



Information Notice for public office holders

Participation in appointment processes

Ministers and other public office holders may be involved in the appointment of public officials, such as the process of appointing judges to Canadian courts. All public office holders must be mindful of their obligations under the *Conflict of Interest Act* (Act) in situations involving any appointment process.

For the purposes of the Act, a public office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further their private interests, those of their relatives or friends, or to improperly further another person's private interests (section 4).

All public office holders are prohibited from making a decision or participating in the decision-making process if they know or reasonably should know that in doing so, they would be in a conflict of interest (subsection 6(1)). They are also prohibited 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 (section 9).

Additionally, when public office holders do find themselves to be in a conflict of interest with regard to a matter in the course of their official duties or functions, they must recuse themselves from any discussion, decision, debate or vote on that matter (section 21).

Because the appointment process involves the potential furthering of a private interest (i.e. the nomination of the successful candidate to office), public office holders must be especially mindful not to place themselves in a conflict of interest when participating in any manner in the appointment process. Although it is generally acceptable to be consulted as a public office holder on the appointment of a particular individual, public office holders must abstain or recuse themselves from any appointment process if the candidate being considered is a relative or friend. They should also avoid engaging in any other conduct that may influence another person in their decision.

The Act describes relatives as individuals who are related to a public office holder by birth, marriage, common-law partnership, adoption or affinity (subsection 2(3)).

Since there is no definition of “friend” in the Act, whether an individual is a friend will depend on the circumstances of each case. Generally, and for the purposes of the Act, process of appointing has been found to include a person with whom one has some history of mutual personal regard beyond simple association.

Reporting public office holders must also report each recusal to the Office and, unless otherwise provided in the Act, publicly declare each recusal within 60 days after the day on which the recusal took place. Failure to report a recusal may result in the imposition of an administrative monetary penalty.

All public office holders are encouraged to read the information notice on [recusal obligations](#). Public office holders who are also Members of the House of Commons are reminded that there are also [recusal requirements](#) under the *Conflict of Interest Code for Members of the House of Commons*.