



Office of the Conflict
of Interest and Ethics
Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

The 2011-2012 ANNUAL REPORT

in respect of the
*CONFLICT OF INTEREST CODE FOR
MEMBERS OF THE HOUSE OF COMMONS*



June 21, 2012

Mary Dawson
Conflict of Interest and
Ethics Commissioner

The 2011-2012 Annual Report

in respect of the

*CONFLICT OF INTEREST CODE FOR
MEMBERS OF THE HOUSE OF COMMONS*

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June 20, 2012

The Honourable Andrew Scheer, M.P.
Speaker of the House of Commons
Room 224-N, Centre Block
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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 Code for Members of the House of Commons* for the fiscal year ending March 31, 2012.

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

Sincerely,

Mary Dawson
Conflict of Interest and Ethics Commissioner

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I. INTRODUCTION

The Conflict of Interest and Ethics Commissioner administers the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code). These two regimes seek to ensure that public officials, whether appointed or elected, are not in a conflict of interest.

The mission statement of my Office is: *To administer the conflict of interest rules for Members of the House of Commons and public office holders in order to maintain and enhance the trust and confidence of the Canadian public in the conduct of these elected and appointed officials.* In line with this mission, my Office's main responsibilities are to:

- advise public office holders and Members on their obligations under the Act and the Code;
- receive and review confidential reports of assets, liabilities, income and activities of reporting public office holders and Members in order to advise on and establish appropriate compliance measures;
- maintain confidential files of required disclosures;
- maintain public registries of publicly declarable information;
- administer an administrative monetary penalty regime for failures to comply with certain reporting requirements; and
- conduct examinations and inquiries into alleged contraventions of the Act and the Code.

The Commissioner is also mandated to provide confidential advice to the Prime Minister about conflict of interest and ethics issues.

The Act applies to public office holders, including ministers, parliamentary secretaries, ministerial staff, ministerial advisers, deputy ministers and most full- and part-time Governor in Council appointees. There are approximately 3,000 public office holders subject to the Act, more than half of whom are part-time. The Act came into force in July 2007 and was amended in December 2011.

The Code is appended to the *Standing Orders of the House of Commons*. It applies to all 308 Members of the House of Commons. The Code was adopted by the House of Commons in 2004 and was amended in 2007, 2008 and 2009.

The Act and the Code hold public office holders and Members to standards that place the public interest above private interests when the two come into conflict. Rules and procedures set out in each aim to minimize the possibility of conflicts arising between public and private interests. The Act also contains a number of post-employment rules, while the Code does not. The focus of both the Act and the Code is on prevention.



This is one of two annual reports issued by my Office. This report is made for the Code and the other report is made for the Act. This report is virtually identical to the other except for the Applying the Code and Investigations sections. In this report there is an additional section under the heading Five-Year Review of the Code.



II. OVERVIEW – Assessing Five Years of Experience

I have now served as Conflict of Interest and Ethics Commissioner for almost five years. My appointment in July 2007 coincided with the coming into force of the *Conflict of Interest Act* (Act) and followed soon after a comprehensive review of the *Conflict of Interest Code for Members of the House of Commons* (Code). Both the Act and the Code are scheduled to undergo five-year reviews in 2012.

My experience in administering the two regimes has given me insight into where the strengths of each lie, where they could be enhanced, and where there are gaps. In each of my previous annual reports, I have made some observations in this regard. Over the past year I have been taking stock of how all aspects of the Act and the Code are working, with a view to providing input into how they could be improved during the five-year reviews. I have already provided input into the Code review process and will do the same for the Act. I see these review processes as important opportunities to work towards improving Canada's conflict of interest regimes.

I have also taken the opportunity in the past year to review and assess some of the processes, procedures and systems used by my Office in administering the Act and the Code, improving them where appropriate. Among other initiatives, my Office launched a new secure case management system on April 1, 2012, providing my staff with a more streamlined process for managing documents and files.

As in previous years, I have focused on ensuring that Members and public office holders understand their obligations so they can avoid conflict of interest situations before they arise. This was especially important in the months following the May 2011 election, when there were many new Members of the House of Commons and also a number of new ministers and parliamentary secretaries.

My Office provides information, advice and guidance to Members and public office holders on the application of the Code and the Act to their individual situations. In the past fiscal year, my Office assisted 112 new Members of the House of Commons and nearly 300 new reporting public office holders in meeting their initial compliance obligations under the Code and the Act. We also undertook a number of broader communications initiatives that included making presentations and publishing information notices and backgrounders.

My Office opened a total of 30 investigation files as a result of information from various sources relating to alleged or possible contraventions of the Act or the Code. Seven of those files resulted in my initiating an examination under the Act, a significant increase over previous years. This resulted in a marked increase in our investigations workload in this reporting period.

This past year I released one inquiry report under the Code, the *Guergis Report*, and one examination report under the Act, the *Paradis Report*. In both reports, I found that rules had been breached. Shortly after the end of the fiscal year, I released two other reports under the Act. In the *Raitt Report*, I concluded that no contravention of the Act had occurred. In my report, *Referrals from the Public Sector Integrity Commissioner: the Heinke and Charbonneau Report*,



I found that there were no grounds on which to pursue the matter referred to me by the Public Sector Integrity Commissioner.

My Office has continued to build its capacity with respect to policy and research, and has shared its experience about conflict of interest regulation with offices in a number of other jurisdictions.

Finally, I am pleased that staffing within my Office has remained stable. My staff, as always, is professional and devoted to fulfilling the mandate of the Office. I thank them for their continued efforts over the past year.



III. APPLYING THE CODE

All 308 Members of the House of Commons are subject to the *Conflict of Interest Code for Members of the House of Commons* (Code). This includes 67 ministers and parliamentary secretaries who are also subject to the *Conflict of Interest Act* (Act). My Office provides guidance and advice to Members to help them to achieve and maintain compliance with the Code.

The federal election of May 2, 2011 saw the election of 197 returning Members and 111 new Members. One additional new Member was elected as a result of a by-election on March 19, 2012.

In the weeks following the general election, I gave a presentation to new Members as part of the orientation program organized by the Library of Parliament. In addition, each recognized political party caucus accepted my offer to make separate presentations to their Members to remind them of their obligations under the Code. Many Members also took my Office up on an offer to meet with them individually. These meetings enabled my Office to provide information relevant to Members' individual circumstances.

Initial Compliance Process

Each Member must complete and submit to my Office a confidential disclosure statement within 60 days after his or her election to the House of Commons is published in the *Canada Gazette*. This statement must include details of the Member's assets, liabilities, sources of outside income, activities outside Parliament and any benefits he or she receives as a result of a government contract or a trust. Members must also make reasonable efforts to include the same information for spouses, common-law partners or dependent children.

To assist them in meeting this obligation, I asked new Members to complete and submit a form, *Disclosure Statement for Members and their Family Members*, prepared for this purpose. They were also asked to provide financial statements for any investments.

Re-elected Members were not required to submit a form. Instead, they were asked to review and, if necessary, amend the information previously disclosed to my Office. This helped to streamline the initial compliance process for them. Re-elected Members were also asked to provide updated financial statements for any investments to ensure that full disclosure to my Office had been made.

All Members met the 60-day deadline this year.

Advisors in my Office reviewed and analyzed each disclosure received from new Members and all amended information received from re-elected Members to ensure that no potential conflict of interest could arise. In some cases, further information or supporting documents were requested.



To complete the initial compliance process, the Code requires that a summary of each Member's disclosure be placed on a public registry. The summary must set out, where applicable, the source and nature but not the value of all income, assets and liabilities with a value of \$10,000 or more disclosed by the Member. It must also include details of any known trust from which a Member could benefit, contracts with the Government of Canada and any directorships or positions of office in a corporation, trade or professional association or trade union.

I am concerned about the time it takes Members to meet these and other compliance obligations set out in the Code. The last Member to complete the initial compliance process did so a full ten months after the election. After the 2008 general election there were even greater delays. Fifty Members had still not completed the initial compliance process after 10 months and the last signed disclosure summary was submitted to my Office 17 months after the election.

I have recommended amendments to address this situation in my five-year review submission to the Standing Committee on Procedure and House Affairs.

Maintaining Compliance

Members must review their compliance arrangements on an annual basis and update the information previously disclosed to my Office. Advisors assess the revised information to determine if a new disclosure summary or a new compliance measure might be required. Because of the election in May 2011, no annual reviews took place in this reporting period for Members.

Members are also subject to a number of obligations throughout their terms of office. There are, for example, rules of conduct related to furthering private interests, improperly using the Member's position to influence a decision, and improperly using insider information not generally available to the public. They must also report any sponsored travel, material changes, or gifts received that are related to their position within 60 days, and they must fulfill any public declaration requirements related to these disclosures.

Aside from communications arising from the initial compliance and annual review processes just discussed, and aside from communications initiated by our Office, there were approximately 300 communications during the last fiscal year from Members. These included 65 communications related to sponsored travel, 51 concerning gifts, and 27 related to a material change in a Member's status. The rest were mostly general questions related to the rules set out in the Code.

My Office is always available to discuss the application and obligations of the Code with Members individually or in groups.

Material Changes

Members must, within 60 days, inform my Office of any material change to the information that Members were required to disclose to my Office during the initial compliance



process. This would, for example, include the acquisition of new assets, a change in marital status and new involvement in outside activities.

Because all Members went through the initial compliance process in this fiscal year, there were only 37 material changes reported. These led to 27 public statements of material change.

It is especially important that my Office be informed of any material change so that we can determine whether any compliance measure is required to ensure that the Members continue to meet their obligations under the Code.

Gifts and other Benefits

In the past fiscal year, my Office received 51 requests from Members for advice relating to gifts and other benefits. All gifts and other benefits accepted by Members that are valued at \$500 or more are publicly declarable. This past year, there were 20 gifts or other benefits declared on the public registry.

There appears to be a persistent misconception among some Members that all gifts or other benefits valued at less than \$500 are acceptable under the Code. As I have said on numerous occasions in my annual reports, in caucus presentations and before committees, the monetary value is not the determining factor as to whether or not a Member may accept a gift or other benefit. Whether it is acceptable is determined solely on the basis of whether it could be reasonably seen to have been given to influence the Member, whatever its value.

I have come to the conclusion that the gift rules should be modified to set a significantly lower limit for disclosure to my Office and public declaration of gifts or other benefits, and I have made recommendations to the Standing Committee on Procedure and House Affairs to this effect.

I have become increasingly aware, as a result of discussions with Members over the past year, that they often accept invitations to attend meetings, receptions or information sessions, during which meals or refreshments are served. For many Members, these are considered to be a regular part of their daily routine. Although such meals and receptions are gifts or benefits under the Code, my Office is rarely consulted about their acceptability in particular situations. Often, only one or two Members will contact my Office requesting advice on the acceptability of gifts or other benefits that are offered to all Members or groups of Members. In these instances, I sometimes issue a communiqué to all Members.

Some Members have told me that they do not consider meals or refreshments offered in these circumstances to be gifts or benefits. Other Members share my understanding that these are gifts or benefits and that they may reasonably be seen to have been given to influence them. I have recommended that Members consider whether they wish to establish a specific exception to the gift rules in this regard.



Sponsored Travel

Members sometimes accept travel paid for by a third-party organization such as an advocacy group. If the trip is wholly or substantially paid for by the third party and the total value of the travel accepted exceeds \$500, it must be disclosed to my Office and supporting documentation showing the value of transportation and accommodation must also be submitted. As we receive these disclosures, they are posted on our website.

Every year, by March 31, I submit a list of these travel disclosures to the Speaker for tabling covering the previous calendar year. A total of 59 Members made 73 sponsored travel declarations in 2011, compared with 96 declarations from 68 Members in 2010. This year, the sponsored travel list was submitted for tabling in the House of Commons on March 27 and is now available on my website. More recent disclosures for 2012 are available on the public registry as they are received by my Office.



IV. INVESTIGATIONS

My Office administers two investigative regimes, one under the *Conflict of Interest Act* (Act) and the other under the *Conflict of Interest Code for Members of the House of Commons* (Code). An examination under the Act can be initiated after receiving a request, either from a Senator or a Member of the House of Commons, or on my own initiative. An inquiry under the Code can be initiated after receiving a request from a Member, upon resolution of the House of Commons or on my own initiative.

During my time as Commissioner, I have conducted significantly more examinations under the Act than inquiries under the Code. This reflects the fact that I receive more information on alleged or possible contraventions by current and former public office holders under the Act than I do about Members under the Code.

In this report, I describe my investigative activities under the Code, while summarizing my activities under the Act as well. A complete description of my investigative activities under the Act can be found in my Annual Report for the Act.

Investigation Files

During the past fiscal year, my Office opened a total of 30 investigation files as a result of information from various sources relating to an alleged or possible contravention of the Act or the Code. There was a significant increase in the number of investigations launched this past year, resulting in a marked increase in the workload related to investigations in this reporting period.

Of the 30 investigation files opened this past fiscal year, seven resulted in an examination under the Act (one of which was initiated after the end of the fiscal year), 19 were closed and four remain open.

My Office conducts a thorough case assessment of any information that is brought to my attention to establish whether the complaint falls within the mandate of this Office, whether the information provides the necessary grounds to believe that a contravention may have occurred and whether an examination or inquiry is warranted. In some situations the case assessment will be relatively straightforward. In other circumstances, it may involve more detailed analysis and some initial fact-finding including, for example, preliminary discussions with the public office holder or Member in question, the individual who provided the information or a third party who may have knowledge of the events in question.

Three of the 19 cases that I did not proceed with were brought to my attention by Members of the House of Commons. Two of them related to other Members subject to the Code while the other related to a reporting public office holder subject to the Act. I did not proceed with these cases because, after assessing the information and conducting preliminary fact-finding, I concluded that the Members did not provide reasonable grounds and that no further action was warranted.



The remaining 16 cases were brought to my attention by members of the public or came to my attention as a result of media reports. Two of these cases were related to potential contraventions of the Code by a Member. Where appropriate, individuals who brought these matters to my attention were given an opportunity to provide more information. All 16 cases were closed after I concluded that there were no reasonable grounds to proceed to an examination or inquiry.

The 30 files opened this past year included four referrals received from the Public Sector Integrity Commissioner relating to possible contraventions under the Act. I commenced an examination based on one of these referrals. I reported on two of them in a joint report, *Referrals from the Public Sector Integrity Commissioner: the Heinke and Charbonneau Report*, but did not proceed to an examination. This report was made public on May 18, 2012. The fourth referral has been reviewed and a report under the Act will be issued shortly.

Investigations Commenced this Reporting Period

I commenced eight examinations under the Act in the past fiscal year but no inquiries under the Code. Six of those examinations were launched based on information received this past fiscal year and two were launched as the result of information received in the previous fiscal year. A ninth examination was commenced shortly after the end of the fiscal year following a request received from a Member of the House of Commons in March 2012.

Two of the eight examinations started in the past fiscal year were commenced following requests from Members of the House of Commons. One of these was completed shortly after the end of the fiscal year and was reported as the *Raitt Report*.

Six of the eight examinations were commenced on my own initiative. Four of these examinations were commenced after the assessment of information sent to my Office by members of the public. One was commenced following the assessment of information reported in the media and one was commenced following a referral from the Office of the Public Sector Integrity Commissioner.

Two of the six examinations commenced on my own initiative this past fiscal year were subsequently discontinued after I had gathered evidence that satisfied me that, having regard to all the circumstances, I no longer had sufficient grounds to continue.

When I decide to discontinue a self-initiated investigation under the Act, I do not normally issue a report. In cases where concerns raised have not been made public and I find them to be unsubstantiated, raising them publicly could unnecessarily damage the reputation of the individual concerned. I do not have this discretion in relation to examinations undertaken on my own initiative following the receipt of information from the Public Sector Integrity Commissioner. In those cases a report must be issued under section 68 of the Act.



Completed Investigations

This past fiscal year my Office completed and issued reports on one inquiry under the Code and one examination under the Act. An additional examination report was released shortly after the end of the fiscal year. All of these reports are available on my website.

Guergis Report

Early in this fiscal year, my Office released a report under the Code on the conduct of the Honourable Helena Guergis when she was the Member of Parliament for Simcoe–Grey. The inquiry, commenced in April 2010, was in response to a request received from a Member of the House of Commons alleging that Ms. Guergis promoted a firm that was linked to her husband, Mr. Rahim Jaffer, in contravention of sections 8 and 9 of the Code.

Ms. Guergis had sent a letter to municipal officials encouraging them to consider a request by a constituent to make a public presentation on his company's green waste management technology. Section 8 prohibits Members from acting in any way to further their private interests or those of a member of their family, when acting in an official capacity. Section 9 prohibits Members from using their position to influence the decision of another person so as to further their private interests or those of a member of their family.

My investigation found that Ms. Guergis' husband had been engaged in ongoing business discussions with that firm at that time. I concluded that Ms. Guergis had acted to further the private interests of a member of her family and had thereby contravened sections 8 and 9 of the Code.

This report was made public on July 14, 2011.

Paradis Report

My Office also reported on the findings of my examination under the Act into the conduct of the Honourable Christian Paradis. The examination, commenced in May 2010, was in response to a request received from a Member of the House of Commons alleging that Mr. Paradis breached subsection 6(1) and sections 7 and 9 of the Act. I concluded that Mr. Paradis had contravened subsection 6(1) and section 7 of the Act by providing special treatment to Mr. Rahim Jaffer, a former caucus colleague, and his company, Green Power Generation, when he directed his staff to arrange a meeting between that company and departmental officials. I concluded that Mr. Paradis had not contravened section 9.

This report was made public on March 22, 2012.

Raitt Report

Shortly after the end of the past fiscal year, my Office released a report under the Act in relation to an examination commenced in response to a request received by a Member of the House of Commons. It was alleged that Ms. Raitt had contravened section 11 of the Act by



accepting a complimentary upgrade on an Air Canada flight. Section 11 prohibits public office holders from accepting any gift or other advantage that might reasonably be seen to have been given to influence them in the exercise of an official power, duty or function. I concluded that Ms. Raitt did not contravene section 11 of the Act, since the upgrade was obtained using Ms. Raitt's frequent flyer credits and therefore did not constitute a gift or other advantage.

This report was made public on April 26, 2012.



V. FIVE-YEAR REVIEW OF THE CODE

Section 33 of the *Conflict of Interest Code for Members of the House of Commons* (Code) requires that the Standing Committee on Procedure and House Affairs (Committee) conduct a comprehensive review of the provisions and operation of the Code every five years. The last comprehensive review of the Code took place in June 2007, just before my appointment as Conflict of Interest and Ethics Commissioner, and other amendments to the Code were made in 2008 and 2009.

The Committee commenced its review on May 15, 2012. This comprehensive review provides an opportunity to assess how well the Code is working and to consider possible amendments to it. At the conclusion of the review, the Committee will submit a report, including any recommended changes, to the House of Commons for consideration.

Although the Committee began its review of the Code shortly after the end of the 2011-12 fiscal year, I felt that it was appropriate to mention it in this year's report as it is a matter of some significance with respect to the administration of the Code.

As part of this review, I was asked to provide the Committee with my observations and recommendations relating to the Code. I provided a detailed written submission setting them out and appeared before the Committee in late May 2012 to discuss my submission. A number of the recommendations were based on suggestions already made to the Committee in March and October 2010 relating to the disclosure and inquiry provisions. I referred to these in my previous Annual Report for the Code.

The recommendations are listed in Appendix A. My complete submission, entitled *The Conflict of Interest Code for Members of the House of Commons: Five-Year Review - Submission to the Standing Committee on Procedure and House Affairs*, is available on my Office website.

My recommendations to the Committee relate to six areas: the administration of the Code, encouraging and enforcing compliance with the Code, gifts and other benefits, managing investigations, harmonizing the Code and the Act and regulating partisan behaviour.

Administering the Code

In my submission to the Committee, I reiterated four recommendations first raised in last year's annual report that are intended to create efficiencies with respect to the administration of the Code. The first two involve setting deadlines for completing the initial compliance and annual review processes. The third is that the disclosure provisions be amended to improve efficiency and provide greater clarity. The fourth is to remove the requirement that I obtain approval from the House of Commons for all forms and guidelines because of delays that have been encountered.

Encouraging and Enforcing Compliance with the Code

I made six recommendations aimed at strengthening compliance with and enforcement of the Code. I am recommending that the Code be modified to include a monetary penalty regime



for failures to meet deadlines. I understand that this may require amendments to the *Parliament of Canada Act*. At the very least, as recommended to the Committee in March 2010, public disclosure of delays in reporting should be considered. I am suggesting several amendments that would broaden the prohibitions on Members in relation to soliciting funds, furthering the private interests of a relative or friend, and accepting sponsored travel where it could reasonably be seen to have been given to influence them. I am also recommending a prohibition against participating in any discussion, decision, debate or a vote where the Member, or his or her relative or friend, has a private interest.

To ensure that new Members understand their obligations under the Code, I am also recommending introducing an obligation that all new Members be required to meet with my Office to review their obligations under the Code within 120 days after notice of their election is published in the *Canada Gazette*.

Gifts and Other Benefits

Gifts and other benefits continue to be an area of significant challenge for my Office. This is discussed in more detail under the heading Applying the Code. In my submission to the Committee, I am recommending that all gifts or benefits with a value of \$30 or more be disclosed to my Office and that all of these be publicly declared as well. Gifts or benefits under this value would be considered to be acceptable without any reporting requirements. I also suggested that Members may wish to consider whether to exclude invitations to certain events from the gift rules.

Managing Investigations

In my submission to the Committee, I am recommending five amendments to the Code with respect to inquiries. The first is that the Code be amended to allow a single report to be issued when an investigation takes place under both the Code and the Act. The second is that the Commissioner be permitted to comment publicly on the reasons for not pursuing a matter under the Code, when it is in the public interest to do so. The third is to require that Members requesting an inquiry refrain from commenting publicly on the request until the Commissioner has confirmed that he or she has received the request, and has notified the person who is the subject of that request.

I have in the past had some concerns relating to access to documents necessary for me to conduct an inquiry, including those under the control of the House of Commons. My fourth recommendation is that the Commissioner be given explicit power to summon witnesses, compel documents and get access to documents directly from the House of Commons.

My fifth recommendation is that Members consider several suggestions submitted to the Committee in March 2010. These were appended to my submission. I have proposed that section 27 of the Code, relating to inquiries, be broken out into a number of separate sections in order to clarify the various processes covered by that section.



Harmonizing the Act and the Code

The Act also requires that a five-year review take place this year. The timing of these two reviews provides an opportunity to explore areas where the two could be harmonized. I have found that each regime has strengths. In some cases, I believe that the Act might benefit from an amendment to follow the Code's model. In other cases, it is the Act that sets out clearer provisions. I am recommending that the Committee explore areas where the two regimes could be harmonized.

Regulating Partisan Behaviour

Over the years, my Office has received a number of complaints about politicians' partisan behaviour. I believe that behaviour aimed at enhancing a political profile is a political interest that falls outside the scope of the Code. In the absence of any clear rules governing the ethical aspects of the partisan conduct of Members, I am suggesting that an additional instrument regulating partisan behaviour be developed to cover Members and their staff.



VI. OUTREACH AND COMMUNICATIONS

Outreach and communications activities continue to be an important aspect of my Office's work in helping public office holders and Members of Parliament understand and fulfill their obligations under the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code). During the past year, my Office has continued to reach out to stakeholders in a number of ways.

My Office has expanded its activities aimed at informing and educating those subject to the Act and the Code. We have further strengthened our communications with the media and the general public in order to broaden Canadians' understanding of Canada's federal conflict of interest regimes and the role of the Conflict of Interest and Ethics Commissioner in administering them. We have also continued to share information with ethics bodies in Canada and around the world.

Reaching out to Public Office Holders and Members of the House of Commons

Outreach and communications activities were especially important in the months following the May 2011 federal general election, which resulted in high turnover among Members of Parliament and the appointment of eight new Cabinet ministers. All of the documents referred to below can be found on the Office website.

Public Office Holders

During the past year, my staff and I have given presentations to a number of organizations whose members have obligations under the Act, including the National Seniors Council and the Immigration and Refugee Board of Canada, as well as citizenship judges and the staff in several ministers' offices, to ensure they are aware of their obligations under the Act and to address specific questions about the application of the Act. In June 2011, I gave a presentation to ministers' chiefs of staff about the obligations of ministerial staff as reporting public office holders under the Act.

My Office issues information notices and backgrounders in order to help public office holders understand their obligations under the Act.

In the past year, my Office issued or updated four information notices in relation to the Act. The subjects were material change, post-employment obligations, the recusal obligations of members of administrative tribunals, and the reporting of certain lobbying-type activities under section 37 of the Act. We also developed a form to help public office holders report section 37 activities.

My Office issued three new backgrounders relevant to public office holders. Two explain the initial compliance process for reporting public office holders and the specific rules for ministers and parliamentary secretaries, and one describes conflict of interest screens and other compliance measures. We also updated the summaries of the rules for non-reporting public office holders, for reporting public office holders, for members of ministerial staff, and for ministers and parliamentary secretaries.



Members of the House of Commons

In June 2011, I participated in a Library of Parliament orientation session for new Members of the House of Commons, outlining their obligations under the Code.

In the fall, I made presentations to the caucuses of the three recognized parties in the House of Commons. My presentations to the caucuses of the New Democratic Party and the Liberal Party in October 2011 focussed on the requirements of the Code, while my presentation to the Conservative Party caucus in November covered the Act as well. The sessions provide an opportunity to remind Members of their obligations under the Code and, in the case of ministers and parliamentary secretaries, their obligations under the Act. They generate interesting discussions and often prompt caucus members to contact advisors in my Office with follow-up questions.

Under the authority provided in subsection 26(4) of the Code to publish opinions for the guidance of Members, I issued advisory opinions about their participation in debates and votes related to Bill C-18 (reorganization of the Canadian Wheat Board) and about the acceptability of free tickets to a cultural performance being staged at commercial venues. I also updated an existing advisory opinion regarding the general acceptability of event tickets and invitations.

My Office also issued a backgrounder on the initial compliance process for Members.

Parliamentary Activities

Committee Appearances

I appear from time to time before two parliamentary committees in respect of my Office and its work. The House of Commons Standing Committee on Access to Information, Privacy and Ethics has oversight responsibility for the Act and reviews my Office's annual budgetary estimates. The Standing Committee on Procedure and House Affairs has responsibility for the Code.

In the past year, I appeared before the Standing Committee on Access to Information, Privacy and Ethics on two occasions.

In September 2011, that Committee invited me to provide a briefing about my Office, which I did, and I was also asked questions about the issue of sponsorship at a political party's annual convention, which was the subject of a motion before the Committee. At the Committee, I confirmed that I had received a letter requesting that I investigate the issue. I also indicated that, after I had looked into the matter, I determined there were no reasonable grounds for an inquiry under the Code. I informed the Committee that I could not comment further as such matters are dealt with in confidence.

In March 2012, I appeared before that Committee to discuss my Office's budgetary submission for the 2012-13 Main Estimates.



I am usually invited each year to appear before the Standing Committee on Access to Information, Privacy and Ethics to discuss my Annual Report for the Act and before the Standing Committee on Procedure and House Affairs to discuss my Annual Report for the Code. I did not have the opportunity to do so for my 2010-11 annual reports.

I mentioned in last year's annual report that I hoped to meet with the Liaison Committee, composed of the chairs of all the House of Commons standing committees and the House chairs of standing joint committees, to get a better understanding of the range of gifts and benefits offered to members of committees. I had an opportunity to meet with that Committee in March 2012.

Shortly after the end of the fiscal year, the Standing Committee on Procedure and House Affairs began its five-year review of the Code. In support of this review I was asked by the Committee to make any recommendations for amendments to the Code based on my experience. I presented a list of 19 recommendations, some of them minor or technical in nature and others more substantive. The full text of my submission to the Standing Committee is available on my Office website. A list of the recommendations is included as Appendix A.

Other Parliamentary Activities

In September 2011, I met with the Honourable Andrew Scheer. I report to the House through the Speaker on the administration of the Act and the Code.

Also that month, I was invited to participate in an orientation session for Senators at which I provided an overview of my role and mandate.

I met with the procedural clerks of the House of Commons in September as well, including the clerks of standing committees and parliamentary associations, to present information about my Office and discuss Members' obligations under the Code in the context of committee work.

Inquiries from the Media and Members of the Public

In the last fiscal year, my Office received and responded to over 100 inquiries from journalists on a range of issues, more than double the number for the previous year, and participated in a number of media interviews.

As in previous years, many members of the general public communicated with my Office. In the past fiscal year, we received some 600 telephone, e-mail, fax and letter mail inquiries concerning a range of issues.

About two-thirds of these communications covered a wide variety of topics that were related to my mandate, including requests for information on policies, requests for documents issued by my Office and requests for information about ongoing investigations or compliance issues.



The other requests involved various matters that were not related to my mandate. Where possible, my Office referred the correspondents to other bodies that could better address their questions. In keeping with my objective of increasing public awareness about the administration of the Act and the Code, whenever we receive requests about matters that fall outside my mandate, my staff provides information clarifying my mandate.



VII. ADMINISTRATION

Accountability

As an entity of Parliament, my Office operates under the *Parliament of Canada Act*. It is not subject to most Treasury Board policies and guidelines. In addition, most legislation governing the administration of the public service, such as the *Public Service Employment Act*, the *Access to Information Act* and the *Privacy Act*, do not apply to my Office.

As part of its commitment to good stewardship, my Office has invested considerable efforts towards establishing an internal management framework that is based on the principles of sound resource management followed in the public service. In addition, I have voluntarily adopted a number of practices used in the public service to publicly disclose accountability information. Annual financial statements, quarterly financial reports and status reports on travel, conference and hospitality expenses are easily accessible through our website. Internal controls are being documented and annual financial statements are audited.

My Office has negotiated a number of shared services arrangements with the House of Commons (information technology and security), the Library of Parliament (accounts payable and reporting) and Public Works and Government Services Canada (compensation). These arrangements provide greater efficiency and one more level of scrutiny in the management of resources.

I am pleased to report on achievements of the last year in the area of resource management in my Office.

Human Resources Management

At this point, I believe that the current structure and total staff complement of 50 employees are adequate to fulfill the mandate of my Office.

I reported last year that the Office had reached a level of stability in the area of staffing. I am pleased to report that this stability has been maintained over the last year. Only one employee left the office in 2011-12, aside from three retirements and two term appointments that ended during the year. This amounts to a turnover rate of 2 per cent compared to 13 per cent in the previous fiscal year.

Following some restructuring last fiscal year, a new Policy, Research and Communications Division was created. Two new positions have been staffed in this division to conduct policy and research activities that will support all activities of the Office including, in particular, parliamentary and external relations activities.

A new policy on learning, training and development became effective on January 12, 2012. It is aimed at enabling employees at all levels to acquire and maintain the knowledge, skills and competencies required for their functions and at encouraging innovation and continuous improvements in performance. More specifically, this policy and supporting guidelines provide



all employees with a shared understanding of their role as it pertains to learning, ensure that managers and supervisors at all levels have the necessary knowledge to exercise effectively their delegated authorities, and present employees at all levels with an opportunity to further their professional development. My Office continues to invest in the development of employees and seeks to provide a work environment that is conducive to their well-being.

A three-day course on investments and securities was also offered in-house to employees who advise reporting public office holders on their obligations as they relate to assets and divestments. Office-wide learning activities were organized and held over the last year to foster continued employee development. For example, a full-day information session with all employees was held, with half of the day spent to enhance communication skills and the other half dedicated to developing a values and ethics code.

The *Code of Values and Standards of Conduct* for my Office came into effect on April 1, 2012. This Code is intended to outline the professional and ethical behaviour expected of employees, and to reinforce the responsibility of employees to follow certain rules of conduct. As mentioned in my previous annual report, this Code is being implemented to set out standard expectations related to our unique mandate and work environment.

Sound human resources management remains a priority and my management team will continue to review status reports on staffing actions, leave and development activities to identify areas that require attention or further investment.

Financial Management

I have maintained the same operating budget of \$7.1 million for the last four years and the same amount has been requested for the current fiscal year. However, an internal review of my Office's spending has been launched to identify opportunities for efficiencies. Results of this review will be communicated in next year's annual report.

I continue to rely on the House of Commons and the Library of Parliament to provide shared administrative services in the area of information technology and financial services. These arrangements have proven to be quite positive and we now also have an arrangement with the House of Commons for security services. My Office also has a shared services agreement with Public Works and Government Services Canada for compensation services.

Over the past fiscal year, my Office made some necessary, yet costly, investments in its information technology infrastructure. Encryption boxes were purchased to ensure continued protection of information collected and maintained by the Office. Moreover, the infrastructure behind the physical security system needed to be upgraded to meet the standards of the House of Commons, which has agreed to take on the responsibility for the security system. With the technical support of the House of Commons, my Office invested considerable efforts over the last 12 months in the development of a new integrated case management system. This new system, launched on April 1, 2012, streamlines our current approach to file management by eliminating duplication, as it replaces various stand-alone systems.



I mentioned last year that the financial statements for my Office would be audited by an independent auditor effective in 2010-11. I am pleased to report that the audited financial statements for that year, which are available on our website, received a very positive opinion from the auditing firm KPMG. No concerns were raised with respect to established procedures and information.

A table broadly outlining the financial information for the Office for the 2011-12 fiscal year is provided in Appendix B under the heading Financial Resources Summary. Detailed financial information can be found on our website.



VIII. LOOKING AHEAD

Both the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code) are scheduled to undergo five-year reviews in 2012. My Office has already submitted recommendations for the five-year review of the Code. I will continue to seek ways in which we may contribute to both of these important exercises by sharing the experience and knowledge we have gained over the past five years in administering the two regimes.

I hope that these reviews will provide opportunities to address the challenges that I have identified and thereby enhance my ability to administer the Act and the Code in a practical and effective way.

As I complete this report, the Standing Committee on Procedure and House Affairs continues its study of the Code. I appeared before that Committee in May 2012 to discuss the recommendations I had submitted to it and I subsequently released a copy of that submission. I look forward to the outcome of the Committee's deliberations.

I expect to release a similar document in relation to the Act later this year and look forward to working with parliamentarians to clarify the provisions of both the Act and the Code.

One of the biggest challenges that I have faced in the administration of the Act and of the Code relates to the gift provisions. I have already made suggestions in this regard for the Code and will do the same for the Act. I note that the issue of gifts has also been raised in the context of the five-year review of the *Lobbying Act* and that the Standing Committee on Access to Information, Privacy and Ethics has proposed a ban on the receipt by public office holders, as defined in the *Lobbying Act*, of gifts from lobbyists.

In addition to working with Members on these five-year reviews, I will continue to work with the committees on other matters related to my administration of the two regimes. The Standing Committee on Access to Information, Privacy and Ethics has oversight responsibility for the Act and my Office's budgetary estimates, and the Standing Committee on Procedure and House Affairs has responsibility for the Code.

My Office will continue to focus on the provision of timely and thorough advice to public office holders and Members of the House of Commons to help them comply with their obligations under the Act and Code.

We have several investigations underway and will issue reports over the course of the current fiscal year.

We will continue to strengthen our corporate governance structure and our internal processes and controls. Recognizing the fiscal realities facing all federal organizations, we will also conduct a detailed spending review in the coming year in order to identify and implement efficiencies.



My Office will seek new opportunities for communications with individuals subject to the Act or Code, and will ensure that these efforts are supported by useful tools to provide information about our mandate and activities. We will also continue our outreach efforts with the public, the media and other stakeholders.

Through these and other actions, my staff and I look forward to continuing our efforts to uphold and enhance the trust that Canadians have in Parliament and its institutions by administering Canada's conflict of interest and ethics regimes.

APPENDIX A – SUMMARY LIST OF RECOMMENDATIONS (from page 13)

[Excerpt from: *The Conflict of Interest Code for Members of the House of Commons: Five-Year Review - Submission to the Standing Committee on Procedure and House Affairs*]

- Recommendation 1: That the Code be amended to include a 120-day deadline to complete the initial compliance process.
- Recommendation 2: That the Code be amended to include a 30-day deadline to complete the annual review process.
- Recommendation 3: That the Committee consider the suggested amendments to sections 20 to 25 of the Code set out in the Appendix. *[Note: refers to Appendix in the submission to the Committee]*
- Recommendation 4: That the requirement for approval of forms and guidelines by the House of Commons upon recommendation of the Procedure and House Affairs Committee set out in section 30 of the Code be removed.
- Recommendation 5: That the Code be amended to introduce administrative monetary penalties, up to a maximum of \$500, for failures to meet reporting deadlines, and consideration given to introducing administrative monetary penalties for substantive breaches. Notices of penalty should be made public.
- Recommendation 6: That the Code be amended by adding prohibitions against personal solicitation of funds by Members where to do so could raise concerns relating to furthering private interests.
- Recommendation 7: That sections 8, 9 and 10 of the Code be broadened to include a prohibition against Members furthering the private interest of a relative or friend.
- Recommendation 8: That the Code be amended by adding broader disclosure and recusal obligations to include an obligation to disclose a private interest of a relative or friend (section 12), and a prohibition against participating in discussion, decision, debate or vote where the Member, or his or her relative or friend, has a private interest (section 13).
- Recommendation 9: That the Code be amended to introduce an acceptability test to be applied to sponsored travel, as is the case with gifts and other benefits. The current practice of publicly declaring sponsored travel should be continued.
- Recommendation 10: That the Code be amended to include an obligation for every new Member to meet with the Office of the Conflict of Interest and Ethics Commissioner to review his or her obligations under the Code. The meeting must take place within the same 120-day period as is proposed in this submission as a deadline for completing their initial compliance process.



- Recommendation 11: That the Code be amended to require Members to disclose to the Office of the Conflict of Interest and Ethics Commissioner all gifts valued at \$30 or more (or gifts from one source that total \$30 or more in a twelve-month period), to ensure that gifts received are acceptable. All acceptable gifts above this threshold would then be publicly declared.
- Recommendation 12: That Members consider whether they wish to make any amendment to the rules relating to invitations to occasions where meals or refreshments are offered.
- Recommendation 13: That the Code be amended to require that, where the Commissioner conducts an investigation into the same matter under both the Code and the *Conflict of Interest Act*, he or she may issue a single report and may make the report public on receipt by the Speaker, rather than on tabling in the House.
- Recommendation 14: That the Code be amended to allow the Commissioner to comment publicly on his or her reasons for not pursuing a matter, where doing so is in the public interest.
- Recommendation 15: That the Code be amended to require that Members requesting an inquiry refrain from commenting publicly on the request until the Commissioner has confirmed that he or she has received the request, and has notified the person who is the subject of that request.
- Recommendation 16: That the Code be amended to give the Commissioner explicit power to summon any witness or compel any document necessary in the course of his or her investigative role, and that the Commissioner be given direct access to any document requested from the House of Commons.
- Recommendation 17: That the Committee consider the suggestions related to section 27 set out in my March 2010 submission.
- Recommendation 18: That Parliament consider harmonizing the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons* to ensure consistency of language and processes.
- Recommendation 19: That the House of Commons consider implementing a separate code of conduct to address the political conduct of Members and their staff.

APPENDIX B – FINANCIAL RESOURCES SUMMARY (from page 22)

Program Activity	(thousands of dollars)				Alignment to Government of Canada Outcomes
	2010-11 Actual Spending (46 employees)	2011-12		Actual Spending (49 employees)	
		Main Estimates	Total Authorities		
Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i>	5,312	6,338	6,338	5,894	Government Affairs
Contributions to Employee Benefit Plans	704	812	812	744	
Total Spending	6,016	7,150	7,150	6,638	
Plus: Cost of services received without charge	1,021	n/a	n/a	1,016	
Net Cost	7,037	7,150	7,150	7,654	

The budget process for the Office of the Conflict of Interest and Ethics Commissioner is established in the *Parliament of Canada Act*. The Speaker of the House considers the estimates for the Office and transmits them to the President of the Treasury Board for inclusion in the estimates of the Government of Canada. The Standing Committee on Access to Information, Privacy and Ethics has within its mandate the role to review and report on the effectiveness, management and operations together with the operational and expenditure plans relating to the Office.

Since 2008-09, the budget for the Office has remained at \$7.1 million, 74 per cent (or \$5.3 million) of which is dedicated to salaries and employee benefits. Of the remaining \$1.8 million, approximately \$700,000 is used to cover the cost of shared services provided by the House of Commons, the Library of Parliament and Public Works and Government Services Canada in the area of information technology, finance and compensation, respectively.

Complete financial statements can be found on our website at www.ciec-ccie.gc.ca.

