIATIVES IMPLEMENTED (CONT.)

- 7. Made the Integrity Commission (Inquiries) Rules, 2012; to govern procedures for conducting inquiries. I.O.W Sections 58 of the Act.
- 8. Commenced work on the setting up and computerization of a data base for annual declarations and processes for analysis of financial disclosure data.
- 9. Reviewed legislation and made extensive recommendations to Government for, inter alia, giving greater autonomy and discretion in certain matters to the Commission. Recommendations included:
 - a) Periodic review of the Act as mandated by Article 5 of the UN Convention Against Corruption.
 - b) A standing Select Committee of parliament to examine the annual reports of the Commission on its activities and the implementation of any recommendations contained therein, subject to Section 13 of the Act.
 - c) Authority for staffing and personnel management.
 - d) Detailed listing of office covered by the Act to remove ambiguity in existing list and ensure all high-risk officials are included.
 - e) Provision for own-volition powers to investigate persistent allegations of breaches of the Act in the public media and not solely by formal complaints made by natural, corporate or body of persons.

4. MAIN CHALLENGES FACED

- 1. While under Section 52 of the Act the Commission has continued to be provided with adequate financial resources to carry on its operations (including supplementary resources for legal expenses), administrative autonomy issues arise in the appointment, management and disciplining of staff, the control of physical accommodation (its meeting place), the travelling of its Commissioners and staff, and the laying of its report in parliament by the Minister.
- 2. The enforcement of the provisions of the Act has been hampered by inadequate support in prosecuting breach of its provisions to the extent that a number of cases have either not been heard or have been discontinued.

4. MAIN CHALLENGES FACED (CONT.)

- 3. Failure of the relevant authority to table its annual report to parliament has affected its accountability obligations and the effectiveness of its reporting on certain vital issues affecting its operations. No provision was made as in the Audit Act for the Commission to submit directly to the Speaker of House of Assembly after the expiration of the prescribed period.
- 4. Part VI of the Act dealing with bribery and corruption has broaden the jurisdiction of the Commission to deal with “prescribed officers” that is virtually all public officers and not only “persons in public life” has remained inoperative because no Regulations have been made by the Minister concerning the procedures of the Commission in that regard.
- 5. Public support is still lacking either because of misunderstanding of the role and authority of the Commission or the deep divide in political communities where communities remain dissatisfied with actions taken by the Commission from the perspective of party interests. Nor is the Commission itself unaffected by this divide between communities. (Constituencies Boundaries Commission v. Urban Baron [1999] ECLR 114) the findings and learning in that case are instructive.

5. RESULTS OF INITIATIVES

- 1. Procedures Manual has brought consistency in the examination of financial disclosure and made operations more efficient and sustainable.
- 2. Education sessions have helped to maintain a high compliance rate in the annual filing of declarations.
- 3. Computerization of data base and analysis of declarations has speeded up work on the examination of annual declarations and allowed for greater access to financial disclosure data.
- 4. Legislative and administrative review has sensitized government to the need for amendments to the Act and for strengthening the organizational structure of the Commission. A new Act is now being drafted.
- 5. The website has helped in facilitating networking and disseminating useful information.

5. RESULTS OF INITIATIVES (CONT.)

The chart below reflects the period 2008 – 2013 which summarizes the Commissions work and which may be accredited to the initiatives implemented and the zero tolerance of the Commission to non-compliance.

Year	No. of Persons in Public Life	No. of Persons who filed	No. of Persons who failed to file	No. of Persons who filed late	No. of Persons Gazetted	Compliance in percentage (%)	No. of Queries sent	No. of Declarations Certified	No. of Cases charged by DPP	No. of cases prosecuted by DPP
Dec. 1 2008	119	102	17	17	17	86	78	107	0	
Dec. 31, 2008	136	96	40	15	40	66	58	94	2	
Dec. 31 2009	147	101	13	33	46	69	33	126	16	3
Dec. 31, 2010	159	152	1	6	7	96	28	151	7	0
Dec 31, 2011	164	158	4	2	6	96	14	159	6	0
Dec 31, 2012	155	137	15	3	18	88	40	135	18	0
Dec 31, 2013	157	136	15	6	21	87	23	141	21	0

6. REFLECTIONS ON LESSONS LEARNT

- 1. The Act is based on a reactive approach to complaints from the public or the examination of financial disclosure and does not sufficiently address the proactive prevention of unethical behavior. Unlike similar legislation in other regional and extra-regional countries, the Act does not require the Commission to educate persons in public life and other public servants in public service ethics. The Commission is persuaded that while complaints from the public and the examination of financial disclosure may be a sufficient deterrent to unethical behavior, a more sustainable and effective prevention is instructing persons in public life and other public officers in public service ethics. The Commission has obtained from the Integrity Commission of Tasmania a training module in Ethics, including guidelines for its use which it intends to adopt.
- 2. The Code of Conduct set out in the Act covers actual conflict of interest. It is important to also guard against potential conflict of interest. While this was outside its purview, the Commission was successful in persuading a member of Cabinet to discontinue an association that had a potential for conflict of interest. This is an important safeguard and should be provided for in legislation.
- 3. The Commission must function with independence and impartiality. Unauthorized control by the executive could compromise its statutory functions and purpose.

6. REFLECTIONS ON LESSONS LEARNT (cont.)

- 4. Legislation should give own volition power and lay down clear procedures for dealing with the bribery and corruption regime in Part VI of the Act.
- 5. All offenses under the Act are criminalized. Certain offenses (late filing of declarations) should be made administrative offenses and dealt with conclusively by the Commission or referred to the Public Service Commission for disciplinary action.
- 6. The formal complaint provisions in the Act may be discouraging, especially as there is no whistle-blower protection.
- 7. Examination of financial disclosure without public scrutiny of at least a summary of the accounts of the reporting person makes it difficult to discover incomplete or false information. (contrast Bahamas provisions)
- 8. Without the support and cooperation of the public, the work of the Commission will continue to be hampered and incomplete.

7. Recommendations

- Individually, the OECS Countries cannot provide the level and quality of resources to sustain effective surveillance over public sector behavior in the areas covered by their legislation. Trinidad and Tobago's recent experience in obtaining information from international giants like Google is instructive. Given the small size of most of the administrations, collective effort is of paramount importance. An umbrella organization would go a long way to strengthening the pool of resources that could help to take the surveillance of all the Commissions forward. This could be done in several ways including:
 - Peer review to upgrade exponentially the quality of skills and processes in each jurisdiction.
 - A skills bank to provide resources for highly technical investigations involving access to information outside domestic jurisdictions.
 - Coordination of legislative upgrading and systems development in all jurisdictions.
 - High level advocacy for influencing government interventions in the governance of all Commissions.
 - SUGGESTED AMENDMENTS TO THE INTEGRITY IN PUBLIC OFFICE ACT, 2003 e.g. (see appendix 6 of the Third Annual Report - 2011)



THANK YOU

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