

**Opening Statement by
Mary Dawson
Conflict of Interest and Ethics Commissioner**

**To the
House of Commons Standing Committee on
Procedure and House Affairs
In the Context of the Five-Year Review
of the
*Conflict of Interest Code for Members of the House of Commons***

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CHECK AGAINST DELIVERY

Introduction

Mr. Chair, I would like to thank the Committee for inviting me to appear before you today.

I note that there are a number of new members who have joined the Committee since I last appeared before you in October 2010. I look forward to continuing to work with you.

I am pleased to have this opportunity to contribute to the five-year review of the *Conflict of Interest Code for Members of the House of Commons*. This is an excellent opportunity to explore how well the Code is working and how it might be improved. I have previously worked with the Committee to provide input on possible amendments to the Code. In particular, I was pleased to see many of the suggestions I made for changes to the gift provisions were adopted by the House of Commons in June 2009.

I also submitted suggested amendments, largely to do with the disclosure and inquiry provisions of the Code and including draft language, to the Committee in March and October 2010. With a view to taking a comprehensive approach, my current submission includes these proposals.

As requested by the Chair, I have provided a written submission to the Committee, recommending various amendments to the Code for your consideration. They are designed to strengthen and clarify the Code's provisions. I plan to make the submission available on my Office website tomorrow.

In my presentation today, I will provide some context for these recommendations, which I have developed based on my experience administering the Code since 2007, and highlight several in particular.

Content of the Submission

I make several recommendations with respect to the administration of the Code. I have noted, for instance, that the Code does not impose deadlines for Members to complete the initial compliance process or their annual reviews. This sometimes results in delays of many months. I am suggesting that the Code should be amended to include a 120-day deadline for completing the initial compliance process and a 30-day deadline for completing the annual review process, with discretion for the Commissioner to extend the deadline if appropriate. Imposing deadlines will underline the importance of Members achieving compliance with the Code in a timely manner.

Moreover, introducing a mandatory requirement that new Members meet with my Office within that 120-day period will enhance our current efforts to ensure Members are fully aware of how the Code applies to their personal situation.

I am also seeking authority to issue guidelines and standard forms under the Code, without having to obtain the approval of the House of Commons. These tools can help Members better understand their obligations under the Code, and streamline and expedite administrative processes. The approval requirement, set out in section 30, has in the past caused significant delays, and I believe also limits the independence of my Office. I recommend that this requirement be removed.

Several other recommended amendments are aimed at encouraging and enforcing compliance with the Code.

To ensure that all Members fulfill their reporting obligations in a timely way, I recommend that the Commissioner be given the authority to impose administrative monetary penalties of up to \$500 for failures to do so, as is done in the Conflict of Interest Act, and to make notices of penalty public. I also encourage the Committee to consider whether imposing sanctions for substantive breaches of certain provisions of the Code would further strengthen this aspect of the Code. I believe that it would provide a transparent and effective alternative to conducting an inquiry where the facts of a situation are not at issue.

I also propose that new compliance obligations be added to the Code. I have in previous reports raised the suggestion that Members be prohibited from personally soliciting funds, where doing so would place them in a conflict of interest. I also believe that broader disclosure and recusal obligations are needed to prohibit Members from furthering the private interests of relatives or friends.

I believe that sponsored travel should be subject to an acceptability test, the same as other gifts and benefits. This would ensure that Members do not accept travel when it could reasonably be seen to have been given to influence them.

My recommendations to the Committee also include amendments related to the disclosure and declaration of gifts.

Despite ongoing efforts to raise awareness of the Code's gift provisions, I have found that the gift provisions are still not clearly understood and are not consistently reported. Many Members mistakenly believe that gifts are automatically acceptable if

they are valued at less than \$500. In fact, the value is not a criterion of acceptability but the threshold for public declaration.

I have come to the conclusion that the best way to deal with gifts and other benefits would be to significantly lower the threshold for public disclosure below which gifts and benefits could not reasonably be seen to have been given to influence Members. This would mean that almost all gifts would need to be disclosed to my Office and publicly declared. I recommend that this threshold be set at \$30. All gifts valued at \$30 or more, or with a total value of \$30 or more from a single source in a 12-month period, would have to be disclosed to my Office and, if acceptable, would then be publicly declared. I recognize that there is a significant difference between the current threshold of \$500 and the \$30 threshold I propose. I believe that by making this change, Members would pay more attention to the question of whether or not gifts that they receive are acceptable. This change would ensure transparency and would also enable my Office to assist Members in adhering to the acceptability provisions of the Code.

We would be working on the assumption that a gift valued at less than \$30 would not reasonably be seen to have been given to influence a Member. Token gifts below that amount would not be subject to an acceptability test.

One area of gifts that has been particularly challenging is the acceptance by Members of invitations to meetings, receptions and information sessions at which meals or refreshments are offered. There appears to be a widely held perception among Members that these gifts are not covered by the Code or could, in all cases, be considered customary hospitality. I do not read the Code that way. I would ask that Members consider whether they wish to amend the rules relating to invitations where meals or refreshments are offered.

Other recommendations in my submission to the Committee seek to improve the provisions of the Code relating to inquiries.

These amendments would do several things.

First, they would permit me to make public my reasons for not proceeding to an inquiry after a preliminary review, when the allegation that prompted the review is in the public domain and making my reasons public is in the public interest;

Second, they would require Members who request an inquiry to refrain from commenting publicly on the matter until I have confirmed that my Office has received the request and I have notified the Member who is the subject of the request;

Third, they would help me obtain the information I need to carry out my compliance and investigative roles, by giving me express power to summon witnesses and compel documents, and would also require that I be given direct access to any document requested from the House of Commons.

And finally, I would like to address the different procedural requirements under the Act and the Code, to explicitly permit me to issue a single report on investigations that I conduct simultaneously under both regimes.

Another set of recommendations in my submission to the Committee are aimed at harmonizing the Conflict of Interest Act and the Code to ensure consistency of language and process.

The fact that these two regimes have similar, but not identical, provisions is a source of confusion, particularly for those Members who are also ministers or parliamentary secretaries and subject to both regimes. I recommend that Parliament consider harmonizing the Act and Code where appropriate.

My final recommendations are in the area of political interests and partisan behaviour.

Political conduct is largely beyond the scope of both the Code and the Act. Still, I believe there is a need to address the confusion resulting from the lack of clear rules governing the ethical aspects of politicians' partisan behaviour. I would suggest that the House of Commons consider implementing a separate code of conduct to address the political conduct of Members and their staff.

As I mentioned earlier, the amendments that I propose are based on my experience of the past five years. In developing them, I have sought to identify and address the main issues that have created challenges in the effective administration of the *Conflict of Interest Code for Members of the House of Commons*.

My remarks today merely serve to highlight some of the recommendations I have proposed in my written submission. The submission itself provides greater detail on what I am proposing. If required, I would be pleased to provide the Committee with draft language for any of the areas I have raised, where I have not already done so.

I believe these amendments will, if adopted, strengthen the Code, and this will help maintain and enhance public confidence and trust in the integrity of Members.

Mr. Chair, I hope that the Committee, after its study, will see fit to recommend that the House of Commons adopt these amendments.

I will now be happy to answer the Committee's questions.