



RETURN TO WRITTEN QUESTION

Asked by: John Main, MLA for Arviat North – Whale Cove
Asked of: Hon. Lorne Kusugak, Minister of Human Resources
Number: RWQ 056-5(2)
Date: November 7, 2019
Subject: Casual Employees and Direct Appointments

Questions:

- 1. What measures does the department use to guard against potential conflicts-of-interest in casual staffing actions?**

Response: The Government of Nunavut (GN) has positions in every Nunavut community and as an employer, the GN relies on employees to self-disclose any potential conflicts. Every employee that enters the Nunavut Public Service is provided the *Nunavut Public Service: Code of Values and Ethics* to read, and signs an Oath of Office and Secrecy indicating that the employee has read and understands the obligations expected of them under the Code of Values and Ethics.

The *Nunavut Public Service: Code of Values and Ethics*, Chapter 3: Conflict of Interest, extensively outlines the Government of Nunavut's definition surrounding conflicts of interest and employee conduct. Section 3.4 Use of Positions states, "Public Servants must not use the authority or influence of public office or government resources to further, directly or indirectly, a private interest of the public servant, a family member, or a personal associate involved because of their personal relationship to the public servant," and the Human Resources Manual, Directive 206: Preferential Treatment (HRM 206) further expands on section 3.4 of the Code of Values and Ethics.

Human Resource Manual, Directive 202: Conflict of Interest (HRM 202), defines conflict of interest as, "...when an employee has a private or financial interest that is inconsistent with his or her duties and the responsibility to act in the best interests of the public, because the employee could benefit personally from a decision or action. The private interest may influence or have the potential to influence how the employee carries out his or her GN duties." HRM 202 outlines the disclosure and reporting process for employees that suspect conflict of interest.

GN employees also have the ability to report to management where they believe a disclosure should have been made.

2. How many specific incidents involving casual staffing actions and conflicts-of-interest have been investigated since the department's formation?

Response: There has been approximately 10 employees* who declared perceived conflicts of interest, in-which the casual employees self-disclosed that their supervisor is of relations. Each case was reported to the Director of Staffing and followed HRM 202: Conflict of Interest.

*Due to the on-going network outage, the exact number cannot be determined. Further clarification on the exact number can be provided when network service is restored.

3. What avenues are available for Government of Nunavut employees to report possible conflict-of-interest around casual staffing actions?

Response: HRM 202: Conflict of Interest outlines the process for employees that perceive a conflict of interest:

7. *If at any time during their employment with the GN, an employee has reasonable grounds to believe a conflict of interest exists or is likely to arise in relation to their employment duties, he or she must disclose this to the deputy head and the deputy head will determine the measures to be taken to deal with the situation.*
8. *In the case of a deputy head, upon appointment and at any time there is a significant change in the information previously disclosed, a disclosure report in the form set out in Appendix A must be submitted to the Senior Personnel Secretariat, which includes:*
 - a. *An acknowledgement that he or she has read and understands the Code and has taken the Oath or Affirmation of Office and Secrecy;*
 - b. *A declaration of his or her assets;*
 - c. *Confirmation that he or she holds no outside employment;*
 - and
 - d. *The details of his or her participation in business or volunteer activities."*

If employees want to report a possible conflicts-of-interest associated with other people but feel that their concerns were overlooked, they can access HRM 209 *Disclosure of Wrongdoing* where they can report to their supervisor, Deputy Minister or file their concerns with the Ethics Officer.

4. What method does the department use to identify which casual employees are eligible for direct appointment?

Response: The Department of Human Resources provides reports to Departments on a monthly basis that identify length of casual service as a tool for Departments to flag situations where competitions need to be run or perhaps consideration given to direct appoint.

The Department of Human Resources encourages departments to hire staff to fill term/indeterminate positions as much as possible. The Departments are the ones who determine how they would like to fill positions on a term or indeterminate basis through a variety of hiring methods, including direct appointments.

When the Department initiates direct appointment, the Staffing Division reviews all proposed direct appointments from the departments, ensuring that the requirements are adhered to as stated in Human Resource Manual, Directive: 504 Appointments Without Competition (HRM 504):

- The appointment assists the Government of Nunavut and the department in fulfilling its obligations under Article 23 of the Nunavut Land Claims Agreement and the Priority Hiring Policy;
- The position must be filled without delay to complete projects that are government priorities and which could not be successfully completed on time, if the employee were to be hired through the competitive process.
- The position is sufficiently specialized that there is a limited body of potential candidates in Nunavut to do the work and only one individual can be identified to take on the job.
- There are no potential candidates for the specialized position in Nunavut and an outside candidate with all the required qualifications is available on short notice.
- A candidate who is available from within the public service of the Government of Nunavut or who is a former employee of the Government, either of whom would have the benefit of experience and knowledge that would allow them to be immediately productive without the need for a protracted period of training or orientation”

Departments prepare the request for decision (RFD) to Cabinet for proposed direct appointments, and the Department of Human Resources prepares the packages for submission to Cabinet. All direct appointments are reviewed by Cabinet.

5. What measures does the department use to guard against potential conflict-of-interest in making direct appointments?

Response: As an employer, the GN relies on all employees to self-disclose any potential conflicts. Direct appointments are put forward by the departments, processed by the Department of Human Resources, and reviewed by Cabinet. Cabinet reviews and decides on all direct appointments.

Employees perceiving a conflict of interest are directed by HRM 202: Conflict of Interest, paragraphs 6 and 7, to disclose their concerns to their departmental deputy head. The deputy head will then determine the steps taken to remediate the situation.

6. How does the Department balance the need for reducing levels of long-term Casual Employees with the need to ensure impartial and open staffing processes take place (ie: Competitions)?

Response: Departments determine their priorities for their departmental staffing and recruitment strategies, and work with the Department of Human Resources, Staffing Division, to achieve their goals.

All casual staffing actions are reviewed and processed through the Staffing Division. In cases of long-term casual employees, Staffing will collaborate with the hiring department to minimize the number of long-term casual staffing placements, either through the competitive process or through direct appointments.

7. For all staffing decisions, what is the department's threshold for determining what does and does not constitute a conflict-of-interest (i.e. immediate family relations, extended family relations, etc.)

Response: The Department of Human Resources relies on directive HRM 202 which references the *Nunavut Public Service: Code of Values and Ethics*, in particular, Chapter 3: Conflict of Interest, which extensively defines what is considered conflict of interest.

The Public Service Act, Part 3 Recruitment and Appointment, s. 9.1, states "an employee will not participate in a decision concerning an appointment to a positions if an applicant for the positions is a member of the employee's immediate family, except in accordance with applicable directives." And goes on to define immediate family relations as:

"immediate family" means

- (a) an employee's spouse,
- (b) a child, step-child, step-parent, sibling, grandparents or grandchild of an employee or the employee's spouse,
- (c) a spouse of a person mentioned in paragraph (b), and
- (d) any relative of the employee or the employee's spouse who shared a residence with the employee; (*famille immédiate*)

"spouse" means a person who is

- (a) married to another person, or
- (b) living with another person in a conjugal relationship outside marriage. (*conjoint*)

If an employee declares a conflict-of-interest for any staffing decision, the employee will refrain from participation in the staffing process and another employee will be assigned to participate.