



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

Annual Report

Conflict of Interest Act

2019 2020



Mario Dion

Conflict of Interest and
Ethics Commissioner

Conflict of Interest and Ethics Commissioner – Annual Report 2019-2020, in respect of the
CONFLICT OF INTEREST ACT

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Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

June 2020

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, 2020, 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

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à l'éthique

June 2020

The Honourable Anthony Rota, 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, 2020, for tabling in the House of Commons. The report is deemed permanently referred to the House of Commons Standing Committee on Access to Information, Privacy and Ethics, under Standing Order 108(3)(h)(v).

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

Sincerely,

Mario Dion
Conflict of Interest and Ethics Commissioner

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COMMISSIONER'S MESSAGE



I am pleased to report on the administration of the *Conflict of Interest Act* (Act) in 2019-2020.

It was an eventful and productive year.

The Office focused on core activities leading up to and following the October 2019 election. Ministers, parliamentary secretaries and ministerial staff typically experience high turnover around general elections. We assisted those leaving office with their post-employment obligations under the Act and helped new appointees achieve compliance.

We released five investigation reports, including the *Trudeau II Report* under the Act. Like all of our investigation reports, it was prepared with due diligence and dispatch. For me, it is proof of the robustness of Canada's accountability framework, which allows the federal conflict of interest regimes to be enforced regardless of who the subject of an investigation is.

We launched a new, mobile-friendly website aimed at better educating and informing stakeholders and the public about those regimes. It is just one component of a new communications approach that is currently under development. We continued to support transparency by publishing quarterly statistical reports on our activities.

We recognize that COVID-19 has made for a challenging time in Canada and around the world, and our thoughts are with everyone affected by the pandemic.

I remain honoured to serve Parliament and Canadians. I recognize that I am only able to do so because of the hard work and dedication of our employees, and I extend my gratitude to each and every one of them.

A handwritten signature in black ink that reads "Mario Dion". The signature is written in a cursive, flowing style.

Mario Dion
Conflict of Interest and Ethics Commissioner

OUR VISION

Offer exemplary services in support of a culture of integrity in order to achieve a high degree of public confidence in the integrity of federal institutions and Parliament.

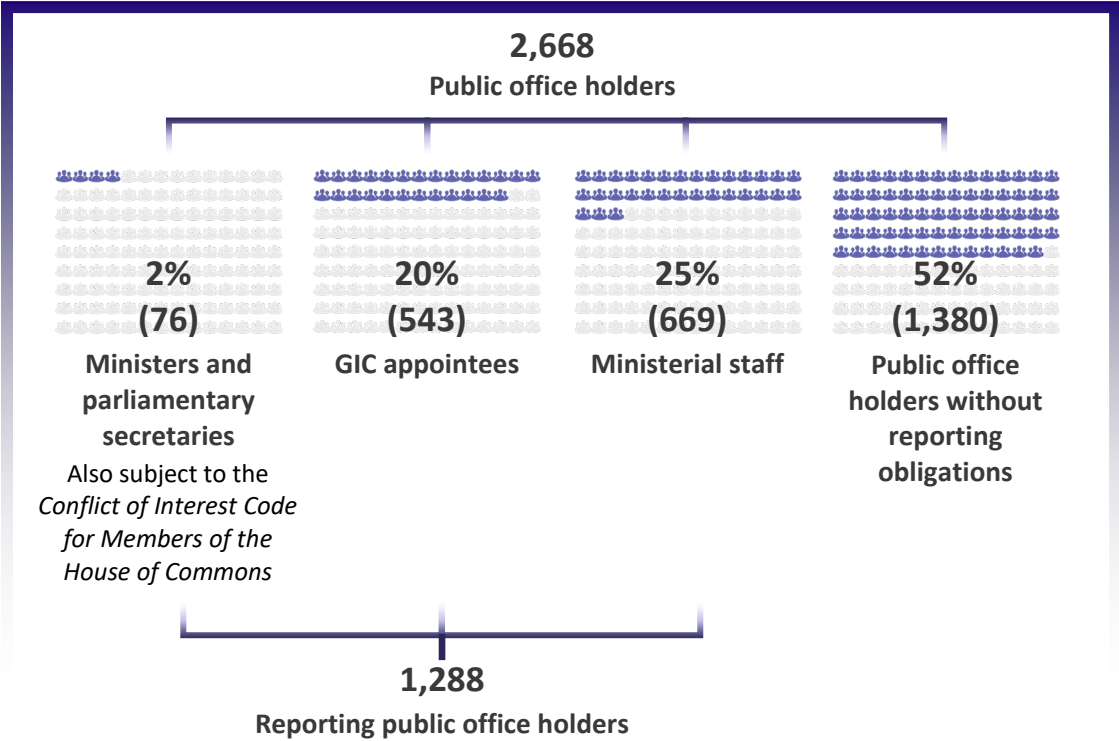
OUR MISSION

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

The Office’s stakeholders include not only regulatees, namely the individuals who are subject to the conflict of interest regimes it administers, but also Parliament, academics, ethics practitioners and others with an interest in the field, the media and the general public.

This report touches on all stakeholder groups, but its focus is the public office holders who are subject to the *Conflict of Interest Act*. The Office’s quarterly statistical reports provide an accurate reflection of the fluctuations that occur throughout the year. The following graphic provides a snapshot of public office holders on March 31, 2020.



PUBLIC OFFICE HOLDERS

Individuals subject to the Act are collectively known as public office holders. They are all subject to the Act’s core set of conflict of interest and post-employment rules. Those rules set out obligations aimed at preventing conflicts between private and public interests and prohibit various activities that could give rise to such conflicts.

Just over half of these individuals (52%) do not have ongoing reporting obligations and are subject to the rules set out in Part 1 of the Act.

These individuals are subject only to those general rules and are referred to as “public office holders without reporting obligations.”

Additional rules set out in Part 2 of the Act include ongoing reporting and public disclosure provisions, as well as prohibitions against engaging in outside activities and holding controlled assets. The subset of individuals (47%) to whom this section applies are known as “reporting public office holders.”

Who are reporting public office holders?

- Ministers*
- Ministers of state*
- Parliamentary secretaries*
- Ministerial staff members who work on average 15 hours or more a week
- 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 members.*

Who are public office holders without reporting obligations?

- Part-time members of federal boards, commissions and tribunals
- Ministerial staff members who work on average less than 15 hours a week

After they leave public office, public office holders are subject to the Act’s post-employment rules set out in Part 3. Some of those rules apply to all public office holders for an indefinite period. Others apply only to former reporting public office holders for a one- or two-year “cooling-off” period following their last day in public office.

Turnover in 2019-2020		
	Appointed or reappointed	Left office
Reporting public office holders	411	375
Public office holders without reporting obligations	445	255

OUR ACHIEVEMENTS

Administering the *Conflict of Interest Act* requires the Office to undertake a number of key activities. The following pages explain these activities and how they were undertaken during fiscal year 2019-2020.

COMPLIANCE

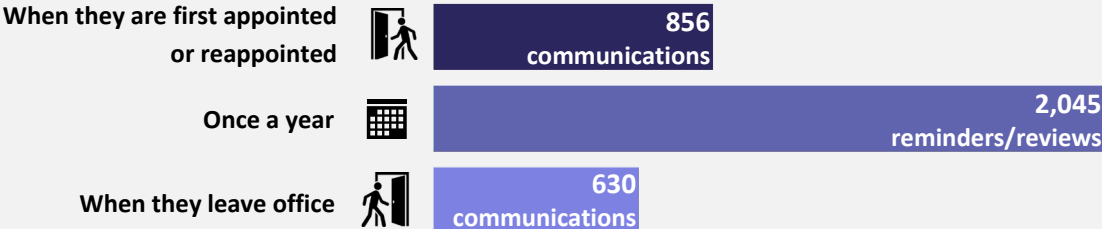
Helping public office holders and Members of the House of Commons achieve and maintain compliance with the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons* constitutes the core work of the Office.

To support this, a majority of the Office’s resources are dedicated to compliance functions. This includes not only the budget of its Advisory and Compliance division, which accounts for over one third of Office employees, but a portion of the budgets of other divisions as well. For example, the Legal Services division may provide opinions that help inform the decision-making process when the Commissioner provides guidance to public office holders and Members on particular compliance matters. The time spent by the Commissioner dealing with such matters and advising individual public office holders and Members is also a factor in the allocation of resources to the Commissioner’s Office.

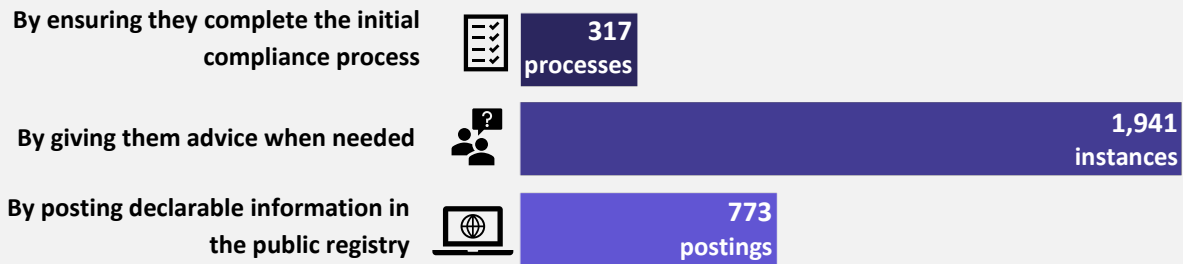
Communications with reporting public office holders are more frequent than with those without reporting obligations.

The Office has established a service standard to contact all public office holders within three days of being notified of their appointment or reappointment. In 2019-2020, the standard was met in 80% of cases, up from 62% the year before. Processes are continuously being improved to ensure the target of 80% is maintained or maybe even surpassed.

When are public office holders contacted by the Office?



How does the Office help public office holders comply with the Act?



Initial Compliance Process

All reporting public office holders must complete an initial compliance process under the *Conflict of Interest Act*. This process begins soon after they are appointed or reappointed to public office. The entire process must be completed within 120 days after their appointment or reappointment when there is an interruption between the appointment and reappointment. The Office’s compliance advisors and officers guide them through it every step of the way. The Commissioner is kept abreast of files throughout the process.

Steps in initial compliance process		317 initial compliance processes completed
<i>First letter (sent with copy of Act and summary of applicable rules)</i>	The Commissioner sends a letter to reporting public office holders when the Office is notified of their appointment or reappointment.	411 first letters sent
<i>Confidential Report</i>	Reporting public office holders must file a <u>Confidential Report</u> outlining their assets, liabilities, income, current and past activities and any other information the Commissioner considers necessary, within 60 days after their appointment or reappointment. On request, advisors and officers help them complete their Confidential Report.	
<i>Review of Confidential Report</i>	Advisors review each Confidential Report to inform reporting public office holders on how to meet their initial compliance obligations under the Act. Some matters may require a decision from the Commissioner, and the Legal Services division may be required to provide opinions that help inform the decision-making process.	

<p><i>Initial compliance call</i></p>	<p>Advisors schedule a call (or an in-person meeting) with each reporting public office holder to review the Act’s substantive provisions, including post-employment rules, clarify disclosures in the Confidential Report and provide guidance on necessary measures. These may include the public disclosure of certain information, the <u>divestment of controlled assets</u> (please see below), minimal value exemptions, the establishment of <u>conflict of interest screens</u>, <u>recusals</u> or other measures deemed necessary under section 29 of the Act. Some of these require the Commissioner’s approval.</p>	<p>306 initial compliance calls completed</p> <p>125 declarations of assets</p> <p>44 declarations of liabilities</p> <p>85 declarations of outside activities</p> <p>9 agreed compliance measures, including 8 conflict of interest screens</p>
<p><i>Intermediate letter (sent with Summary Statement and other public declarations)</i></p>	<p>Formalizes the advice provided verbally to the reporting public office holder and any required compliance measures. The Summary Statement and any public declarations prepared by the advisor are included with the letter. The reporting public office holder must sign and return these once all compliance measures are finalized and within 120 days after their appointment or reappointment.</p>	<p>283 summary statements posted in the public registry</p> <p>50 divestments of controlled assets, including 37 by sale and 13 by blind trust</p>
<p><i>Final letter sent by Commissioner and public registry postings</i></p>	<p>Signals the completion of the initial compliance process. Information on ongoing reporting obligations, gifts and administrative monetary penalties is enclosed. The Summary Statement and required declarations are posted in the <u>public registry</u> on the Office’s website.</p>	

Reporting public office holders may not hold or acquire controlled assets during their term of office. They must divest any such assets within 120 days after their appointment, by selling them to a third party in an arm’s-length transaction or by placing them in a blind trust. The Office’s website contains several information notices that explain the Act’s divestment requirements, including one on categories of assets that was updated in January 2020. Advisors guide reporting public office holders through the divestment process. Staff in the Corporate Management division review and analyze the costs of establishing, administering and dismantling blind trusts and help the Commissioner determine the reasonableness of fees incurred so he may issue orders for reimbursement to the reporting public office holders’ organizations. In 2019-2020, the Commissioner issued 163 orders for reimbursement totalling \$777,523.38.

Process for public office holders without reporting obligations		
<i>First letter (sent with copy of Act and summary of applicable rules)</i>	Provides an overview of the obligations set out in the Act and invites public office holders without reporting obligations to contact the Office for confidential advice on conflict of interest matters.	445 first letters sent
<i>Annual reminder</i>	An annual letter reminds them of the Act's conflict of interest rules.	1,475 annual reminders sent
<i>Post-employment letter</i>	Once they leave office, the Office sends them a letter detailing their post-employment obligations.	255 post-employment letters sent

Ongoing Reporting Requirements

After they have completed the initial compliance process, reporting public office holders must meet a number of reporting requirements throughout their terms of office. Some of these requirements may also apply to public office holders without reporting obligations. Some are subject to administrative monetary penalties for failure to meet them within the timeframe established in the Act.

<i>Annual review</i>	The Commissioner must review the disclosures of reporting public office holders every year and update information previously disclosed.	570 annual reviews initiated and 564 received
<i>General obligations</i>	Since compliance with the Act is a condition of all public office holders' appointment or employment, they are encouraged to contact the Office about all questions regarding their obligations.	416 requests for advice on general obligations
<i>Material changes (subject to a monetary penalty)</i>	Reporting public office holders must inform the Office of any <u>material change</u> to any matter they were required to disclose during the initial compliance process, within 30 days after the change. In February 2020, the Office published an updated information notice on material change and issued a <u>Notice of Material Change</u> form to facilitate compliance with this requirement.	603 requests for advice on material changes
<i>Gifts or other advantages</i>	Reporting public office holders must publicly declare any acceptable <u>gifts or other advantages</u> they or their family members accept from any one source in a 12-month period with a value of \$200 or more. A disclosure to the Office must also be made within 30 days after the day on which the cumulative value of multiple gifts exceeds \$200. Unless the Commissioner determines otherwise, all gifts received by a public office holder as an expression of courtesy or protocol valued at \$1,000 or more must be forfeited to Her Majesty in right of Canada and so disclosed in the public registry.	236 requests for advice and 166 public declarations of gifts or other benefits

<i>Private flights</i>	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. These individuals can only accept such travel if required in their capacity as public office holders, in exceptional circumstances or with the Commissioner's prior approval.	6 declarations of travel on non-commercial chartered or private aircraft
<i>Recusals</i>	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 <u>recusal</u> , within 60 days after the day on which the recusal takes place. A conflict of interest screen may be established if conflicts of interest are likely to recur.	10 public declarations of recusals
<i>Post-employment obligations</i>	Reporting public office holders must disclose to the Office all firm <u>offers of outside employment</u> , within seven days after receiving them. They must also disclose to the Office the acceptance of offers of outside employment, within seven days after accepting them. Once public office holders leave office, they are all subject to some rules that have no time limit. Reporting public office holders are also subject to more stringent rules during a cooling-off period of two years for ministers and one year for other reporting public office holders. Depending on the situation, they may apply to the Commissioner for a waiver, reduction or exemption.	386 requests for advice on post-employment obligations including firm offers of outside employment and acceptance of offers of outside employment 375 post-employment letters sent 13 post-employment waivers or exemptions

The Office communicates with regulatees in their preferred official language, as indicated by the Privy Council Office for Governor-in-Council appointees and by ministers' offices for ministerial staff. Regulatees may also inform the Office whether they wish to communicate in English or French.

Public Registry

Transparency is a pillar of effective conflict of interest regimes. In this context, it means openness, clarity, unobstructed access and disclosures when interacting with, or on behalf of, the public.

The conflict of interest regimes administered by the Office ensure transparency through disclosure and public declaration requirements.

The Office maintains a public registry of compliance documents required under the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*. It is a searchable database that contains public office holders' summary statements, as well as their public declarations relating to gifts or other advantages, travel, certain assets and liabilities, outside activities and other declarations as necessary.

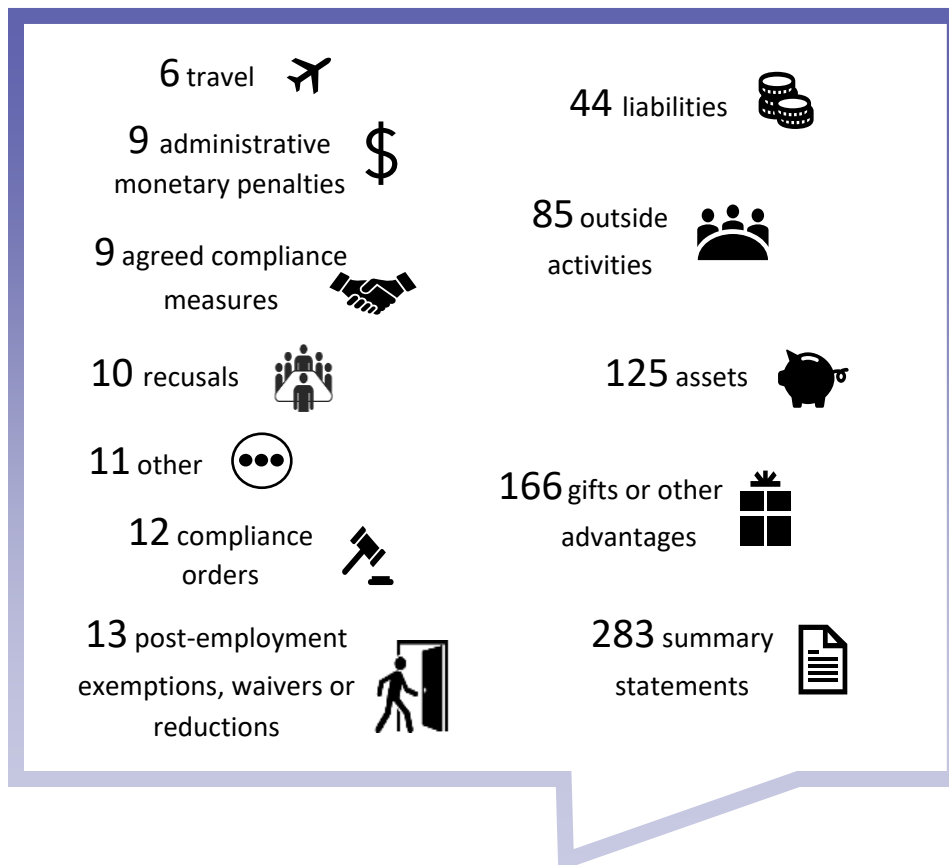


23,266
public
registry
visits in
2019-2020



1,024
public
declarations
including **773** from public
office holders and
251 from Members

What did public office holders declare?



DIRECTION AND ADVICE

To help public office holders comply with the *Conflict of Interest Act*, the Office provides them with confidential direction and advice tailored to their individual situations. It continues to follow the processes developed since the coming into force of the Act and the interpretative approach taken by the Commissioner in the last two years to ensure coherence in the application of the rules set out in the Act. All public office holders must be able to feel confident the advice they are given is fair and appropriate. This is reflected in the Office’s mission statement and is the objective of several projects within the Office’s three-year strategic plan.

Public office holders frequently consult the Office, either during or after their term of office. The Commissioner personally met with over 40 regulatees to discuss their personal situation, in addition to any communications public office holders had with their advisors.

They ask about a range of matters, such as how to arrange their affairs to comply with the Act, how to make a public declaration and how to meet their post-employment obligations. Questions about material changes accounted for one third of the requests for advice received in 2019-2020.



1,941
requests for advice
from public office
holders

Responded
within 3
business days
in **94%**
of cases

What did public office holders ask about?



EDUCATION AND OUTREACH

The Office conducts a range of education and outreach activities to help public office holders understand and meet their obligations under the *Conflict of Interest Act*. They supplement the confidential advice and direction provided to individual public office holders and other communications regarding compliance processes.



Information notices

These educational tools explain how various provisions of the Act apply and, where relevant, the Commissioner's interpretations of them.

All information notices are posted on the Office's website and some are accompanied by videos which are also available on its YouTube channel, Ethics Canada.

In 2019-2020, the Office issued 12 updated or new information notices:

- Three rules summaries for public office holders, reporting public office holders, and ministers and parliamentary secretaries
- Eight on compliance requirements for reporting public office holders, categories of assets, conflict of interest screens, material change, participation in appointment processes, recusal obligations, administrative monetary penalties and investigations under the Act
- One on the Commissioner's role and mandate



Presentations

Most are delivered in-person by the Commissioner and staff and six were delivered via teleconference. By using teleconference and webinar technology to deliver presentations, the Office can reach a greater number of regulatees.

- A total of 28 presentations were given to offices and organizations with regulatees subject to the Act
- Total of 514 participants



Social media

The Office uses Twitter (@EthicsCanada) to communicate directly with regulatees, for example by tweeting links to updated or new information notices.

- The Office tweeted 171 times about its activities, role and mandate

ENFORCEMENT

While prevention is its major focus, the Office does not hesitate to apply the enforcement provisions of the *Conflict of Interest Act* as appropriate.

Administrative Monetary Penalties

The Commissioner can impose administrative monetary penalties of up to \$500 for failures to meet certain reporting requirements of the Act within the established deadlines. These include Confidential Report filings, disclosures of material changes, firm offers of outside employment and their acceptance, and public declarations of gifts and recusals. In 2019-2020, the Commissioner did so in nine cases.

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. Accordingly, the Office posts them in the public registry. It also makes reference to penalties on Twitter soon after they are added to the registry.



Compliance Orders

Under section 30 of the Act, the Commissioner may order a public office holder to take any compliance measure that the Commissioner determines is necessary to comply with the Act, such as submitting documents for the annual review, ceasing prohibited outside activities or divesting any assets that could give rise to a conflict of interest.

The Office faced an unprecedented compliance situation after the *Canadian Energy Regulator Act* (CER Act), which established the Canadian Energy Regulator, became law in June 2019.

Sections 16, 22 and 29 of the CER Act set out the circumstances in which the Canadian Energy Regulator’s chief executive officer, directors and commissioners, who are subject to the *Conflict of Interest Act* as public office holders and reporting public office holders, are understood to be in a conflict of interest for the purposes of the *Conflict of Interest Act*. They expand the meaning of conflict of interest beyond what exists in the *Conflict of Interest Act* by prohibiting certain outside activities and holdings.

The Commissioner responded by issuing section 30 compliance orders to the Canadian Energy Regulator’s chief executive officer, directors and commissioners to ensure they are not in a conflict of interest under the CER Act. This was the first time the Conflict of Interest and Ethics Commissioner had to issue a compliance order to ensure that public office holders comply with a broader definition of conflict of interest.



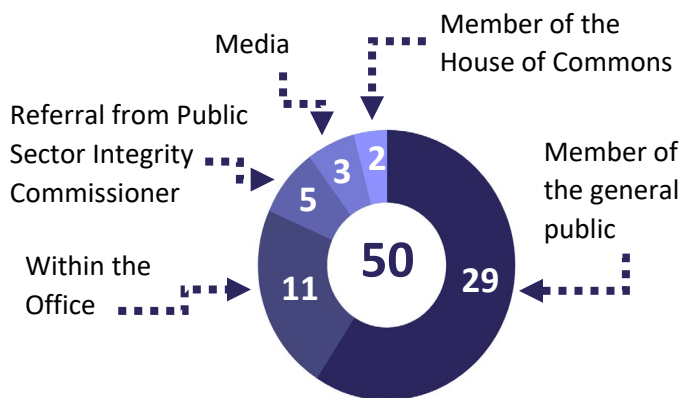
Examination Case Files

When the Office receives information about a possible contravention of the Act, including through media reports or complaints from members of the public, a case file is opened. The information is reviewed to determine whether the concern raised falls within the Office’s mandate and, if it does, whether the Senator or Member of the House of Commons set out reasonable grounds to believe—or, in the case of a self-initiated examination, whether the Commissioner has 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.

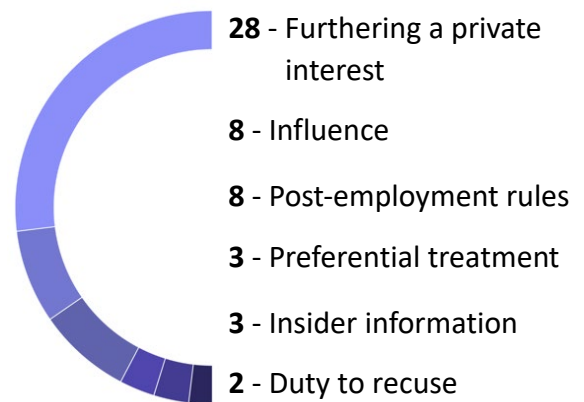
How many case files were opened and closed?



What was the source of these case files?



What was the nature of the concerns?



Who was the subject of these case files?

47 Other current or former public office holders

28 Current or former ministers or parliamentary secretaries

2 Persons not subject to the Act

Examinations

The Commissioner can launch an examination of a possible contravention of the *Conflict of Interest Act* 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 the Commissioner the discretion to conduct an examination on his own initiative if the Commissioner has reason to believe the Act has been contravened. Decisions to do so may be based on information that comes to the attention of the Office in various ways, including media reports and complaints from members of the public.

The Commissioner issues a public report upon the completion of an examination. When the Commissioner decides to discontinue an examination launched in response to a request from a Senator or Member, a discontinuance report is issued.

Matters may also be referred to the Commissioner by the Public Sector Integrity Commissioner under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*. When such a referral is received, the Commissioner is required, under section 68 of the *Conflict of Interest Act*, to issue a report, which is made public. The report must set out the facts in question, the analysis of the situation and the conclusion, whether or not an examination is launched.

In 2019-2020, the Office issued two examination reports under the *Conflict of Interest Act*:

In the ***Smolik Report***, issued on May 30, 2019, the Commissioner found that Mr. Jim Smolik, a former Assistant Chief Commissioner and Acting Chief Commissioner of the Canadian Grain Commission, contravened two of the Act's post-employment provisions when he engaged in several interactions with the Commission on behalf of his new employer, Cargill Limited.

Mr. Smolik was found to have contravened section 33 of the Act, which prohibits former public office holders from acting in such a manner as to take improper advantage of their previous office. This rule applies for an indefinite period. The evidence showed he exploited his previously established Commission relationships and the knowledge and expertise he had acquired while employed at the Commission to help Cargill obtain a timely and favourable decision from the Commission.

Mr. Smolik was also found to have contravened subsection 35(2) of the Act. This provision prohibits former reporting public office holders from making representations for or on behalf of any other person or entity to any department, organization, board, commission or tribunal with which they had direct and significant official dealings during their last year in public office. Representations include communications made with a view to influencing official decisions, opinions or actions. For Mr. Smolik, this rule applied for a cooling-off period of one year following his last day in office. As a former Commissioner of the Canadian Grain Commission, Mr. Smolik had direct and significant official dealings with the Commission during his last year in public office. The evidence showed that an application by Cargill to the Commission, which was submitted by Mr. Smolik during his cooling-off period, was a communication made by him to the Commission with a view to influencing a decision or action.

In the ***Trudeau II Report***, issued on August 14, 2019, the Commissioner found that the Right Honourable Justin Trudeau, Prime Minister of Canada, contravened section 9 of the Act when he used his position to seek to influence a decision of the Attorney General of Canada relating to a criminal prosecution involving SNC-Lavalin. Section 9 prohibits public office holders from using their position to seek to influence a decision of another person so as to further their own private interests or those of their relatives or friends, or to improperly further another person's private interests.

The decision in question was whether or not the Minister of Justice and Attorney General, the Honourable Jody Wilson-Raybould, should intervene in the Director of Public Prosecutions' September 2018 decision not to invite SNC-Lavalin, which was facing criminal charges, to negotiate a possible remediation agreement.

The Commissioner determined that Mr. Trudeau, either directly or through the actions of those under his direction, sought to influence the Attorney General's decision as to whether she should intervene in SNC-Lavalin's criminal prosecution. He further determined that Mr. Trudeau, through his actions and those of his staff, sought to do so improperly. The evidence showed that SNC-Lavalin had significant financial interests that would likely have been furthered had Mr. Trudeau successfully influenced the Attorney General. The actions that sought to further these interests were improper since they were contrary to the principles of prosecutorial independence and the rule of law.

The Office also issued a report as a result of a referral made by the Public Sector Integrity Commissioner:

In the ***Wernick Report***, issued on March 10, 2020, the Commissioner concluded that he did not have reason to believe that Mr. Michael Wernick had contravened the Act while he was Clerk of the Privy Council and Secretary to the Cabinet, and would therefore not pursue the matter further.

It was alleged that Mr. Wernick may have contravened section 9 of the Act in matters raised during the *Trudeau II Report* investigation. In that examination, the Commissioner concluded that the individuals who acted under the direction or authority of the Prime Minister could not have influenced the Attorney General simply by virtue of their position. This conclusion applied to a number of reporting public office holders, including Mr. Wernick.

Barring exceptional circumstances, the Office's target is to conduct examinations within a 12-month timeframe.

As of March 31, 2020, the Office was working on 12 other examinations under the Act, 10 of which relate to the same subject matter. The nature of those examinations has not been made public. Four case files were also under review. The Office is often asked for information about examinations that are in progress, but strict confidentiality requirements set out in the Act prevent it from providing any information.

Average time to finish an examination



267 days

The Commissioner believes the Act continued to work well in 2019-2020. He could, however, offer a few suggestions on possible amendments should Parliament decide to review the legislation.

PUBLIC COMMUNICATIONS

In 2019-2020, the Office continued to undertake a range of public communications initiatives. They are aimed at educating and informing regulatees, as well as the media and the general public, about Canada's federal conflict of interest regimes and the Office's role in administering them.

The Office started developing a communications approach that identifies a range of actions in support of one of the key priorities identified in its strategic plan: building and improving communications and outreach processes.



Website

66,870 visitors

In October 2019, the Office launched a new [website](#) aimed at better educating and informing regulatees, the media and the public. Designed to make information more easily accessible in the interests of transparency and accountability, it has improved functionality and is more mobile-friendly, making it a more effective source of information.



Social media

1,245 followers

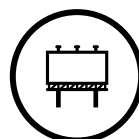
[Twitter \(@EthicsCanada\)](#) is used to communicate information about the Office and its work. Items of interest to the Office and the ethics community at large, such as relevant reports from other Canadian conflict of interest commissioners and international organizations, are retweeted. In 2019-2020, the number of followers grew by 22%, increasing the Office's social media reach. The new communications approach includes a detailed social media plan.



Media and public inquiries

175 media
1,608 public

Recognizing the important role the media play in promoting awareness of the Commissioner's role and mandate and the need to help them report as accurately as possible, the Office has continued to provide them with as much information as it is permitted to. It issues media advisories and [news releases](#) and shares information via Twitter in addition to responding to media and public inquiries. The Commissioner participated in six interviews with journalists in 2019-2020.



Presentations

11 presentations
584 participants

The Commissioner and representatives of the Office give a variety of [presentations](#) to help Canadians and international audiences understand the role and mandate of the Office. Where possible, participants have access to an Internet-based audience interaction tool that enables audience members to use their mobile devices to anonymously ask questions and participate in live polls.

In May 2019, a senior representative of the Office gave a presentation to The Many Facets of Parliament event for parliamentary employees. In October, the Commissioner met with Parliamentary Internship Programme participants and led a discussion with political science students at the University of Ottawa. The Commissioner also gave presentations to Ontario Legislative Internship Programme students in December, and to a class at Carleton University in February 2020. That same month, he participated in the Conference Board of Canada's Public Sector Leadership Conference.

The Office receives a large volume of inquiries from members of the public. When responding, it takes the opportunity to educate them about the Commissioner's role and mandate. When their concerns do not fall within the mandate of the Office, they are directed to other organizations that might be better able to assist them.

The Office received 1,783 communications from the media and the public in 2019-2020. The Office strives to respond to such communications in a timely manner and has established service standards to do so. The target for achieving those service standards was set at 80%. Media requests were responded to within four hours in 86% of cases. Communications from members of the public were responded to within two weeks in 80% of cases.

In 2019-2020, in support of its values of equality, respect and inclusiveness, the Office started using gender-inclusive language in its communications.

COLLABORATION AND BEST PRACTICES

The Office continued to work with counterparts in Canada and other countries in 2019-2020, exchanging information about conflict of interest rules and practices and discussing related issues in order to stay abreast of evolving concerns and new developments in the field.

Domestic Outreach

In September 2019, senior Office representatives attended the annual meeting of the Canadian Conflict of Interest Network (CCOIN), held in Regina, Saskatchewan. Formed in 1992, CCOIN is made up of conflict of interest commissioners at the federal level and from all Canadian provinces and territories. The Office has coordinated information gathering for CCOIN since 2010.



Photo by Gary Robins, Available Light Photographics and Design

In February 2020, the Office hosted a working meeting with the Quebec Ethics Commissioner and members of her staff. Employees in all divisions participated in briefings about Office activities and approaches in compliance, investigations, communications, strategic planning and other areas.



The Office has continued to implement the March 2018 memorandum of understanding that the Commissioner signed with the Commissioner of Lobbying to cooperate on education and outreach and to jointly organize educational activities for individuals affected by the work of both offices. In 2019-2020, the two commissioners cohosted six teleconferences in which a total of 292 public office holders participated. Two teleconferences, one in English and the other in French, were held with reporting public office holders on their post-employment obligations in November 2019. These were repeated in January 2020 for those who were unable to participate earlier. In March 2020, separate English and French teleconferences were held for ministerial staff.

The Commissioner meets regularly with other agents of Parliament to discuss common challenges and ways of meeting them and to listen to presentations of interest to all. Likewise, Office employees liaise with their counterparts in the offices of other agents of Parliament. For example, staff in the Communications, Outreach and Planning division attend regular meetings of an agents' communications group. Staff in the Legal Services division are part of an agents' legal services group that organized a one-day seminar in May 2019 for all lawyers in those offices.

International Outreach

In 2019-2020, the Office remained active in the network of conflict of interest and parliamentary ethics organizations within the Organisation internationale de la Francophonie. The Réseau parlementaire, which the Commissioner helped found in 2018, seeks to foster the sharing of best practices among commissioners and other ethics and conflict of interest bodies. In October 2019, a senior Office representative attended a meeting of the group in Namur, Belgium.

In December 2019, a senior Office representative made a presentation on the Commissioner's behalf at the 7th Global Conference of Parliamentarians Against Corruption. The event, organized by the Global Organization of Parliamentarians Against Corruption, took place in Doha, Qatar.

In December 2019, Office representatives attended the annual conference of the Council on Governmental Ethics Laws (COGEL) in Chicago, at which a senior Office representative participated in a panel discussion about compliance communications. COGEL is a U.S.-based, international not-for-profit organization of government ethics practitioners. The Office is a member and other Canadian conflict of interest and integrity offices are also active in it.

The Office was scheduled to participate in the Organisation for Economic Co-operation and Development's Global Anti-Corruption and Integrity Forum in Paris in March 2020, but the event was cancelled because of the COVID-19 pandemic.

International counterparts sometimes approach the Office to organize delegation visits. During such visits, the Office provides an overview of the Canadian ethical framework and explains the role and mandate of the Office. They are also an opportunity for the Office to learn firsthand about the ethics regimes in other countries. In December 2019, it hosted a delegation from the Ministry of Personnel Management of the Republic of Korea.



CONTACTS WITH PARLIAMENT

The Conflict of Interest and Ethics Commissioner is an independent officer of the House of Commons who reports directly to Parliament, through the Speaker of the House of Commons, on behalf of Canadians.

The Commissioner is required to submit an annual report on the administration of the *Conflict of Interest Act* to Parliament by June 30 for tabling with the Speakers of the Senate and the House of Commons. He reports on examinations under the Act to the Prime Minister.

The Commissioner also testifies before parliamentary committees about the Office and its work. On May 16, 2019, he appeared before the House of Commons Standing Committee on Access to Information, Privacy and Ethics about the Office's budgetary submission for the 2019-2020 Main Estimates. The Committee has oversight responsibility for the Office and reviews its annual spending estimates, as well as matters related to reports under the Act.

The Commissioner had been invited to appear before the House of Commons Standing Committee on Access to Information, Privacy and Ethics in March 2020. However, the committee meeting was delayed because of the COVID-19 pandemic.

OUR TOOLS

The success of the Office's mission is supported by its people and its infrastructure. Because the Office is a small organization, it has the flexibility to respond quickly to changes in the external environment.

OUR PEOPLE

The accomplishments of the Office depend on the hard work and dedication of employees at all levels. Commissioner Dion has complete confidence in the senior management team and indeed in all Office employees. They produce work of consistently high quality, demonstrate rigour and professionalism and act with integrity at all times.

The Commissioner is a separate employer whose employees are not part of the federal public administration. The Office has its own terms and conditions of employment relating to hours of work, employee benefits and general working conditions affecting employees, and they ensure that all reasonable measures are provided for their safety and security. The terms and conditions of employment were updated in 2019-2020 to ensure they are in line with those of other parliamentary entities and the federal public service.

The Office shares similar values with the public service and parliamentary entities. All Office employees are expected to follow the values—respect for people, professionalism, impartiality and integrity—set out in the Office's *Code of Values and Standards of Conduct*. These key documents were also updated in 2019-2020.

The Quality Workplace Promotion Committee continued to coordinate initiatives to promote employees' well-being. These included a two-day mental health first aid course offered by the Canadian Mental Health Association; participation was mandatory for directors and managers. The course was to be held twice in order to accommodate all participants, but the second session was postponed because of the COVID-19 pandemic.

OUR INFRASTRUCTURE

The Office 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 the Commissioner is an independent officer of the House of Commons and the Office is a parliamentary entity, it is not generally subject to legislation governing the administration of the public service or to Treasury Board policies and guidelines. It tries to ensure that its resource management practices are, to the greatest extent possible, consistent with those found in the public service and in Parliament. The Office also looks at policies and practices of other parliamentary entities and generally follows what they do, unless there is a valid reason to take a different approach.

The Office's financial statements are audited each year by an independent external auditor. The Financial Resources Summary appended to this report outlines its financial information for the 2019-2020 fiscal year.

In March 2020, the Office organized a two-day occupational health and safety training course for its Work Place Health and Safety Committee and employees whose duties and responsibilities have an occupational health and safety component.

Finally, to support efforts to limit the spread of COVID-19, in March 2020, the Commissioner suspended in-office operations and assigned all staff to telework. Thanks to measures put in place earlier and support from the House of Commons information technology group, the Office was well equipped to continue to achieve its mission under modified working conditions. Measures completed in 2019-2020 included the replacement of remaining desktop computers with laptops and tablets and the development of a pilot telework policy.



OUR CHALLENGES

External developments can impact the way the Office implements its mandate. All of these challenges are opportunities that carry the potential for positive change.

SAFEGUARDING THE PUBLIC TRUST

Gaining and retaining public trust remains an ongoing challenge for institutions in Canada. This is evidenced by data published by credible international organizations that provide a broad indication of levels of public trust in Canada.

Transparency International's [Corruption Perceptions Index](#) ranks 180 countries and territories by their perceived levels of public sector corruption. In the 2019 index, Canada ranked as the 12th least corrupt country in terms of public perception, three positions behind its 9th place ranking in 2018.



**Canada ranked 12th
least corrupt country**
according to Transparency
International's **Corruption
Perceptions Index 2019**

The [Edelman Trust Barometer](#) is an annual survey that explores trust in business, government, non-governmental organizations and media across 28 global markets. According to its latest edition, released in February 2020, public trust in Canada slipped just below the global average in the past year.

Although overall trust levels have dipped slightly, these results demonstrate that Canadians place a great deal of importance on the integrity of their institutions.

Transparency and public trust interact in complex ways. In a democratic society, the latter cannot exist without the former. Yet when transparency allows light to be shined on instances of conflicts of interest, no matter how minor they might be, the public trust tends to erode. At the same time, the more issues of public integrity become salient, the better the public understands that safeguarding democratic institutions is a perpetual endeavour.

It is encouraging to note that more than half of the concerns the Office reviewed in 2019-2020 came from the general public. There are advantages in harnessing public scrutiny to strengthen the Office's compliance mechanisms. After all, the public has the most to lose when the checks and balances of democracy are not respected. Hence, the Office will continue to improve its outreach and education to ensure Canadians have the tools and understanding necessary to participate in safeguarding the public trust.

EFFECTIVE OVERSIGHT

The Office can administer the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons* more effectively when public office holders and Members of the House of Commons reach out to the Office before taking actions or engaging in activities that could potentially lead to a

contravention of the applicable regime. Such knowledge could enable the Office to direct and advise them on how to deal with those situations in order to maintain compliance and avoid any loss of public trust.

While the Office has come across information indicating potential contraventions from time to time, it has not historically conducted any active oversight. Such information also allows the Office to apply the regimes' enforcement provisions as appropriate.

In 2019-2020, initial steps were taken to staff a new data analyst position in the Communications, Outreach and Planning division to help the Office improve its oversight. Monitoring of sources of public information will be conducted, particularly for positions that have been evaluated as potentially having a higher risk of conflict of interest.

The need to ensure effective oversight has become even more important as a result of the COVID-19 pandemic. In such an extraordinary situation, complying with the Act and the Code may, understandably, not be top of mind for public office holders and Members.

COURT MATTERS

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

Court matters can also be opportunities to clarify the Commissioner's mandate and powers.

Democracy Watch v. Canada (Attorney General), 2020 FCA 28: The Federal Court of Appeal dismissed Democracy Watch's appeal of a decision by the Federal Court of Canada (2018 FC 1290) in respect of the appointment of the Conflict of Interest and Ethics Commissioner. The appellant argued that the Governor in Council failed in its duty to adequately consult with leaders of the recognized parties prior to the nomination and subsequent appointment of the Commissioner, Mario Dion, in 2017. The appellant also argued that the Governor in Council was biased in its decision, since there were members of Cabinet under examination at the time of appointment. In its reasons provided from the Bench, the Court was not persuaded that the consultation process had been unreasonable and that the nature of the legislative scheme to appoint a commissioner made the appearance of bias "inevitable." Democracy Watch has publicly stated that it intends to seek leave to appeal to the Supreme Court of Canada.

Democracy Watch v. Canada (Attorney General) (A-331-19): Democracy Watch filed an application for judicial review challenging the Commissioner's findings in the *Trudeau II Report*. The applicant seeks to quash the findings of the report on the basis that the Commissioner erred in law, failed to exercise his

jurisdiction and failed to observe a principle of natural justice by not acknowledging a request for examination received by Ms. Elizabeth May, Member of Parliament for Saanich–Gulf Islands. The applicant further argues that the Commissioner, who was appointed by the Governor in Council, failed to exercise his jurisdiction and exhibited a reasonable apprehension of bias in his decision not to examine the conduct of other public office holders involved in the matter.

Democracy Watch v. Canada (Attorney General) (A-434-19): The Federal Court of Appeal struck out Democracy Watch’s application for judicial review challenging the Commissioner’s findings in the *Trudeau II Report*. The applicant had previously filed a separate challenge (A-331-19) of the same examination report on the basis that the Commissioner had not properly considered a request for examination received from Ms. Elizabeth May, Member of Parliament for Saanich–Gulf Islands. When the applicant was informed that the Commissioner had indeed responded to Ms. May’s request for an examination of the matter, the applicant attempted to judicially review that communication as well. The Court dismissed the second application on the grounds that it was statute-barred, that the Court was already seized with an application challenging the same matter and seeking the same remedy, and that the applicant lacked public interest standing to raise the issue.

Democracy Watch v. Attorney General of Canada, et al., 2019 (SCC 38455): The Supreme Court of Canada dismissed without costs Democracy Watch’s application for leave to appeal a decision issued by the Federal Court of Appeal (2018 FCA 194) upholding the Commissioner’s authority under the *Conflict of Interest Act* to determine that a conflict of interest screen is an appropriate compliance measure falling within the ambit of section 29 of the Act.

APPENDIX

FINANCIAL RESOURCES SUMMARY

(thousands of dollars)					
Program Activities	2018-2019		2019-2020		Alignment to Government of Canada Outcomes
	Actual Spending	Main Estimates	Total Authorities	Actual Spending	
Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i>	5,827	6,356	6,356	6,199	Government Affairs
Contributions to employee benefit plans	691	787	787	687	
Total spending	6,518	7,143	7,143	6,886	
Plus: cost of services received without charge	1,110	n/a	n/a	1,134	
Net cost of department	7,628	7,143	7,143	8,020	

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 the 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.

The figures in this summary have not been audited. Complete audited financial statements will be available on our website at ciec-ccie.parl.gc.ca.