



**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  
Mr Kieran O'Shea, Consultant, St Vincent's University Hospital**

**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

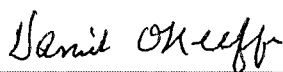
and,

- (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, Mr Kieran O'Shea, 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 Mr O'Shea.

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 St Vincent's University Hospital, 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.



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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 St Vincent's University Hospital that Mr Kieran O'Shea, Consultant, was appointed to a senior office position in November 2012.

The Commission wrote to Mr O'Shea on 31 August 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 30 September 2017.

The Commission notes that Mr Kieran O'Shea has failed to provide the required documents by the date specified. Accordingly, the Commission decided at its meeting of 12 December 2017 to initiate an investigation into the alleged contravention.

## **Investigation Procedures**

A letter issued to Mr Kieran O'Shea on 26 February 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 12 March 2018. A final letter issued to Mr O'Shea by registered post on 25 June 2018 seeking a response within 14 days before the Commission proceeded to finalise the investigation.

The Commission has, to date, received no response to this request.

## **Findings and Determinations**

As no information has been provided to indicate otherwise, the Commission is of the view that Mr Kieran O'Shea 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 Mr Kieran O'Shea, 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.