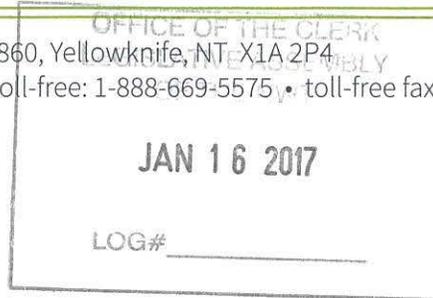




NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION

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January 11, 2017

Mr. Kevin O'Reilly
Chair, Standing Committee on Rules and Procedures
Legislative Assembly of the Northwest Territories
P.O. Box 1320
Yellowknife, NT X1A 2L9

Dear Mr. O'Reilly:

RE: Public Consultation of Members' Conduct Guidelines

The NWT Human Rights Commission would like to make the following comments on the question of whether a person who has committed a serious criminal offence should be banned from running for office.

The NWT *Human Rights Act* only includes as a protected ground criminal convictions which are subject to pardon or record suspension. Thus individuals who have extant criminal convictions (versus pardoned convictions) who are banned from running for office could not claim discrimination under NWT human rights legislation. However, if new elections legislation was broad enough to prevent individuals who have been pardoned from running for public office, then those individuals could argue that the new legislation is discriminatory on the basis of the protected ground of "criminal convictions which are subject to pardon or record suspension".

The Commission would like to bring to your attention that there may be *Charter* implications should individuals who have served their prison sentences for serious crimes be banned from running for office. The right to run for office both in the House of Commons and in legislative assemblies is protected by section 3 of the *Canadian Charter of Rights and Freedoms*. Therefore, any restriction on that right would be subject to *Charter* scrutiny and would likely have to meet the test to be "saved by s. 1 of the *Charter*". In other words, in order for the GNWT to justify the legislative restrictions for those running for office based on serious criminal convictions, it would have to show that there is a pressing and substantial objective sought to be achieved by the restriction; that the limitation is rationally connected to the objective; that it minimally impairs the *Charter* right; and that the limitation is proportional to the objective sought to be achieved. It would be up to the Court to determine whether the proposed legislation could withstand *Charter* scrutiny; however, it may be difficult for the GNWT to justify restrictions on running for office beyond the period of incarceration.

Sincerely,

Charles Dent
Chair