



PRESENTATIONS & SPEECHES *CHECK AGAINST DELIVERY*

Opening remarks before the House of Commons Standing Committee on Access to Information, Privacy and Ethics

Honourable Konrad W. von Finckenstein, C.M., K.C. –
Interim Conflict of Interest and Ethics Commissioner
Ottawa, Ontario, January 30, 2024

Mr. Chair and honourable members of the Committee, thank you for inviting me to answer your questions about the rules for gifts, including vacations and travel, under the *Conflict of Interest Act*.

With me is Lyne Robinson-Dalpé, Director of Advisory and Compliance at the Office.

As you all appreciate, the *Conflict of Interest Act* is guided by four principles.

First principle: disclosure

Upon appointment under the Act, all reporting public office holders must disclose within 60 days their assets, and other relevant information, to the Commissioner.

This forms the basis of the compliance process and will be the source of ongoing conversations throughout their appointment term.

Second principle: advice

As part of the compliance process, the Commissioner gives confidential advice as to what measures are required to ensure compliance.

These measures may vary, but can include public disclosure, divestment, recusal or even a conflict of interest screen.

During the tenure of public office holders, open discussion and disclosure allow the Office to help manage conflicts of interest and safeguard public confidence in the integrity of Parliament and government institutions.

Third principle: confidentiality

All interactions with the Commissioner are confidential and can only be released by the public office holder, not by me.

The confidentiality provision allows public office holders to fully disclose their situation and enables the Commissioner to make a decision based upon all relevant facts.

Fourth principle: transparency

Transparency is the keystone to engendering public confidence. The Act strikes a balance between maximum transparency and confidentiality to protect the privacy of public office holders.

Redacted versions of relevant disclosures of recusals, gifts, or results of investigations are published on the Office's website.

The Office's public registry is the most frequently accessed tool on our website.

Now, the matter at hand:

With respect to the Prime Minister's trips to Jamaica, which sparked your request about the rules regarding gifts, including vacations and travel, under the Conflict of Interest Act, I have the following observations to make.

The Act defines gifts in subsection 11(1), as follows:

Gifts and other advantage

11 (1) No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

Clearly, granting of hospitality—namely allowing the use of a property without charge—is a gift.

However, there is an exception for acceptable gifts in paragraph 11(2)(b), which reads as follows:

Exception

(2) Despite subsection (1), a public office holder or member of his or her family may accept a gift or other advantage

(b) that is given by a relative or friend

Let's look at the facts in this situation that are in the public domain.

The Prime Minister has stated Mr. Green is a friend, a family friend for over 50 years.

He has stayed at Mr. Green's property since he was a child.

The Prime Minister received a gift, one of hospitality, more than once, from his friend.

He has spoken publicly about this friendship and that advice was sought from my Office, both during my tenure and before.

While the Act speaks of advice, the advice we are giving is tantamount to a ruling. Public office holders have always accepted our advice.

Advice is given to ensure public office holders are in compliance with the Act. If they do not follow the advice, then the recourse is an investigation.

We have no role to pre-clear gifts from family and friends under the Act. Nor do we approve travel destinations; however, we advise as to whether the gift is acceptable or not.

We determine whether a gift is acceptable or not. A gift from a friend is acceptable.

We work to verify the true depth of a friendship asserted. If someone is a friend, they can offer a gift to a public officer holder in a personal context and the gift does not need to be disclosed.

Furthermore, subsection 25(5) provides that:

25(5) If a reporting public office holder or a member of his or her family accepts any single gift or other advantage that has a value of \$200 or more, other than one from a relative or friend, the reporting public office holder shall, within 30 days after accepting the gift or other advantage, make a public declaration that provides sufficient detail to identify the gift or other advantage accepted, the donor and the circumstances under which it was accepted.

30 days have now passed since the acceptance of the gift by the Prime Minister and nothing has appeared on our website.

From these provisions of the law and the facts that are in the public domain, the public and this committee can draw their own conclusion on the Jamaica trip.

I am bound by the confidentiality provisions of the Act and cannot further discuss details on this matter.

END