



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique



The Role and Mandate of the Office of the Conflict of Interest and Ethics Commissioner

October 17, 2017

Mary Dawson
Conflict of Interest and Ethics Commissioner



Mandate of Commissioner

The *Conflict of Interest Act* for public office holders:

- ❑ In place since 2007, applies to approximately 2,200 public office holders (ministers, parliamentary secretaries, Governor in Council appointments, ministerial staff).
- ❑ All public office holders are subject to core set of conflict of interest and post-employment rules.
- ❑ Approximately 1,100 of these are reporting public office holders who are also subject to reporting and public disclosure provisions, and prohibitions against outside activities and holding controlled assets.

The *Conflict of Interest Code for Members of the House of Commons*:

- ❑ In place since 2004, it forms part of the *Standing Orders of the House of Commons* and applies to all 338 elected Members.

Rules under Act generally more stringent than Members' Code, but more information is disclosed publicly under Code.



Relationship to Parliament

Conflict of Interest and Ethics Commissioner is an Officer of Parliament appointed under *Parliament of Canada Act*.

Non-partisan and independent:

- Reports directly to Parliament, through Speaker of House of Commons.
- Can only be removed, for cause, by resolution of House of Commons.
- Duties and functions related to the Members' Code are protected by Parliamentary Privilege

Commissioner has seven-year mandate

- Appointed by Governor in Council after consultations with leaders of all recognized parties in the House of Commons and the adoption of a resolution of the House.
- Can be reappointed for one or more terms of up to seven years.



Parliamentary Committees

Standing Committee on Access to Information Privacy and Ethics (ETHI)

- Has the mandate to review and report on the management, operations, and estimates of the Office of the Conflict of Interest Commissioner.
- Reviews and reports on reports of the Conflict of Interest and Ethics Commissioner.

Standing Committee on Procedure and House Affairs (PROC)

- Reviews and reports on all matters relating to the *Conflict of Interest Code for Members of the House of Commons* and on the annual report of the Commissioner with respect to Commissioner's responsibilities relating to Members.
- Charged with undertaking a comprehensive review of the Code's provisions and operations every five years.



Activities of Office

Aim of Act and Code to enhance public confidence and trust

Day to day work of Office in support of this:

- Receiving disclosures of confidential information
- Providing confidential advice to public office holders, Members
- Maintaining public registries
- Communications, education and outreach
- Investigations and enforcement of alleged contraventions of Act and Code
- Reporting to Parliament

Mandate very specific and we are one player in federal landscape



Disclosure under Act and Members' Code

- After appointment or election, reporting public office holders and Members must file with Office a **confidential declaration** of their assets, liabilities and outside activities.
 - Disclosures are reviewed annually to ensure information is current.
 - They also have ongoing reporting obligations:
 - Material changes (Act and Members' Code)
 - Gifts (Act and Members' Code)
 - Recusals (Act and Members' Code)
 - Outside activities (Act)
 - Sponsored travel (Members' Code)
 - Office maintains public registries under Act and Members' Code of publicly declarable information – disclosure a powerful tool.
-



Overview of the Act and the Code - Rules of Conduct

Many of the same elements between the Act & Code (some differences):

- General duty
- Preferential treatment
- Insider information
- Influence
- Outside employment and activities
- Gifts and benefits
- Contracting
- Duty to recuse
- Fundraising (Act only)
- Compliance measures (Act only)



Gifts and Invitations

Public office holders, Members and their families may only accept gifts in specific limited circumstances:

- Gifts from family members and friends are normally acceptable.
- Gifts that are a normal expression of courtesy or within customary standards of hospitality are acceptable.
- Gifts that are permitted under the *Canada Elections Act*.

If a gift might reasonably be seen as an attempt to influence a public office holder's or Member's decision-making, it must be refused.

Act: Public office holders must publicly disclose any gift, other than from a family member or friend, worth \$200 or more. Gifts worth \$1,000 or more must be forfeited to the Crown and disclosed publicly.

Code: Members must publicly disclose gifts worth \$200 or more. No limit on value of gifts they may accept.



Divestment

Act prohibits reporting public office holders from holding controlled assets such as publicly traded securities:

- They must divest any controlled assets they hold when they are appointed (arms-length sale or blind trust).

No conflict of interest test applies to divestment requirement.

Members' Code does not have a divestment requirement.



Sponsored Travel

Under Code, Members may accept travel, including transportation, accommodation and meals, paid for by third party.

If cost of travel \$200 or more, must be publicly declared

Annual list of sponsored travel published by the Office.

No test to determine acceptability, unlike with gifts.



Outside Activities

- ❑ Act prohibits public office holders from engaging in outside employment or other activities. They are not allowed to:
 - (a) engage in employment or the practice of a profession;
 - (b) manage or operate a business or commercial activity;
 - (c) continue as, or become, a director or officer in a corporation or an organization;
 - (d) hold office in a union or professional association;
 - (e) serve as a paid consultant; or
 - (f) be an active partner in a partnership.
 - No conflict of interest test applies in most cases.
 - Little discretion
 - Exception:
 - in order to maintain employment opportunities or ability to practice profession.
 - director or officer of charitable or non-commercial organizations
 - ❑ No similar prohibition in Members' Code.
-



Post-Employment

There are a series of post–employment rules under the Act

Former public office holders are prohibited for life from:

- Taking improper advantage of their previous office;
- Switching sides;
- Improperly using information obtained from their previous office.

Cooling-off period of one year for most reporting public office holders and two years for ministers and parliamentary secretaries, during which they cannot:

- Work for or contract with an entity with which they had official dealings during their last year in office;
- Make representations to their former organization.

No post-employment obligations under the Members' Code



Examinations and Inquiries

- May investigate to determine if Act or Members' Code has been contravened.

- Under Act, can conduct an examination of a current or former POH:
 - At request of a Senator or Member or
 - On own initiative if reason to believe Act has been contravened.

- Under Members' Code, can conduct an inquiry:
 - At the request of a Member,
 - Upon resolution of the House of Commons, or
 - On own initiative if reason to believe Code has been contravened.

Investigation reports made public without any approvals by government or Parliament.



Other Enforcement Tools (Act only)

Administrative Monetary Penalties:

- May impose administrative monetary penalties of up to \$500 for failure to meet certain reporting deadlines set out in Act.

Compliance orders:

- May order any public office holder, in respect of any matter, to take any compliance measure that the Commissioner determines is necessary to comply with Act.

Post-employment:

- If the Commissioner determines a former reporting public office holder has failed to comply with post-employment obligations under Act, has authority to order any current public office holder not to have any dealings with the former RPOH.



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique





To Reach Us

 **By mail:**

Conflict of Interest and Ethics Commissioner
Centre Block
Parliament of Canada
Ottawa, Ontario K1A 0A6

 **By phone:** 613-995-0721

 **By fax:** 613-995-7308

 **By email:** ciec-ccie@parl.gc.ca

 **Web:** www.ciec-ccie.parl.gc.ca