



Coimisiún um Chaighdeáin in Oifigí Poiblí
Standards in Public Office Commission

**Report under section 23(2) of the
Standards in Public Office Act 2001**

Compliance by Senior Office Holders

**Investigation by the Standards in Public Office Commission
into contraventions of section 23(1) of the
Standards in Public Office Act 2001 by
Dr John Doherty, Consultant, HSE**

September 2018

Introduction

In accordance with section 23(2) of the Standards in Public Office Act 2001 (2001 Act), the Standards in Public Office Commission (the Commission) is required to investigate contraventions of section 23(1) of the 2001 Act, which provides that a senior office holder must furnish evidence to the Commission of compliance with taxation legislation.

Specifically, section 23(1) of the 2001 Act requires that, following the appointment of a senior office holder, evidence must be furnished to the Commission of:

- (a) (i) a tax clearance certificate issued by the Revenue Commissioners, or
- (ii) an application statement issued by the Revenue Commissioners

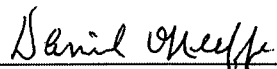
and,

- (b) a statutory declaration by the person confirming compliance with their statutory tax obligations

The full text of section 23 of the 2001 Act is at Appendix 1.

As a senior office holder, Dr John Doherty, Consultant, is obliged to meet the requirements of section 23(1) of the 2001 Act, as outlined above. The Commission has carried out an investigation into possible contraventions of the provisions of section 23(1) by Dr Doherty.

In accordance with sections 23(2) and 23(3) of the 2001 Act, the Commission has prepared the following report of its investigation, a copy of which will be furnished to the Health Service Executive (HSE) which is the employing public body of the senior office holder concerned. The Commission will also furnish copies of the report to be laid before each House of the Oireachtas.



Justice Daniel O'Keeffe
Chairperson
Standards in Public Office Commission
24 September 2018

Background

For the purposes of ensuring compliance with the tax clearance obligations provided for under the 2001 Act, the Commission is notified by public bodies of appointments that come within the definition of 'senior office holder'.

A senior office holder is defined as a designated position or directorship in a public body prescribed for the purposes of the Ethics in Public Office Acts 1995 and 2001, for which the remuneration is not less than that for a Deputy Secretary in the Civil Service.

The Commission requests all public bodies to provide details of all appointments made within the organisation at senior office level. The public bodies are also requested to inform the senior office holders concerned of their obligations under section 23 of the 2001 Act. Following a request in March 2017 for such information, the Commission was notified by the HSE that Dr John Doherty, Consultant, was appointed to a senior office position in February 2017.

The Commission wrote to Dr Doherty on 16 March 2017 advising him of the requirement to furnish evidence of compliance by providing a tax clearance certificate and a signed statutory declaration by the deadline date of 12 November 2017. A further reminder was sent on 23 October 2017.

The Commission notes that Dr Doherty has failed to provide the required documents by the date specified. Accordingly, the Commission decided at its meeting of 16 April 2018 to initiate an investigation into the alleged contravention.

Investigation Procedures

A letter issued to Dr John Doherty on 21 May 2018, advising him of the Commission's decision to launch an investigation into the possible contravention, providing a statement of contravention and giving him the opportunity to respond by 5 June 2018.

The Commission has received some communications from Dr Doherty. However, to date, he has not provided the Commission with the required tax clearance documents.

Findings and Determinations

As no information has been provided to indicate otherwise, the Commission is of the view that Dr John Doherty has contravened the 2001 Act.

In making its findings and determinations, the Commission had regard to the evidence available to it. The Commission is satisfied that Dr John Doherty, Consultant, has failed to comply with his obligations under section 23(1) of the 2001 Act to furnish the required documents to the Commission, with regard to his position as a senior office holder.

The Commission considers that the requirements provided under the 2001 Act, namely that holders of senior office must provide evidence of compliance with their obligations in regard

to taxation matters, are intended to ensure confidence in the probity of persons appointed to such positions in public bodies. The Commission is therefore strongly of the opinion that a substantive contravention of the legislation, as in this case, is a serious matter that requires appropriate action.

Appendix 1

Section 23 Standards in Public Office Act 2001

Evidence of compliance with Acts by holders of senior office.

- 23.—(1) A person who is appointed to a senior office after the commencement of this section shall, not more than 9 months after the date on which he or she is so appointed (“the appointment date”), furnish to the Commission—
- (a) (i) a tax clearance certificate that is in force and was issued to the person not more than 9 months before, and not more than 9 months after, the appointment date,
or
 - (ii) an application statement that was issued to the person and was made not more than 9 months before, and not more than 9 months after, the appointment date,
- and
- (b) a statutory declaration made by the person not more than one month before, and not more than one month after, the appointment date to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in subsection (1) of section 25 and that nothing in subsection (2) of that section prevents the issue to him or her of a tax clearance certificate.
- (2) If a person contravenes subsection (1), the Commission shall investigate the matter and shall draw up a report in writing of the results of its investigation and furnish a copy of it to the public body concerned.
- (3) The Commission shall cause copies of a report under subsection (2) to be laid before each House.