



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

Annual Report

Conflict of Interest Act

2018 2019



Mario Dion

Conflict of Interest and
Ethics Commissioner

Conflict of Interest and Ethics Commissioner – Annual Report 2018-19, in respect of the
CONFLICT OF INTEREST ACT

For additional copies of this document, 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

Ce document est également publié en français.

This document is available online at the following address: <http://ciec-ccie.parl.gc.ca>

© Office of the Conflict of Interest and Ethics Commissioner, Parliament of Canada, 2019

062019-81E





Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

June 2019

The Honourable George Furey, Q.C.
Speaker of the Senate
Senate of Canada
2 Rideau Street, Room E64-A
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, 2019, for tabling in the Senate.

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

Sincerely,

Mario Dion
Conflict of Interest and Ethics Commissioner



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

June 2019

The Honourable Geoff Regan, P.C., M.P.
Speaker of the House of Commons
House of Commons
West Block, Room 233-C
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, 2019, for tabling in the House of Commons.

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

Sincerely,

Mario Dion
Conflict of Interest and Ethics Commissioner

01 Commissioner's Message

02 Our Mission

03 Our Stakeholders

05 Our Achievements

Compliance
Direction and Advice
Education and Outreach
Enforcement
Contacts with Parliament
Public Communications
Collaboration and Best Practices
Transparency

20 Our Tools

Our People
Our Plan
Our Infrastructure

22 Our Challenges

Safeguarding the Public Interest
Leveraging New Technology
Election Readiness
Court Matters

25 Appendices

Financial Resources Summary
Our History

COMMISSIONER'S MESSAGE

Having completed my first full fiscal year as Commissioner, I am pleased to report on the administration of the *Conflict of Interest Act* in 2018-2019.

The regimes administered by our Office reflect what are, in my view, the four pillars common to all effective conflict of interest regimes: accountability, transparency, fairness and consistency.

Accountability means being responsible and answerable for one's own actions.

Transparency relates to the public disclosure of public officials' private interests and providing the public with unobstructed access to that information.

Fairness requires a lack of bias on the part of the decision-maker and relates to procedural fairness.

Consistency means ensuring the same results when the facts are the same.

With these imperatives in mind, our Office strives to continuously improve the way we administer the Act.

In last year's annual report, I identified several activity areas that required special attention as they are in keeping with the aforementioned pillars. I noted, for example, the continued need to provide clear and consistent advice to public office holders and Members of the House of Commons, the potential benefits of a greater focus on education and outreach, the

importance of conducting investigations in a timely manner, and the desirability of greater transparency. This report illustrates the progress that has been achieved in these areas, as well as the work that remains to be accomplished.



I have also identified several other areas of focus, including election readiness. In fact, I have requested and obtained a small budgetary increase to ensure continued operational excellence going forward as we prepare for the upcoming election.

I remain honoured to have been entrusted with the opportunity to administer two important components of Canada's ethical framework on behalf of Parliament and Canadians, and I would like to commend our employees for their dedicated work in 2018-2019.

A handwritten signature in black ink that reads "Mario Dion".

Mario Dion
Conflict of Interest and Ethics Commissioner

OUR MISSION

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 STAKEHOLDERS

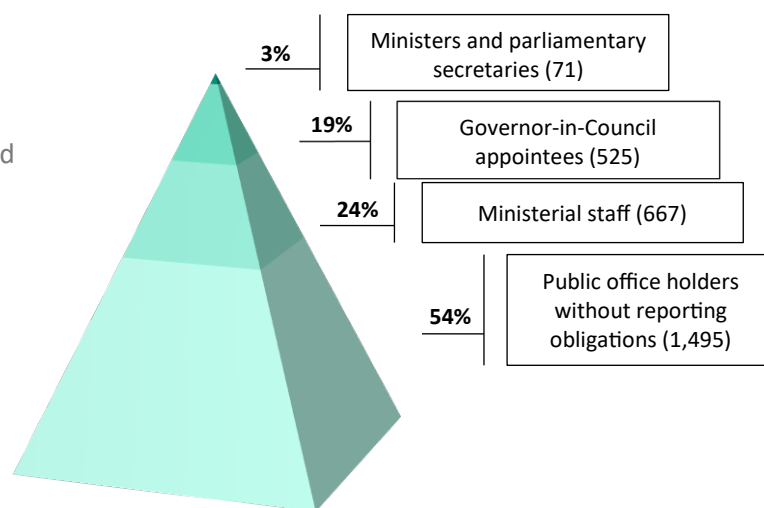
Our Office’s stakeholders include not only the individuals who are subject to the conflict of interest regimes that we administer, but also Parliament, academics, ethics practitioners and others with an interest in the field, as well as the media and the general public.

While this report touches on all of our stakeholder groups, its focus is on the 2,758 public office holders who are subject to the *Conflict of Interest Act*. Although the population of public office holders fluctuates throughout the year, this number represents the individuals who were subject to the Act on March 31, 2019.

PUBLIC OFFICE HOLDERS

The Act applies to ministers, ministers of state, parliamentary secretaries, the Chief Electoral Officer, the Parliamentary Budget Officer, ministerial staff, ministerial advisers and most Governor-in-Council appointees, some ministerial appointees and any person designated to be subject to the Act by the Governor in Council. (Ministers, ministers of state and parliamentary secretaries are also subject to the *Conflict of Interest Code for Members of the House of Commons*.)

The Act sets out a number of obligations aimed at preventing conflicts between private and public interests and prohibits various activities that could give rise to such conflicts.



Graph 1—Types of public office holders subject to *Conflict of Interest Act* on March 31, 2019

All public office holders are subject to the Act’s core set of conflict of interest and post-employment rules.

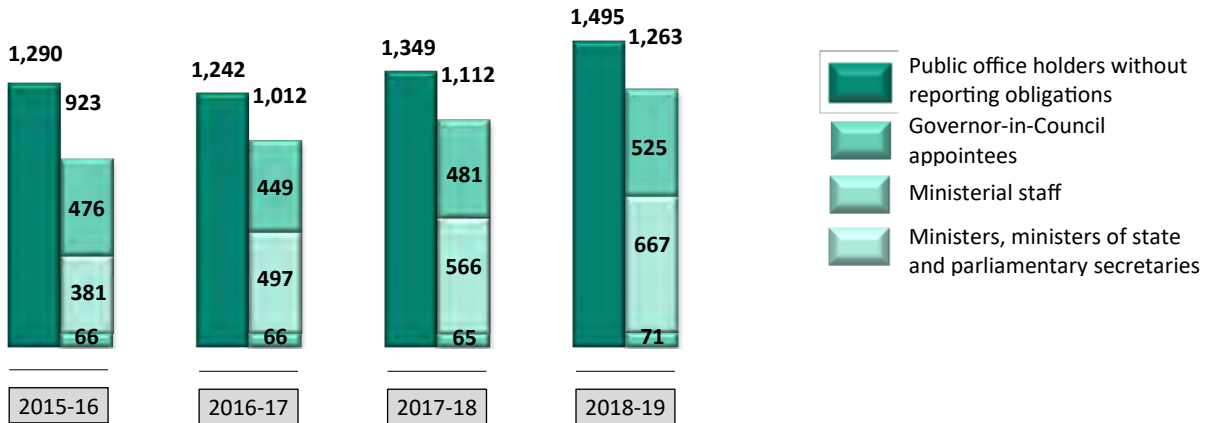
“Public office holders” are subject only to those general rules. They include part-time members of federal boards, commissions and tribunals, and some part-time ministerial staff.

“Reporting public office holders” are also subject to the Act’s reporting and public disclosure provisions, as well as to its prohibitions against engaging in outside activities and holding controlled assets. Reporting public office holders include ministers, ministers of state, parliamentary secretaries, ministerial staff and full-time Governor-in-Council appointees such as deputy ministers, heads of Crown corporations and full-time members of federal boards.

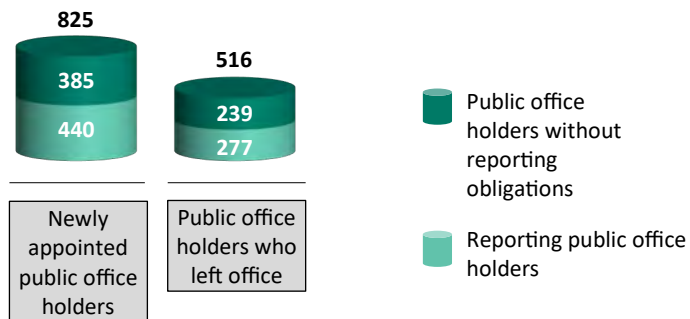
Additional rules apply to reporting public office holders who are ministers, ministers of state, parliamentary secretaries or ministerial staff.

After they leave public office, public office holders are subject to the Act's post-employment rules. Some rules have no time limits and apply to all former public office

holders. Others apply only to former reporting public office holders during a one- or two-year "cooling-off" period.



Graph 2—Types of public office holders subject to *Conflict of Interest Act* in previous years



Graph 3—Appointments and departures of public office holders in 2018-2019

OUR ACHIEVEMENTS

Administering the *Conflict of Interest Act* requires our Office to undertake the following core activities, among others: informing public office holders about their obligations under the Act, giving them confidential direction and advice, receiving and reviewing their confidential disclosures and public declarations, maintaining a public registry of publicly declarable information, enforcing the Act as appropriate, and reporting to Parliament.

The following pages explain how we undertook these core activities during fiscal year 2018-2019.

COMPLIANCE

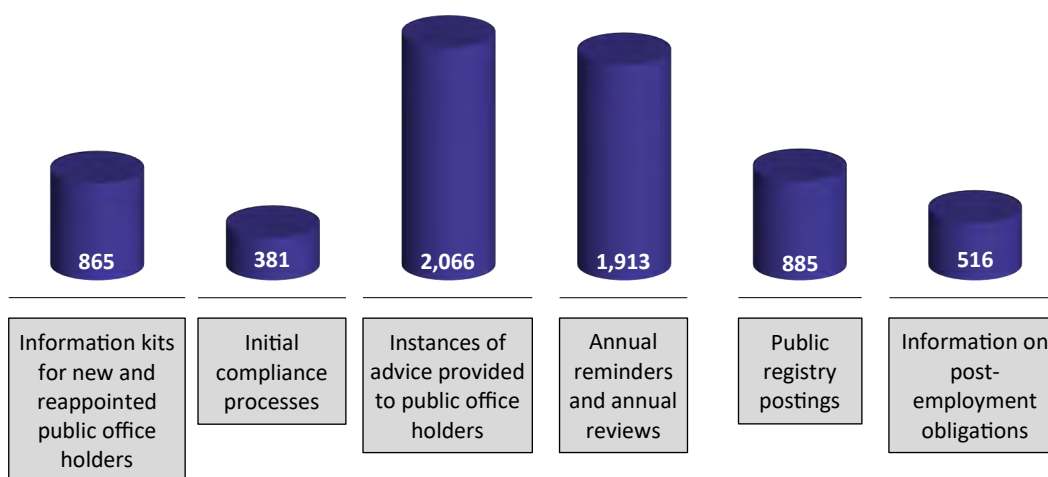
Helping public office holders achieve and maintain compliance with the *Conflict of Interest Act* constitutes the core work of our Office. We have ongoing contact with public office holders starting around the time of their appointment and continuing, in some cases, even after they have left public office. Accordingly, the Advisory and Compliance Division accounts for over one third of our human resources. (Please see figure 1 on page 21.)

We communicate regularly with reporting public office holders, given their reporting obligations under the Act, but we do not typically have a lot of contact with public office holders who are not reporting public office holders. We do, however, reach out to these individuals when they are first appointed or reappointed to public office, send them an annual letter reminding them of the Act's

conflict of interest rules, and send them a letter summarizing the Act's post-employment rules as soon as we learn they are leaving public office.

Among other activities, we provide reporting public office holders with information when they are appointed or reappointed, we help them complete their initial compliance process, we initiate their annual reviews, and we ensure that all declarable information is posted in our public registry. Although we respond to all public office holders' requests for compliance advice, we typically receive very few of such requests from those who are not reporting public office holders.

In order to help them comply with the Act, we have established a service standard that requires that we contact all public office holders within three days of our Office being notified of their appointment or reappointment. In 2018-2019, this occurred in 62% of cases. The target for achieving this service standard was set at 80%. This discrepancy is attributable to a system upgrade where numerous components required enhancements that slightly impeded service delivery. We are working diligently to address these issues to ensure service standards are met. We note, however, that first letters were sent within five business days in 90% of cases.



Graph 4—Compliance activities for public office holders in 2018-2019

Initial Compliance Process

We guide reporting public office holders through the initial compliance process, which begins soon after they are appointed or reappointed to public office.

Initial contact takes the form of a first letter advising them that they must submit to our Office a confidential report outlining their assets, liabilities, income, current and past activities and any other information the Commissioner considers necessary, within 60 days after their appointment. With the letter, we send newly appointed or reappointed reporting public office holders a copy of the Act and a summary of the rules that apply to them.

Our Office provides assistance in completing the confidential report, as needed. Advisors review each confidential report and discuss with the reporting public office holders any measures that may be needed to ensure they are complying with the Act. Compliance measures may include the public disclosure of certain information, the divestment of controlled assets through a blind trust or arm's-length sale, the

establishment of conflict of interest screens, and recusals.

Our Office prepares a summary statement of each confidential report and, where applicable, a public declaration of assets, outside activities and other appropriate measures.

Next, we send reporting public office holders an intermediate letter formalizing the advice and measures determined by the Commissioner that we provided to them verbally and asking them to sign these documents. They must return these signed documents within 120 days after their appointment. We then place the summary statements in our public registry.

A final letter sent by the Commissioner to reporting public office holders signals the completion of the initial compliance process. Information on ongoing reporting obligations, gifts and administrative monetary penalties is enclosed.

In 2018-2019, our Office established 18 compliance measures and required

55 reporting public office holders to divest their controlled assets.

Ongoing Reporting Requirements

Reporting public office holders also face a number of ongoing reporting requirements throughout their terms of office.

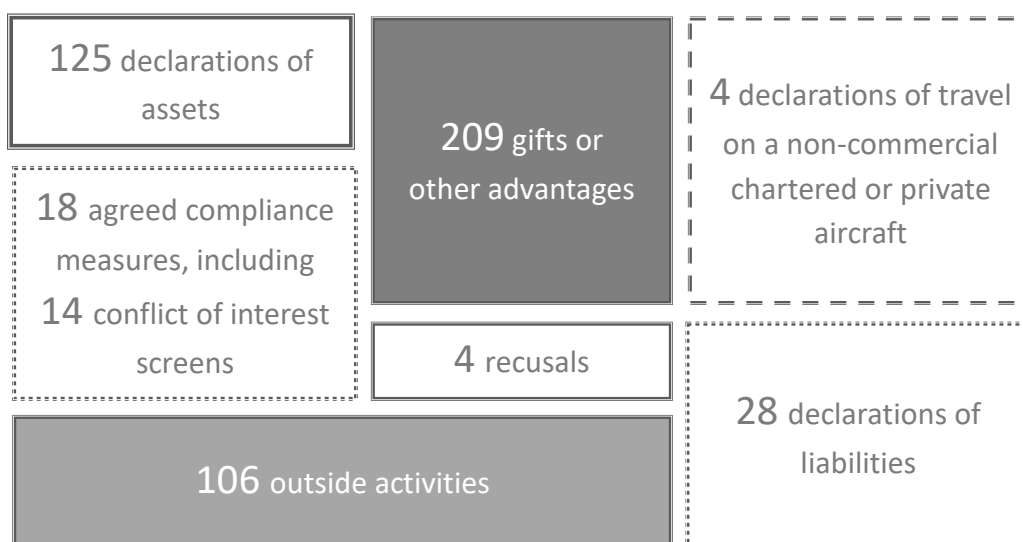
Annual review: Reporting public office holders must review their disclosures with advisors from our Office every year and update information previously disclosed.

Our Office sends reporting public office holders an annual review letter accompanied by copies of their summary statement and Part 2 of the Act, as well as a questionnaire. Each reporting public office holder is asked to review their information and advise us of any change. If there are changes, an advisor in our Office may contact the individual to advise if there are any measures that they must take and whether a new summary statement or declaration is required.

Material changes: Reporting public office holders must inform us of any material change to any matter that they were required to disclose during the initial compliance process, within 30 days of the change.

Gifts or other advantages: Reporting public office holders must publicly declare any acceptable gifts or other advantages that they or their family members accept from any one source in a 12-month period with a total value of over \$200. The disclosure to our Office must be made within 30 days after the day on which the value exceeds \$200. All public office holders must forfeit any gifts received as an expression of courtesy or protocol valued at \$1,000 or more and the forfeiture is subject to public disclosure.

Private flights: Ministers, ministers of state and parliamentary secretaries must publicly declare, within 30 days, any travel on non-commercial chartered or private aircraft accepted for themselves, their families or ministerial staff or advisers. They can only accept such travel if required in their capacity as public office holders, in exceptional circumstances or with my prior approval.



Recusals: All public office holders must recuse themselves from any discussion, decision, debate or vote on any matter in respect of which they would be in a conflict of interest. Reporting public office holders must publicly declare any recusal because of a conflict of interest within 60 days after the day on which the recusal takes place.

Firm offers of outside employment: Reporting public office holders must disclose to our Office all firm offers of outside employment, within seven days after receiving them.

Acceptance of offers of outside employment: Reporting public office holders must disclose to our Office and their employer the acceptance of an offer of outside employment, within seven days after accepting it.

DIRECTION AND ADVICE

Public office holders frequently seek advice from our Office, either during or after their term of office. They may consult their advisors in our Office about how to arrange their affairs to comply with the *Conflict of Interest Act*, how to make a public declaration, and how to deal with various situations, such as whether they may accept certain gifts or other advantages.

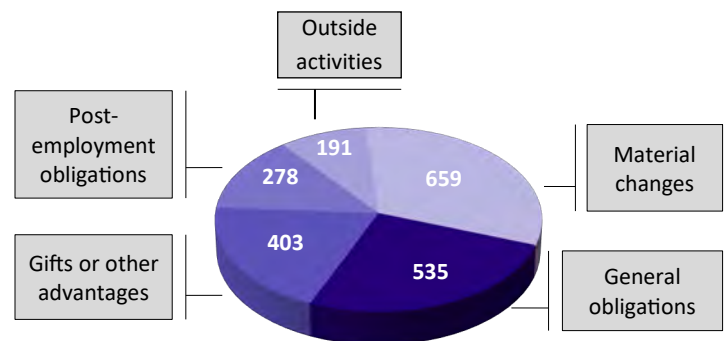
Our Office provides tailored advice to public office holders both during and after the initial compliance process.

Requests for advice relating to the acceptance of gifts represent 20% of the total requests received by our Office. This number has remained consistent in the past fiscal years.

We have observed small increases in the volume of requests for advice in the period following the release of an examination report. Although we cannot ascertain that these surges are directly linked to the release of reports, we can only assume that reports serve as a reminder to public office holders of their obligation to comply with the Act.

In last year's annual report, I acknowledged the importance of ensuring that the advice our Office provides to public office holders is clear and consistent. Different public office holders who find themselves in the same situation must receive the same advice in order to reduce uncertainty and confusion and to ensure all public office holders feel confident that the advice they receive is fair and appropriate.

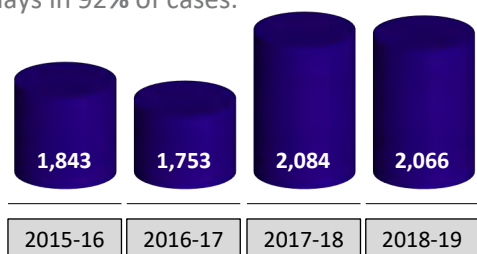
In 2018-2019, I continued to address this challenge by engaging in ongoing dialogue with employees who provide advice to public office holders. Our Office also reviewed internal processes in order to support advisors in providing comprehensive, clear and consistent advice.



Graph 5—Types of direction and advice given to public office holders in 2018-2019

Furthermore, our upgraded Integrated Case Management System, deployed in November 2018, was launched to maintain our ability to assist public office holders who contact our Office for direction and advice. (Please see Our Tools on page 20.)

We recognize the importance of responding to requests for advice from public office holders in a timely manner and have established service standards to help us do so. The target for achieving those service standards was set at 80%. In 2018-2019, requests from public office holders were dealt with within three business days in 92% of cases.



Graph 6—Instances in which public office holders sought direction and advice

EDUCATION AND OUTREACH

While I have no specific mandate under the *Conflict of Interest Act* to undertake educational activities as I do under the *Conflict of Interest Code for Members of the House of Commons*, our Office implements education and outreach initiatives on both regimes.

Our Office has started following through on a commitment I made in last year’s annual report to adapt our Office’s outreach and communications tools to the particular characteristics and needs of the three distinct groups of public office holders—ministers, ministers of state and parliamentary secretaries, ministerial staff, including students, and Governor-in-Council appointees, each with

significantly different types of work, experiences, levels of responsibility and degrees of influence—in order to ensure they are as effective as possible. This approach is reflected in the activities described below.

In 2018-2019, we started moving away from a traditional “classroom” approach by developing webinars, online videos and other products using new media in order to inform and educate public office holders about their obligations under the Act.

Our Office undertakes a range of education and outreach activities to help public office holders understand and meet their obligations under the Act. They are designed to supplement, not replace, the advice and direction provided to individual public office holders on a confidential basis by myself and by advisors in our Office, as well as other communications we have with them regarding the initial compliance and annual review processes.

Informational materials: Our Office issues, updates and disseminates a variety of documents that provide information about the requirements of the Act, including summaries of the rules that apply to different groups of public office holders, and information notices that explain the application of various provisions.

In April 2018, I launched a review of all informational materials our Office has issued under the Act to explain how the rules apply. The goal is to simplify them and reduce their number to make them a more effective source of information for public office holders to consult. In 2018-2019, we revised and updated 12 of our information notices and condensed their content into seven new notices. We are planning to update and publish the rest of the information notices in 2019-2020.

The updated information notices are available on the Office website and accompanied by videos which are also available on our YouTube channel, Ethics Canada. Together these aim to offer accessible ways for public office holders to learn about and understand their obligations under the Act.

One of my key roles as Commissioner is to interpret the Act. In reviewing the informational materials published by our Office for public office holders' guidance, I applied an interpretation of section 35 of the Act that represents a departure from that of my predecessor. Based on a plain reading of the Act, I am of the view that public sector entities are captured by the post-employment provision as they are an "entity." In September 2018, I informed all reporting public office holders of this change via email. It is also reflected in an updated information notice on post-employment rules.

Presentations: In 2018-2019, our Office gave 30 presentations to offices and organizations whose members are subject to the Act, reaching a total of 314 participants. I adopted a proactive approach by directly offering presentations to several organizations with large numbers of public office holders and received a positive response.

While all of our presentations to public office holders in the last fiscal year were delivered in-person by myself and our employees, we now have the technological capacity to offer such presentations via webinar, allowing us to reach greater numbers of public office holders, including those who work outside of the National Capital Region, and to better accommodate their busy schedules.

Correspondence: In November 2018, our Office sent an annual letter to public office holders who do not have reporting obligations to remind them of the Act's conflict of interest rules, with an emphasis on political activity in preparation for the upcoming election.

Social media: We use Twitter to communicate directly with public office holders, for example by tweeting links to our updated information notices and accompanying videos. (Please also see Public Communications on page 15.)

Collaboration: We started implementing the memorandum of understanding that I signed with the Commissioner of Lobbying in March 2018 to cooperate on education and outreach. Under it, we agreed to jointly organize educational activities for individuals affected by the work of both offices. Accordingly, in October 2018 I co-hosted with the Lobbying Commissioner two webinars on the subject of gifts, one in English and the other in French, reaching over 110 participants.

ENFORCEMENT

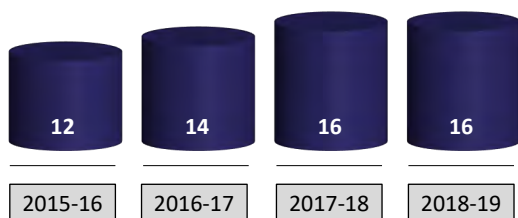
While prevention is my major focus, I also apply the enforcement provisions of the *Conflict of Interest Act* as appropriate. The enforcement function also adds to the educational role of our Office, as it has the effect of promoting awareness and understanding of the rules under the Act.

There are several means of enforcing the Act. I can impose administrative monetary penalties for failures to meet certain reporting requirements. I can issue compliance orders to ensure that public office holders meet their obligations in the future. I can also initiate formal investigations, called examinations, of possible contraventions of the Act.

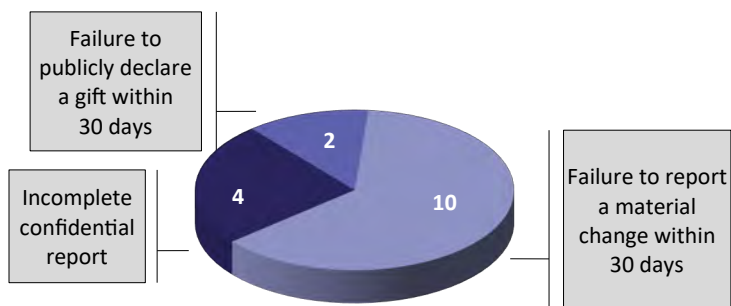
Administrative Monetary Penalties

I can issue administrative monetary penalties for failures to meet certain reporting requirements of the Act within the established deadlines, including confidential report filings, disclosures of material changes, firm offers of outside employment and their acceptance, and public declarations of gifts and recusals. Sixteen administrative monetary penalties were imposed on public office holders in 2018-2019.

When a penalty is issued, the Act requires that the Commissioner make public the nature of the violation, the name of the public office holder and the amount of the penalty. This has been done to date by means of the public registry, which is accessible through our Office's website. To enhance their deterrent effect, on April 1, 2018, we started announcing on Twitter administrative monetary penalties imposed under the Act. It is now our standard practice to announce these penalties on Twitter soon after they are added to the public registry.



Graph 7—Number of administrative monetary penalties issued



Graph 8—Administrative monetary penalties issued in 2018-2019

Compliance Orders

In cases where public office holders are not meeting their obligations under the Act, I can issue compliance orders.

Under section 30 of the Act, I may order a public office holder to take any compliance measure that I determine is necessary to comply with the Act. For example, I could order public office holders to submit documents for the required annual review of the information contained in their confidential report, to cease prohibited outside activities, to divest controlled assets, or to refrain from seeking to influence a decision.

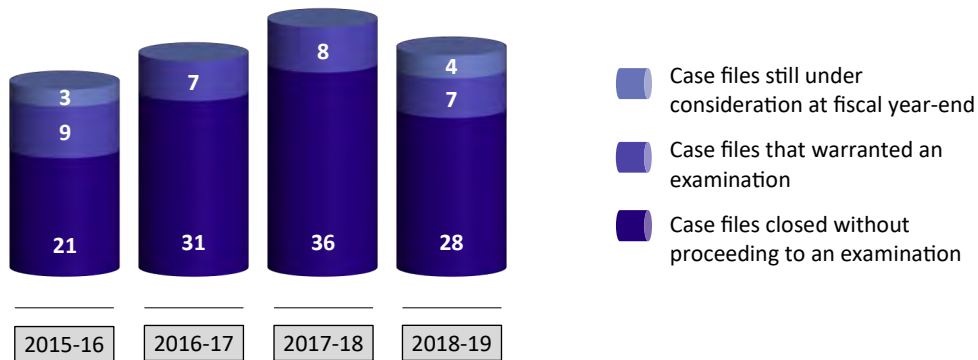
In 2018-2019, I issued one compliance order that required a public office holder to resign from an outside activity which conflicted with the public office holder's position.

Examinations

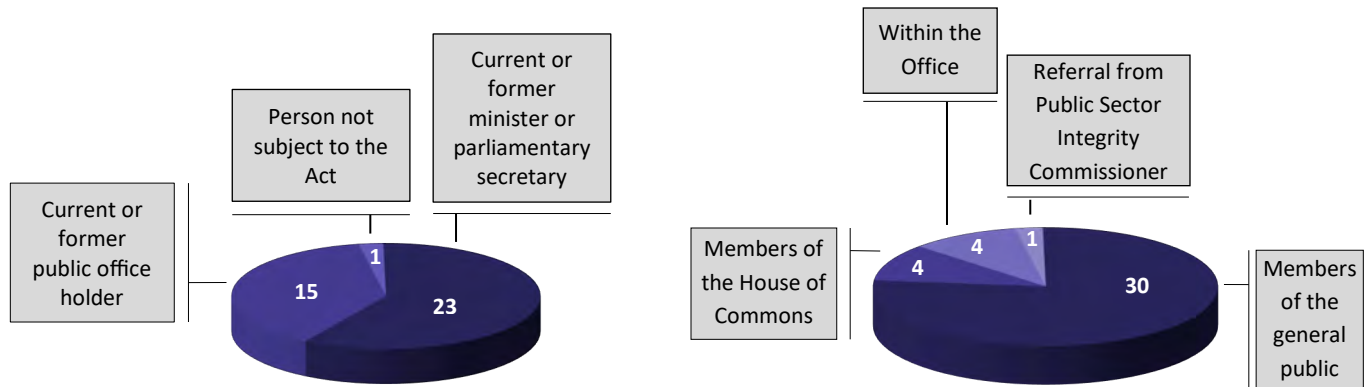
I can conduct examinations of possible contraventions of the *Conflict of Interest Act*. All examination reports are made public.

I can launch an examination at the request of a Senator or Member of the House of Commons who provides reasonable grounds to believe the Act has been contravened.

The Act also gives me the discretion to conduct an examination on my own initiative if I have reason to believe the Act has been contravened. I may base my decisions to self-initiate an examination on information that comes to the attention of our Office in various ways, including media reports and complaints from members of the public.

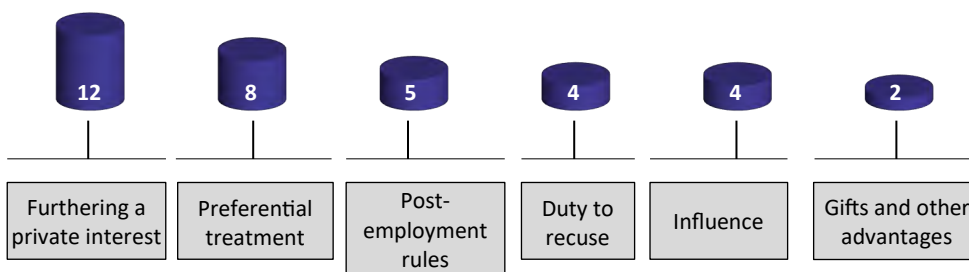


Graph 9—Concerns reviewed by our Office



Graph 10—Subjects of concerns raised

Graph 11—Source of concerns raised



Graph 12—Nature of concerns raised

When our Office receives information about a possible contravention of the Act, we open a case file. We review the information to determine whether the concern raised falls within the mandate of our Office and, if it does, whether the Member or Senator set out their reasonable grounds to believe or, in the case of a self-initiated examination, whether I have reason to believe that a contravention may have occurred. Some of these initial reviews lead to examinations. In other cases, an examination is not found to be warranted and the files are closed.

In 2018-2019, our Office issued five examination reports under the *Conflict of Interest Act*:

In the **Carson Report**, issued on June 7, 2018, I discontinued an examination under the Act of the post-employment conduct of Mr. Bruce Carson, a former senior advisor in Prime Minister Stephen Harper's Office. This examination had been commenced in April 2011 and was suspended in November of the same year as a result of a criminal investigation. I was only able to resume the examination in April 2018, at which time I determined that there was no need to expend further public resources by continuing an examination of a matter that had been dealt with finality by the Supreme Court of Canada and where all the relevant facts were public.

In the **Morneau Report**, issued on June 18, 2018, I found that the Honourable Bill Morneau, Minister of Finance, did not contravene subsection 6(1) or section 21 of the Act in making decisions or having failed to recuse himself in relation to the introduction of Bill C-27, which sought to amend the *Pension Benefits Standards Act, 1985*.

It was alleged that Mr. Morneau was in a conflict of interest when he introduced Bill C-27 because the changes to the legislation he proposed in it could further his private interests as a shareholder of Morneau Shepell Inc., a major administrator of pension plans. I needed to determine whether the interests involved were private interests within the meaning of the Act. Subsection 2(1) of the Act states that private interests do not include an interest in a decision or matter that is of general application or that affects a public office holder as one of a broad class of persons. Since the matter under examination related to all stakeholders affected by Bill C-27, I determined that it was of general application. Therefore, Mr. Morneau's interests, those of his relatives and those of Morneau Shepell Inc. were excluded from the application of the Act.

In the **Chapman Report**, issued on June 22, 2018, as a result of a referral made by the Public Sector Integrity Commissioner, I found that Ms. Marie Chapman, Chief Executive Officer of the Canadian Museum of Immigration at Pier 21, did not contravene subsection 6(1) or section 21 of the Act when she hired an alleged friend. I found that while Ms. Chapman had a friendly working relationship with the individual, they were not "friends" for the purposes of the Act. Furthermore, I found that the staffing processes were neither irregular nor unusual. Consequently, I found Ms. Chapman not to be in a conflict of interest by furthering the private interests of a friend or by improperly furthering those of another person.

In the **LeBlanc Report**, issued on September 12, 2018, I found that the Honourable Dominic LeBlanc, when he was Minister of Fisheries, Oceans and the Canadian Coast Guard, contravened subsection 6(1) and

section 21 of the Act in relation to his decision to pursue issuing an Arctic surf clam licence to the Five Nations Clam Company.

The proposal submitted by the company had named Mr. LeBlanc's spouse's first cousin, a "relative" for the purposes of the Act, as General Manager should it be granted the licence. The relative stood to benefit financially if a licence was granted. When he made the decision to pursue next steps in issuing the licence to the Five Nations Clam Company, Mr. LeBlanc had read the proposal in full, and was aware of the family relationship and the relative's extensive involvement in the fishing industry. Furthermore, the relative had raised the licensing issue with Mr. LeBlanc prior to the decision. By deciding to pursue issuing the Arctic surf clam licence to the Five Nations Clam Company, Mr. LeBlanc had an opportunity to further the private interests of a relative in contravention of subsection 6(1) of the Act and failed to recuse himself as required by section 21.

In the *Kristmanson Report*, issued on December 12, 2018, I found that Dr. Mark Kristmanson, Chief Executive Officer of the National Capital Commission (NCC), contravened subsection 11(1) of the Act on each of the 12 occasions he had accepted invitations, considered gifts for the purposes of the Act, that could reasonably be seen to have been given to influence him in the exercise of his official powers, duties and functions. Dr. Kristmanson had accepted invitations from NCC stakeholders, namely Place des Festivals, the National Arts Centre, the Canadian Museum of Nature, VIA Rail and the Royal Canadian Geographical Society, which at the time each invitation was accepted, had ongoing or foreseeable official business with the NCC.

39 concerns reviewed

5 examination reports published

2 ongoing examinations on
March 31, 2019

In 2018-2019, I also had two other examinations under the Act that I have yet to report on. One is related to the allegation that the Prime Minister's Office attempted to pressure the Attorney General of Canada in relation to the SNC-Lavalin prosecution. The nature of the other examination has not been made public.

Our Office is often asked for information about examinations that are in progress, but strict confidentiality requirements set out in the Act prevent us from providing any information. As noted elsewhere in this report, I issue a public report upon the completion of an examination. When I decide to discontinue an examination launched in response to a request from a Member of the House of Commons or a Senator, I issue a discontinuance report.

In my last annual report, I undertook to ensure that our Office conducts examinations with due dispatch, while still conducting them thoroughly and with proper diligence and being careful to respect procedural fairness.

The average length of time it took to complete the five examinations that I reported on in 2018-2019, including two that were launched by my predecessor, was 212 days, compared to an average of 336 days during our Office's first 10 years of operation.

CONTACTS WITH PARLIAMENT

As an independent officer of the House of Commons, I report directly to Parliament, through the Speaker of the House of Commons.

I am required to submit an annual report to Parliament by June 30 each year on the administration of the *Conflict of Interest Act*. I report on my examinations under the Act to the Prime Minister.

I also testify before parliamentary committees about our Office and its work. In 2018-2019, I was summoned to appear before two committees:

- On May 1, 2018, I appeared before the House of Commons Standing Committee on Access to Information, Privacy and Ethics about our Office's budgetary submission for the 2018-2019 Main Estimates.
- On June 7, 2018, I appeared before the Senate Standing Committee on Legal and Constitutional Affairs during its study of Bill C-50, *An Act to amend the Canada Elections Act (political financing)*.

Possible Amendments to the Act

During my appearance before the House of Commons Standing Committee on Access to Information, Privacy and Ethics on May 1, 2018, I was asked if I would be making any recommendations in my 2017-2018 annual reports to strengthen the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*.

I told the Committee I did not feel I had been Commissioner long enough to be able to do so in my last annual reports. I also expressed my hope that the Committee would invite me to

present my thoughts on possible amendments in fall 2018, and that I would include something in my 2018-2019 annual reports.

My recommendations regarding possible amendments to the Act are described in broad terms below. While there is room for improvement with regard to clarifying the rules and their application, I wish to emphasize that I believe the Act allows our Office to properly fulfil its mandate in the immediate term.

Several of my recommendations seek to strengthen the Act's consistency and fairness, by simplifying and standardizing its provisions dealing with gifts and other advantages, improving its categorization of public office holders, strengthening post-employment reporting requirements, as well as strengthening the provisions regarding reporting obligations of public office holders.

My other recommendations seek to improve our Office's efficiency and transparency by instituting mandatory training requirements for public office holders, improving investigation processes and establishing deadlines for annual reviews.

PUBLIC COMMUNICATIONS

In last year's annual report, I identified an increase in the number of communications from members of the public and requests for information or interviews from the media as significant trends. Those numbers remained at relatively high levels in 2018-2019.

Our Office undertakes a range of initiatives aimed at educating and informing our stakeholders, including ethics practitioners, academics and others with an interest in the

field, as well as the media and the general public, about Canada's federal conflict of interest regimes and the role of our Office in administering them.

Website: We make a wide range of information available on our Office website, which we update on an ongoing basis. In late 2018-2019, we started work on the development of a new website that will be launched in advance of the October 2019 federal election.

Social media: We have used Twitter to communicate more information about our Office and its activities and to retweet items of interest to our Office and the ethics community at large, such as relevant reports from other Canadian conflict of interest commissioners and international organizations. We currently have two Twitter accounts, one for each official language. Counting the number of followers for both accounts, we have more than doubled our number of Twitter followers (1,023 on March 31, 2019), surpassing the goal of 1,000 that I set for the end of 2018-2019 and increasing our Office's social media reach.

Presentations: Giving presentations to various organizations and at various events contributes to public awareness of Canada's federal conflict of interest regimes and increases public understanding of the Commissioner's role and mandate.

In November 2018, I delivered the Annual Public Policy Lecture at York University's McLaughlin College. I shared my perspective on the development of ethics regimes governing the conduct of federal officials in Canada and discussed the relevance of conflict of interest regimes to the broader field of ethics and to politics and democracy.

Also in November 2018, I gave two presentations to political science students at the University of Ottawa, and a senior representative of our Office did so in March 2019. At the March event, we started using an Internet-based audience interaction tool that enables audience members to use their mobile devices to ask questions and participate in live polls.

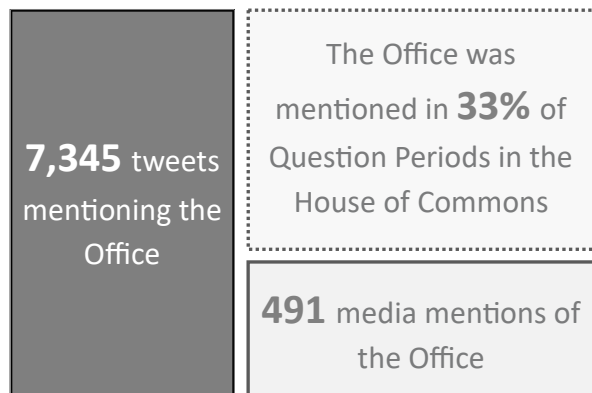
Media and public inquiries: Cognizant of the important role the media play in promoting awareness of the mandate and activities of our Office, I have undertaken to ensure we provide them with as much information as the regimes that I administer allow.

In our dealings with the media, we always take the opportunity to inform and educate them about my role and mandate and the functioning of the Act and the Code, in order to help them report accurately about our Office. We issue media advisories and news releases about our work, such as the issuance of public reports, and publicize other information, such as the imposition of administrative monetary penalties and compliance orders via Twitter. I participated in 14 interviews with journalists in 2018-2019.

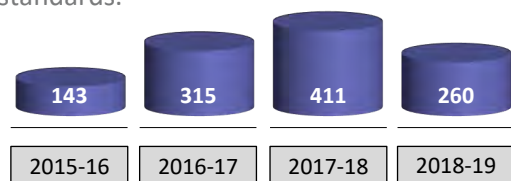
We also receive a large volume of inquiries from members of the public. Similarly, when we respond, we take the time to educate them about our role and mandate and, when their concerns do not fall within our mandate, try to direct them to other organizations that might be better able to assist them.

Our Office received 2,499 communications from the media and the public in 2018-2019. This represents a 19% decrease compared to last

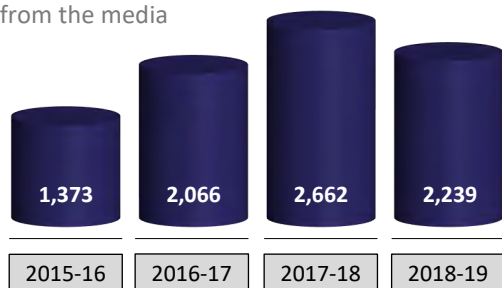
fiscal year. This may be due to the fact that our Office as a whole received less attention on Twitter, in the news and during Question Period compared to the previous year.



We recognize the importance of responding to communications from members of the public and the media in a timely manner and have established service standards to help us do so. The target for achieving those service standards was set at 80%. Media requests were responded to within three hours in 86% of cases. Communications from members of the public were responded to within two business days in 81% of cases. Because of high volumes and in order to maintain the high quality of our responses, we are looking at revising our service standards.



Graph 13—Requests for information and interviews from the media



Graph 14—Communications from the public

COLLABORATION AND BEST PRACTICES

Our Office acts as an information resource for other jurisdictions and organizations, both domestic and international, by meeting with visiting delegations, responding to information requests and participating in conferences related to conflict of interest and ethics.

Our Office continued to work with counterparts in Canada and other countries in 2018-2019, exchanging information about conflict of interest rules and practices and discussing related issues in order to stay abreast of concerns and developments in the field.

Domestic Outreach

In May 2018, our Office participated in the Public Sector Ethics Conference in Toronto, where I took part in a panel discussion on financial disclosure.

In September 2018, several representatives of the Office and I attended the annual meeting of the Canadian Conflict of Interest Network (CCOIN), held in St. John's, Newfoundland and Labrador. 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.

International Outreach

Achieving a culture of ethics and integrity is a keystone of good governance. It is also necessary for the effective functioning of democracies. Individuals who hold public office, whether elected or appointed, are expected to always act in the public interest. Their decisions must never be guided by their private interests or those of their friends, families or relatives.

A legal framework setting out rules governing conduct helps to ensure the decisions of those who hold public office are made in the public interest.

Because these expectations are clearly embedded in the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*, many other countries look to Canada as a model for the development of their own conflict of interest regimes.

In July 2018, I helped found a new network of conflict of interest and parliamentary ethics organizations within the Organisation internationale de la Francophonie. The Réseau parlementaire will foster the sharing of best practices among commissioners and other ethics and conflict of interest bodies. The goal is to enhance expertise among the parliaments of Francophonie member countries in order to adopt ethics principles and conflict of interest rules.

In October 2018, a senior representative of our Office made a presentation on my behalf at the High-Level Conference on “Strengthening Transparency and Accountability to Ensure Integrity: United Against Corruption.” The event, which took place in Croatia, was organized jointly by the Group of States Against Corruption (GRECO) and the Croatian government. GRECO is the Council of Europe’s anti-corruption monitoring body.

In December 2018, several representatives of our Office attended the annual conference of the Council on Governmental Ethics Laws (COGEL), in Philadelphia. COGEL is a U.S.-based, international not-for-profit organization of government ethics practitioners of which our Office is a member. A number of Canadian conflict of interest and integrity offices were

represented as well, and a senior representative of our Office participated in a panel discussion about reporting obligations.

In March 2019, our Office was represented at the Global Anti-Corruption and Integrity Forum hosted in Paris by the Organisation for Economic Co-operation and Development (OECD).

In 2018-2019, a number of our international counterparts approached our Office to organise delegation visits. During such visits, we provide a brief overview of the Canadian ethical framework, as well as the role and mandate of our Office. It is also an opportunity for our Office to learn firsthand about the ethics regimes in other countries. In November 2018, we hosted incoming delegations from the Haute Autorité de la Bonne Gouvernance of the Ivory Coast, and the Anti-Corruption and Civil Rights Commission of South Korea.

TRANSPARENCY

I believe Canadians should receive as much information as possible about the work of our Office.

In last year’s annual report, I committed to making our Office and its work as transparent as possible, while respecting the strict confidentiality requirements set out in the *Conflict of Interest Act*, particularly regarding examinations and advice provided to public office holders.

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 to not identify the subjects of ongoing examinations at this time in order to safeguard their privacy against the possibility of undue reputational damage. If those examinations

proceed, we will report publicly on the findings upon their completion.

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 Act.

In support of that commitment, in 2018-2019 we began releasing quarterly statistical reports. The purpose is to align our activities with our mission, assess our workload and identify current trends.

The quarterly statistical report contains data on various activity areas, including the provision of direction and advice to public office holders and Members of the House of Commons, education and outreach, and enforcement. It also includes

figures on how our Office meets its service standards.

We also use the data internally to gauge our workload and performance, and to measure progress towards the objectives set out in our Office's strategic plan (please see Our Plan on page 20). The data also contributes to strategic decision making.

Our quarterly statistical report is released on the last business day of the month following the end of the quarter for which the data is compiled. The aggregated data for 2018-2019 is published in this report and in the annual report under the *Conflict of Interest Code for Members of the House of Commons*.

OUR TOOLS

The success of our Office's mission is supported by the strength of our people, our plan and our infrastructure.

OUR PEOPLE

I recognize that any accomplishments I may have as Commissioner depend on the hard work and dedication of our employees at all levels within the organization.

Accordingly, I have taken steps to ensure our Office invests in employees' training and professional development and provides the tools and equipment they need to perform their jobs effectively and safely. I have also acted to ensure it offers a respectful, diverse and inclusive workplace and am mindful of the importance of an appropriate work-life balance.

The Quality Workplace Promotion Committee, which I established early in my tenure as Commissioner to promote employees' well-being, is playing a key role in some of these important areas. One of the initiatives introduced through the Committee is the implementation in our Office of the Canadian Mental Health Association's Not Myself Today program. It focuses on building greater awareness and understanding of mental health, reducing stigma, and fostering safe and supportive work cultures.

OUR PLAN

A rolling three-year strategic plan, which is published on the Office website, helps guide our projects and activities in support of our mission. It identifies three key priorities and the means by which we will achieve them.

In 2018-2019, we completed a number of specific projects and activities, identified elsewhere in this report, that contributed directly to the following priorities:

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

Our strategic plan is an evergreen tool that is meant to capture the Commissioner's vision. In January 2019, one year after I started my mandate as Commissioner, we conducted a strategic plan refresh exercise to pinpoint projects to be undertaken in the next fiscal year. Those discussions led to a small shift in our priorities, which were identified as follows:

- Build and improve communications and outreach processes
- Improve the Office's mechanisms for conflict of interest prevention
- Maintain operational excellence (tools and people)

These priorities will be supported by specific projects and activities that we have identified.

Progress against our strategic plan will continue to be monitored on an ongoing basis and I will report on it in future annual reports to Parliament.

OUR INFRASTRUCTURE

We have 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 2018-2019 fiscal year.

In November 2018, we launched an upgraded Integrated Case Management System. All information from our old system was migrated to the new one, supported by the House of Commons' information technology group. Several customizations that had been made previously were replaced with more streamlined solutions so operations were not interrupted. Our upgraded information technology infrastructure is compatible with existing systems and allows our Office to explore new technology options for delivering our mandate. Because of the scope of this transition, we are still dealing with technical and procedural issues that we are working to resolve.

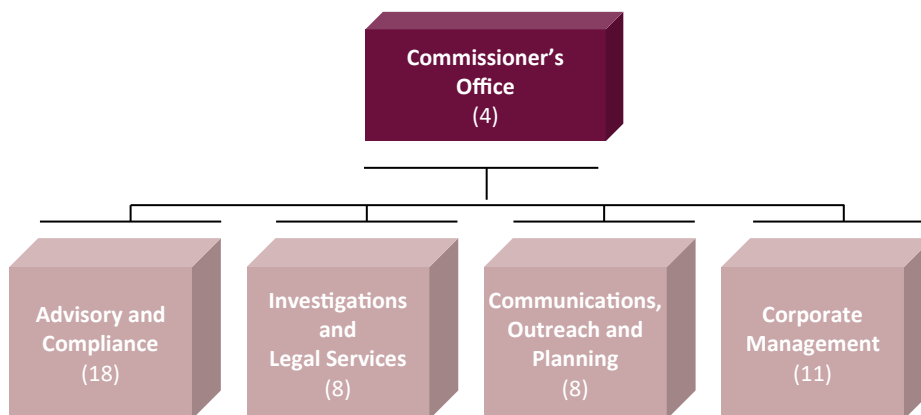


Figure 1—Distribution of positions within our Office

OUR CHALLENGES

The way I implement my mandate as Commissioner can be impacted by developments in the external environment. Some of those may be viewed as challenges and others as opportunities. In my view, however, they all represent the potential for positive change.

SAFEGUARDING THE PUBLIC INTEREST

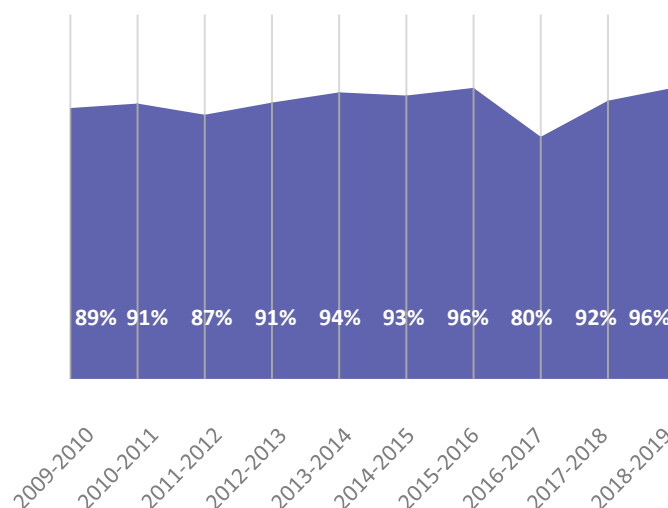
One of the purposes of the *Conflict of Interest Act* is to “minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise.”

By helping public office holders avoid and prevent conflicts between private and public interests, I believe our Office plays an important role in maintaining the integrity of public officials and the public institutions in which they serve.

I believe that respect of the reporting deadlines set out in the Act are an indicator of how effectively we are fulfilling that role. Our data illustrates that most reporting public office holders meet the deadlines set out in the Act. In some cases, deadlines are missed because of delays in notifying our Office of appointments, or because of other circumstances beyond the reporting public office holders’ control.

As shown in graph 15, a large majority of reporting public office holders have historically respected the deadlines imposed by the Act.

I also believe that increased communications with our Office are another indicator of compliance. I have been interested in determining the average number of times that a public office holder contacts our Office to request advice, or to make updates to their files.



Graph 15—Percentage of new or reappointed reporting public office holders who have filed within one week of the deadlines imposed by the Act

One can assume that this voluntary compliance on the part of public office holders is a step in the right direction for safeguarding the public interest.

We have determined that, on average, public office holders request advice twice per year.

LEVERAGING NEW TECHNOLOGIES

Just as we have made use of new technologies to increase the reach of our education and outreach activities and their ease of access, I believe there are opportunities to leverage new technologies so our Office can better assist public office holders in identifying potential conflicts of interest in order to prevent them from developing.

For example, I believe artificial intelligence could have great potential in the development of an electronic oversight tool. It is not beyond the realm of possibility that one day we could have a system that contains data not only on public office holders, such as their assets and liabilities, but also on the official decisions they are making or have made. The system would be able to automatically generate red flags that would alert individual public office holders as well as the Commissioner, making it possible to avoid conflicts of interest or to address them right away. We are, of course, a long way from achieving such a system, and there are issues that would have to be addressed, such as how to obtain and input data on decisions, as well as privacy considerations.

In October 2015, our Office launched a secure declaration portal to facilitate the process by which public office holders meet their reporting requirements. The portal usage is high (74% of declarations are approved or submitted through the portal). As the portal has become a popular tool, our Office is considering ways to increase its potential in order to improve efficiency.

Harnessing the use of technology to improve compliance is a trend that is being seen on a global level. Our Office was represented at the

Organisation for Economic Co-operation and Development's 2019 Integrity Forum, whose theme was "Technology for Trust." The Forum explored the many ways technology is being used by governments and organizations to implement and improve their ethics frameworks. As well, an Office employee recently attended seminars focusing on artificial intelligence and business analytics in order to help us to start incorporating technology in more of our internal processes.

ELECTION READINESS

With a federal election scheduled to take place in October 2019, our Office's workload is expected to increase significantly. General elections always occasion a high level of turnover among ministers, ministers of state, parliamentary secretaries, ministerial staff and ministerial advisers, all of whom are subject to the *Conflict of Interest Act* as reporting public office holders.

In fact, parliamentary secretaries cease being reporting public office holders under the Act once the writ is dropped and become subject only to the Act's post-employment provisions. (Ministers, ministers of state and ministerial staff remain subject to the Act as reporting public office holders during the election period.)

In addition to assisting those leaving public office with their post-employment obligations under the Act, we will have to guide newly appointed ministers, ministers of state, parliamentary secretaries, ministerial staff and ministerial advisers through the initial compliance process.

We started preparing for the election in 2018-2019. For example, we worked on processes for the hiring of employees and students to help with the increased workload. We updated letters and documents, and improved our fillable electronic forms to make it easier for reporting public office holders to complete their confidential report. We also offered presentations about the Act's post-employment rules.

COURT MATTERS

Matters involving our Office have been the object of several applications for judicial review. While dealing with them can consume a significant amount of Office resources, I believe they can also be opportunities to clarify the Commissioner's mandate and powers.

On October 26, 2018, the Federal Court of Appeal rendered two separate unanimous judgments dismissing applications for judicial review filed by the advocacy group Democracy Watch that were challenging "decisions" taken by the former Commissioner.

In *Democracy Watch v. Attorney General of Canada*, 2018 FCA 195, the Court dismissed Democracy Watch's application for judicial review because of mootness. Democracy Watch was challenging the former Commissioner's letter to the Honourable Bill Morneau on the basis that it was a refusal by the former Commissioner to exercise her jurisdiction. In that letter, Mr. Morneau was informed that he was not required to divest his shares of private holding corporations which held publicly traded shares of a family company. The Court considered that Mr. Morneau had stated in the

House of Commons in November 2017 that he had sold all the shares in his family company, which rendered the application moot.

In *Democracy Watch v. Attorney General of Canada et al.*, 2018 FCA 194, the Court dismissed Democracy Watch's application for judicial review challenging the Commissioner's authority to determine whether a conflict of interest screen was an appropriate compliance measure under section 29 of the *Conflict of Interest Act* as it applied to the Honourable Dominic LeBlanc. Our Office was granted intervener status by the Court. The Court concluded that screens are a reasonable exercise of the Commissioner's authority and that the former Commissioner's interpretation and application of her home statute, the basis for screens, was reasonable. In arriving at its decision, the Court considered the broad language of the Commissioner's discretionary powers under section 29 of the Act, and determined that screens, meant to prevent conflicts of interest, are a measure entirely compatible with the intent and spirit of the Act. Democracy Watch sought leave to appeal this decision to the Supreme Court of Canada, which dismissed the application on May 2, 2019.

On December 19, 2018, the Federal Court, in *Democracy Watch v. Attorney General of Canada*, 2018 FC 1290, rendered a judgment dismissing an application for judicial review filed by Democracy Watch challenging the appointment of Mr. Mario Dion as Conflict of Interest and Ethics Commissioner. This decision is presently being appealed by the applicant.

APPENDICES

FINANCIAL RESOURCES SUMMARY

| (thousands of dollars) | | | | | |
|--|---------------------------------|-------------------|-----------------------------------|--------------------|--|
| Program Activity | 2017-2018 Actual Spending | Main Estimates | 2018-2019 Total Authorities | Actual Spending | Alignment to Government of Canada Outcomes |
| Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i> | 5,973 | 6,134 | 6,134 | 5,827 | Government Affairs |
| Contributions to employee benefit plans | 665 | 734 | 734 | 691 | |
| Total Spending | 6,638 | 6,868 | 6,868 | 6,518 | |
| Plus: Cost of services received without charge | 1,148 | n/a | n/a | 1,110 | |
| Net Cost of Department | 7,786 | 6,868 | 6,868 | 7,628 | |

The budget process for the Office of the Conflict of Interest and Ethics Commissioner is established in the *Parliament of Canada Act*. Before each fiscal year, the Commissioner has his Office prepare an estimate of its budgetary requirements. The estimate is considered by the Speaker of the House of Commons and then transmitted to the President of the Treasury Board, who lays it before the House with the estimates of the Government of Canada for the fiscal year. The mandate of the Standing Committee on Access to Information, Privacy and Ethics includes reviewing and reporting on our Office's effectiveness, management and operations, together with its operational and expenditure plans.

Complete audited financial statements can be found on our website at ciec-ccie.gc.ca.

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. It is important to understand, however, that significant milestones had already been achieved in the preceding decades.

