



Office of the Conflict
of Interest and Ethics
Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

The 2015-2016 ANNUAL REPORT

in respect of the
CONFLICT OF INTEREST ACT



June 9, 2016

Mary Dawson
Conflict of Interest and
Ethics Commissioner

The 2015-2016 Annual Report

in respect of the
CONFLICT OF INTEREST ACT

For additional copies of this publication, please contact:

Office of the Conflict of Interest and Ethics Commissioner
Parliament of Canada
66 Slater Street, 22nd Floor
Ottawa, Ontario K1A 0A6

Telephone: (613) 995-0721
Fax: (613) 995-7308
Email: ciec-ccie@parl.gc.ca

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This publication is also available online at the following address:
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062016-56E





Commissariat aux conflits d'intérêts et à l'éthique
Office of the Conflict of Interest and Ethics Commissioner

66, rue Slater Street
22^e étage / 22nd Floor
OTTAWA, ONTARIO
CANADA
K1A 0A6

June 8, 2016

The Honourable Geoff Regan, P.C., M.P.
Speaker of the House of Commons
Room 228-N, Centre Block
Parliament of Canada
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker:

I am pleased to submit to you my report on the performance of my duties and functions under the *Conflict of Interest Act* in relation to public office holders for the fiscal year ending March 31, 2016, for tabling in the House of Commons on June 9, 2016.

This fulfills my obligations under paragraph 90(1)(b) of the *Parliament of Canada Act*.

Sincerely,

Mary Dawson
Conflict of Interest and Ethics Commissioner



Commissariat aux conflits d'intérêts et à l'éthique
Office of the Conflict of Interest and Ethics Commissioner

66, rue Slater Street
22^e étage / 22nd Floor
OTTAWA, ONTARIO
CANADA
K1A 0A6

June 8, 2016

The Honourable George Furey
Speaker of the Senate
Room 280-F, Centre Block
Parliament of Canada
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker:

I am pleased to submit to you my report on the performance of my duties and functions under the *Conflict of Interest Act* in relation to public office holders for the fiscal year ending March 31, 2016, for tabling in the Senate on June 9, 2016.

This fulfills my obligations under paragraph 90(1)(b) of the *Parliament of Canada Act*.

Sincerely,

Mary Dawson
Conflict of Interest and Ethics Commissioner

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I. INTRODUCTION

The Conflict of Interest and Ethics Commissioner administers the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Members' Code). These two regimes hold public office holders and Members to standards that place the public interest above private interests.

The Act applies to current and former public office holders, including ministers, parliamentary secretaries, ministerial staff, ministerial advisers, deputy ministers and most full- and part-time Governor in Council appointees. There are approximately 2,200 public office holders subject to the Act, more than half of whom are part-time. The Act came into force in July 2007 and was amended in 2011 and 2013.

The Members' Code applies to all 338 Members of the House of Commons. It was adopted by the House of Commons in 2004 and was amended in 2007, 2008, 2009 and 2015. The Members' Code is appended to the Standing Orders of the House of Commons.

Most rules and procedures set out in the Act and the Members' Code aim to minimize the possibility of conflicts arising between public and private interests. The rules of conduct also address a variety of other situations relating, for example, to gifts and benefits. The Act also contains a number of post-employment rules.

While the focus of both the Act and the Members' Code is on prevention, I am mandated to investigate alleged contraventions of either.

The main responsibilities of my Office are to:

- advise public office holders and Members on their obligations under the Act and the Members' Code;
- receive and review confidential reports of assets, liabilities, income and activities of reporting public office holders and Members in order to advise on and establish appropriate compliance measures;
- maintain confidential files of required disclosures;
- maintain a public registry of publicly declarable information;
- administer an administrative monetary penalty regime under the Act for failures to comply with certain reporting requirements; and
- conduct examinations and inquiries into alleged contraventions of the Act and the Members' Code.



I am also mandated under both the *Conflict of Interest Act* and the *Parliament of Canada Act*, to provide confidential advice to the Prime Minister about conflict of interest and ethics issues.

This is one of two annual reports issued by my Office. This report relates to the Act and the other report relates to the Members' Code.

II. OVERVIEW – A Year of Change

This has been a year of very significant change. In the months following the October 2015 election, the change in government and the addition of 30 new seats to the House of Commons led to a high turnover of public office holders and the arrival of over 200 new Members of Parliament (MP). In administering the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Members' Code), my focus remains on ensuring that both new and returning public office holders and Members understand their obligations so they can avoid situations that risk placing them in a conflict of interest.

My Office implemented a post-election communications and outreach plan to provide broad guidance and to help new public office holders and Members understand how they can achieve and maintain compliance with the Act and the Members' Code. As amendments to the *Conflict of Interest Code for Members of the House of Commons* were adopted late in the previous Parliament, my outreach efforts were also aimed at returning MPs to ensure that they were aware of these changes. I am confident that the foundation has been laid for a productive relationship. My Office continues its outreach efforts, as outlined in this report, and strives to find innovative ways to reach public office holders and MPs.

I continue to place a particular emphasis on prevention. With respect to both the Act and the Members' Code, my Office provides advice based on the individual circumstances of each public office holder or Member. Advisors in the Office guide reporting public office holders and Members through their initial compliance obligations and the annual review process. My Office also assists all public office holders and Members on their ongoing obligations and explains post-employment obligations to outgoing public office holders, whether before or after they leave office. I continue to enforce the Act and the Members' Code by investigating possible contraventions and by imposing administrative monetary penalties on reporting public office holders where appropriate.

My experience in administering the two regimes has shown me where the strengths of the Act and the Members' Code lie and where there are gaps. In each of my previous annual reports, I have made observations in this regard. Over the past fiscal year, the issue of political fundraising has attracted much attention so I have, once again, offered some observations in this report in relation to fundraising.

In the last Parliament, I contributed to the review of the Act and the Members' Code and note that a number of my recommendations for the Members' Code were adopted. Should either of the relevant committees pursue these or other reviews, I would be pleased to contribute to them.



As I approach the end of my ninth year as Commissioner, I am confident that the structures, processes and systems that I have put in place provide a solid base from which to administer the Act and the Members' Code. At the same time, my Office has the flexibility and adaptability to evolve in circumstances that may require change. It has a strong internal management and policy framework adapted to its needs which supports the effective, efficient and economical use of public resources, the protection of public assets and the safeguarding of personal information.

I could not fulfill my mandate as Commissioner without the support of my staff. Their longstanding commitment to the work of the Office has resulted in a strong and experienced team. I thank them for their invaluable contributions and for their continued loyalty and dedication.



III. APPLYING THE ACT

The *Conflict of Interest Act* (Act) applies to public office holders, defined in the Act as ministers, ministers of state, parliamentary secretaries and ministerial staff, as well as Governor in Council appointees such as deputy ministers, heads of Crown corporations, and members of federal boards, commissions and tribunals. My Office assists these individuals in achieving and maintaining compliance with the Act. As of March 31, 2016 my Office’s records indicate that there were 2213 public office holders, which is fewer than in earlier years. This is due primarily to the change of government following the October 19, 2015 general election, as ministers were still in the process of staffing their offices at the end of 2015-2016. That number continues to climb.

More than half of the public office holders (58%) work on a part-time basis, many as members of federal boards, tribunals and commissions. These public office holders must comply with most of the rules of conduct, but are not subject to the Act’s disclosure provisions.

The other group of public office holders, most of whom work on a full-time basis, are called “reporting public office holders” and are subject to a broader range of provisions under the Act. They must disclose to my Office detailed information about their assets, liabilities, outside activities and other interests, and may also be required to take additional compliance measures in order to meet their obligations under the Act. My Office guides and assists them in understanding their obligations and in undertaking all the necessary measures.

Table 3-1 shows a breakdown by category of public office holders over five fiscal years.

Table 3-1: Number of Public Office Holders

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Reporting public office holders	1115	1094	1123	1128	923
Ministers	28	27	26	27	31
Ministers of state	11	10	13	12	0
Parliamentary secretaries	28	27	31	30	35
Full-time ministerial staff	534	558	561	559	381
Full-time Governor in Council appointees	514	472	492	500	476
Public office holders who do not have reporting obligations (part-time Governor in Council appointees and ministerial staff working less than 15 hours a week)	1944	1882	1415	1321	1290
Total number of public office holders	3059	2976	2538	2449	2213



Initial Compliance

The Act establishes an initial compliance process that all reporting public office holders must complete within 120 days after their appointment. The first step in this process is a confidential disclosure to my Office, which must be submitted no later than 60 days after appointment and must contain detailed information on the reporting public office holder's assets, liabilities, outside activities and other interests.

My Office reviews this information and advises reporting public office holders of the measures they will need to take to meet their obligations under the Act. These measures may include, for example, publicly declaring certain assets, divesting controlled assets, establishing a conflict of interest screen or resigning from a corporate directorship. At the same time, my Office provides advice on managing potential conflicts of interest, if any, and, more generally, on maintaining ongoing compliance with the Act.

The initial compliance process is complete when the reporting public office holder signs a statement summarizing the steps he or she has taken to comply with the Act. This statement and all other necessary declarations are then placed in a public registry on the Office website for examination by the public.

Table 3-2 shows figures related to this initial compliance process over the last five fiscal years.

Table 3-2: Compliance with 60- and 120-day Deadlines

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
New reporting public office holders	299	290	359	317	633
Number of reporting public office holders who missed the 60-day deadline	53	46	32	30	94
Number of reporting public office holders who missed the 120-day deadline	16	11	19	17	22

My Office issues a series of reminders and provides assistance to reporting public office holders as the 60- and 120-day deadlines approach. Most of the 633 reporting public office holders appointed during 2015-2016 met both of these deadlines. However, despite the efforts of my Office to assist them, 94 new reporting public office holders did not meet the 60-day



deadline and 22 did not meet the 120-day deadline. This could be due in part to the timing of the general election in 2015, which resulted in the 60-day period for many new reporting public office holders falling during the holiday adjournment. Although the Act provides that a monetary penalty may be imposed for failure to respect this deadline, I usually allow a grace period of up to a week before doing so.

In 2015-2016, 77 of the 94 individuals who missed the 60-day deadline filed their confidential reports less than one week after the deadline. Seventeen individuals missed the deadline by one week or more. In 14 of these 17 cases, my Office was notified late of the reporting public office holders' appointment, delaying my initial letter to them. In the other three cases, I issued two notices of violation for failure to submit a confidential report within 60 days but did not do so in the other because my Office had difficulty reaching the reporting public office holder to explain the deadline and the penalty process.

Nine of the 22 individuals who missed the 120-day deadline to complete their initial compliance process exceeded the deadline by one week or more. In three of these nine cases, my Office was informed of the reporting public office holders' appointment past or close to the 120-day deadline. In the other six cases, the compliance measures that needed to be put in place were complex and the reporting public office holder cooperated with my Office throughout the process. For these reasons, I did not issue any notices of violation in 2015-2016 for failure to meet the 120-day deadline.

In order to facilitate the process by which reporting public office holders meet their reporting requirements, a secure declaration portal was launched in October 2015, giving new reporting public office holders the option of reviewing and approving their public declarations online. Seventy-five percent of the individuals who were directed to the portal in 2015-2016 have opted to use it. Public office holders already in office will be given access to the declaration portal for their next annual review or for any other declaration they are required to make under the Act.

Maintaining Compliance

Beyond the initial compliance process, my Office assists reporting public office holders in meeting their obligations under the Act throughout their term in office. This is done in part through the formal mechanisms set out in the Act that are described below. My Office also provides information and advice on an ongoing basis to individual public office holders and to their organizations as a whole, regarding the application of the Act.



Twenty-five percent of the 1843 communications my Office had with public office holders in 2015-2016 were related to a change in the reporting public office holder's personal situation, and were for the most part prompted by the annual review process described below. Another 20% were related to post-employment obligations. Outside activities accounted for 15% of the communications, and gifts accounted for 10%. The other 30% were related to a wide range of matters, including advice on fundraising, letters of support, recusal, and other advice on how to avoid conflict of interest situations. A small proportion of these communications were with individuals who were being considered for appointment and who were seeking a better understanding of what their obligations would be should they be appointed. Only 34 communications (less than one percent) were with public office holders who did not have reporting obligations.

Communications with public office holders	
2011-2012	1550
2012-2013	1748
2013-2014	1731
2014-2015	1792
2015-2016	1843

Annual Review

All reporting public office holders must review their compliance arrangements with advisors from my Office on an annual basis and update the information previously disclosed to my Office.

The Act does not provide a timeline for completing the annual review process. I recommended, within the context of the five-year review of the Act, that the Act provide for both a deadline and a penalty for failure to meet this obligation. In the meantime, I ask that reporting public office holders submit their updated information to me within 30 days.

As part of our continuing efforts to expedite all compliance processes under the Act, my Office pays particular attention to the annual review process. We send reporting public office holders email reminders after our annual review letters are sent out, and then follow up by phone. This continues to ensure a more timely return of a greater number of annual review documents. In 2015-2016, my Office initiated fewer annual reviews than in the previous four years because a large number of reporting public office holders left their positions as a result of the general election. Four hundred and fifty annual reviews were initiated and 407 responses were received, some of which were related to annual reviews initiated in the latter part of the previous year.

The efforts made by my Office have resulted in most documents being received within a reasonable time frame. However, there were still a few annual reviews that remained outstanding after 120 days. Because the Act does not provide for any penalty when reporting public office holders fail to respond to annual review requests in a timely way, I initiated the practice of identifying, in the public registry on the Office website, reporting public office holders who fail to complete their annual review process despite several reminders from my Office. I have decided that, in the future, if a reporting public office holder persists in disregarding the requests



of my Office, I will issue a compliance order establishing a 10-day deadline for completing the process and this order will be made public.

Ongoing Reporting Requirements

Material Change

Reporting public office holders must inform my Office of any material change to their circumstances within 30 days of that change. I have determined that, at a minimum, a change is material if it affects the information that is or should be made available for public inspection on the public registry or if the change results in a contravention of the Act. I note that, despite the deadline, material changes are often not reported until the annual review process.

I issued eight notices of violation and imposed 10 penalties in 2015-2016 for failures to disclose a material change within 30 days, including two penalties imposed in relation to notices of violation issued in the previous year.

Gifts and Other Advantages

Section 11 of the Act establishes an acceptability test for gifts and other advantages offered to public office holders. Where a gift or other advantage could reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function, it may not be accepted, regardless of its value. This test applies to gifts and advantages received by all public office holders, whether or not they are reporting public office holders.

There is an exception for gifts or other advantages that are received as a normal expression of courtesy or protocol, or that fall within customary standards of hospitality that normally accompany a public office holder's position. This exception applies in a variety of circumstances. For example, token gifts offered in appreciation for a speech or presentation made by a public office holder, or meals offered to public office holders at a public event that they are attending in an official capacity, are usually acceptable. Such gifts are, however, still subject to the Act's disclosure and public declaration requirements.

Gifts and other advantages that pass the acceptability test can be accepted by public office holders but must be publicly declared by reporting public office holders if they are valued at \$200 or more. Multiple gifts accepted from a single source whose total value exceeds \$200 within a 12-month period must also be disclosed to my Office.

My Office launched an improved public registry in April 2015, simplifying its search functions. One of these changes affected the disclosure of gifts and other advantages. It allows members of the public to find a reference to a specific gift or other advantage more easily. In the previous registry, gifts were displayed as a group based on the date they were disclosed.



Currently, they are displayed on an individual basis, which increases the number of declarations of gifts or other advantages in a year.

Table 3-3 provides details on interactions related to gifts over the past five fiscal years.

Table 3-3: Interactions with Public Office Holders Relating to Gifts

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Instances of advice provided regarding gifts	160	188	231	209	168
Number of reporting public office holders who publicly declared gifts	30	29	25	33	23
Publicly declared gifts of \$200 or more	99	117	123	114	80
Publicly declared and forfeited gifts of \$1000 or more	11	10	12	5	1

Gifts that were found to be unacceptable or that were valued at under \$200 were not publicly declared. In cases where my Office determined that gifts were unacceptable, those gifts were refused, returned or paid for by the public office holder. The slight decrease in the number of gifts declared in 2015-2016 can most likely be attributed to the election period during which very few gifts were reported.

In 2015-2016, I had occasion to clarify that even public office holders who do not have general reporting obligations would have to make a public declaration of forfeited gifts. No such case has been disclosed to my Office to date.

Outside Activities

With limited exceptions, subsection 15(1) of the Act prohibits reporting public office holders from engaging in a range of outside activities, including employment or the practice of a profession, managing or operating a business or a commercial activity, serving as a director or officer in a corporation or organization, holding office in a union or professional association, serving as a paid consultant and being an active partner in a partnership.

The exceptions to subsection 15(1) are outlined in subsections 15(1.1), (2) and (3) of the Act. In all cases, the Commissioner must be of the opinion that an outside activity is not incompatible with the public duties of the reporting public office holder for the exception to apply. Acting as a director or officer in an organization of a philanthropic, charitable or non-



commercial character is the most common type of exception that is requested. All exceptions are publicly declared in the public registry.

Requests for advice regarding outside activities more than doubled in 2015-2016. This can be attributed in large part to the political activities that were undertaken during the election campaign in 2015. During this period, reporting public office holders who were on a leave of absence continued to be subject to the Act.

Communications with public office holders regarding outside activities	
2011-2012	72
2012-2013	98
2013-2014	102
2014-2015	132
2015-2016	273

Many public office holders contacted my Office about campaign activities during the election period. Subsection 15(4) of the Act specifically excludes political activities from the prohibitions of subsection 15(1), so public office holders were permitted under the Act to work on the election campaign. In such cases, however, they were reminded that they were still subject to the rules of the Act, such as those relating to gifts or fundraising. My Office also reminded them, in many cases, that there are other rules that could apply in relation to working on election campaigns and that they should take these into account as well.

There are no direct restrictions on public office holders who are not reporting public office holders relating to engaging in outside activities. There may be cases, however, where it is appropriate to take special measures when a public office holder is engaged in outside activities. During the past fiscal year, I implemented for the first time a formal conflict of interest screen for such a public office holder. In that case, the individual was a board member of an organization that was regulated by the public sector entity for which the public office holder worked.

Compliance Measures

Divestment

Section 27 of the Act sets out the appropriate procedure for the divestment of controlled assets. Controlled assets include all investments that are publicly traded on a stock exchange or over-the-counter, as well as commodities, futures and currencies that are traded on a commodities exchange. The Act requires that divestments be completed within 120 days of the date of appointment, either through an arm's-length sale or through the establishment of a blind trust. Controlled assets received by way of gift or testamentary disposition or in any other way over which a reporting public office holder has no control must be divested similarly within 120 days of receipt.



The term “assets” as defined in section 20 of the Act includes trusts, but only those in respect of which a public office holder or a member of his or her family is a beneficiary. Therefore, where a reporting public office holder is a trustee of a trust under which he or she is also a beneficiary, any controlled assets that were included in the trust would be subject to divestment and public declaration. Where the trustee is not a beneficiary under the trust, other compliance measures such as a conflict of interest screen or an undertaking may be required, depending on the power, duties and functions of the reporting public office holder and the likelihood of an opportunity to further the private interests of another person.

Controlled assets held by reporting public office holders must be divested, regardless of whether those assets could give rise to a conflict of interest in relation to their official duties and responsibilities. By way of exception to this requirement, the Commissioner may allow controlled assets that are of minimal value and that do not constitute any risk of conflict of interest to be retained, on the condition that no new controlled assets be acquired. This exception does not apply to ministers, ministers of state or parliamentary secretaries.

Table 3-4 summarizes divestment arrangements that took place in the last four fiscal years.

Table 3-4: Divestment Arrangements Established over the Last Four Fiscal Years

	2012-2013	2013-2014	2014-2015	2015-2016
Number of reporting public office holders who divested by way of sale	10	22	31	37
Number of reporting public office holders who divested through one or more blind trusts	5	16	12	25
Number of reporting public office holders who were granted a minimal value exemption	31	57	56	52

Sixty-three reporting public office holders had blind trusts at the end of 2015-2016, compared to 61 at the end of the previous fiscal year. The costs associated with the reimbursement of fees related to the establishment, administration or dismantlement of blind trusts in 2015-2016 totalled \$513,119 compared to \$427,913 in 2014-2015. Administrative costs reimbursed in one fiscal year may also include amounts for fees incurred in a previous fiscal year.

In 2015-2016, six of the 37 divestments by way of sale were made after the initial compliance process. Notices of violation were issued in all six instances because controlled assets were acquired after the initial compliance period (which constitutes a material change) and



were not disclosed to my Office within the 30-day period as required under subsection 22(5) of the Act.

Conflict of Interest Screens and Recusals

Under section 29 of the Act, the Commissioner may determine appropriate compliance measures for individual public office holders in consultation with them. These arrangements are usually made during the initial compliance process, but can be made at any time.

During 2015-2016, compliance measures under section 29 were made for 20 reporting public office holders. Fourteen of these compliance measures have been made public including all eight that involved conflict of interest screens, four that involved an undertaking in relation to controlled assets and two that involved an undertaking not to practice a profession. Six of the 20 were not made public for privacy reasons relating to family members. In each of these cases, I determined that there was no public interest in making them public. All six involved assets not directly or wholly held by the reporting public office holder.

Conflict of interest screens are generally used if reporting public office holders are in a position where there is a significant possibility that they will be involved in discussions or decision-making that could affect their own private interests or those of a relative or a friend or an organization with which they have been associated.

In cases where the possibility that a reporting public office holder would be involved in such discussions or decision-making processes is remote, a conflict of interest screen is considered to be unnecessary. However, reporting public office holders are advised that, if any such situation should arise, they must recuse themselves in accordance with section 21 of the Act.

My Office must be informed by a reporting public office holder within 60 days of any recusal. Recusals are publicly declared unless they fall within an exception relating to a confidentiality requirement specifically referred to in the Act. Six recusals were reported and made public in 2015-2016.

Section 30 Compliance Orders

Under section 30 of the Act, the Commissioner may order a public office holder to take any compliance measure that he or she determines necessary to comply with the Act. Because compliance with the Act is a condition of a person's appointment or employment as a public office holder, compliance orders are made public on the Office website. I issued two compliance orders in 2015-2016: one of the orders was related to controlled assets and the other was related to gifts.



Administrative Monetary Penalties

The Act establishes an administrative monetary penalty scheme under which the Commissioner may impose penalties on reporting public office holders. The regime covers failures to report certain matters, generally within established deadlines.

Table 3-5 summarizes the number of administrative monetary penalties that I have imposed over the last five fiscal years.

Table 3-5: Administrative Monetary Penalties Imposed

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Failure to meet the 60- and 120-day deadlines for initial compliance or to submit all necessary information	1	4	2	1	2
Failure to report a material change	6	13	14	7	10
Failure to report the acceptance of an offer of outside employment within seven days	0	0	0	2	0
Total	7	17	16	10	12

I imposed 12 penalties in 2015-2016, including four penalties in relation to notices of violation that were issued in the previous fiscal year.

As I have observed on many occasions, the penalties under the Act relate to failures to meet deadlines. I have recommended that there be penalties for some substantive contraventions as well. I have consistently applied penalties if a material change also involves a substantive contravention. Depending on the circumstances, I do not always apply a penalty for a failure to meet a deadline. In 2015-2016, I imposed penalties for failures to meet initial compliance deadlines on two occasions where no substantive contraventions were involved, because meeting these deadlines is critical to ensuring that reporting public office holders comply with their obligations under the Act.

Post-Employment

The Act requires that a reporting public office holder disclose to my Office within seven days all firm offers of employment received while in office. The number of cases in which reporting public office holders have sought advice related to offers of employment has steadily increased over the past four fiscal years as has the number of those in which they have disclosed



firm offers of employment. This suggests that reporting public office holders are becoming more aware of their post-employment obligations.

Public office holders continue to have obligations under the Act once they leave office. Some of these obligations are ongoing, including a general prohibition against taking improper advantage of one's previous public office.

Other obligations only apply during a cooling-off period, and only to former reporting public office holders. The cooling-off period lasts two years for ministers and ministers of state, and one year for all other reporting public office holders. During the cooling-off period, former reporting public office holders may not contract with, or make representations to, an entity with which they had direct and significant official dealings in the year before leaving office.

Table 3-6 summarizes the number of public office holders who have left office over the last five fiscal years as well as the number of instances where advice was sought regarding post-employment obligations.

Table 3-6: Public Office Holders in the Post-Employment Period

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Reporting public office holders who left office	292	311	330	312	838
Public office holders who do not have reporting obligations who left office	68	333	732	350	146
Advice provided regarding post-employment obligations to public office holders	66	155	211	223	377
Disclosed offers of employment	15	49	56	69	115

The very large number (838) of reporting public office holders who left office in 2015-2016 is a result of the recent general election and the change of government. This number is made up primarily of former ministers, ministers of state and parliamentary secretaries as well as the former ministerial staff of the previous government.

My Office provided advice related to post-employment obligations on 377 occasions during 2015-2016. In 176 of these cases, the advice was sought after the public office holder had left office. Thirty-two of those public office holders had left office in a previous fiscal year.



Section 37 of the Act, a section that I suspect is often overlooked, requires former reporting public office holders to report specific communications they have with public office holders during their cooling-off period. Very few have been reported to date. The *Conflict of Interest Act* states that a former reporting public office holder who “has any communication referred to in paragraph 5(1)(a) of the *Lobbying Act* or arranges a meeting referred to in paragraph 5(1)(b) of that Act shall report that communication or meeting to the [Conflict of Interest and Ethics] Commissioner.”

For the purposes of section 37, I have determined that the meaning of “public office holder” is that established under the *Lobbying Act*, which defines “public office holder” much more broadly than does the *Conflict of Interest Act*. Under the *Lobbying Act*, all officers and employees of Her Majesty in right of Canada are included, as well as “a member of the Senate or the House of Commons and any person on the staff of such a member; a person who is appointed to any office or body by or with the approval of the Governor in Council or a minister of the Crown, other than a judge receiving a salary under the *Judges Act* or the lieutenant governor of a province; an officer, director or employee of any federal board, commission or other tribunal as defined in the *Federal Courts Act*; a member of the Canadian Armed Forces; and a member of the Royal Canadian Mounted Police.”

I have the discretion under section 38 to exempt a former reporting public office holder from the application of the post-employment cooling-off period, and under section 39 of the Act to waive or reduce that cooling-off period. When waiving or reducing this period, I must consider, among other things, whether the public interest in granting the waiver or reduction outweighs the public interest in maintaining the prohibition. I have not granted an exemption, waiver or reduction in 2015-2016. Moreover, I note that there have only been nine instances since the coming into force of the Act in which I have granted an exemption, waiver or reduction of the cooling-off period.

IV. MATTERS OF NOTE

Political Fundraising

Political fundraising at both the federal and provincial levels came under intense scrutiny from the media and other interested Canadians from the late fall of 2015 into the early spring of 2016 and that attention has persisted into 2016-2017.

Media attention was focussed on several high-profile political fundraisers involving ministers. The following instances were identified:

- a December 2015 letter from Finance Minister Bill Morneau encouraged party supporters to donate and win a chance to share their ideas about the economy with him over dinner (this event was subsequently cancelled);
- in December 2015, a fundraising email signed by Prime Minister Justin Trudeau offered supporters a chance to attend the Liberals' holiday caucus dinner and "meet and mingle" with cabinet ministers and Liberal Members;
- in February 2016, a fundraising email sent by the Liberal Party offered supporters a chance to win a trip to Washington, D.C. to attend two Canada 2020 events during the Prime Minister's state visit;
- a private reception with Jody Wilson-Raybould, Justice Minister and Attorney General of Canada, was hosted at a Toronto law office in April 2016.

I received a number of communications raising concerns about such fundraisers and followed up as necessary. As I have noted on a number of occasions, I face a challenge when public office holders' activities do not contravene the *Conflict of Interest Act* (Act) or the *Conflict of Interest Code for Members of the House of Commons* (Members' Code) but appear questionable to the public.

The Act contains only one provision, section 16, that directly addresses participation in fundraising activities, and that provision does not distinguish between political and charitable fundraising. Section 16 reads as follows:

16. No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.

There is no fundraising provision in the Members' Code.

Two elements must exist to establish a contravention of section 16 of the Act. First, a public office holder must have personally solicited funds from a person or organization or have asked



someone else to do so. Secondly, it must be established that the solicitation would place the public office holder in a conflict of interest. If the first element is not found to exist, the second element is not engaged.

Clearly, if a minister or parliamentary secretary organizes a fundraiser, it would be inappropriate to use his or her government position to do so. It would also be inappropriate to target stakeholders who wish to find favour from the minister or parliamentary secretary. While all four instances referred to above raised questions about the appropriateness of the way the fundraisers were organized, it was never clear that there was a contravention of the Act.

Fundraising activities in which a relatively small number of attendees, in exchange for the price of admission to an event, gain the opportunity to meet a featured minister or party leader have been characterized as “selling access.” This situation is not directly addressed in the Act. However, should one of the stakeholders who attended a fundraiser subsequently seek something from a minister or parliamentary secretary, the minister or parliamentary secretary must be mindful of their obligations not to provide preferential treatment under section 7 of the Act or to further the interests of those stakeholders pursuant to section 6, which could, in the future, require a recusal or a conflict of interest screen.

When ministers or parliamentary secretaries are invited to speak at a fundraiser, my Office advises that they should not engage in discussions that relate to departmental business and that they should direct any individual who wishes to do so to the proper channels within the department.

The issue of political fundraising has come up in three of my examinations under the Act: *The Raitt Report* (May 2010), *The Dykstra Report* (September 2010) and *The Glover Report* (November 2014).

In *The Raitt Report* I noted that there were no rules or guidelines that apply specifically to ministers and parliamentary secretaries in relation to political fundraising events. The potential for conflicts of interest is higher for ministers and parliamentary secretaries than it is for other public office holders and Members of Parliament because of the influence they have not only over their departments but also, in the case of ministers, in Cabinet. I suggested in that report and in some of my subsequent annual reports that additional guidance was needed for such situations.

In *The Dykstra Report* I suggested that consideration be given to prohibiting ministers and parliamentary secretaries from personally soliciting funds, regardless of whether or not doing so would place them in a conflict of interest.

In *The Glover Report* I determined that Mrs. Glover did not personally solicit funds because she was not aware of who had been invited to the fundraiser. I observed in the report that adequate measures had not been put in place to ensure that the Minister did not find herself in a situation where stakeholders had been targeted. I recommended that chiefs of staff to ministers or parliamentary secretaries ensure that staff members are fully briefed on the requirements of the Act whether or not the staff members themselves are subject to the Act. I also recommended that section 16 of the Act be amended to include a contravention in the case of a minister or parliamentary secretary who failed to take appropriate action when he or she knew or should have known that funds were being solicited in a manner that would place him or her in a potential conflict of interest.

In April 2010, just before *The Raitt Report* was made public, I was informed by former Prime Minister Harper that he had issued a guidance document entitled *Fundraising and Dealing with Lobbyists: Best Practices for Ministers and Parliamentary Secretaries*, which set out specific best practices that ministers and parliamentary secretaries were expected to follow in order to “maintain appropriate boundaries between their official duties and political fundraising activities.”

The fundraising guidance document, which was added at a later date as an appendix to *Accountable Government: A Guide for Ministers and Ministers of State*, addressed some of my concerns, particularly the statement that ministers and parliamentary secretaries “must ensure that their staffs are well acquainted with the practices and that adequate processes are in place in their offices to ensure compliance.” In November 2015, the current Prime Minister issued a revised version of that guide, now called *Open and Accountable Government*, and it includes the *Best Practices* appendix as well.

I do not have the responsibility or the authority to administer the *Best Practices* appendix; it is administered by the Privy Council Office. *Best Practices* provides for appropriate safeguards to be put in place to ensure that departmental stakeholder lists are not shared with those engaged in fundraising activities, and for fundraisers to be instructed not to target departmental stakeholders or knowingly solicit contributions from them. Ministers and parliamentary secretaries are directed to ensure that the solicitation of political contributions on their behalf does not target departmental stakeholders, other lobbyists or employees of lobbying firms, and that fundraising communications issued on their behalf not imply any connection between fundraising and official government business.

It is noted in *Best Practices*, however, that this guidance is not intended to restrict general fundraising appeals made to broad groups of supporters; such appeals could involve lobbyists and other stakeholders, but only incidentally. It also states that ministers, parliamentary secretaries and their staff should not discuss departmental business at fundraising events.



The rules on fundraising for ministers and parliamentary secretaries in *Open and Accountable Government* are more detailed and more stringent than the provisions of the *Conflict of Interest Act*. I proposed, in the *Five-Year Review of the Act*, that a more stringent rule with respect to fundraising than the current one in section 16 be established for ministers and parliamentary secretaries. One option would be simply to add the rules on fundraising for ministers and parliamentary secretaries in *Open and Accountable Government* to the *Conflict of Interest Act*.

As it stands, even though that document is administered by the Privy Council Office, I regularly make reference to it when providing advice to public office holders on how they can best avoid situations that could potentially place them in a conflict of interest or create the appearance of one.

The Act and the Members' Code focus primarily on conflicts between private interests and public duties and do not address partisan behaviour, as such. In the five-year review of the *Conflict of Interest Code for Members of the House of Commons*, which applies equally to all Members, including those who are ministers or parliamentary secretaries, I recommended that the House of Commons might wish to consider implementing a separate code of conduct to address the political conduct of Members and their staff, including political fundraising activities and I continue to believe that such rules should be established. This would go some way to maintain and enhance public confidence and trust in the integrity of ministers and parliamentary secretaries.

V. INVESTIGATIONS

My Office administers two investigative regimes, one under the *Conflict of Interest Act* (Act) and the other under the *Conflict of Interest Code for Members of the House of Commons* (Members' Code). An examination under the Act can be initiated after receiving a request from a Senator or a Member of the House of Commons, or on my own initiative. An inquiry under the Members' Code can be initiated after receiving a request from a Member, upon resolution of the House of Commons or on my own initiative. Examinations and inquiries are not initiated unless thresholds of probability set out under the Act or the Members' Code are met.

When a Member or Senator makes a request under the Act, or a Member makes a request under the Members' Code, he or she must, among other requirements, set out the reasonable grounds for the belief that a contravention has occurred. If the requirements are met, the Commissioner must, in the case of the Act, conduct an examination or, in the case of the Members' Code, conduct a preliminary review to determine whether an inquiry is warranted.

Information concerning possible contraventions of the Act or the Members' Code also comes to my attention in a variety of other ways, such as media reports and communications from the general public. In those instances, the information is reviewed to determine whether the concerns fall within the mandate of this Office and whether I have reason to believe a contravention of the Act or the Members' Code has occurred. In most cases, this requires preliminary fact-finding, after which I determine whether an examination or inquiry is warranted or whether any other action should be taken.

Overview of Investigation Case Files under the Act and the Members' Code

Over the past fiscal year, 28 new case files were opened and eight case files were carried over from previous fiscal years. Two of the case files carried over, the Carson and Wright examinations, remained suspended at the end of the 2015-2016 fiscal period.

Table 5-1 compares all the investigative activity over the past five fiscal years.

Table 5-1: Case Files under the Act and Members' Code

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Case files opened	30	32	28	39	28
Case files carried over from previous fiscal year	11	16	13	6	8
Total	41	48	41	45	36



The numbers are relatively consistent from year to year. General elections were held in 2011-2012 and 2015-2016, but do not appear to have had a significant impact on the number of case files in progress in a given fiscal year.

Table 5-2 sets out the sources and subjects of the case files in progress over the past fiscal year. All but five were self-initiated. Only three of the five resulted from requests from Members, including two under the Act and one under the Members' Code. However, there were three others that were brought to my attention by a Member of the previous Parliament during the election period in the summer of 2015 when he was no longer a Member. Two case files resulted from referrals from the Public Sector Integrity Commissioner.

Table 5-2: Sources of Information and Subjects of Case Files

Source of information	Subject is a current or former minister or parliamentary secretary		Subject is another public office holder	Subject is a Member	Total
	Act	Members' Code	Act	Members' Code	
Members of the general public	8	0	9	1	18
Office of the Conflict of Interest and Ethics Commissioner	4	0	4	1	9
Media reports	1	0	3	0	4
MP requests	1	1	1	0	3
Referrals from the Public Sector Integrity Commissioner	0	n/a	2	n/a	2
Total	14	1	19	2	36

Thirty-three of the 36 case files in progress in 2015-2016 related to obligations of public office holders under the Act.

No requests for examinations have ever been made by Senators under the Act. I only received directions from the House of Commons under the Members' Code once (and that was in 2008) to give further consideration to an inquiry report tabled in 2008.

In 2015-2016, I also received several letters from Members of the House of Commons raising, in a general way, concerns in respect of reporting public office holders' obligations under the Act, including concerns relating to compliance measures. These letters did not result in



case files being opened and are therefore not included in the previous table. I did, however, respond in writing to every Member who took the time to write to me on these matters.

Case Files in Progress under the Act in 2015-2016

Table 5-3 sets out the nature and the number of concerns raised in 2015-2016 and shows the number of those concerns raised in the four previous fiscal years. Individual case files sometimes address concerns relating to more than one provision of the Act. The numbers show that the nature of concern most often raised relates to an allegation of furthering a private interest.

Table 5-3: Concerns Addressed

Nature of concern (Sections of the Act)	Number of concerns				
	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Furthering a private interest (section 6 or 9)	15	15	12	7	15
Post-employment rules (section 33, 34 or 35)	4	4	5	11	6
Gifts (section 11)	2	5	3	11	4
Duty to recuse (section 21)	0	1	4	1	4
Insider information (section 8)	4	1	4	1	3
Outside activities (section 15)	3	2	2	2	3
Fundraising (section 16)	1	2	4	1	3
Preferential treatment (section 7)	4	9	5	5	2

Case Files Closed under the Act in 2015-2016

My Office closed 25 case files under the Act in 2015-2016. I released two public reports and discontinued two self-initiated examinations without releasing a report. The remaining 21 case files were given careful consideration but closed when they were found not to warrant an examination. Details on the 21 case files are provided later in this section under the heading Overview of Case Files Closed Without Proceeding to an Examination on pages 28 to 31.



Table 5-4 summarizes the circumstances in which case files were closed over the past five fiscal years.

Table 5-4: Why Case Files Were Closed

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Reports released following an examination	1	3	1	3	2
Joint reports released following an examination and an inquiry	0	0	1	0	0
Reports resulting from a referral by the Public Sector Integrity Commissioner	0	2	1	2	0
Discontinued examinations	2	3	0	1	2
Case files closed under the Act without examination	15	19	18	23	21
Total	18	27	21	29	25

For those case files that are closed without proceeding to an examination, my Office normally informs the subject of the case that concerns have been raised. However, I may decide not to do so where there is no evidence provided to support the allegation or where the matter is outside the scope of my mandate. On the other hand, where the requestor has made public the allegation against the subject as well as the fact that he or she has contacted me about it, I would normally inform the subject if I am not looking into the matter. My Office also contacts the individual who raised the matter, once the case file has been closed in order to inform him or her of how the matter was resolved unless, of course, the source was anonymous.

In some case files, whether or not I proceed to an examination, my Office also provides compliance advice to the subject of the case file, which could result in changes to his or her compliance arrangements.

Case Files Carried Over under the Act into 2016-2017

Eight of the case files under the Act that were in progress in 2015-2016 have been carried over into the 2016-2017 fiscal year.

Three of the eight case files resulted in ongoing examinations. Two examinations remained suspended at the end of 2015-2016 pursuant to section 49 of the Act. The Carson examination, suspended in November 2011, relates to the post-employment obligations of Mr. Bruce Carson under the Act. The Wright examination, suspended in June 2013, relates to a payment made by Mr. Nigel Wright, while still in office, to Senator Mike Duffy. The Wright examination was resumed in early June 2016.

The remaining three case files were still under consideration at the end of 2015-2016, pending a determination as to whether an examination was warranted. They have subsequently been closed.

Reports Issued

The Kosick Report

In September 2015, I released a report following a self-initiated examination into the conduct of Mr. Daniel Kosick, a former policy advisor to the former Minister of Human Resources and Skills Development, in relation to his post-employment activities.

July 15, 2013 was Mr. Kosick's last day as a policy advisor. The next day he became subject to the post-employment rules under Part 3 of the Act as a former reporting public office holder.

In August 2013, a month after leaving the minister's office, Mr. Kosick accepted a job offer from Flagship Solutions Inc. (Flagship), a government relations and public relations company, and began working for Flagship as a senior communications officer.

The federal Registry of Lobbyists indicated that, during Mr. Kosick's last year in office, he met three times with Mr. Serge Buy as a representative of Flagship, which was in turn representing the National Association of Career Colleges (NACC). The main purpose of those interactions was to lobby for changes to the eligibility requirements of the Canada Student Grants Program, which had been one of the NACC's top lobbying priorities and had been since 2010. Mr. Buy was, when he lobbied Mr. Kosick, working for and being paid by Flagship, and he lobbied Mr. Kosick pursuant to a government relations contract between the NACC and Flagship.

Subsection 35(1) of the Act prohibits former reporting public office holders from accepting an offer of employment with an entity with which they had direct and significant official dealings during their last year in office. As stated in subsection 36(1), this prohibition applies during the year following the reporting public office holder's last day in office, commonly called a "cooling-off" period.



Although Mr. Kosick maintained that he believed he was meeting with the NACC and not Flagship, the evidence indicated that, while he may not have been aware at the time of the meetings that Mr. Buy worked for Flagship, he knew before he accepted Flagship's job offer, or should have been alerted to the likelihood, that Flagship had lobbied him on behalf of the NACC.

I found that Mr. Kosick clearly had direct and significant official dealings with both Flagship and the entity it was representing, the NACC, during his last year in office. I therefore concluded that by accepting the offer of employment with Flagship during his "cooling-off" period, Mr. Kosick contravened subsection 35(1) of the Act.

The Gill Report

In February 2016, I reported on my self-initiated examination into the conduct of Mr. Parm Gill, former Parliamentary Secretary and Member of Parliament for Brampton–Springdale. It had come to my attention that while Mr. Gill was a parliamentary secretary, he had, at the request of two constituents, written letters of support to the Canadian Radio-television and Telecommunications Commission (CRTC) in relation to applications for broadcasting licenses. He signed the letters as a Member of Parliament and did not use his title of Parliamentary Secretary.

In light of the above, I had reason to believe that Mr. Gill had contravened section 9 of the Act, which prohibits public office holders from using their position to seek to influence a decision of another person so as to improperly further another person's private interests.

I found that parliamentary secretaries have responsibilities beyond those they have as a Member of Parliament, including supporting ministers in the development of specific departmental policies. I considered the special influence that they may have, given their governmental roles, and found that it would be improper for parliamentary secretaries, as for ministers, to seek to influence an administrative tribunal, meant to operate at arm's length from the government, with respect to its decision-making.

I considered section 64 of the Act, which states that nothing in the Act prohibits Members of the House of Commons who are public office holders from engaging in those activities that they would normally carry out as Members, and determined that it does not supersede all other provisions of the Act. Section 64 cannot be understood to permit ministers and parliamentary secretaries to provide support to constituents in any and all circumstances or to engage in activities that would place them in contravention of the Act.

I concluded that while Mr. Gill acted in good faith, he contravened section 9 of the Act by sending letters of support to the CRTC on behalf of two constituents when he was a

parliamentary secretary. Parliamentary secretaries, like ministers, are prohibited from sending letters of support to administrative tribunals in relation to their decision-making whether or not they explicitly identify themselves as parliamentary secretaries.

Discontinued Examinations

I undertook two self-initiated examinations that were subsequently discontinued and no reports were made public. When I decide to discontinue a self-initiated examination under the Act, I do not normally release a report.

First Discontinued Examination

During the examination that led to *The Bonner Report* (February 26, 2015), in which I had found that Mr. Bonner had accepted three gifts (invitations) in contravention of section 11 of the Act, I became aware of another individual who had received an invitation to attend one of the events covered in that report. I initiated an examination in relation to the second individual and after giving him an opportunity to make representations, I determined that the facts of the case and the considerations that were relevant were essentially the same as those in relation to one of the invitations Mr. Bonner had accepted.

Instead of issuing a report in relation to the second individual, I discontinued the examination and issued a compliance order under section 30 of the Act. The compliance order was made public in the public registry on the Office website.

Second Discontinued Examination

The matters considered in the second discontinued examination came to my attention through media reports. When I launched the examination, I had reason to believe that a former reporting public office holder might have contravened subsection 35(2) of the Act by making representations during his one-year cooling-off period to a department with which he may have had direct and significant official dealings during the year immediately before his last day in office.

The former reporting public office holder submitted that for the purposes of subsection 35(2) of the Act, a minister's office is not part of a department. After reviewing his submission and after conducting further research, I concluded, taking into account a Supreme Court of Canada decision, that a distinction between a minister's office and a department should be drawn in applying the Act.

I was satisfied on the basis of the evidence gathered during the examination that, during the year immediately before his last day in office, he had direct and official dealings with the Office of the minister responsible for the department to which he had made his representations, but not



with the department itself, and that his representations during his post-employment were to the department alone.

Because the former reporting public office holder had interacted with the minister's Office but not the department during his last year in office and because his representations during the post-employment period were to the department alone, there were no grounds on which to find a contravention of subsection 35(2) of the Act. I therefore discontinued the examination without publishing a report.

Overview of Case Files Closed Without Proceeding to an Examination

Case Files Related to Ministers or Parliamentary Secretaries

In 2015-2016, my Office closed 12 case files under the Act involving current and former ministers or parliamentary secretaries without proceeding to an examination, the majority of which dealt with private interests.

Eight of these case files were opened as a result of information I had received from members of the general public, three were opened as a result of concerns raised from within my own Office and only one was raised by a Member.

1 Information from members of the general public

1.1 Furthering private interests

Concerns were raised in seven of the 12 cases about decisions that may have been taken that would improperly further private interests. In one of the seven cases, a media report was relied upon to speculate that a minister had funded a project in which an individual had an interest. In another, it was speculated, based on a media report, that a minister would likely intend in the future to improperly further an individual's private interest.

In three cases, it was suggested, on the basis of pictures and media reports, that three ministers may have each improperly furthered the private interests of a private corporation by meeting with officials from the corporation and by attending public events sponsored by the corporation while the corporation was involved in litigation with the federal government.

In the other two cases, a member of the public alleged that a member of an administrative tribunal was deliberately targeting him. The member of the public went on to claim that two ministers and their ministerial staff were improperly furthering the private interests of the member of the tribunal by allegedly refusing to investigate the behavior of the tribunal member.

In all of the seven cases, after considering the information submitted in support of the allegations along with additional information my Office gathered from publicly available sources, I concluded that the information on which the allegations were based was too remote and speculative to give me reason to believe that there had been a contravention of the Act.

1.2 Preferential treatment

In one case, a member of the public alleged that a minister had provided preferential treatment to a group representing stakeholders of the minister's department. In support of the allegation, the member of the public provided my Office with documentation, which included news releases and excerpts of media articles. After examining the documentation provided and looking further into the matter, I found that the minister had consulted with a variety of different groups representing many different stakeholders. There was no information suggesting that the group in question had received preferential treatment from the minister.

2 Information from Members of the House of Commons

2.1 Furthering private interests

One case was raised by a Member of the House of Commons in which the Member referred me to a news report that raised concerns about a minister using partisan symbols during a government announcement and alleged that the minister was advancing a private interest in contravention of sections 4 and 6 of the Act. Because it was a political interest that was involved and not a private interest, I determined that this situation was not covered by the Act.

3 Concerns raised within my Office

3.1 Fundraising

Three case files involving ministers were opened as a result of media reports suggesting that each of the ministers may have individually solicited funds in a manner that could place them in a conflict of interest under the Act. I looked into all three situations and determined that, in each case, the prohibition against fundraising in section 16 of the Act was not engaged because there was no evidence that the ministers had personally solicited funds from a person or organization. In one case, however, I offered broad advice to the minister in relation to fundraising generally.

In a fourth case relating to fundraising, no file was opened because the minister involved cancelled the fundraising event after it received media attention.

Case Files Involving Public Office Holders other than Ministers or Parliamentary Secretaries

My Office closed nine case files under the Act involving public office holders other than ministers or parliamentary secretaries without proceeding to an examination.



Seven of these case files related to information I had received from members of the general public. The other two related to concerns raised within my Office. There were no requests from Members.

4 Information from members of the general public

Five of the seven cases dealt with concerns about decisions that may have been taken by public office holders that would further or improperly further private interests. The other two cases related either to outside activities or to post-employment.

4.1 Furthering private interests

In one case, it was alleged that a public office holder was in a conflict of interest because he held an interest in two companies that had dealings with the Crown Corporation to which he had been appointed. My Office confirmed that the public office holder had previously disclosed his interest in the companies and had recused himself from all discussions and decisions relating to the companies.

In another it was alleged that a reporting public office holder participated in a decision that furthered his own private interests. The information provided in support of the allegation, however, related to concerns of an appearance of bias by the decision makers but there were no private interests, within the meaning of the Act, at stake in the matter that was under consideration.

The concern raised in a third case was that a reporting public office holder was furthering the private interests of a spouse by allowing the spouse to participate in confidential meetings with government stakeholders. The allegation was based on the premise that the spouse was a lobbyist. However, my Office looked into the matter and found that the spouse was not employed as a lobbyist at the time of the meetings. There was also no evidence to suggest that the reporting public office holder had an opportunity to further the private interests of the spouse.

Another case dealt with a concern that a reporting public office holder had improperly furthered the private interests of a company by allowing the company to participate in public hearings. A review of the rules of the tribunal in question revealed that companies, such as the one named in the allegation, were entitled to participate in tribunal hearings.

Finally, in a fifth case, an allegation was raised on the basis of a media report alleging that a reporting public office holder had used insider information to further their private interests. I determined that it was a political interest rather than a private interest that was furthered and that it was therefore not covered by the Act.

4.2 Outside activities

There was one case relating to outside activities. A concern was raised that a reporting public office holder may have contravened the Act because of his activities. However, the information provided did not identify activities that were prohibited by the Act.

4.3 Post-employment

One case dealt with a concern that a former reporting public office holder, who used to be a member of an administrative tribunal, was representing clients before that tribunal. Subsection 35(2) of the Act prohibits former reporting public office holders from making representations for one year to any department, organization, board, commission or tribunal with which they had direct and significant official dealings during the period of one year prior to their last day in office. The former reporting public office holder was long past that one-year prohibition period.

5 Concerns raised within my Office

Two case files were opened as a result of concerns raised within my Office: one relating to a gift and the other to post-employment obligations.

5.1 Gifts

In the first case, the concern was that a reporting public office holder might have contravened the gift rules by accepting an invitation to attend a social event as a guest of an organization that was a stakeholder of her department. I found, after looking into this concern, that because the event was duty-related, the invitation fell within an exception to the prohibition on gifts set out in section 11 of the Act.

5.2 Post-employment

The second case raised a concern that a former reporting public office holder had accepted employment with an entity with which he may have had direct and significant official dealings during his last year in office. After my Office made some inquiries, I was satisfied that the dealings were not significant in light of his limited role and involvement in the substance of the matters concerned.

Case Files under the Members' Code

In 2015-2016, my Office closed three case files under the Members' Code involving Members of the House of Commons. My 2015-2016 annual report under the Members' Code provides a brief description of those files.





VI. OUTREACH AND COMMUNICATIONS

My Office continues its efforts to strengthen awareness of Canada's federal conflict of interest regimes, and my role and mandate in applying them.

Reaching Out to Public Office Holders and Members

As in previous years, my Office undertook a variety of outreach and communications initiatives in 2015-2016 aimed at helping public office holders and Members understand their obligations under the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Members' Code), educating and informing other stakeholders and the Canadian public and exchanging information with other jurisdictions. The number of communications between my Office and public office holders and Members has increased in 2015-2016, and I attribute this increase in part to our outreach activities, some of which are described below.

Public Office Holders

In the past fiscal year, my staff and I have given 26 presentations to organizations and offices whose members are subject to the Act or the Members' Code. These included ministerial staff, citizenship judges, honorary consuls and members of boards and tribunals.

In July 2015, I issued a backgrounder entitled *Measures Relating to Confidential Report and Divestment of Controlled Assets* intended as a quick reference for reporting public office holders. At the same time, I revised the existing backgrounder entitled *Blind Trusts*. I also updated a guideline and renamed it *Reimbursement of Costs Associated with Divestment of Assets and Withdrawal from Activities* in April 2015. That guideline sets out the process that public office holders must follow to request reimbursement.

I continued my practice of sending an annual letter to public office holders who are not reporting public office holders, accompanied by a summary of the Act's rules for public office holders. This year, I highlighted the rules relating to gifts and to recusals.

Members of the House of Commons

My Office updated a number of information products on our website to reflect the amendments to the Members' Code that were adopted by the House of Commons in June 2015 and came into force in October 2015, including the *Overview of the Conflict of Interest Code for Members of the House of Commons* and a number advisory opinions that I had issued on the Members' Code (*Acceptability of Gifts Offered in Conjunction with Lobby Days, Publicly Disclosing Gifts Received in Connection with Travel, Acceptability of Event Invitations and Tickets, and Acceptability of Gifts Offered at Events*). In meeting with Members in various fora,



I found that many questions continue to be raised about gifts, particularly with respect to invitations and receptions. Accordingly, I issued a new advisory opinion on March 7, 2016 entitled *Invitations and Receptions*.

I was invited for the first time to participate in the Members' Orientation Program for new Members of the House of Commons following the general election. Information on Members' obligations under the Members' Code was included in Source, the House of Commons' mobile-enabled portal accessible on the iPads that were provided to Members, along with a welcoming note from me explaining my role. I was pleased to meet with Members early in their mandate at the Administrative Orientation Session on November 5, 2015 and to provide them with a pamphlet summarizing the main elements of the Members' Code. As a result of the June 2015 amendments to the Members' Code, my focus was not only on ensuring that new Members were aware of their obligations, but also on ensuring that returning Members were aware of the changes.

For the first time, representatives of my Office were present at the Service Fair in January 2016. They staffed an information kiosk and met with a large number of Members and their staff. Although Members' staff are not subject to the Members' Code, it is important that they understand their Members' obligations in order to assist them in complying with the Members' Code. There were many questions about gifts, including event invitations, as Members' staff frequently deal with these matters.

I have continued my practice of offering presentations to the caucuses of all recognized parties in the House of Commons, as well as individual meetings to the other party caucuses and to independent Members. In January 2016, I made presentations to both the Liberal and Conservative caucuses.

In February 2016, I participated in an information seminar organized by the Library of Parliament for Members of Parliament, their staff, and administrative staff of the Senate and the House of Commons, as part of a panel of officers of Parliament.

Parliamentary Activities

As an independent Officer of Parliament, I report directly to Parliament through the Speaker of the House of Commons. In support of this reporting relationship, my Office conducts a variety of parliamentary activities, which are described below.

Reports to Parliament

In 2015-2016, I issued five reports. Among them were my 2014-2015 annual reports under the Act and under the Members' Code, both of which I released on June 9, 2015, and the *List of*

Sponsored Travel 2015, which I submitted to the Speaker of the House of Commons for tabling on March 24, 2016.

Two examination reports under the Act were made public: *The Kosick Report*, which I released on September 15, 2015, in relation to post-employment activities, and *The Gill Report*, which I released on February 24, 2016, relating to the question of letters of support sent to administrative tribunals. These reports are discussed in further detail on pages 25 and 26 of this report.

There were no inquiries reported under the Members' Code.

Committee Appearances

I am occasionally invited to appear before parliamentary committees to testify about matters related to my Office and its work.

My Office operates under the general direction of the House of Commons Standing Committee on Access to Information, Privacy and Ethics, which reviews our annual spending estimates and may review any matter related to the Act. The House of Commons Standing Committee on Procedure and House Affairs has responsibility for the Members' Code.

In May 2015, I appeared before the Standing Committee on Access to Information, Privacy and Ethics to discuss my budgetary estimates for 2015-2016.

In February 2016, after the election of the new government, I appeared before the new Standing Committee on Access to Information, Privacy and Ethics as it considered its future business. The Committee had invited the four commissioners within its mandate to share with it recommendations for the Committee to consider for its work plan. I suggested that the Committee might wish to revisit the five-year review of the Act, which was concluded in February 2014, or undertake a new review. No amendments to the Act have resulted from the five-year review; I note that no further reviews are required under the Act.

In June 2015, the House of Commons concurred in the *Thirty-Ninth Report* of the Standing Committee on Procedure and House Affairs, agreeing to the Committee's recommended changes to the Members' Code. I was pleased to note that 10 of the recommendations that I made in my submission to the Committee in February 2015 were included in the report and were agreed to by the House. The resulting amendments came into effect on October 20, 2015, the day after the general election. I note that, in its report, the Committee acknowledged that it did not have sufficient time to conduct a comprehensive review of the Members' Code and recommended that such a review be undertaken in the 42nd Parliament.



I was invited to appear before the Standing Committee on Procedure and House Affairs in February 2016. The Committee was considering whether it wished to recommence the review of the Members' Code and I had the opportunity to provide explanations of the other recommendations that I had made in the previous Parliament and to answer the Committee's questions.

During my appearance I stated that, in the past, I had had difficulty obtaining the Committee's approval for forms and guidelines, as required by section 30 of the Members' Code and had recommended that this provision be removed from the Members' Code.

In fact, this obligation proved to be problematic when amendments were made to the Members' Code in June 2015. The House adjourned for the summer on June 19, the day after the Committee's *Thirty-Ninth Report* containing amendments to the Members' Code was concurred in and before I was able to obtain the required approval of the House to make the necessary editorial and consequential alterations to the forms. On August 2, the Governor General dissolved Parliament and issued the writs for the general election. It was therefore impossible for me to obtain the House's approval for the amended forms.

I was left with little choice but to proceed with the consequential amendments so that the forms would reflect the amended provisions of the Members' Code and could be used by new and returning Members in fulfilment of their obligations. I explained these circumstances and my actions in a letter to the newly elected Chair of the Committee in the 42nd Parliament. The Committee met to retroactively approve the changes on February 23, 2016. In its *Fourth Report*, the Committee recommended that the House adopt the revised forms, which it did by concurring in the Committee's report on March 7, 2016.

I have noted that it is unusual for a Commissioner to have to submit guidelines and forms for approval since these are based on existing rules. During my appearance, however, I was heartened by the Chair's assurance of the Committee's goodwill and commitment to deal fairly quickly with guidelines submitted to it. As a result, I finalized a *Guideline on Gifts and other Benefits* and submitted it to the Committee early in April 2016 for its consideration.

I am encouraged by the fact that the House of Commons Standing Committee on Access to Information, Privacy and Ethics and the House of Commons Standing Committee on Procedure and House Affairs wished to meet with me so early in the new Parliament, and I look forward to a productive working relationship with them. Although I have not been invited to appear before either committee to discuss my annual reports since 2010, I would welcome such an opportunity.

Other Parliamentary Activities

My Office participated in the Parliamentary Officers' Study Program again in 2015-2016. The program involves three partners of the Parliament of Canada: the Senate, the House of Commons and the Library of Parliament. It is designed as an opportunity for senior parliamentary staff from foreign legislatures and other Canadian jurisdictions to learn about the functioning of the Parliament of Canada and, in turn, to reflect on their own practices. My Office made presentations to the Parliamentary Officers' Study Program in April 2015 and in February 2016.

Conflict of interest codes and ethics regimes are of continuing interest to visiting officers and, as the Canadian system is fairly mature, it is a pleasure to share our experience with those who are considering implementing or improving such a regime. We also enjoy the opportunity to share experiences with those whose parliaments do have conflict of interest and ethics regimes in place.

Working with Others

My staff and I continue to work with my counterparts and other individuals in Canada and from around the world, exchanging information and discussing issues in the conflict of interest and ethics field.

I continue to take an active part in the Canadian Conflict of Interest Network (CCOIN), whose members are federal, provincial and territorial conflict of interest and ethics commissioners. My Office carries out a coordinating role for the network by gathering and disseminating within it information and materials from various Canadian jurisdictions. Last September, I participated in CCOIN's annual general meeting, which was held in the city of Québec.

While in the city of Québec, I had the pleasure of taking part in a separate meeting with the *Déontologue* (Compliance Officer) of the French National Assembly and his staff and representatives of France's *Haute Autorité pour la transparence dans la vie publique* to learn about recent developments in conflict of interest and ethics regimes in France and to share best practices between Canada and France.

My Office is a member of the Council on Governmental Ethics Laws (COGEL). I attended its annual conference in Boston, Massachusetts, in December 2015. These conferences provide an opportunity to learn about international developments in the ethics field.



My Office also responded to information requests from international organizations. We revised Canada's *Asset Disclosure Country Profile* for the G-20 Anti-Corruption Working Group at the request of the Treasury Board Secretariat, responded to a request from a researcher in Israel for information about the treatment of political interests in Canada's federal conflict of interest regimes, and responded to a request for information from the Gauteng Provincial Legislature in South Africa about the use of blind trust agreements.

Finally, universities continue to be interested in the work of my Office. In June 2015, I participated in a panel discussion entitled Ethics in Government at the University of Ottawa, which was organized as part of the Canadian Political Science Association's annual conference. In May 2015 and February 2016, I led day-long workshops at Concordia University in Montréal as part of the Workshops on Social Science Research series. I also participated, at the end of the day, in a panel discussion with the Auditor General entitled Ethics, Integrity and Democratic Reform.

Inquiries from Media and Members of the Public

My Office continues to receive and respond to requests for information from journalists and members of the public. I believe that the actions taken by my Office have contributed to a growing level of public awareness over the years about the Act and the Members' Code and the role of my Office in applying them.

Table 6-1 tracks the number of general inquiries received by my Office over the past five fiscal years.

Table 6-1: Inquiries from the Media and Members of the Public

	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016
Media	102	185	213	140	143
Public	293	839	1097	597	1373

My Office strives to respond in a timely way to requests from the public and the media. In 2015-2016, my Office received and responded to 143 media inquiries, I participated in three media interviews, and there were 207 media mentions of the Office.

We received 1373 inquiries from members of the public by email, telephone, fax and letter mail. They included inquiries related to my mandate, such as requests for information about the scope of the application of the Act and the Members' Code and requests for documents issued by my Office. When appropriate, I direct those requesting information to the Office website for additional information about the Act or the Members' Code.

Many of the public and media inquiries relate to complaints that I have received, allegations raised in the House of Commons, or media reports alleging conflicts of interest. In such cases, my Office explains that advice given to individual public office holders or Members is confidential. We can only confirm, when asked, whether or not a specific complaint has been received, and whether an examination or inquiry has been commenced or completed. We can, however, describe the reasons for not proceeding with an inquiry where the matter to which the inquiry relates has already been made public.

In 2015-2016, we received a significant number of requests from lobbyists and other stakeholders who wished to offer event invitations and other gifts to Members and public office holders and were seeking information about whether public office holders and Members could accept them under the Act and the Members' Code. In each instance, I explained that I could not provide blanket approval for gifts offered by lobbyists, as each case had to be considered in light of the circumstances of each individual public office holder or Member. I also encouraged lobbyists to consult the Office of the Lobbying Commissioner for advice on how to comply with their obligations under the *Lobbyists' Code of Conduct*.

As in past years, many of the inquiries from members of the public were related to matters that are beyond my mandate. More than half of the inquiries were from individuals who had a complaint or concern but did not know which office to turn to. In these situations, after explaining my role, my Office tries to direct the member of the public to the person or organization that is best placed to assist them.

My Office is always as forthcoming with information as we are permitted to be under the two regimes. We regularly issue news releases, media statements and backgrounders, and respond to queries from journalists on a range of matters. We also continue to tweet regularly about various aspects of my mandate, with links to information on the Office website, and our activities. In 2015-2016, we made 68 tweets in both official languages.

Framework for Future Action

I continue to explore various ways to reach out to Members of the House of Commons, public office holders and the Canadian public to increase awareness of the Office and the conflict of interest regimes that I administer.

My Office has developed service standards for communications and outreach. In 2016-2017, we will measure and report on our success in meeting them.



Over the years, I have placed a large amount of information on the Office website to help public office holders and Members to understand their obligations under the Act and the Members' Code. I continue to work on ways to improve the organization of information on our website and I look forward to reporting on the progress of my efforts to make this information more accessible.



VII. ADMINISTRATION

Accountability

As an entity of Parliament, my Office operates under the *Parliament of Canada Act*. Legislation governing the administration of the public service does not usually apply to my Office. Nor do Treasury Board policies and guidelines.

My Office continues to add to its internal management framework to ensure sound resource management. Recently, a *Policy on Internal Control*, along with a *Directive on Account Verification*, was implemented to ensure the prudent stewardship of public funds, the safeguarding of public assets and the effective, efficient and economical use of public resources.

I also make sure that our resource management practices are consistent with those found in the public service and in Parliament. To this end, employees of the Office have joined networks and working groups that focus on the management of resources both in the public sector and in Parliament.

Transparency continues to be a guiding principle for the work of my Office. Annual financial statements, quarterly financial reports and status reports on travel, as well as conference and hospitality expenses, are publicly disclosed and easily accessible through the Office website.

Since 2010-2011, the annual financial statements for my Office have been audited by an independent auditor. No concerns have been raised and the financial statements have always been positively received by the auditing firms.

In addition, an annual assessment of the Office's internal control system is conducted in partnership with the Library of Parliament. No material deficiencies have been noted; however, opportunities to further strengthen internal controls have been identified, such as the need for additional policies and adjustments to internal practices.

External partners provide expertise in the area of information technology and security (House of Commons), accounts payable and external reporting (Library of Parliament) and compensation (Public Works and Government Services Canada). This results in greater efficiency and an additional level of scrutiny in the management of resources.

Human Resources Management

As expected, the Office saw more employee turnover than usual in 2015-2016: two employees retired, three employees accepted indeterminate employment in the federal public service, another employee accepted a term position elsewhere in Parliament, and two employees



took a one-year leave without pay to pursue other employment opportunities. Furthermore, three term assignments within the Office ended as planned. Appointment processes were conducted to fill vacancies. As of March 31, 2016, there were three vacant positions. One was filled in April 2016.

In February 2016, my Office launched a staffing process to replenish its pool of qualified candidates for the generic position of Compliance Advisor. This pool has proven to be quite effective in responding quickly to staff turnover in this particular group and is part of the succession planning strategy of the Office.

Financial Management

An operating budget of \$6.952 million was allocated to my Office for 2015-2016. Given the nature of my mandate, salaries represent by far the largest expenditure. Non-salary expenditures are mostly related to the cost of shared services agreements and the standard costs of running an office.

A table broadly outlining the financial information for the Office for the 2015-2016 fiscal year is provided in the Appendix under the heading Financial Resources Summary. Detailed financial information can be found on our website.

My Office continues to spend less than its allocated budget, especially its non-salary budget. I maintain a reserve within the Office to cover unexpected operational pressures, such as an increase in investigation activities. I also use this reserve to internally fund projects and initiatives that lead to greater efficiency within the Office, such as the new online portal for public disclosures and video-conference equipment for investigations.

Information Management and Information Technology

My Office implemented an internal *Policy on Information Management* in 2015-2016. It also released a *Guide on Managing Information* to support the implementation of the policy, to help employees gain a better understanding of their responsibilities for managing information and to establish common practices for the creation, naming, filing, storage and disposition of records in all formats. Shortly after the release of the policy, an introductory session on information management was given to all employees. A *Guide on E-mail Management* was also developed for employees. Naming conventions for electronic records are being implemented in each division and the shared network drive has been restructured to mirror the records classification structure used for paper documents.

The ongoing partnership with the House of Commons for information technology services continues to produce positive results for my Office. We have access to a reliable and secure

network infrastructure. Solid measures have been put in place to segregate the information of the Office from that of the House, and vice versa.

As mentioned earlier in this report, in October 2015 my Office launched an online portal for the submission of public declarations by reporting public office holders and Members of the House of Commons. This project involved close collaboration with the information technology team of the House of Commons.

My Office also worked with the information technology services of the House of Commons to implement a new content management tool for the Office's intranet.

After investing considerable resources over the last few years in the development of new mission-critical systems, my Office is not planning any major new projects in the near future. Instead, resources will be spent, as necessary, on migrating current systems to newer versions of the software supporting these systems.

Security

My Office relies on a number of partners to ensure the security and safety of its employees and other assets. A security plan was developed in the summer of 2014 that included the identification and assessment of risks faced by the Office, and the establishment of priorities to address some of these risks.

My Office is in the process of implementing a more comprehensive security program, including a *Policy on Security Management*, standards on security screening and on information technology security, a business resumption plan and a number of supporting procedures.





VIII. LOOKING AHEAD

My Office will continue to be active on a number of fronts in 2016-2017 as it helps public office holders and Members of the House of Commons comply with the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Members' Code), conducts examinations and inquiries as appropriate, works with Parliament, further strengthens its internal management and seeks greater efficiencies in its operations.

The advice and guidance my Office provides to individual public office holders and Members will be complemented by broader outreach and communications initiatives to ensure that they are aware of their obligations and to contribute to Canadians' understanding of the two regimes. My Office will continue to produce information products to help public office holders and Members understand various provisions of the Act and the Members' Code and how they can comply with them.

My Office looks forward to working with the House of Commons Standing Committee on Access to Information, Privacy and Ethics on matters related to the Act and with the House of Commons Standing Committee on Procedure and House Affairs on matters related to the Members' Code.

I would be pleased to contribute to a potential review of the Act or the Members' Code should either committee decide to undertake one. No amendments resulted from the five-year review of the Act that was completed in 2014. Although some amendments were made to the Members' Code in 2015, the Committee on Procedure and House Affairs noted that it did not have sufficient time to conduct a comprehensive review and recommended that such a review be undertaken in the new Parliament. I am also hopeful that the Committee will approve the *Guideline on Gifts and other Benefits* under the Members' Code that I submitted to it in April 2016.

The activities of my Office will continue to be supported by a solid internal management framework that will be enhanced and refined as appropriate. As always, my Office will manage resources prudently. Initiatives in this area will include implementing videoconferencing technology as an efficient and cost-effective tool.

My Office will also progress to the next step in its performance measurement plan. While my 2015-2016 annual report discusses output, my next annual report will include information on my Office's service standards.

I look forward to receiving the results of the Office's second employee satisfaction survey, which will be used to ensure that the Office continues to be able to attract and retain qualified, motivated staff.



Achieving these and other priorities in 2016-2017 will enable my Office to continue to administer the Act and the Members' Code effectively, helping to prevent conflicts between the public duties of public office holders and Members and private interests, and contributing to Canadians' trust and confidence in the conduct of appointed and elected officials.



IX. APPENDIX – FINANCIAL RESOURCES SUMMARY (from page 42)

	(thousands of dollars)				
Program Activity	2014-15 Actual Spending	2015-16			Alignment to Government of Canada Outcomes
		Main Estimates	Total Authorities	Actual Spending	
Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i>	5,608	6,178	6,178	5,157	Government Affairs
Contributions to Employee Benefit Plans	669	774	774	600	
Total Spending	6,277	6,952	6,952	5,757	
Plus: Cost of services received without charge	1,044	n/a	n/a	1,084	
Net Cost of Department	7,321	6,952	6,952	6,841	

The budget process for the Office of the Conflict of Interest and Ethics Commissioner is established in the *Parliament of Canada Act*. The Speaker of the House considers the estimates for the Office and transmits them to the President of the Treasury Board for inclusion in the estimates of the Government of Canada. The Standing Committee on Access to Information, Privacy and Ethics has within its mandate the role to review and report on the effectiveness, management and operations together with the operational and expenditure plans relating to the Office.

Complete financial statements can be found on our website at <http://ciec-ccie.parl.gc.ca>.

