

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

### **Annual Report**

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

2017 2018

#### **Mario Dion**

Conflict of Interest and Ethics Commissioner

**Conflict of Interest and Ethics Commissioner – Annual Report 2017-2018**, made under the CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS

For additional copies of this document, please contact:

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

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

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Office of the Conflict of Interest and Ethics Commissioner

Commissariat aux conflits d'intérêts et à l'éthique

June 11, 2018

The Honourable Geoff Regan, P.C., M.P. Speaker of the House of Commons Centre Block, Room 228-N 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 Code for Members of the House of Commons* for the fiscal year ending March 31, 2018, to be tabled in the House of Commons on June 12, 2018.

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

Sincerely,

Mario Dion Conflict of Interest and Ethics Commissioner

PARLIAMENT OF CANADA

66 Slater Street, 22<sup>nd</sup> floor Ottawa, Ontario K1A 0A6 PARLEMENT DU CANADA

66, rue Slater, 22<sup>e</sup> étage Ottawa (Ontario) K1A 0A6 ciec-ccie.parl.gc.ca
@CIEC\_CCIE | @CCIE\_CIEC
TEL/TÉL 613.995.0721

613.995.7308

FAX/TÉLÉC

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## COMMISSIONER'S MESSAGE



Mario Dion Conflict of Interest and Ethics Commissioner

I believe ethical behaviour starts at the top, with our elected and appointed officials setting the tone and example that we expect others to follow. I have been working diligently to honour the confidence and trust that the House of Commons placed in me when it confirmed my appointment as Commissioner, last January, with a mandate to administer the *Conflict of Interest Code for Members of the House of Commons* and the *Conflict of Interest Act*.

Conflict of interest regimes are important elements of the Canadian ethical framework, the rules governing the conduct of Members of Parliament and public office holders. I believe ethical behaviour starts at the top, with our elected and appointed officials setting the tone and example that we expect others to follow. They must therefore be held to high standards of conduct. I am very honoured to have the opportunity, as Conflict of Interest and Ethics Commissioner, to contribute to ethics in Canada.

Before I came to the Office, I expected to find it well-organized, and indeed I did. It had sound infrastructure and competent, hardworking staff. I was pleased to discover a situation where I could only hope to improve on what had already been built, in support of my goals of rigour, transparency and predictability. It was, and remains, my intention to maintain those aspects that are already working well and to only make changes where I believe we can do better. Under my leadership, our Office will continue to administer the Code and the Act efficiently and effectively, while taking a new approach to some aspects of our work.

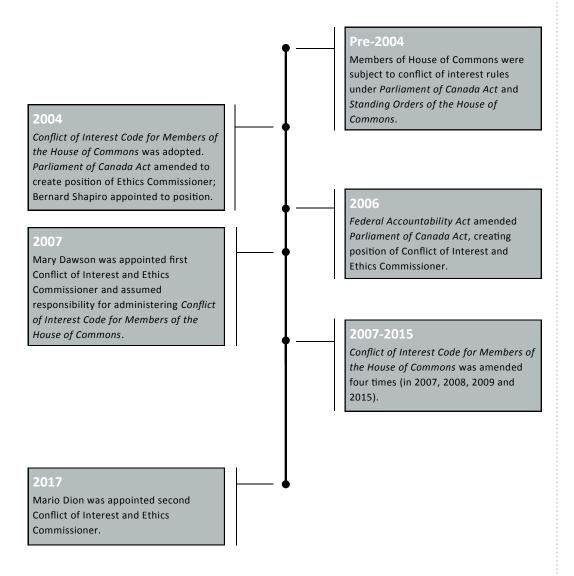
My staff and I will do everything we can to be as transparent as possible, while respecting confidentiality requirements. This is reflected in a renewed focus on education and outreach in our communications with Members of the House of Commons, public office holders, the media, other stakeholders and Canadians.

In seeking to ensure predictability, I recognize that Members and public office holders need to understand their obligations under both regimes. They need to be able to rely on consistent advice from our Office. They also need to know I will strictly enforce the Code and the Act.

While acknowledging that much of what is reported here reflects the accomplishments of my predecessor, I am proud of all the achievements of our Office in 2017-2018. I look forward to reporting on its work in the years ahead as I continue to fulfill my mandate, drawing on the skills and experience I have gained in over 35 years of public service.

## **OUR HISTORY**

The Office of the Conflict of Interest and Ethics Commissioner was created in July 2007 when the *Conflict of Interest Act*, passed in 2006 as part of the *Federal Accountability Act*, came into effect. At that time, responsibility for administering the *Conflict of Interest Code for Members of the House of Commons* was transferred to the Conflict of Interest and Ethics Commissioner. The Code is appended to the *Standing Orders of the House of Commons*, the permanent written rules under which the House regulates its proceedings.



**"Our Office provides independent, rigorous** and consistent direction and advice to **Members of Parliament** and federal public office holders, conducts investigations and, where necessary, makes use of appropriate sanctions in order to ensure full compliance with the Conflict of Interest Code for Members of the House of Commons and the Conflict of Interest Act."

## **OUR MISSION**

In February 2018, I developed a new mission statement in support of the mandate of our Office, which is to administer the *Conflict of Interest Code for Members of the House of Commons* and the *Conflict of Interest Act*. The new mission statement lays out the approach that we will be taking under my leadership.

It strives to summarize the key parts of a complex set of ideas in a few words.

Our Office is an independent institution that serves an important purpose: to enhance Canadians' trust and confidence in the Members of Parliament they elected and in the public office holders appointed by the government. It is responsible for administering two regimes that are similar but distinct and has various means of doing so, some of them preventive, others reactive. Each word of the statement is carefully chosen to refer to a specific aspect of the Code or the Act or, more broadly, an intent common to both regimes. The three pillars of our approach are information, advice and sanctions.

We inform Members and public office holders of their obligations under the Code and the Act, through enhanced education and outreach initiatives. We also keep Parliament apprised of our activities, through our reports and through my appearances before parliamentary committees.

When Members and public office holders seek advice from our Office, we provide them with clear, consistent direction. We advise them on how to comply not only with the rules themselves, but with the spirit in which they were written.

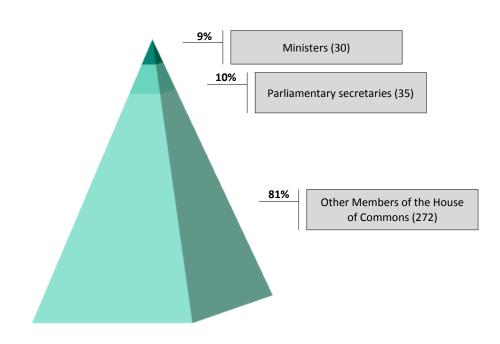
I will enforce the Code and the Act, and by doing so, investigate possible contraventions of both regimes and make use of appropriate sanctions when contraventions are found. The three pillars of our approach are information, advice and sanctions.

## **OUR STAKEHOLDERS**

The Conflict of Interest Code for Members of the House of Commons applies to conflicts of interest of all Members of the House of Commons when carrying out the duties and functions of their office as Members of the House, including Members who are ministers of the Crown or parliamentary secretaries.

It sets out a number of obligations aimed at preventing conflicts between private and public interests and prohibits various actions that could give rise to such conflicts. Members who are ministers and parliamentary secretaries are also subject to the *Conflict of Interest Act*, which imposes additional reporting obligations and compliance measures on them, as reporting public office holders.

This annual report focuses on the activities of our Office in relation to all Members of the House of Commons who were subject to the Code during 2017-2018.



**Graph 1**—Members of the House of Commons on March 31, 2018

*Note:* One seat was vacant on March 31, 2018

## **OUR ACHIEVEMENTS**

Administering the Conflict of Interest *Code for Members of the House of Commons* involves a range of activities. They include informing Members about their obligations under the Code upon confirmation of their election, providing them with confidential advice, receiving and reviewing their confidential disclosure statements, preparing summaries for public disclosure, maintaining a public registry of declarable information, investigating possible contraventions of the Code and reporting to Parliament. These and other activities are supported by our Office infrastructure.

Our Office works with Members from the time they are elected to help them achieve compliance with the Code's initial reporting requirements and maintain compliance with the Code throughout their terms of office.

The first step for Members to achieve compliance is to prepare a confidential disclosure statement of detailed information on assets, liabilities, outside activities and other interests for themselves and immediate family members. This statement must be submitted to our Office no later than 60 days after notice of the Member's election is published in the *Canada Gazette*. Our Office reviews the information in the disclosure statements and provides Members with advice on achieving and maintaining compliance with the Code. We might also request further information, such as financial statements, to clarify or confirm the information provided, and may also recommend specific compliance measures to prevent conflicts of interest.

Once all of the required information has been obtained, we prepare a disclosure summary. Members have 60 days to review and sign their disclosure summaries, which are then placed in the public registry maintained by our Office.

Our Office maintains a *Members' Compliance Status Report* that identifies where each Member is in the initial compliance process on a specific day. This report is available on our website and is updated regularly after general elections.

Members also face a number of ongoing reporting requirements throughout their term in office. They must review their compliance arrangements with advisors from our Office every year and update information previously disclosed to our Office. In addition to this annual review process, they must inform us of any

### **34** initial compliance processes completed

222 annual reviews

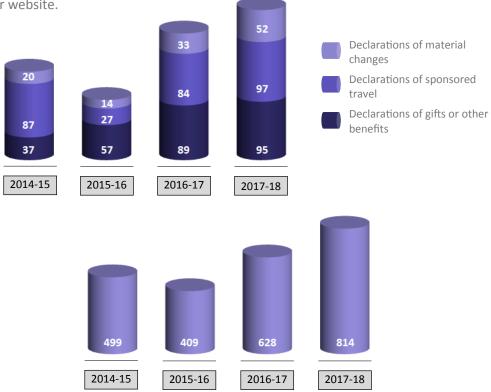
material change to the information contained in their disclosure statement within 60 days of the change. Members must also publicly declare any acceptable gifts related to their position that have a value of \$200 or more, within 60 days after acceptance.

The Code allows Members to accept sponsored travel that arises from or relates to their position. In cases where the costs covered by the sponsor exceed \$200, Members must disclose the sponsored travel within 60 days after the end of the trip. Public declarations of sponsored travel by Members are posted in our Office's public registry. By March 31 of each year, our Office must also produce a list of sponsored travel for the previous calendar year. The *List of Sponsored Travel 2017* is available on our website.

# ADVICE AND EDUCATION

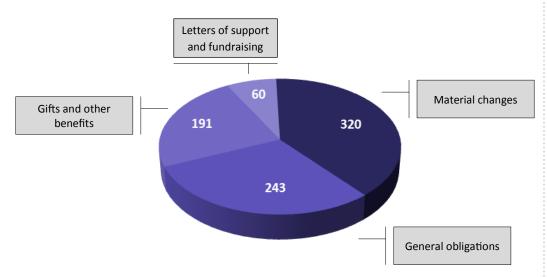
Members of the House of Commons frequently seek advice from our Office.

In addition to providing Members with specific direction on how to deal with various situations, we issue, update and disseminate a variety of informational materials about the requirements of the Code, including backgrounders and advisory opinions about Members' obligations, which are posted on our website. We also offer presentations to party caucuses every year in order to remind Members about their obligations under the Code.



**Graph 2**—Public declarations made by Members of the House of Commons

**Graph 3**—Instances in which Members of the House of Commons sought direction and advice





#### A GREATER FOCUS ON EDUCATION

Upon taking office, I signalled that education and outreach would be a key focus of my approach in order to help Members understand and meet their obligations under the *Conflict of Interest Code for Members of the House of Commons*.

We will leverage modern technology to implement education and outreach initiatives. With a greater presence on Twitter, we have already begun making more use of the possibilities this information-sharing platform has to offer. We will make available new options such as webinars and online videos for the information sessions offered to Members of Parliament at the start of their terms and during their time in office. By offering methods that accommodate their busy schedules, I am confident that we will be able to reach Members more efficiently.

Our Office undertakes a range of initiatives aimed at educating and informing other stakeholders and the Canadian public about the conflict of interest regimes and the role of our Office in administering them. It also facilitates my reporting to Parliament and exchanges information with other jurisdictions.

We received 3,073 communications from the public and the media in 2017-2018. This represents a 29% increase in volume compared to the previous year. In the interests of transparency, and while guaranteeing that confidentiality requirements will be strictly met, I believe Canadians should receive as much information as possible about what our Office is doing. The media also play a role in promoting awareness of the mandate and activities of our Office.

#### **SERVICE STANDARDS**

Our Office recognizes the importance of responding to requests for advice or information from Members of the House of Commons, public office holders, members of the public and the media in a timely manner, and has established service standards to help us do so.

The target for achieving those service standards was set at 75%.



#### Results

All stakeholders, including Members of the House of Commons, were provided with information within 3 days of being elected or appointed 81% of cases Requests from all stakeholders, including Media requests Members of the were responded House of to within 3 hours Commons, were 87% dealt with within of cases 3 business days 93% of cases Public requests were responded to within 2 business days

**85%** of cases

Graph 5— Communications from the public

Graph 6—Requests for information and interviews from the media

#### CONTACTS WITH PARLIAMENT

There were six appearances before parliamentary committees in relation to our Office and its work in 2017-2018:

- House of Commons Standing Committee on Procedure and House Affairs, regarding:
  - Bill C-50 amending the Canada Elections Act (political financing), October 17, 2017
- House of Commons Standing Committee on Access to Information, Privacy and Ethics, regarding:
  - Main Estimates 2017-2018, May 2, 2017
  - Certificate of nomination of Mario Dion to position of Conflict of Interest and Ethics Commissioner, December 12, 2017
  - The Trudeau Report, January 10, 2018
  - Review of the *Conflict of Interest Act*, February 8, 2018
- House of Commons Standing Committee on Official Languages, regarding:
  - Air Canada's implementation of the Official Languages Act, October 17, 2017

#### **SANCTIONS**

I am not empowered to impose sanctions under the *Conflict of Interest Code for Members of the House of Commons*.

I may, however, recommend sanctions in my inquiry reports. Section 28 of the Code provides that, following an inquiry in which the Commissioner concludes, for example, that a Member has not complied with an obligation under the Code and did not take all reasonable measures to prevent the noncompliance, or where a request for an inquiry was frivolous, vexatious or was not made in good faith, the Commissioner may recommend appropriate sanctions.

Only the House of Commons has the right to discipline its own Members, and is responsible for imposing and administering sanctions, including any that may be recommended by the Commissioner.

#### INQUIRIES

I may conduct investigations, called inquiries, of possible contraventions of the *Conflict of Interest Code for Members of the House of Commons*. All inquiry reports are made public.

Any Member who has reasonable grounds to believe that another Member has contravened the Code may ask me to investigate by submitting a signed, written request that identifies the alleged non-compliance and provides reasonable grounds to believe that the Code has been contravened. When I receive a valid request for an inquiry, I must forward the request without delay to the Member named in it and give him or her 30 days to respond. After receiving the Member's response, our Office conducts a preliminary review to determine if an inquiry is warranted. Within 15 working days of receiving the Member's response, we notify the originator of the request and the Member named in it whether or not an

Case files still under consideration

Case files that warranted an

Case files closed without proceeding to an inquiry

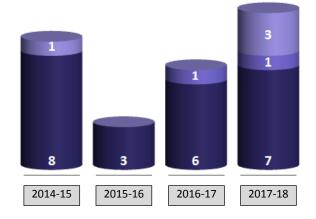
at fiscal year-end

inquiry

inquiry will be conducted. Under paragraph 27(5.1)(iii) of the Code, I may describe the reasons for not proceeding with an inquiry where the matter to which the inquiry relates has already been made public.

While this has not yet occurred in the 14 years since the Code was adopted, the House of Commons may direct me, by way of resolution, to conduct an inquiry.

I also have the discretion to conduct an inquiry on my own initiative. From time to time, our Office receives information about possible contraventions of the Code, including through media reports or complaints from members of the public. In each instance, we review the information to determine whether the concern raised falls within the mandate of our Office and whether there is reason to believe that a contravention of the Code has occurred. Some of these preliminary reviews lead to inquiries; in other cases, an inquiry is not found to be warranted and the file is closed.

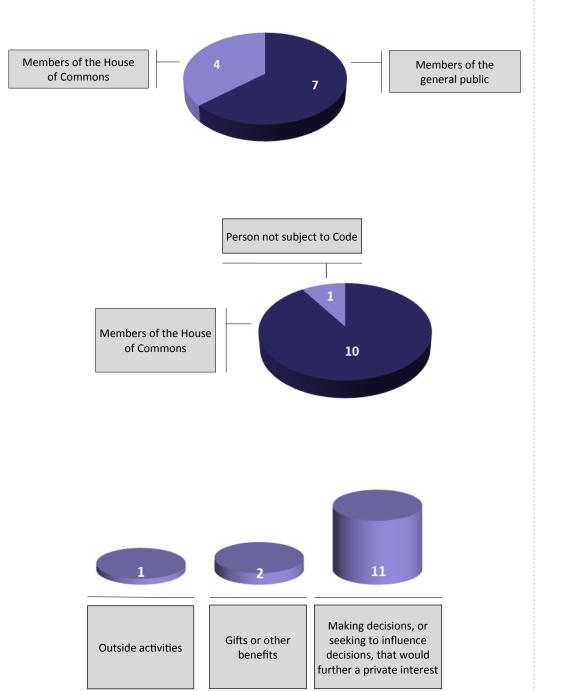


11 matters of concern reviewed

1 inquiry report published

.....

**Graph 7**—Case files reviewed by our Office



**Graph 8**—Source of concerns raised

**Graph 9**—Persons who are the subject of concerns raised

**Graph 10**—Nature of concerns raised

*Note:* Certain case files encompassed more than one concern In 2017-2018, our Office issued one investigation report under the *Conflict of Interest Code for Members of the House of Commons*:

In The Trudeau Report, issued on December 20, 2017, the Right Honourable Justin Trudeau, Prime Minister of Canada, was found not to have contravened the Code when he accepted gifts of vacations, including private travel, on behalf of himself and his family, on a private island owned by the Aga Khan, who chairs institutions that have official dealings with the Government of Canada. Mr. Trudeau, in his capacity as Member of Parliament for Papineau, did not discuss any House of Commons business with the Aga Khan or his representatives, or participate in any debate or vote in the House of Commons related to the Aga Khan or his representatives. As a result, Mr. Trudeau did not contravene subsection 14(1), which prohibits Members and members of their family from accepting gifts that might reasonably be seen to have been given to influence them in the exercise of a duty or function of their office.

#### COLLABORATION AND BEST PRACTICES

Our Office continued to work with counterparts in Canada and other countries in 2017-2018, exchanging information about conflict of interest rules and practices and discussing related issues in order to stay abreast of issues and developments in the field.

In September, our Office was represented at the annual meeting of the Canadian Conflict of Interest Network (CCOIN), held in Charlottetown.

Created in 1992, CCOIN is made up of conflict of interest commissioners at the federal level and from all Canadian provinces and territories. Our Office has coordinated information-gathering for CCOIN since 2010.

In December, members of our Office attended the annual conference of the Council on Governmental Ethics Laws (COGEL), in Toronto. COGEL is a U.S.-based, international not-for-profit organization of government ethics practitioners of which our Office is a member.

In March, I signed a memorandum of understanding with the Commissioner of Lobbying to cooperate on education and outreach. Among other activities, we will hold joint information sessions, including webinars, for individuals affected by the work of both offices.

As part of our international outreach, we responded to information requests from Australia, Indonesia, Ireland, Kazakhstan, South Korea, the Group of States against Corruption (GRECO) and ParlAmericas.

## **OUR TOOLS**

### **STRATEGIC PLAN**

We have adopted a strategic plan for 2018-2021 that sets the course for our Office for the next three years and beyond. It will help guide our priorities and align our activities in light of our increasing workload. (Please refer to Significant Trends below.)

Our strategic plan, which is published on our Office's website, identifies three key priorities and the means by which we will achieve them:

- Build and improve communications and outreach processes
- Modernize technology and information management structures
- → Maintain operational excellence

Progress against our strategic plan will be continually monitored and I will report on it in my future annual reports to Parliament.

### **BRAND IDENTITY**

The beginning of my mandate was an ideal time to rethink the brand identity of our Office, which had just entered its second decade, in support of our mission. I also wanted to introduce a modern look and feel while honouring our Office's existing standards of professionalism. My staff and I partnered with a creative firm on the development of a brand identity that I believe offers an effective visual representation of our mission. It communicates the independent and impartial character of our Office, the nature of the work we do and the way we do it—with integrity, rigour and consistency.

Branding elements include three complementary combinations of colours and designs that represent various facets of our identity, including our role in helping safeguard the public interest and our forward-looking approach. All feature the Canada Coat of Arms in recognition of my status as an Officer of the House of Commons.

# INVESTMENTS IN OUR PEOPLE

I have established a Quality Workplace Promotion Committee whose goal is to promote the well-being of our employees. It will support a healthy workplace and implement initiatives to sensitize our staff on issues affecting the work environment, such as diversity, inclusion, mental health and wellness, professional development, employee and management engagement, and the importance of a respectful workplace.

#### OFFICE INFRASTRUCTURE

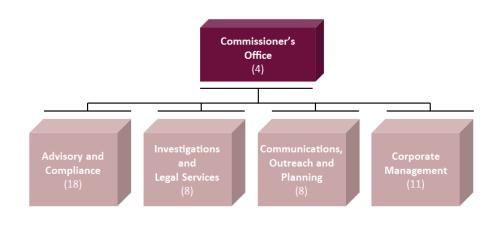
As I noted earlier, the administration of the conflict of interest regimes is supported by the infrastructure of our Office. It has a sound internal management framework in place to ensure the prudent stewardship of public funds, the safeguarding of public assets and the effective, efficient and economical use of resources.

Because I am an independent Officer of the House of Commons and our Office is a parliamentary entity, we are not generally subject to legislation governing the administration of the public service or to Treasury Board policies and guidelines. We try to ensure that our resource management practices are, to the greatest extent possible, consistent with those found in the public service and in Parliament. We also look at various policies and practices of other parliamentary entities and generally follow what they do, unless there is a valid reason for our Office to take a different approach.

Our Office's financial statements are audited each year by an independent external auditor and no concerns have been raised. A Financial Resources Summary appended to this report outlines our financial information for the 2017-2018 fiscal year.

In support of our strategic objective of modernizing technology and information management structures, in 2017-2018 we replaced our financial management system and started working to upgrade our electronic case management system.

We continued to make our operations more efficient in 2017-2018 by implementing a paperless office initiative and expanding our use of a document management system that had been piloted as a replacement of our Office's shared electronic drive.



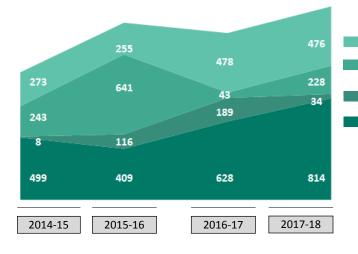
### OUR CHALLENGES AND OPPORTUNITIES

Although it is always difficult to predict with any accuracy what important changes will occur that will affect the operations of our Office, I believe it is nimble enough to reallocate its resources to meet emerging long-term trends. At this moment, we observe a marked increase in relation to four distinct areas of our operations, as discussed earlier. It is also possible that other things will happen that we are not in a position to predict at this time.

### SIGNIFICANT TRENDS

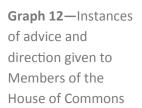
Our Office is facing several trends that have contributed to a significant increase in our workload.

We have received a growing number of requests for advice from Members of the House of Commons, including requests for advice about the acceptability of gifts. While dealing with more requests takes more resources, this trend is indicative, I believe, of a growing desire on the part of Members of the House of Commons to take steps to comply with the Code.



- Public registry postings Communications sent by our
- Office Initial compliance completed
- Advice sought by Members of the House of Commons



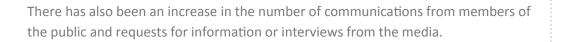






**Graph 13**—Instances of advice and direction relating to gifts

*Note:* Data on requests relating to gifts is only available as of 2010-2011







**Graph 15**—Requests for information and interviews from the media

#### PROVIDING CONSISTENT ADVICE

When Members seek advice from our Office on how to comply with the Code, it is important that the advice they receive be clear and consistent.

I recognize that there is no one-size-fitsall approach that can apply to every situation or even, in some cases, to situations that may appear similar, and that the advice provided by our Office must take into account the specific circumstances of individual Members. I acknowledge, however, the importance of ensuring consistency, in order to reduce uncertainty and confusion and to ensure that Members feel confident the advice they receive is fair and appropriate. Fairness also requires that different Members in the same situation receive the same advice over time.

One way I hope to address this challenge is by continuing to develop internal tools to record my interpretations of the Code and make them accessible to employees of our Office. I will also maintain an ongoing dialogue with those employees who provide advice to Members. One of my key roles as Commissioner is to interpret the Code. Over the coming months, our Office will review all of the informational materials that have been published on our website for the guidance of Members, in order to ensure that they adequately reflect current interpretations of various aspects of the Code.

#### CONDUCTING INQUIRIES WITH DUE DISPATCH

I recognize that, when our Office conducts an inquiry, the Member who is the subject of the inquiry may experience uncertainty and concern. This is particularly true in cases where the identity of the individual is public knowledge, as this can lead to speculation and possible reputational damage, even when the individual is eventually found not to have contravened the Code.

I will ensure that our Office conducts inquiries with due dispatch, while still conducting them thoroughly, with proper diligence and being careful to respect procedural fairness.

#### BETTER TARGETING EDUCATION AND OUTREACH

In October 2017, a brief survey was sent to Members of the House of Commons via email to gauge their satisfaction with the outreach and education tools produced by our Office and to identify possible areas for improvement.

We received 113 responses, accounting for about one-third of Members. The following conclusions were drawn from our analysis of the survey results:

- Members are viewing most of their information electronically;
- Members would like to see more material explaining their obligations under the Code;
- Members would like to receive frequent reminders of the rules, as well as email updates when possible;
- → Members would like our Office to provide training for their staff.

Based on these findings, we are implementing changes in the way we share information with Members. For example, we have created a presentation targeted to Members' staff that will be offered in the fall. We are also moving away from a traditional "classroom" approach. In 2018-2019, we will develop webinars, online videos and other products using new media in order to inform and educate Members about their obligations under the Code.

#### OPERATING WITHIN A STATIC BUDGET

I am impressed by the fact that even though our Office's workload has increased substantially in its almost eleven years of operation and we have faced higher technology costs and other inflationary pressures, our Office has maintained an annual operating budget that is no higher today than it was in its first full year of operation.

In its earlier years, our Office had relatively low expenditures compared with its allotted budget, which gave it room to build an effective organization. However, our Office today has little flexibility with which to meet unforeseen demands, such as a marked increase in investigation requests.



#### Graph 16—Budget

Although we remain committed to using our resources effectively, efficiently and economically, it does not appear that meeting the growing demands on our Office at current funding levels will be possible over the course of my sevenyear mandate.

#### MAXIMIZING TRANSPARENCY

I am committed to making our Office and its work as transparent as possible. This is a challenge because of the strict confidentiality requirements set out in the *Conflict of Interest Code for Members of the House of Commons*, particularly regarding preliminary reviews and inquiries, as well as advice provided to Members. There may also be other valid reasons in some cases for not divulging information even when we are permitted to do so. For example, I have chosen not to identify the subjects of several ongoing inquiries at this time in order to safeguard their privacy against the possibility of undue reputational damage. If those inquiries proceed, we will report publicly on the findings.

While respecting these constraints and other considerations, we will be as forthcoming with Parliament, the media and the public as we are permitted to be under the Code.

### **APPENDIX**

### FINANCIAL RESOURCES SUMMARY

(thousands of dollars)							
Program Activity	2016-2017 Actual Spending	Main Estimates	2017-2018 Total Authorities	Actual Spending	Alignment to Government of Canada Outcomes		
Administration of the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons	5,595	6,178	6,178	5,973	Government Affairs		
Contributions to Employee Benefit Plans	638	723	723	665			
Total Spending	6,233	6,901	6,901	6,638			
Plus: Cost of services received without charge	1,138	n/a	n/a	1,148			
Net Cost of Department	7,371	6,901	6,901	7,786			

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 audited financial statements will appear on our website at http://ciec-ccie.parl.gc.ca.