

TURKS AND CAICOS ISLANDS



# First Post - Election Report on Political Financial Activities

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## Executive Summary

This is the first report produced by the Integrity Commission (the Commission) on the political financing of political parties and candidates during the elections which took place in November 2012. It focuses primarily on the registration process, donations received and expenditure incurred by political parties and candidates. It also sets out the regulatory controls introduced and how these were managed and administered by the Commission. In addition, it briefly covers the Commissions role in relation to constitutional notice requirements.

This has been the first time that regulation of political financing was introduced in the Turks and Caicos Islands. It is also a first for the Caribbean region. The elections held in November 2012, was therefore the first election in which parties and candidates had to comply with the regulatory framework introduced by the Political Activities Ordinance 2012 (the Ordinance).

Generally, the Commission found the political parties and candidates have a good understanding of the reporting requirements under the Ordinance. The quality and frequency of their statutory returns have been consistent and improved with no formal breaches of the legislation in terms of the submission of reports. Where there have been issues concerning late or incomplete returns, these issues have been addressed by mutual cooperation and agreement. The Commission has had occasion to correspond with parties concerning the permissibility of certain individual donations and can confirm that the parties concerned are fully cooperating with the Commission in relation to the ensuing investigative process for handling such donations.

Transparency is a key principle that underpins the Ordinance and enables the public to have an understanding of where parties get their funds from and how they spend them. Confidence in the integrity of the political process is essential to the health of democracy in the Turks and Caicos Islands. We hope that this report will contribute to such confidence and so encourage greater participation.

## Introduction

The Political Activities Ordinance 2012, which came into force on 28 August 2012 provides for the registration and for the regulation of the conduct of political parties and others in relation to political financial activity. It introduced a new system of statutory controls regulating the financial activity of political parties and candidates engaging in the democratic process in the Turks and Caicos Islands. This placed additional responsibilities on the Commission as following the enactment of the Ordinance, the Commission assumed responsibility for ensuring political parties and candidates comply with their respective legal obligations under the Ordinance. With this additional responsibility, the Commission set up the Political Financial Activities Unit (PFAU) within the Commission ostensibly to administer the registration of political parties, monitor and publish donations to political parties and regulate spending by parties on election campaigns. In addition, the PFAU provides guidance to those parties and candidates regulated under the Ordinance.

The Commission does not have responsibility for administering electoral registration or cover any aspect concerning the conduct of elections, which has principally been the responsibility of the Elections Office.

The Commission's focus initially was to raise awareness among political parties and candidates to ensure they fully understood the legislative/statutory requirements which they newly acquired. Now that the framework has been established, we will continue to work with the political parties and candidates within the Turks and Caicos Islands to further improve their ability to meet the ongoing legal requirements of the Ordinance.

## The Registration Process

The Commission has been required, under Section 3 of the Ordinance, to establish and maintain a register of political parties. In order to contest an election as a political party, parties were required to formally submit an application to register with the Commission prior to the election and meet the registration requirements of the Ordinance. Parties had to ensure that their application was accompanied by a copy of their constitution. Only candidates nominated by registered parties could stand for election in the name of that party. To date, three parties have formally registered:

- Progressive National Party
- Peoples Democratic Movement and;
- People Progressive Party

Details provided in the application have been retained by the Integrity Commission in the register of political parties which is now maintained and available for public inspection at the Commissions offices.

In addition to political parties, an individual or organization which is intending to spend a significant amount of money in an attempt to influence the outcome of an election must register as a “third party” with the Commission. To date, no such notifications have been made to register a third party for this purpose. However, the Commission was aware of an instance which could have contravened these requirements and took appropriate and proportionate action to ensure that either, it did not reoccur or a notification was filed with the Commission under Section 55 of the Ordinance

## Campaign Donations

In relation to donations, there have been no limits set in the Ordinance on what a party can receive, but it does stipulate that they cannot receive more than \$30,000 from one individual donor. In relation to donations received, treasurers must check that all donations over \$150 are from a permissible source – the Ordinance sets out who are permissible donors.

Parties are required to publish themselves all donations which exceed \$3,000. In accordance with 24(15) of the Ordinance, the Governor in consultation with the Commission prescribed in a legal notice how this should be done. This order was signed by the Governor on 5 November 2012, published in the Gazette and circulated to all the parties.

Parties have been required to submit weekly donation reports to the Commission during the election period. The Commission therefore drafted the relevant forms and these were provided to the parties for completion and submission by the party treasurer.

**The table below is an example showing the first few weeks and outlines the weekly periods, the deadlines for submission of the weekly returns and publication by the Commission.**

Note: The period of seven days beginning with the first day of the election period and any final period, up to the date of the poll, of less than 7 days falling within that period (as per Section 33(1) Political Activities Ordinance).

Period	Deadline to submit the returns	Publication by the Commission
Tuesday 28 August – Monday 3 September	Tuesday 11 September – by 4pm	29 October 2012
Tuesday 4 September – Monday 10 September	Tuesday 18 September – by 4pm	29 October 2012
Tuesday 11 September – Monday 17 September	Tuesday 25 September – by 4pm	29 October 2012
Tuesday 18 September – Monday 24 September	Tuesday 2 October – by 4pm	29 October 2012
Tuesday 24 September – Monday 1 October	Tuesday 9 October – by 4pm	29 October 2012

The Commission has been required to check the reports submitted within these periods and maintain a register of all donations. In accordance with Section 74 of the Ordinance, the register must be made available and accessible to the public. A register in relation to each party has been compiled by the Commission and made available to the public.

The three main political parties received a combined total of \$501,850.92 in campaign donations. The table below sets out the total amount of donations received by the parties based upon the weekly reports submitted and reported to the Commission during the election period between the dates 28 August and 9 November 2012

<b>Party</b>	<b>Election Period covered</b>	<b>Total donations received</b>	<b>% of total by all parties</b>
Progressive National Party	28 Aug 2012 – up to and including 9 <sup>th</sup> November 2012	\$252,669.01*	50.3%
People’s Democratic Movement	28 Aug 2012 – up to and including 9 <sup>th</sup> November 2012	\$160,575.16*	32.0%
People Progressive Party	28 Aug 2012 – up to and including 9 <sup>th</sup> November 2012	\$88,606.75*	17.7%

*\*The amounts listed in the table above include all donations reported to the Commission up to and including the 9<sup>th</sup> November 2012*

In addition, parties are also required, under the Ordinance, to submit bi-annual donation reports for the period January - June and also the period from July – December. The Commission will be working with the parties in the months ahead to ensure these reports are compiled and submitted accordingly.

## **Campaign Spending**

Spending by political parties and Candidates during the election period has also been regulated by the Ordinance and there is a maximum that each party or candidate can spend. In accordance with Section 46(8) of the Ordinance, the limits are as follows:

- \$30,000 in relation to each electoral district contested by the party (of which there were 10)

- \$40,000 in relation to the all-islands district (of which there were 5)
- \$100,000 in relation to each of the parties leaders

It was therefore possible for each party to spend a total of \$600,000 on their respective campaigns.

All political parties that put forward candidates at the November election must submit a campaign expenditure return within three months of the election if their campaign spending was \$250,000 or less, or within six months if their spending was over \$250,000 (in which case an audited report is required). The Commission has compiled the requisite forms for this purpose and provided the parties with explanatory notes for completion. Shortly after the November election, we drafted a detailed guidance note which was issued to all the parties to assist them in understanding their responsibilities concerning recording and reporting campaign expenditure. The Commission has met with party treasurers to discuss this process to ensure the requirements are understood and adhered to. Although some parties have already been providing information concerning expenditure, this is not strictly required until after the election and in the manner outlined above.

Once the Commission has received all expenditure returns, it will compile a separate and detailed report concerning campaign spending by political parties. This report will also be available for inspection by the public.

Independent Candidates were required to submit a record of their donations and all expenditure incurred by them during the election period within 10 days after the 9 November poll. Two independent candidates stood for the November elections and they were:

- Benneth Williams
- Oswald Simons

The Commission has received records from both independent candidates within the timescale provided for in accordance with the Ordinance.

## **Advice and Guidance**

The Commission has sought to secure compliance by assisting the parties and candidates to understand the requirements of the Ordinance and get it right from the outset as opposed to simply taking enforcement action after things go wrong. To achieve this, the Commission has been acting proactively and has provided periodic guidance notes to help achieve clarification and compliance in key areas. Although there is no obligation on the parties involved to accept the advice given, we have encouraged parties to do so. The Commission has drafted and circulated guidance

notes and the following are some examples of the guidance notes produced and made available to the parties and the public at large.

- Guidance note on the Registration Process
- Guidance note on Donations
- Guidance note on Corporate Donations and Dormant Companies
- Guidance note on Loans, how these are reported and what constitutes a loan on commercial terms
- Guidance Note on Campaign Expenditure
- Guidance Note on Interest in Contracts with Government.

These Guidance Notes were very much part of the process of engaging with the parties and ensuring they understood the regulations. They were issued to assist political parties and candidates in complying with their obligations under the Ordinance. The Commission made it clear that the Guidance Notes were not intended to supersede the Ordinance and any Regulations made under it and in the event of any inconsistency, the Ordinance and Regulations would prevail.

## **Constitutional Requirements**

The new Constitution which came into force on 15 October 2012 set out certain qualification requirements for elected or appointed members of the House of Assembly. Section 49 covers disqualifications for elected or appointed members of the House of Assembly. Section 49(1)(f) covers contracts or interests with Government and notice of any such contracts or interests were required to be submitted to the Commission by the close of nominations.

The Commission received twenty one such notices and the information submitted was placed in a register of contracts and interests. The Commission subsequently issued a press release and the register was formally published, in accordance with Section 49(3) of the Constitution, on the 1 November 2012. Prior to doing so, the Commission contacted each individual to ensure the details contained in the register accurately reflected their position in relation to contracts and interests with government.

The Commission therefore met its constitutional obligation under Section 49(3) to publish any notice delivered to it under subsection (1) (f) for the purpose of informing the electorate before the date of election.

All elected and appointed members of the House of Assembly are now Persons in Public Life and are therefore subject to the Integrity Commission Ordinance. Under Section 36B, every member of the House of Assembly shall file with the Commission, in addition to the declaration under Section 25, a Statement of Registrable Interests. On Friday the 11 January 2013, the Commission held a very interactive briefing session with all Members of the House of Assembly who are now subject to making the necessary declarations. This was to ensure a clear understanding of compliance requirements under the Integrity Commission Ordinance.

On Monday January 7<sup>th</sup> 2013, the Commission also delivered a presentation at a post-elections seminar organized by the Commonwealth Parliamentary Association for House of Assembly Members. The Commission's presentation focused on the legislative framework in place governing conflicts of interest and the members' statutory obligations in this respect.

## **Press and Public Awareness**

The Commission felt that engaging with the media was important from the outset. This was both to ensure the public were aware of the work it was doing, but also to provide a high degree of transparency in the process of political financing within the Turks and Caicos Islands. We held numerous press conferences and also issued several press releases to coincide with publication of information and other significant events. We will continue to do so as part of the ongoing work of the Commission and keeping the public both informed and engaged in the process.

## **Closing Summary**

The Commission's work in respect of monitoring the financing of political parties and candidates under the Ordinance has only just begun. The Commission will continue to strengthen the guidance and advice that we provide to support the political parties and candidates in meeting their obligations and so build on the already high levels of transparency in political financing in the Turks and Caicos Islands. Wherever possible the Commission will continue to use advice and guidance to secure compliance with the Ordinance. We will be looking for opportunities to simplify the rules making them more

effective and reducing the administrative burdens on parties and others who fall under the Jurisdiction of the Commission. We will therefore be working closely with the parties and others in evaluating the work we have done so far and to assess how we may be able to improve the process going forward.

*For more information or any queries on this publication, please contact the Commission at the following:*

[pfau@integritycommission.tc;](mailto:pfau@integritycommission.tc)

[info@integritycommission.tc;](mailto:info@integritycommission.tc)

[secretary@integritycommission.tc;](mailto:secretary@integritycommission.tc)

Telephone: 649-946-1941; Fax: 649-946-1355; **Patrick Noonan:** 432-6173