

Information Notice for current and former public office holders

Investigations under the *Conflict of Interest Act*

This document is intended to provide general information about your obligations under the Conflict of Interest Act. It must be read in conjunction with other relevant information notices. Current and former public office holders are encouraged to contact the Office for confidential advice about their individual situation. Please call 613-995-0721 or [email us](#).

Source: [Sections 44 to 50](#) of the [Conflict of Interest Act](#)

1. The nature of an investigation under the Act

Investigations under the Act are called “examinations.” Examinations allow the Commissioner to gather the relevant information surrounding an alleged contravention of the Act by a current or former public office holder. In most cases, the Commissioner will publish a report setting out the facts, the analysis and conclusion.

Examinations are not like proceedings before a court or tribunal because they do not involve a dispute between two adverse parties. The Commissioner does not make findings of civil or criminal liability, but instead determines whether there has been a contravention of the Act.

The [conclusions in the Commissioner’s examination report are final](#) and may not be altered by anyone. The Act does not authorize the Commissioner to impose a penalty if a contravention of the Act’s substantive provisions is found.

2. Requesting and initiating an examination

Senators or Members of the House of Commons that have reasonable grounds to believe the Act has been contravened [may ask the Commissioner to examine the matter](#).

To be valid, a request must:

- be made in writing and signed by the requestor;
- identify the provisions of the Act that are alleged to have been contravened; and
- set out the reasonable grounds for the belief that a contravention has occurred. A [request for an examination form](#) is available on our website.

If the Commissioner determines that a request for an examination from a Senator or a Member is frivolous, vexatious or not made in good faith, the Commissioner [may decline to investigate](#) but must still issue a report.

The Commissioner may also [consider information from the public](#) that is brought to their attention by a Senator or a Member of the House of Commons. Such information must be kept confidential until the Commissioner has issued a report.

The Commissioner can also self-initiate an examination where there is reason to believe that the Act has been contravened. Although members of the public cannot request that an examination be conducted, the Commissioner may consider information received from members of the public and other public sources. After examining all the circumstances of the matter, the Commissioner may discontinue a self-initiated examination.

3. The examination process

The Commissioner will write to the subject of the examination to explain the process and set out the details of the alleged contravention. Generally, the Commissioner holds two interviews in private with the subject of an examination: one at the outset and the second at the end of the examination process. The subject has the right to make representations to the Commissioner, either personally or through legal counsel, at any time during the examination process.

During the process, witnesses may be asked to provide documentary evidence, to present themselves for an interview or to respond to questions by telephone or in writing. If necessary, the Commissioner has the [power to summon witnesses](#) and require them to produce documents. Witnesses invited to be interviewed will be asked to swear an oath or make an affirmation. All interviews are conducted in private, are recorded, and transcripts of the proceedings are made by a court reporter.

Interviews may be held in person or, at the discretion of the Commissioner, by videoconference or other technical means. Travel costs to attend interviews are not reimbursed.

To protect the integrity of the process, subjects and witnesses are asked to keep all information confidential during the fact-gathering portion of the examination and not to disclose such information with anyone other than their legal counsel, if applicable.

The Act requires that all examinations be [conducted in private](#) and limits what the Commissioner and staff can say publicly. Consequently, the Commissioner will not normally comment publicly on an ongoing examination other than to confirm whether a request to launch an examination was received.

The length of time an examination takes varies depending on several factors, such as the complexity of the issue being examined.

Before the report is finalized, the subject will also be provided with a draft of the portions of the report setting out the relevant facts for review.

The Act provides for the report to be provided to the Prime Minister, as well as to the Senator or Member who requested the examination, to the public office holder or former public office holder who was the subject of the examination, and to the public. All reports are available on the Office's [website](#).

4. Suspending an examination

The Commissioner's [examination must be suspended](#) if there are reasonable grounds to believe that a current or former public office holder has committed an offence under an Act of Parliament relating to the subject matter under examination, in which case the relevant authorities will be notified. An examination must also be suspended when it is discovered that an investigation of such an offence is already underway or if a charge has been laid in respect of the subject matter. The examination may only be continued once that matter has been conclusively disposed of.¹

5. Information regarding legal counsel

If a subject or a witness choose to be represented by legal counsel, they must cover the costs associated with retaining counsel. When counsel is present during interviews, the Office will also have its counsel present.

The Office considers that the role of counsel is to assist in presenting their client's views and to assist the Commissioner in obtaining all the relevant facts in an expeditious manner. Counsel may accompany their client to interviews but does not have the right to be present during the interviews of other witnesses or to cross-examine them. Counsel may also make representations during their client's interview or in writing during the examination process.

To protect the integrity of the fact-gathering process, counsel representing the subject may not also represent a witness in the same examination.

¹ See, for example, the [Carson Report](#).