



Office of the Conflict  
of Interest and Ethics  
Commissioner

Commissariat aux  
conflits d'intérêts et à  
l'éthique

## The 2014-2015 ANNUAL REPORT

in respect of the  
*CONFLICT OF INTEREST ACT*



June 9, 2015

Mary Dawson  
Conflict of Interest and  
Ethics Commissioner

## The 2014-2015 Annual Report

in respect of the  
*CONFLICT OF INTEREST ACT*

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June 8, 2015

The Honourable Andrew Scheer, M.P.  
Speaker of the House of Commons  
Room 224-N, Centre Block  
Parliament of Canada  
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 Act* in relation to public office holders for the fiscal year ending March 31, 2015, for tabling in the House of Commons on June 9, 2015.

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

Sincerely,

Mary Dawson  
Conflict of Interest and Ethics Commissioner





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June 8, 2015

The Honourable Leo Housakos  
Speaker of the Senate  
Room 280-F, Centre Block  
Parliament of Canada  
Ottawa, Ontario K1A 0A4

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 Act* in relation to public office holders for the fiscal year ending March 31, 2015, for tabling in the Senate on June 9, 2015.

This fulfills my obligations under paragraph 90(1)(b) 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* (Members' Code). These two regimes hold public office holders and Members to standards that place the public interest above private interests.

The Act applies to current and former 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 2,400 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 2011 and 2013.

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

Most rules and procedures set out in the Act and the Members' Code aim to minimize the possibility of conflicts arising between public and private interests. The rules of conduct also address a variety of other situations relating, for example, to gifts and benefits. The Act also contains a number of post-employment rules.

While the focus of both the Act and the Members' Code is on prevention, I am mandated to investigate alleged contraventions of either.

The main responsibilities of my Office are to:

- advise public office holders and Members on their obligations under the Act and the Members' 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 a public registry of publicly declarable information;
- administer an administrative monetary penalty regime under the Act for failures to comply with certain reporting requirements; and
- conduct examinations and inquiries into alleged contraventions of the Act and the Members' Code.



Under the Act, I am also mandated to provide confidential advice to the Prime Minister about conflict of interest and ethics issues.

This is one of two annual reports issued by my Office. This report relates to the Act and the other report relates to the Members' Code.



## II. OVERVIEW – Preparing to Respond to Potential Changes

This summer will mark eight years since the coming into force of the *Conflict of Interest Act* which coincided with the start of my mandate as Conflict of Interest and Ethics Commissioner and the creation of my Office.

The structures, processes and systems that I have put in place since July 2007 to support the application of the Act and the *Conflict of Interest Code for Members of the House of Commons* have provided my Office with a solid foundation. My experience in applying both regimes over the years has enabled me to refine and strengthen that foundation. The maturity that my Office has now achieved as an organization allows us, I believe, to continue to build on our strengths and gives us the flexibility to respond to potential changes.

During the past fiscal year, my Office has been preparing for the possibility that changes to my mandate may result from the parliamentary reviews of the Act and the Members' Code. My Office has also been getting ready for the 2015 federal election and the arrival of new Members that will follow the addition of 30 seats to the House of Commons and a number of announced resignations. My Office's strategic plan has been renewed to reflect these and other priorities.

To further enhance our ability to deal with change, I have ensured that the procedures, practices and precedents in every division of my Office are documented and that a solid management framework is in place for the Office as a whole.

My primary goal as Commissioner continues to be to assist public office holders and Members in meeting their obligations under the Act and the Members' Code. Advisors in my Office help them comply through formal mechanisms set out in the two regimes, including the initial compliance process, the annual review process, and ongoing reporting requirements. Advisors also provide information and confidential advice to individual public office holders and Members beyond these formal mechanisms. In the past fiscal year, my Office has had over 4,000 communications with individuals subject to the Act or the Members' Code, a volume that is expected to increase over the current fiscal year as a result of the upcoming election.

These activities were complemented by a range of outreach initiatives aimed at educating and informing public office holders and Members, including presentations to organizations and offices whose members are subject to the Act, offers to make presentations to party caucuses and independent Members, and written documents and website materials explaining various aspects of the Act and the Members' Code. We have developed an integrated communications strategy to maximize the effectiveness of these and other initiatives.



While the major focus of my Office is on prevention, I have continued to enforce the Act and the Members' Code by investigating possible contraventions, as appropriate. There were a total of 45 investigation files that were opened or remained open during the past fiscal year. Some of those files were opened as a result of formal requests from Members of the House of Commons, but I initiated other investigations myself as a result of information that came to my attention in a variety of ways. In 2014-2015, my Office released five examination reports under the Act on subjects that included preferential treatment, fundraising, outside activities and gifts.

I remain grateful for the support of my staff, without whom I could not fulfill my mandate as Commissioner, and I thank them for their invaluable contributions. I note that many employees who were already on staff when I was appointed, or joined shortly after, are still with me today. Their longstanding commitment to the work of my Office has resulted in a strong and experienced team. I appreciate their loyalty and look forward to working with them over the coming year.



### III. APPLYING THE ACT

The *Conflict of Interest Act* (Act) applies to about 2,400 government officials, defined in the Act as “public office holders.” These include ministers, parliamentary secretaries and ministerial staff, as well as Governor in Council appointees such as deputy ministers, heads of Crown corporations and members of federal boards, commissions and tribunals. My Office assists these individuals in achieving and maintaining compliance with the Act.

Approximately half of the public office holders (54%) work on a part-time basis, many as members of federal boards, tribunals and commissions. These public office holders must comply with most of the rules of conduct, but are not subject to the Act’s disclosure provisions.

The other group of public office holders, most of whom work on a full-time basis, are called “reporting public office holders” and are subject to a broader range of provisions under the Act. They must disclose to my Office detailed information about their assets, liabilities, outside activities and other interests, and may also be required to take additional compliance measures in order to meet their obligations under the Act. My Office guides and assists them in understanding their obligations and in undertaking all the necessary measures.

As of March 31, 2015, my Office’s records indicate that there were 2,449 public office holders. Table 3-1 shows a breakdown by category of public office holders over five fiscal years.

Table 3-1: Number of Public Office Holders

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
<b>Total number of public office holders</b>	<b>2,789</b>	<b>3,059</b>	<b>2,976</b>	<b>2,538</b>	<b>2,449</b>
<b>Reporting public office holders</b>	<b>1,108</b>	<b>1,115</b>	<b>1,094</b>	<b>1,123</b>	<b>1,128</b>
Ministers and ministers of state	38	39	37	39	39
Parliamentary secretaries	27	28	27	31	30
Full-time ministerial staff	511	534	558	561	559
Full-time Governor in Council appointees	532	514	472	492	500
<b>All other public office holders</b> (primarily part-time Governor in Council appointees)	<b>1,681</b>	<b>1,944</b>	<b>1,882</b>	<b>1,415</b>	<b>1,321</b>



The total number of public office holders who are not reporting public office holders has decreased each year since 2012. This is largely because the Canada Pension Plan Review Tribunal, the Old Age Security Review Tribunal and the Employment Insurance Board of Referees began the process of eliminating part-time positions in 2012 in preparation for the creation of the new Social Security Tribunal that is mainly composed of full-time members. This process ended on April 1, 2014, when all remaining positions in the former organizations were eliminated.

### **Initial Compliance**

The Act establishes an initial compliance process that all reporting public office holders must complete within 120 days after their appointment. The first step in this process is a confidential disclosure to my Office, which must be submitted no later than 60 days after appointment and must contain detailed information on the reporting public office holder's assets, liabilities, outside activities and other interests.

My Office reviews this information and advises reporting public office holders on the measures they will need to take to meet their obligations under the Act. These measures may include, for example, publicly declaring certain assets, divesting controlled assets, establishing a conflict of interest screen or resigning from a corporate directorship. My Office may also provide advice at this time on managing potential conflicts of interest and, more generally, on maintaining ongoing compliance with the Act.

The initial compliance process is complete when the reporting public office holder signs a statement summarizing the steps he or she has taken to comply with the Act. This statement is then placed in a public registry on my Office website for examination by the public.

My Office issues a series of reminders and provides assistance to reporting public office holders as the 60- and 120-day deadlines approach. Most of the 317 reporting public office holders appointed during the last fiscal year met both of these deadlines. However, despite the efforts of my Office to assist them, 30 new reporting public office holders did not meet the 60-day deadline and 17 did not meet the 120-day deadline. Table 3-2 compares these figures to those of the previous four fiscal years.

Table 3-2: Compliance with 60- and 120-day Deadlines

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
New reporting public office holders	300	299	290	359	317
Number of reporting public office holders who missed the 60-day deadline	45	53	46	32	30
Number of reporting public office holders who missed the 120-day deadline	9	16	11	19	17

Nineteen of the 30 individuals who missed the 60-day deadline in 2014-2015 filed their confidential reports less than one week after the deadline. Eleven individuals missed the deadline by one week or more. In nine of these 11 cases, my Office was notified late of the reporting public office holders' appointments, delaying my initial letter to them. In one other case, the deadline was missed because of circumstances beyond the reporting public office holder's control. I issued one notice of violation in relation to the remaining case, for failure to submit a confidential report within 60 days. Administrative monetary penalties are discussed more generally later in this section.

Seven of the 17 individuals who missed the 120-day deadline in 2014-2015 completed the initial compliance process within the week following that deadline. In four other cases, my Office was only notified of the appointment around the end of the 120-day deadline. Another five cases required additional time to complete the more complex measures that were necessary in those cases to ensure compliance with the Act. I issued a notice of violation in relation to the remaining case, for failure to sign a summary statement within 120 days of appointment.

### **Maintaining Compliance**

Beyond the initial compliance process, my Office assists reporting public office holders in meeting their obligations under the Act throughout their term in office. This is done in part through formal mechanisms set out in the Act. These include the annual review process and the requirements that reporting public office holders report and publicly disclose material changes and most gifts or other advantages that are not from a relative or friend and that have a value of \$200 or more.

In addition to the initial compliance and annual review processes, my Office provides information and advice on an ongoing basis to individual public office holders, and to their



organizations as a whole, regarding the application of the Act. Table 3-3 summarizes the number of instances of advice or information provided over the past five fiscal years. These instances do not include advice provided in relation to measures that must be taken during the initial compliance process, such as advice on divestment of controlled assets or resignation from certain outside activities.

Table 3-3: Advice or Information Provided to Individual Public Office Holders

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
<b>Total communications with public office holders</b>	<b>1,600</b>	<b>1,550</b>	<b>1,748</b>	<b>1,731</b>	<b>1,792</b>
Communications providing advice regarding gifts	200	160	188	231	209
Communications providing advice regarding outside activities	79	72	98	102	132
Communications providing advice regarding post-employment obligations	76	66	155	211	223
All other communications	1,245	1,252	1,307	1,187	1,228

The three categories identified in the table—gifts, outside activities and post-employment obligations—were chosen because they are the categories in relation to which advice is most frequently sought. Other categories could not be grouped together logically. My Office receives questions on a wide range of matters that either are specific to individual public office holders or do not occur often. While most communications result from changes in personal situations, such as marital status, a dependent child or a relative, or the purchase of new assets, some are requests for interpretations of specific provisions of the Act. There has also been an increase in the number of communications with individuals who are being considered for appointment and who are seeking to obtain a better understanding of the obligations under the Act.

In 2014-2015, 38 requests for advice or information were received from public office holders who were not reporting public office holders. Although it is still a very small proportion of the total 1,792 communications we had with public office holders, this number is slowly increasing each year. Fourteen of the 38 requests related to outside activities, seven related to post-employment, two related to gifts, and the remaining 15 were general in nature.





## **Annual Review**

All reporting public office holders must review their compliance arrangements on an annual basis and update the information previously disclosed to my Office. Advisors from my Office assess any new information to determine whether new compliance measures are needed and often provide additional confidential advice to reporting public office holders at that time.

As part of our continuing efforts to expedite all compliance processes under the Act, my Office pays particular attention to the annual review process. We send reporting public office holders email reminders stating that we are waiting for their responses and then follow up by phone, if necessary. This continues to ensure a more timely return of a greater number of annual review responses. In 2014-2015, my Office initiated annual reviews for 1,044 reporting public office holders and received 901 responses, some of which were related to annual reviews initiated in the latter part of the previous year.

Although the Act does not provide a timeline for completing the annual review process, I recommended, within the context of the five-year review of the Act, that the Act provide for both a deadline and a penalty for a failure to meet this obligation. In the meantime, I ask that reporting public office holders submit any updated information to me within 30 days.

The efforts made by my Office to remind reporting public office holders to return their annual review documents have resulted in most responses being received within a reasonable time. However, a few annual reviews remained outstanding after 120 days. Because the Act does not provide for any penalty where reporting public office holders fail to respond to annual review requests in a timely way, my Office adjusted the public registry on my Office's website to make it possible to identify reporting public office holders who fail to do so. Additionally, I will consider issuing a compliance order imposing a 10-day period for completing the process where a reporting public office holder persists in disregarding the requests and reminders of my Office.

## **Ongoing Reporting Requirements**

### ***Material Change***

Reporting public office holders must inform my Office of any material change to their circumstances within 30 days of that change. The Commissioner has the discretion to impose an administrative monetary penalty when a reporting public office holder fails to meet this deadline.



In 2012, I instituted the practice of requesting financial statements relating to investments at the time of the annual review. This resulted in a significant increase in the number of notices of violation and administrative monetary penalties issued in 2012-2013. It would appear that more care is now being taken by reporting public office holders in this regard, since I have had fewer occasions to issue notices of violation in the last two fiscal years. I issued nine notices of violation and imposed seven penalties in 2014-2015 for failures to disclose a material change within 30 days, including one penalty relating to a violation that occurred in the previous year. In one of the nine cases, after reviewing the reporting public office holder's representations and the circumstances of the case, I determined that a penalty was not warranted. As of March 31, 2015, decisions were still pending in the other two cases.

### ***Gifts and Other Advantages***

Section 11 of the Act establishes an acceptability test for all gifts and other advantages offered to public office holders. Where a gift or other advantage could reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function, it may not be accepted, regardless of its value. This test applies to gifts received by all public office holders, not only reporting public office holders.

There is an exception for gifts or other advantages that are received as a normal expression of courtesy or protocol, or that fall within customary standards of hospitality that normally accompany a public office holder's position. These exceptions apply in a variety of circumstances. For example, a token gift offered in appreciation for a speech or presentation made by a public office holder is usually acceptable but is still subject to the Act's disclosure and public declaration requirements if its value is \$200 or more. Moreover, as stated in the *Guideline on Gifts (including Invitations, Fundraisers and Business Lunches)* issued by my Office in July 2011, an invitation to attend a function, which could include a meal, where the invitation is duty-related that is, for which the public office holder had or has an organizational, ceremonial, presentational or representational role is not considered to be a gift to the public office holder but rather the fulfillment of an official function or duty.

Gifts and other advantages that are accepted by reporting public office holders, that pass the acceptability test and that are valued at \$200 or more must be disclosed to my Office and must be publicly declared. Multiple gifts accepted from a single source whose total value exceeds \$200 within a 12-month period must also be disclosed to my Office. Gifts valued at \$1,000 or more are subject to forfeiture to the Crown unless the Commissioner determines otherwise.

Issues around the acceptability of gifts or other advantages continue to generate many requests for advice. Table 3-4 provides some details on these interactions.

Table 3-4: Interactions with Public Office Holders Relating to Gifts

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Number of instances of advice provided regarding gifts	200	160	188	231	209
Number of reporting public office holders who publicly declared gifts	27	30	29	25	33
Number of publicly declared gifts valued at \$200 or more	73	55	62	63	63
Number of publicly declared and forfeited gifts valued at \$1000 or more	11	8	10	12	5

In 2014-2015, my Office provided advice relating to gifts in 209 instances to 103 individual reporting public office holders. Only two public office holders who are not reporting public office holders contacted my Office seeking advice on gifts this past fiscal year, despite the fact that section 11 of the Act, relating to gifts, applies equally to all public office holders.

In 63 instances, the gifts were acceptable and publicly declared and, in five other instances, gifts were publicly declared as forfeited because they had of a value of \$1,000 or more. Gifts that were valued at under \$200 were not publicly declared. In cases where my Office determined that gifts were unacceptable, the gifts were refused, returned or paid for by the public office holders.

### ***Outside Activities***

Table 3-3, set out earlier in this section under the heading Maintaining Compliance, shows the number of communications relating to outside activities that my Office has had with reporting public office holders over the five most recent fiscal years.

With limited exceptions, subsection 15(1) of the Act prohibits reporting public office holders from engaging in a range of outside activities, including employment or the practice of a profession, operating or managing a commercial activity, serving as a director or officer in a corporation or organization, holding office in a union or professional association, serving as a paid consultant and being an active partner in a partnership.

The exceptions to subsection 15(1) are outlined in subsections 15(1.1), (2) and (3) of the Act. The Commissioner must be of the opinion that an outside activity is not incompatible with the public duties of the reporting public office holder for an exception to be granted. Acting as a



director or officer in an organization of a philanthropic, charitable or non-commercial character is the most common example of an exception that is allowed. All exceptions granted by the Commissioner are publicly declared in the public registry.

I recommended to the Standing Committee on Access to Information, Privacy and Ethics during its statutory review of the Act that the Commissioner be given the authority to grant permission to engage in any outside activities where to do so would not be incompatible with the reporting public office holder's duties or obligations as a public office holder. This is because, in most cases, including those where no exception is provided for, the activities in which reporting public office holders are engaged outside their public office do not raise any issues of conflict of interest with their official duties and functions. The Standing Committee included this recommendation in its report, tabled in February 2014. The government subsequently welcomed and supported this recommendation, but it is still considering how best to implement this and other improvements in a manner that furthers the purposes of the Act.

## **Compliance Measures**

### ***Divestment***

Section 17 of the Act prohibits reporting public office holders from holding controlled assets. Controlled assets include all investments that are publicly traded on a stock exchange or over-the-counter, as well as commodities, futures and currencies that are traded on a commodities exchange. Section 27 of the Act sets out the appropriate procedure for divestment of controlled assets: either through an arm's-length sale or through the establishment of a blind trust. The Act requires that divestments be completed within 120 days of the date of appointment.

The prohibition against holding controlled assets applies to all reporting public office holders, regardless of whether those assets could give rise to a conflict of interest in relation to their official duties and responsibilities. The Commissioner has the discretion to allow exemptions from this prohibition when controlled assets are of minimal value and pose no risk of a conflict of interest. This exemption does not apply to ministers, ministers of state or parliamentary secretaries.

Divestment is usually completed during the initial compliance process. This is reflective of the fact that reporting public office holders are prohibited from holding controlled assets and therefore cannot acquire any such assets while they are in office. Divestment could also occur on occasion after initial compliance in cases where reporting public office holders receive controlled assets as a gift or bequest, or in any other way over which they have no control.



In cases where reporting public office holders acquire controlled assets in breach of the Act, divestment can only be accomplished by way of sale in an arm's-length transaction. In 2014-2015, there were nine such cases where divestments were made by way of sale after the initial compliance process. Penalties were issued in seven of these instances as a result of a failure to disclose a material change to my Office within the 30-day period as required under subsection 20(5) of the Act.

Table 3-5 summarizes divestment arrangements that took place in the last three fiscal years.

Table 3-5: Divestment Arrangements Established over the Last Three Fiscal Years

	2012-2013	2013-2014	2014-2015
Number of reporting public office holders who divested through one or more blind trusts	5	16	12
Number of reporting public office holders who divested by way of sale	10	22	31
Number of reporting public office holders who were granted a minimal value exemption	31	57	56

At the end of 2014-2015, there was a total of 61 reporting public office holders who had blind trusts that were created either during that fiscal year or in previous fiscal years, compared to 60 at the end of the previous fiscal year.

### ***Conflict of Interest Screens and Recusals***

Under section 29 of the Act, the Commissioner, in consultation with individual public office holders, determines appropriate compliance measures for them.

During 2014-2015, 11 reporting public office holders undertook compliance measures under section 29. Seven of these compliance measures have been made public. Four involved conflict of interest screens, two involved an undertaking not to carry on a legal practice and one involved an undertaking in relation to an outside activity with a not-for-profit organization. The remaining four were not made public for privacy reasons relating to family members and because I determined that there was no public interest in making them public. These non-public undertakings mainly relate to accounts that are jointly held with other family members for estate planning purposes.



Conflict of interest screens are generally used if public office holders are in positions where there is a significant possibility that they will be involved in discussions or decision-making that could affect their own private interests or those of a relative or a friend or an organization with which they have been connected. These arrangements can be made, in the case of reporting public office holders, during the initial compliance process, during the annual review process or as a result of a material change.

In cases where the possibility of a reporting public office holder being involved in such discussions or decision making is remote, a conflict of interest screen is deemed unnecessary. However, reporting public office holders are advised that if any such situation should arise, they should recuse themselves in accordance with section 21 of the Act.

My Office must be informed by a reporting public office holder within 60 days of any recusal. These recusals are publicly declared unless they fall within an exception relating to a confidentiality requirement specifically referred to in the Act. Two recusals were reported and made public in 2014-2015.

### ***Section 30 Compliance Orders***

Under section 30 of the Act, I may order a public office holder to take any compliance measure that I determine to be necessary to comply with the Act. Because compliance with the Act is a condition of a person's appointment or employment as a public office holder, compliance orders are made public on my Office website. I did not issue any compliance orders in 2014-2015.

### ***Reimbursement of Costs Resulting from Compliance Measures***

Under section 31 of the Act, the Commissioner may order that a public office holder be reimbursed by the appropriate government body for specific costs related to compliance measures required under the Act.

Reimbursements relating to blind trusts account for a major portion of these expenditures. The costs associated with the reimbursement of fees related to blind trusts in 2014-2015 totalled \$427,913 compared to \$373,718 in 2013-2014. Administrative costs reimbursed in one fiscal year may also include amounts for fees incurred in a previous fiscal year for which a request was only received in the current fiscal year.

Other reimbursements can relate to the sale of controlled assets or withdrawal from activities for which I only order reimbursements at the request of the public office holder.

Reimbursements are ordered in accordance with a guideline published by my Office entitled *Guideline on the Reimbursement of Costs Associated with Divestment of Assets and Withdrawal from Activities*. This guideline provides information on the type of costs that are eligible for reimbursement, the procedures that must be followed to seek reimbursement, and the rates set by the Commissioner for the administration of blind trusts.

A review of the rates that are set under the guideline was conducted in November 2014. The Office asked approximately 40 law firms, accounting firms and financial institutions throughout the country to provide information on the rates charged by their respective organization for the administration of blind trusts. The findings of this review confirmed that the rates in effect were still reasonable. However, they resulted in some revisions to the guideline to allow more flexibility for flat rates, disbursements and hourly rates, as long as the total eligible amounts are respected. The revised *Guideline on the Reimbursement of Costs Associated with Divestment of Assets and Withdrawal from Activities* became effective on April 1, 2015.

### **Post-Employment**

All former public office holders continue to have obligations under the Act once they leave office. Some of these obligations are ongoing, including a general prohibition against taking improper advantage of one's previous public office.

Other obligations only apply during a cooling-off period, and only to former reporting public office holders. The cooling-off period lasts two years for ministers and ministers of state and one year for all other reporting public office holders, including parliamentary secretaries. Specific prohibitions apply during this time, including contracting with, or making representations to, an entity with which the former reporting public office holder had direct and significant official dealings in the year before leaving office.

Table 3-6 summarizes the number of public office holders who have left office over the last five fiscal years as well as the number of instances where advice was sought regarding post-employment obligations.



Table 3-6: Public Office Holders in the Post-Employment Period

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Public office holders who do not have reporting obligations who left office	100	68	333	732	350
Reporting public office holders who left office	322	292	311	330	312
Advice provided regarding post-employment obligations to public office holders	76	66	155	211	223
Offers of employment disclosed	24	15	49	56	69

My Office provided advice related to post-employment obligations on 223 occasions during 2014-2015. In 96 of these cases, the advice was sought after the public office holders had left office, half of whom had left office in a previous fiscal year.

The Act also requires that a reporting public office holder disclose to my Office all firm offers of employment within seven days. The number of cases in which reporting public office holders have sought advice related to offers of employment and the number of cases in which they have disclosed firm offers of employment have both increased over the past three fiscal years. This suggests that reporting public office holders are becoming more aware of their post-employment obligations.

The Commissioner has the discretion under section 38 to exempt a former reporting public office holder from the application of the post-employment cooling-off period, generally in cases where the individual did not have significant decision-making responsibilities. Under section 39 of the Act, the cooling-off period may be waived or reduced by the Commissioner. In this regard, I consider, among other things, whether the public interest in granting the waiver or reduction outweighs the public interest in maintaining the prohibition. There have been only seven instances in the past five fiscal years in which I have granted a waiver or reduction of the cooling-off period.

### **Administrative Monetary Penalties**

The Act establishes an administrative monetary penalty scheme that gives the Commissioner discretion to impose penalties on reporting public office holders. The regime generally only covers failures to report certain matters within established deadlines.



Table 3-7 summarizes the number of administrative monetary penalties that I have imposed over the last five fiscal years.

Table 3-7: Administrative Monetary Penalties Imposed

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Failure to meet the 60- and 120-day deadlines for initial compliance	0	1	4	0	0
Failure to submit all information considered necessary to ensure compliance, within 60 days of appointment	0	0	0	2	1
Failure to report an outside activity	1	0	0	0	0
Failure to report a material change	4	6	13	14	7
Failure to report the acceptance of an offer of outside employment within seven days	0	0	0	0	2
<b>Total</b>	<b>5</b>	<b>7</b>	<b>17</b>	<b>16</b>	<b>10</b>

I imposed 10 penalties in 2014-2015, fewer than in the two previous years. I have for the first time in 2014-2015, imposed a penalty for failure to report the acceptance of an offer of employment within seven days under subsection 24(2) of the Act, and did so twice.

As I have observed on many occasions, the penalties under the Act relate to failures to meet deadlines. I have recommended, in the context of the five-year review of the Act, that consideration be given to imposing penalties for some substantive contraventions as well. In the absence of penalties for substantive contraventions, I can only impose penalties in relation to those contraventions if there is also a failure to meet a reporting deadline in relation to them. This happens most frequently in the case of material changes, often when controlled assets are acquired in contravention of the Act.

I have imposed penalties for failures to meet deadlines where no substantive offences were involved in cases that were in relation to the 60- and 120-day deadlines for initial compliance. Meeting these deadlines is critical to ensuring that reporting public office holders comply with their obligations under the Act. I issued two notices of violations in 2014-2015 in relation to these deadlines but they are not reflected in the table above because the matters were still pending on March 31, 2015.



To date, I have not imposed penalties where unacceptable gifts have been received if they are returned or paid for in a timely way. In February 2015, however, I issued an examination report, *The Bonner Report*, where I found that certain gifts should not have been accepted by a reporting public office holder. That report is described in some detail in the Investigations section of this report.

## **Matters of Note**

### ***Public Reporting of Gifts and Other Advantages***

In the last year, I had occasion to consider two situations involving gifts or other advantages accepted by a reporting public office holder or a member of his or her family that, on a technical reading of the Act, would require public declarations to be made. In both instances I determined that, after a review of the appropriate rules and in light of its purposes, the Act would not have intended that the gifts in questions be publicly declared. Consequently, I have not required a public declaration under subsection 25(5) in either of the situations described below.

#### *Gifts from Riding Associations and Political Parties*

The first instance involves gifts or other advantages, such as invitations to fundraising or other political events, given to ministers, parliamentary secretaries or ministerial staff by a riding association or a political party.

Because ministers, parliamentary secretaries and ministerial staff are the voices of their political party and, since the Act does not prohibit or restrict the political activities of a reporting public office holder, it is reasonable to determine that any gift or other advantage offered by the political party or riding association, such as invitations to attend political events, could not reasonably be seen to have been given to influence them in the exercise of their official powers, duties or functions. This is in contrast to the situation of gifts or other advantages that are offered to the same political event by others, such as a commercial organization, which, in some cases, could reasonably be seen to have been given to influence a reporting public office holder. In the latter case, the gift or other advantage may be acceptable depending on who the donor is. For example, consideration would be given to the question of whether the donor was a stakeholder, or had dealings with the individual, as well as to the circumstances under which the gift or other advantage was accepted.

Under the *Conflict of Interest Code for Members of the House of Commons* (Members' Code), where the gift rule refers to "gifts or other benefits", the definition of "benefit" excludes benefits received from a riding association or a political party. Under the Act, there is no such

exclusion. Furthermore, there is no exception for gifts or other advantages from these sources in the case of the public reporting requirement under subsection 25(5) of the Act.

Subsection 25(5) requires the public declaration of all gifts or advantages other than those from a relative or friend. Gifts and other advantages offered by a political party or riding association in the context of political events are not excluded from public declaration. Because of the potential large number of such gifts being offered in this context, it would not seem reasonable to account for all of them. More important, it would not seem necessary to do so, taking into account the general purposes of the Act.

I have, therefore, determined that gifts and advantages offered by a political party or riding association in the context of a political event would not require a public declaration. However, any other gift or advantage such as tickets to a sporting event offered by the political party or riding association would require a public declaration disclosing the originating donor.

#### *Gifts Accepted by a Spouse or Family Member*

The second instance relates to gifts accepted by a spouse or family member. Subsection 25(5) of the Act requires reporting public office holders to publicly declare all gifts or other advantages that are accepted by a member of their family. There is no exception to this rule.

There have been occasions where the spouse or a family member of a reporting public office holder receives a gift or other advantage in his or her professional or personal capacity, without any connections to the duties or functions of the reporting public office holder. Such a gift or other advantage could not reasonably be seen to have been given to influence the reporting public office holder. As in the previous case and taking into account the purposes of the Act, it would appear that public disclosure would be inappropriate.

I have therefore determined that gifts or other advantages that are received by a spouse or a family member of the reporting public office holder in his or her own right, without any connection to the position of the reporting public office holder, do not require a public declaration under subsection 25(5) of the Act.

#### *New Types of Controlled Assets*

New investment vehicles and products are continuously being introduced by the government and offered by the financial services sector. Although some of these new vehicles and products are not specifically referred to in the definition of controlled or exempt assets identified in



section 20 of the Act, I have, in some cases, determined that they are controlled assets under the Act. For example, I have determined that exchange-traded funds (ETFs) possess the characteristics of a controlled asset. Additionally, new vehicles such as Tax Free Savings Accounts (TFSA), Registered Disability Savings Plans (RDSP), and Pool Registered Pension Plans (PRPP), all introduced by the Government of Canada to encourage Canadians to save money for long-term financial security, but not listed in the Act, may include controlled assets. These cases require a case-by-case determination.

In my continuing efforts to provide sound advice to reporting public office holders regarding their compliance obligations, I issued an information notice entitled *Tax-Free Savings Accounts* in February 2009. I also issued a *Guideline on Controlled Assets* in March 2011 that was further supported by an information notice issued in April 2014 entitled *Categories of Assets*.

Over the past year, some reporting public office holders raised questions as to whether contributions made to registered savings plans, specifically registered retirement savings plans and registered education savings plans, are considered controlled assets or are exempt under the Act. I recognize that the Act as drafted creates some confusion in this regard. As an example, paragraph (g) of “exempt assets” specifies that assets in registered retirement savings plans and registered education savings plans that are not self-administered or self-directed are exempt.

Taking into consideration sections 17, 20, and 27 of the Act, I am of the view that all investments that are publicly traded on a stock exchange or over-the-counter as well as commodities, futures and currencies that are traded on a commodities exchange or secondary market, must be considered controlled assets. This is irrespective of the vehicle that contains these investments. This interpretation was mentioned in my 2013-2014 annual report and was further reiterated in my observations in the context of the five-year review of the Act.

Section 17 clearly prohibits the holding of controlled assets regardless of whether a conflict of interest exists. The definition of “controlled assets” in section 20 is cast generally to include “assets whose value could be directly or indirectly affected by government decisions or policy [...]”. A list of examples follows in section 20. They include publicly traded securities (investments that are publicly traded on a stock exchange or over-the-counter), or commodities, futures and currencies that are traded on a commodities exchange or held for speculative purposes, and stock options, warrants and rights if they are publicly traded on a stock exchange or an over-the-counter market. Exempt assets are defined in section 20 to “include assets and interests in assets for the private use of public office holders and the members of their family and assets that are not of a commercial character.”

In light of sections 17 and 20, I have interpreted the divestment provisions provided in section 27 of the Act to require the divestment of all assets that would be considered controlled if held outside the account or plan because their value could be directly or indirectly affected by government decisions even if held in an account or plan that is registered and not self-administered or self-directed. In all such instances, I have determined that divestment of those assets is necessary to meet the requirements of the Act.

### ***Public Registry***

As mentioned in last year's annual report, my Office launched, in April 2015, a new version of its online registry of publicly declarable information submitted by reporting public officer holders and Members of the House of Commons. The maintenance of a public registry by my Office is a requirement under both the Act and the Members' Code. The update of the public registry had two main purposes. The first was to simplify the internal process by which the declarations of reporting public office holders and Members are made public, and the second was to improve how the information is displayed, making it easier for the general public to read and understand it. This is especially true for information relating to ministers and parliamentary secretaries, who make public disclosures under both the Act and the Members' Code.

Considerable efforts were made by my staff over the last 12 months to define the business requirements and functionality of this new registry, which is now integrated with the case management system used by my Office. The new registry includes a number of improvements, in particular enabling users to find information more easily. Although the interface of the previous public registry was bilingual, the declarations were published in the original language in which they were made by the reporting public office holder or by the Member. The new version of the public registry allows my Office to display a translation of each declaration, so that the site is fully bilingual.

The Office called on the expertise of internal and external resources of the House of Commons' information technology group to develop the registry. The first phase of the project was delivered on schedule. The next phase will result in a portal that will enable stakeholders to submit their public declarations electronically.





#### 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* (Members' Code). An examination under the Act can be initiated after receiving a request from a Senator or a Member of the House of Commons, or on my own initiative. An inquiry under the Members' Code can be initiated after receiving a request from a Member, upon resolution of the House of Commons or on my own initiative.

When a Member or Senator makes a request under the Act, or a Member makes a request under the Members' Code, he or she must, among other requirements, set out reasonable grounds for believing that a contravention has occurred. If the requirements are met, the Commissioner must, in the case of the Act, conduct an examination or, in the case of the Members' Code, conduct a preliminary review to determine whether an inquiry is warranted.

Information concerning possible contraventions of the Act or the Members' Code also comes to my attention in a variety of other ways, such as media reports and communications from the general public. In those instances, the information is reviewed to determine whether the concerns fall within the mandate of my Office and whether I have reason to believe that a contravention of the Act or Members' Code has occurred. In most cases, this requires preliminary fact-finding, after which I determine whether an examination or inquiry is warranted or whether any other action should be taken.

#### Overview of Investigation Files Under the Act and the Members' Code

Over the past fiscal year, my Office opened 39 new investigation files and six files were carried over from previous fiscal years. Four of the files that were carried over resulted in reports that are described in some detail later in this section, namely *The Lynn Report*, *The Glover Report*, *The Finley Report* and *The Bonner Report*. The remaining two files, the Carson and Wright examinations, remain suspended.

Table 4-1: Comparison of Investigative Activity over the Past Five Fiscal Years

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Files opened	33	30	32	28	39
Files carried over from previous fiscal year	6	11	16	13	6
<b>Total</b>	<b>39</b>	<b>41</b>	<b>48</b>	<b>41</b>	<b>45</b>



As shown in table 4-2 below, of the 45 files that were opened or remained open during the last fiscal year, 10 resulted from requests from Members, including six under the Act and four under the Members' Code. Two files related to referrals from the Public Sector Integrity Commissioner. The remaining files were opened as a result of information received from other sources. No requests for examinations were made by Senators and I did not receive any direction from the House of Commons to conduct an inquiry. Thirty-six of the 45 files related to the obligations of public office holders under the Act, 10 of which concerned current and former ministers or parliamentary secretaries.

Table 4-2: Sources of Information and Subjects of Files

Source of information	Subject is a current or former minister or parliamentary secretary		Subject is any other public office holder	Subject is a Member		Total
	ACT	CODE	ACT	CODE		
Office of the Conflict of Interest and Ethics Commissioner	1	0	14	2	<b>17<sup>1</sup></b>	
Members of the general public	4	0	5	2	<b>11</b>	
MP requests	2	0	4	4	<b>10</b>	
Media reports	2	0	2	1	<b>5</b>	
Referrals from the Public Sector Integrity Commissioner	1	n/a	1	n/a	<b>2</b>	
Senator requests	0	0	0	0	<b>0</b>	
Resolutions of the House of Commons	n/a	0	n/a	0	<b>0</b>	
<b>Total</b>	<b>10</b>	<b>0</b>	<b>26</b>	<b>9</b>	<b>45</b>	

### Files Open Under the Act in 2014-2015

The table below sets out the nature of the concerns in 2014-2015 in relation to the 35 open files under the Act. Individual files sometimes address concerns relating to more than one provision of the Act.

<sup>1</sup> Twelve of the 17 files were opened as a result of information obtained incidentally during one examination. This is described in more detail later in this report under the heading Matters of Note – Gifts or Other Advantages.



Table 4-3: Nature of Concerns

Nature of concern	Number of concerns of this nature in 2014-2015
Gifts (section 11 of the Act)	11
Post-employment rules (sections 33, 34 or 35 of the Act)	11
Actions that could be perceived as making, or seeking to influence, decisions that would improperly further a private interest (section 6 or 9 of the Act)	7
Preferential treatment (section 7 of the Act)	5
Outside activities (section 15 of the Act)	2
Insider information (section 8 of the Act)	1
Fundraising (section 16 of the Act)	1
Duty to recuse (section 21 of the Act)	1

### Files Closed Under the Act During the Past Fiscal Year

My Office closed 29 files under the Act in the past fiscal year. As set out in the table below, I released five public reports during the past fiscal year, all of which were made under the Act. These reports were made available for public viewing in their entirety on my Office's website at <http://ciec-ccie.parl.gc.ca>. I discontinued one self-initiated examination without releasing a report.

Table 4-4: Comparison of Files Closed Under the Act in the Past Four Fiscal Years

	2011-2012	2012-2013	2013-2014	2014-2015
Reports released following an examination	1	3	1	3
Joint reports released following an examination and an inquiry	0	0	1	0
Reports resulting from a referral by the Public Sector Integrity Commissioner	0	2	1	2
Discontinued examinations	2	3	0	1
Files closed under the Act without proceeding to an examination or public report	15	19	18	23
<b>Total</b>	<b>18</b>	<b>27</b>	<b>21</b>	<b>29</b>



All of the public reports are discussed later in this section under the heading Reports Issued. The discontinued examination is also discussed later under the heading Discontinued Examination.

Finally, 23 files under the Act were closed without proceeding to an examination. These files are discussed later in this section under the heading Overview of Files Closed During the Past Fiscal Year Without Proceeding to an Examination. In the case of almost all files to be closed without an examination, my Office informs the subject of the file that concerns have been raised about him or her. Where it is appropriate to do so, my Office will also follow up with the individual who raised the matter once the file has been closed, to inform him or her of how the matter was resolved.

In some files, whether or not I proceed to an examination, my Office provides compliance advice to that individual and changes may be made to his or her compliance arrangements as a result of that advice.

### **Files Carried Over Under the Act into 2015-2016**

Seven of the files under the Act that were open in 2014-2015 have been carried over into the 2015-2016 fiscal year.

Five of those seven files resulted in examinations under the Act: three ongoing and two suspended. The Carson and Wright examinations remain suspended, as required by section 49 of the Act, while criminal investigations and proceedings are pending. The Carson examination, suspended in November 2011, relates to the post-employment obligations of Mr. Bruce Carson under the Act. The Wright examination, suspended in June 2013, relates to a payment made by Mr. Nigel Wright, while still in office, to Senator Mike Duffy.

The remaining two ongoing files under the Act are still under consideration, pending a determination as to whether an examination is warranted.

### **Reports Issued**

#### ***The Lynn Report***

In June 2014, I released a report following a self-initiated examination of the conduct of Mr. John Lynn, who was, from June 1, 2008 to May 27, 2014, a reporting public office holder as Chief Executive Officer (CEO) of Enterprise Cape Breton Corporation (ECBC).

I had received a letter and accompanying documents alleging that Mr. Lynn had been working as a paid consultant on a number of occasions between August 2010 and November 2012. Based on this information, I had reason to believe that Mr. Lynn may have contravened either paragraph 15(1)(b) of the Act by managing or operating a business, or paragraph 15(1)(e) of the Act by serving as a paid consultant. Consequently, I commenced an examination under subsection 45(1) of the Act.

The prohibitions set out in paragraphs 15(1)(b) and (e) of the Act apply whether or not there is a conflict of interest involved. They do not apply where the activities are part of a reporting public office holder's official duties and functions.

The evidence showed that Mr. Lynn performed work for a private company for several days in 2010 and 2012 and had been paid for such work while he was a reporting public office holder. There was no evidence to suggest that this paid work related to his official duties and functions as CEO of ECBC.

Because Mr. Lynn carried out this paid work as an individual and not as a manager or operator of a business, I concluded that he did not contravene paragraph 15(1)(b) of the Act. I did, however, find that Mr. Lynn was acting as a paid consultant while CEO of ECBC and that he therefore contravened paragraph 15(1)(e) of the Act. To arrive at this finding, I took into account Mr. Lynn's background as a management consultant and senior business executive in the private sector, the nature of the services he was providing to the private company, the terms of payment for his outside work, and the fact he was acting as an independent contractor.

### ***The Glover Report***

*The Glover Report*, released on November 20, 2014, related to an examination of the conduct of the Honourable Shelly Glover, P.C., Member of Parliament for Saint Boniface and Minister of Canadian Heritage and Official Languages, in relation to a political fundraiser held in her name on January 16, 2014. The examination was conducted pursuant to a request made by the Honourable Ralph Goodale, P.C., Member of Parliament for Wascana, based on a *CTV News* report published in January 2014, stating that stakeholders of the Department of Canadian Heritage had been invited to the fundraiser.

It was alleged that Mrs. Glover had contravened section 16 of the Act, which prohibits public office holders from personally soliciting funds from any person or organization if it would place them in a conflict of interest.



In order to find that a public office holder had personally solicited funds under section 16 of the Act, the public office holder would have to have actively sought monetary contributions to support an event by personally making the request or by asking someone else to do so. I found no evidence that Mrs. Glover had done either in relation to the January 16, 2014 fundraiser. Therefore, I found that she did not contravene section 16 of the Act.

While I found no contravention of the Act under section 16, I observed that it was inappropriate for stakeholders of the Minister's department to be invited to make donations to the electoral district association in order to attend a fundraiser at which the Minister was to be present.

I went on to recommend that section 16 of the Act be amended to include a contravention in the case of a minister, minister of state or parliamentary secretary, who knew or should have known that funds were being solicited by others in circumstances that would place them in a conflict of interest and failed to take appropriate action.

I also observed that ministers, ministers of state and parliamentary secretaries, as well as chiefs of staff, when instructed to do so, should ensure that staff members and electoral district association officials are fully and frequently briefed on the requirements of the Act and other applicable rules, including *Fundraising and Dealing with Lobbyists: Best Practices for Ministers, Ministers of State and Parliamentary Secretaries*, a guidance document issued by the Prime Minister in 2010. It requires that official duties be kept separate from political fundraising activities. I recommended that consideration be given to reflecting some of the Prime Minister's guidelines in the Act.

### ***The Finley Report***

On March 10, 2015, I released a report following a self-initiated examination of the conduct of the Honourable Diane Finley, P.C., M.P., while she was Minister of Human Resources and Skills Development, relating to her approval of funding for the proposal of the Markham Centre for Skills and Independence under the Enabling Accessibility Fund, in August 2011.

Media reports in May 2012 indicated that the Markham proposal may have received special treatment from the Minister. It was suggested that Minister Finley personally approved the proposal even though departmental officials concluded it did not meet established funding criteria under the Enabling Accessibility Fund and that it had a number of deficiencies.

My examination focused on whether, in approving this funding, Ms. Finley contravened section 7 or subsection 6(1) of the Act.

Section 7 prohibits public office holders, in exercising an official power, duty or function, from giving preferential treatment to a person or organization based on the identity of someone representing that person or organization.

I found that the Markham proposal clearly received preferential treatment. It was among the 167 projects initially screened in by Human Resources and Skills Development Canada but failed an internal assessment that rated only three proposals lower than the Markham proposal. Only four other proposals were selected for funding. The Canadian Federation of Chabad Lubavitch (the Federation) was allowed to provide additional information to supplement the original proposal, something no other applicants were permitted to do. As well, the proposal was the only one given a last-minute external evaluation at Ms. Finley's request.

As I have observed on other occasions, section 7 is very limited in its application. It only applies to cases where preferential treatment is based on the identity of the person or organization that represents the person or organization that receives preferential treatment. In determining whether Ms. Finley contravened section 7 of the Act, I had to determine whether she gave preferential treatment to the Federation in respect of its Markham proposal based on the identity of its representative, Rabbi Chaim Mendelsohn. I found no evidence that this was the case. In fact, there was no evidence that she even knew or had met Rabbi Mendelsohn. I therefore concluded that she did not contravene section 7.

Subsection 6(1) prohibits public office holders from making decisions if they know, or reasonably should know, that, in making this decision, they would be in a conflict of interest. A conflict of interest, as described in section 4 of the Act, can occur when a public office holder has an opportunity to further his or her own private interests or those of relatives or friends, or to improperly further the private interests of another person.

In determining whether Ms. Finley contravened subsection 6(1) of the Act, I considered the rules under which she was exercising her responsibilities. The Terms and Conditions of the mid-sized projects component of the Enabling Accessibility Fund gave Ms. Finley broad discretion in deciding which projects should be funded.

At the same time, the Treasury Board's *Policy on Transfer Payments* highlights the importance of strengthening accountability for public monies and the government's commitment to ensuring that programs like the Enabling Accessibility Fund are managed with the highest level of integrity, transparency and accountability. In addition, the Prime Minister's guideline, *Accountable Government: A Guide for Ministers and Ministers of State*, highlights the



importance for ministers and ministers of state to make effective use of the public service, which, it states, is there to provide professional, non-partisan support to ministers and ministers of state.

It appears that some of these guiding principles were not top of mind in the handling of the Markham proposal.

For these reasons, and particularly because the Markham project received preferential treatment, I found that Ms. Finley's decision to fund the Markham project was improper within the meaning of section 4 of the Act and that she reasonably should have known that, in making the decision, she would be in a conflict of interest under subsection 6(1). I therefore concluded that Ms. Finley contravened subsection 6(1) of the Act.

### ***December 2014 Report***

On October 9, 2014, the Public Sector Integrity Commissioner referred to me, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, a protected disclosure in a letter dated July 11, 2014 that his office had received on July 14, 2014. That letter had been addressed as well to my Office and to the Senior Integrity Officer of a department of the Government of Canada.

The July 11, 2014 letter raised concerns in respect of an alleged political intervention by a Member of the House of Commons, a minister and a deputy minister relating to the withdrawal of a monetary penalty. The penalty had been imposed on a corporation by the department of the minister and deputy minister. The director of the corporation was a constituent of the Member of the House of Commons.

When I received the referral from the Public Sector Integrity Commissioner in October, I had already conducted a preliminary review of the matter following receipt of the letter in July, carefully considering the allegations of wrongdoing, and had concluded that the information on which the allegations were based was too speculative.

However, on receipt of a referral from the Public Sector Integrity Commissioner, I am required under section 68 of the Act to release a report. Consequently, my Office once again contacted the individual who made the disclosure. That person was unable to provide my Office with any further information relating to any intervention by the Member of the House of Commons, the minister or the deputy minister in relation to this matter. I also spoke directly with the deputy minister. Neither the deputy minister nor any of the departmental officials my Office spoke with provided any information in respect of any actions taken by the Member of the House

of Commons, the minister or the deputy minister that would suggest that any of them had intervened in any way.

As the referral from the Public Sector Integrity Commissioner did not provide me with any additional information that would give me a reason to initiate an inquiry or an examination in relation to this matter, I did not do so.

In my report, I withheld the identity of the Member of the House of Commons, the minister and the deputy minister named in this matter. In the absence of any prior public attention, I decided not to identify the individuals named because I was of the view that identifying these individuals could cause damage to their reputations solely on the basis of speculative and unsubstantiated allegations.

### ***The Bonner Report***

*The Bonner Report*, released on February 26, 2015, related to an examination of the conduct of Mr. Michael Bonner when he was a senior policy advisor in the Office of the Honourable Jason Kenney, P.C., M.P., Minister of Employment and Social Development, in connection with invitations to social events that he accepted and attended in the fall of 2013.

In November 2013, I received a letter from a member of the general public raising concerns about Mr. Bonner's conduct as it related to four possible contraventions of the Act. I subsequently received a referral about Mr. Bonner from the Public Sector Integrity Commissioner pursuant to subsection 24(2.1) of the *Public Servants Disclosure Protection Act*. The information in the referral was from the same individual who had sent me the letter, and the information was almost identical to that found in the letter that I received and covered the same concerns.

Only one of the four concerns warranted an examination under the Act. With respect to the other concerns, the first did not relate to any prohibition under the Act. The second was based on speculation and was unsupported by any information. The third dealt with Mr. Bonner engaging in outside activities prohibited by the Act but, based on research carried out by my Office, I concluded that I had no reason to believe Mr. Bonner had contravened the Act in this regard.

The concern that did warrant an examination related to subsection 11(1) of the Act, which prohibits a public office holder from accepting any gift 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.



Mr. Bonner had accepted an invitation from Vale Canada Ltd. to attend the National Arts Centre Gala, an invitation from the Aerospace Industries Association of Canada to attend its Annual Aerospace Reception and Dinner, and an invitation from the Forest Products Association of Canada to attend the annual Alumni Dinner of the Parliamentary Internship Programme. The federal Registry of Lobbyists showed that each of the three organizations that extended invitations to Mr. Bonner had reported a meeting with him within a short time period either before or after the events.

In this examination, I had to determine whether the invitations might reasonably be seen to have been given to influence Mr. Bonner in the exercise of an official power, duty or function.

I found that these organizations were all stakeholders of the Department of Human Resources and Skills Development Canada (continued under the name Employment and Social Development Canada) and were registered to lobby that department, particularly in areas related to Mr. Bonner's responsibilities as a senior policy advisor. This should have put him on notice that the invitations might reasonably be seen to have been given to influence him in respect of his official responsibilities. It should have been clear to Mr. Bonner that the invitations did not meet the acceptability test set out in section 11 of the Act.

I had to determine as well whether the exception in paragraph 11(2)(c) applied with respect to these invitations, that is whether they were received as normal expressions of courtesy or protocol or were within the customary standards that normally accompany the public office holder's position. I was satisfied that the exceptions did not apply to any of the three invitations received by Mr. Bonner.

Therefore, I concluded that Mr. Bonner contravened section 11 of the Act by accepting the invitations from Vale Canada Ltd., from the Aerospace Industries Association of Canada and from the Forest Products Association of Canada.

This case is referred to again under the heading Matters of Note – Gifts or Other Advantages, later in this report.

### **Discontinued Examination**

I undertook one other self-initiated examination that, having regard to all the circumstances, was subsequently discontinued and no report was made public. When I decide to discontinue a self-initiated examination under the Act, I do not normally release a report.



This matter came to my attention as a result of a disclosure by a ministerial staff member at the time of his annual review that he was carrying out an activity that raised concerns as to whether he was managing or operating a commercial activity. Managing or operating a commercial activity is prohibited by paragraph 15(1)(b) of the Act unless the activity is part of the reporting public office holder's official duties and functions. After launching an examination and gathering statements and documents from witnesses, I closed the file without publishing a report because I discovered that this individual was under the impression – incorrectly, but with some justification – that I had authorized the continuation of his outside activity at the time of his initial compliance with the Act.

## **Overview of Files Closed During the Past Fiscal Year Without Proceeding to an Examination**

### ***Files Related to Ministers or Parliamentary Secretaries***

My Office closed six files under the Act involving current and former ministers or parliamentary secretaries without proceeding to an examination. They are described below.

- In two separate instances, my Office received information from members of the public, each raising concerns that a former minister was in breach of his post-employment obligations. The information provided in support of the allegations with respect to each of the two matters was determined to be speculative. An allegation based on a possibility that there may have been a contravention without any evidence to support the allegation cannot constitute the basis of a reason to believe that a contravention has occurred. Therefore, I closed both files and advised both members of the public that I had done so.
- In two separate instances, my Office received information from a member of the public and a Member of the House of Commons respectively alleging that a minister had refused to fund a particular project. The information provided could not support a finding that the refusal to fund the project had anything to do with furthering a private interest. I so informed the member of the public and the Member of the House of Commons.
- In a fifth instance, my Office received information from a member of the public alleging political intervention by a minister, a deputy minister and one other individual resulting in the withdrawal of a monetary penalty. I found no evidence to support this allegation in respect of the minister. I subsequently received a referral from the Public Sector Integrity Commissioner with respect to the same matter, which necessitated the publication of a report. That report is entitled *December 2014 Report* and is described earlier under the heading Reports Issued.



- In a sixth instance, I became aware of information obtained incidentally during the course of an examination, that a minister might have attended a social event as the guest of an organization that was a stakeholder of the minister's department. My Office contacted the minister concerned and obtained documents from that minister confirming that he had paid for his own ticket to attend the event.

### ***Files Involving Public Office Holders other than Ministers or Parliamentary Secretaries***

My Office closed 17 files under the Act involving public office holders other than ministers or parliamentary secretaries without proceeding to an examination. These files are described below.

- A Member of the House of Commons requested that I examine the conduct of several individuals thought to be reporting public office holders. None of the named individuals were found to be reporting public office holders or public office holders and therefore were not subject to the Act. I so advised the Member and closed the file.
- A Member of the House of Commons alleged that a reporting public office holder had used insider information to improperly further the private interests of another person. After considering the supporting documents provided by the Member, I determined that the file involved a political interest rather than a private interest and was therefore not covered by the Act. I so informed the Member.
- A Member of the House of Commons requested that I examine the conduct of several individuals in relation to a matter that was under investigation to determine whether an offence has been committed under an Act of Parliament. Section 49 of the Act effectively requires that I not pursue the matter until any investigation or charge has been disposed of. Some of the individuals named in the request were not subject to the Act. I informed the Member of these conclusions and closed the file.
- A media report suggested that a ministerial office may have been providing preferential treatment to an organization in contravention of section 7 of the Act. No public office holder was identified. After considering the information found in the article, including the source materials for the article, I found nothing to suggest that the organization in question had been treated more favourably than any other organization might be treated in similar circumstances.
- My Office received information from a member of the public alleging political intervention by a minister, a deputy minister and one other individual resulting in the withdrawal of a monetary penalty. As in the case of the minister, I found no evidence to



support this allegation in respect of the deputy minister. I subsequently received a referral from the Public Sector Integrity Commissioner with respect to the same matter, which necessitated the publication of a report. That report is entitled *December 2014 Report* and is described earlier under the heading Reports Issued.

- I became aware of information obtained incidentally during the course of an examination that seven reporting public office holders might have attended a social event as guests of an organization that was a stakeholder of their respective organization or department. This raised concerns that section 11 of the Act might have been contravened. I found, after looking into these concerns, that in five of these instances, the individuals were invited but had not attended the event in question. In one of two remaining instances, the invitation was not considered a gift or other advantage because the individual had attended the event in an official capacity playing an official and representational role. In the other instance, the individual had attended the event but had no official powers, duties or functions that could be exercised in relation to the person offering the invitation. Therefore, the invitation could not reasonably be seen to have been given to influence the individual in the exercise of his official responsibilities.
- My Office received information from a reporting public office holder that suggested that a former reporting public office holder, who was subject to the post-employment provisions of the Act, may have, in contravention of subsection 35(2) of the Act, made a representation to an organization with which he had a direct and significant official dealing during the period of one year immediately before his last day in public office. My Office contacted the individuals concerned and collected additional information but found no evidence that any such dealings had taken place during the cooling-off period.
- In three separate instances, my Office received information from a member of the public alleging that certain former reporting public office holders may have been giving advice using information that was not available to the public and that was obtained in their capacities as reporting public office holders. My Office confirmed that all of the information being used by the three former reporting public office holders was publicly available.
- My Office had concerns that a former reporting public office holder might be taking improper advantage of a previous public office by using a contact list obtained while in public office to solicit business for a private sector organization. After reviewing the individual's correspondence with my Office and all the additional information gathered, I found nothing to support the concern and I was satisfied that the former reporting public office holder had not contravened any post-employment obligations.



### ***Files Under the Members' Code***

During the past fiscal year, my Office closed eight of the nine files under the Members' Code involving Members of the House of Commons. My 2014-2015 annual report under the Members' Code provides a brief description of the files that were closed. One file under the Members' Code was carried over into 2015-2016.

### **Matters of Note – Gifts or Other Advantages**

As Conflict of Interest and Ethics Commissioner, I am responsible for the administration of the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Members' Code), which contain similar rules governing the acceptability of gifts or other advantages. The Act regulates the behaviour of public office holders and the Members' Code applies to Members of the House of Commons. Lobbyists are governed by a distinct and separate regime administered by the Lobbying Commissioner. However, where gifts or other advantages are concerned, the interests of these groups sometimes intersect.

For public office holders and Members, the rules on gifts are set out in section 11 of the Act and in section 14 of the Members' Code respectively, prohibiting them from accepting any gift or other advantage under the Act or any gift or other benefit under the Members' Code that may reasonably be seen to have been given to influence them in the exercise of their duties or functions. The acceptability test is not whether the individual offering the gift or other advantage intended to influence the recipient, or whether the recipient was indeed influenced. The test is whether a gift can reasonably be seen to have been given to influence the public office holder or Member receiving it.

I have had occasion during the past fiscal year to issue my first report where I found a contravention in relation to gifts or other advantages under the Act: *The Bonner Report*, released on February 26, 2015, is discussed earlier in this report. Mr. Bonner was found to have contravened section 11 of the Act by accepting three invitations that might reasonably be seen to have been given to influence him in the exercise of an official power, duty or function.

*The Bonner Report* elicited significant reaction from the media, public office holders, Members of the House of Commons and lobbyists. In the reaction to *The Bonner Report*, there appears to be a perception that the rules have changed, becoming more restrictive. In fact, that is not the case. The guideline on gifts and other advantages entitled *Gifts (including Invitations, Fundraisers and Business Lunches)*, which has been on my Office's website since July 2011 (replacing a similar earlier guideline which was also on my Office's website), contains the rules I have always applied and continue to apply.



It is perhaps useful to note that, during my examination of the conduct of Mr. Bonner, I became aware of 12 other individuals who received invitations to attend one of the three events covered in *The Bonner Report*, from one of their stakeholder who had registered a lobbying meeting with the individual.

Accordingly, my Office looked into each of the 12 instances to determine whether the Act or the Members' Code had been contravened in any of these instances.

We closed nine of the 12 files opened in relation to these instances in 2014-2015. The remaining three files were closed after the end of that fiscal year. I found that in five of the 12 instances, the individuals did not attend the event in question. Therefore, there was no acceptance of a gift or other advantage in those cases.

For the remaining seven instances, I found that, in all but one instance, I did not have reason to believe that the individuals had in fact contravened their respective conflict of interest obligations. In one of those seven instances, the individual did attend the event but had paid for his own ticket. In two other instances, I determined that the invitation to the event was duty related, in that the public office holder had a presentational or representational role. In three other instances, the individuals did attend the event, but I determined that they had no official powers, duties or functions to exercise in relation to those extending the invitation. (Two of these three instances involved Members of the House of Commons who were subject to the Members' Code.)

In the one remaining case, I commenced an examination and I was able to complete my fact finding very quickly. On several occasions, I gave the individual involved an opportunity to make representations. I determined that the relevant facts of the case were essentially no different from those described in *The Bonner Report* in relation to one of the invitations Mr. Bonner had accepted and, consequently, determined that this individual had also contravened section 11 of the Act in accepting that invitation.

Instead of proceeding to a second examination report, I decided to discontinue the examination and deal with the matter by issuing a compliance order. The facts were clear and not disputed. Section 30 of the Act provided me with a mechanism to address the situation in a timely and transparent manner. Compliance orders are published on the Office's public registry.

As the instances that came to my attention in the course of the Bonner examination show, not every gift given to a public office holder or Member from a lobbyist fails the acceptability



test. My Office responds to many requests for advice about gifts or other advantages, and there are many instances where these gifts or other advantages may be acceptable. What is prohibited is accepting gifts, such as complimentary invitations to an event, paid for by a person or organization where it could reasonably be seen to have been given to influence the public office holder or Member in the exercise of an official power, duty or functions.

At all times, it is important for a public office holder or Member to consider who is offering the gift and why it is being offered. The donor's existing or future relationship with the recipient is relevant and, if the gift is being offered by someone whose interests could be affected by a decision that the public office holder or Member may be called upon to make, then the gift rules in the Act and in the Members' Code would likely prohibit its acceptance.

In files where the donor lobbies the federal government, the public office holder or Member may wish to consult the federal Lobbying Registry to determine whether the donor is registered to lobby their department or their organization, or whether they had been lobbied by or on behalf of the donor. Such lobbying registrations are not determinative of the non-acceptability of a gift, but should put the public office holder or Member on notice that the gift might reasonably be seen to have been given to influence them in the exercise of their official responsibilities and in such circumstances, the public office holder or Member is strongly advised to communicate with my Office to receive confidential advice on the matter. Each case is examined based on its particular set of facts.

It is the responsibility of individual public office holders and Members to respect the gift rules and ensure that they meet their obligations. In this regard, I would encourage public office holders and Members who have doubts about the acceptability of a gift to contact their advisor at my Office for confidential advice in relation to their obligations. They may also consult the guideline referred to earlier in this section on my Office website.

## V. OUTREACH AND COMMUNICATIONS

My Office continues to work proactively to strengthen awareness and understanding of Canada's federal conflict of interest regimes and my role and mandate in applying them.

In the past fiscal year, we have undertaken a variety of outreach and communications initiatives. These initiatives have been aimed at helping public office holders and Members of the House of Commons 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* (Members' Code), educating and informing the Canadian public, and exchanging information with other jurisdictions.

### **Reaching out to Public Office Holders and Members**

My Office has continued to implement my commitment to education of, and outreach to, public office holders and Members of the House of Commons by making presentations to groups subject to the Act and the Members' Code, and by producing documents that explain various aspects of both regimes and their application.

#### ***Public Office Holders***

In the past fiscal year, my staff and I have responded to 16 requests for presentations to organizations and offices whose members are subject to the Act. These include ministerial staff, citizenship judges, honorary consuls, members of the Parole Board of Canada and the Social Security Tribunal, and the boards of trustees of the Canadian Museum of History, the Canadian War Museum, and the Canada Science and Technology Museums Corporation.

In April 2014, I issued an update of the information notice entitled *Categories of Assets*, which defines and describes exempt assets, controlled assets and declarable assets and how they are to be treated for purposes of the administration of the Act. It is one of a series of information notices that discuss various aspects of the Act and its application in order to help public office holders comply with it. In January of this year, I issued a backgrounder on investigations under both the Act and the Members' Code that contains information for those participating in the investigation process whether as the subject of an investigation, as a witness or as counsel representing a subject or witness.

In November, for the fifth consecutive year, I sent an annual letter to non-reporting public office holders who are not reporting public office holders, accompanied by a summary of the Act's rules for public office holders. I also enclosed an attachment summarizing the provisions of the Act related to gifts and other advantages.



## ***Members of the House of Commons***

I have continued my practice of offering annual presentations on the Members' Code to the caucuses of all recognized parties in the House of Commons, and offered individual meetings to other party caucuses and to independent Members.

Under the authority provided in subsection 26(4) of the Members' Code, I have issued two advisory opinions. The first was published in April 2014 and related to an offer from an entity seeking Members' participation in a program. The second was published in November and concerned the acceptability of gifts offered in conjunction with lobby days.

As mentioned above, I issued a backgrounder on investigations under both the Act and the Members' Code that contains information for participants in the process.

## **Parliamentary Activities**

As an independent Officer of Parliament, I report directly to Parliament through the Speaker of the House of Commons. My Office conducts a variety of parliamentary activities in support of this reporting relationship.

## ***Reports to Parliament***

In the past fiscal year, I have issued eight reports. Among them are the *List of Sponsored Travel 2014*, which I submitted to the Speaker of the House of Commons for tabling on March 26, 2015, and my 2013-2014 annual reports under the Act and the Members' Code, both of which I released on June 5, 2014.

The other five reports were examination reports under the Act: *The Lynn Report*, which I issued in June 2014; *The Glover Report*, which I released in November 2014; *Referral from the Public Sector Integrity Commissioner: December 2014 Report*; *Referral from the Public Sector Integrity Commissioner: The Bonner Report*, published in February 2015; and *The Finley Report*, issued in March 2015. These are discussed in the Investigations section of this report.

There were no inquiries to report under the Members' Code.

## ***Committee Appearances***

I am occasionally summoned to appear before parliamentary committees to testify about matters related to my Office and its work.



The House of Commons Standing Committee on Access to Information, Privacy and Ethics has oversight responsibility for my Office and reviews its annual spending estimates, and may review any matter related to the Act. The House of Commons Standing Committee on Procedure and House Affairs has responsibility for the Members' Code.

In May 2014, I appeared before the Standing Committee on Access to Information, Privacy and Ethics to discuss my budgetary estimates for 2014-2015. I also appeared before the Committee in June to discuss my nomination for re-appointment to the position of Conflict of Interest and Ethics Commissioner for another two years.

In February 2015, I appeared before the Standing Committee on Procedure and House Affairs during its review of the *Conflict of Interest Code for Members of the House of Commons*.

I have not been summoned to appear before either committee to discuss my annual reports since 2010.

### ***Reviews of the Act and the Members' Code***

The Standing Committee on Access to Information, Privacy and Ethics launched a statutory review of the Act in January 2013. I provided the Committee with a written submission outlining my recommendations for changes to the Act, and appeared before the Committee four times during its review to discuss my recommendations. The Committee reported to Parliament on the statutory review in February 2014, and I discussed its report in my 2013-2014 annual report under the Act.

I note that the government tabled its response in the House of Commons in June 2014. In its response, the government indicated support for the Committee's recommendations, but did not provide details about specific amendments to the Act. I look forward to learning the specifics of the government's plans.

The Standing Committee on Procedure and House Affairs initially launched a five-year review of the Members' Code in 2012. Section 33 of the Members' Code requires the Committee to conduct a comprehensive review of its provisions and operations every five years. The previous review had been conducted in 2007. I appeared before the Committee in May 2012 and provided it with a written submission outlining my recommendations for possible changes to the Members' Code.



As I noted in my 2013-2014 annual report in respect of the Members' Code, the Committee suspended its review later in the spring of 2012. It is my understanding that it did so in order to pursue other priorities.

In February 2015, the Committee relaunched the five-year review. I was summoned to appear before the Committee again in February 2015 in relation to the review, and was also invited to provide the Committee with a new written submission updating my previous submission and including any new recommendations. My recommendations in the second submission targetted six areas: rules of conduct, administering the Members' Code, managing investigations, harmonizing the Act and the Members' Code, and regulating partisan and personal conduct.

### ***Other Parliamentary Activities***

My Office participated in the Parliamentary Officers' Study Program again this past fiscal year. Normally offered twice a year, once in English and once in French, the program gives senior representatives of foreign parliaments and Canadian legislatures the opportunity to learn about how the Parliament of Canada functions and, in turn, to reflect on their own practices. This year, an additional executive-level program was initiated.

In May 2014, I made a presentation to the executive-level program participants, and a member of my staff gave presentations during the program's regular October and February sessions. In these presentations, we provided information about the Act, the Members' Code, and the Canadian parliamentary ethics framework, as well as responding to questions.

### **Working with Others**

My staff and I have continued to work with my counterparts and with other individuals in Canada and from around the world, exchanging information and discussing issues in the conflict of interest and ethics field. These exchanges provide an opportunity to share our expertise and remain abreast of current issues and developments.

I continue to take an active part in the Canadian Conflict of Interest Network (CCOIN), the members of which are federal, provincial and territorial conflict of interest and ethics commissioners. My Office carries out a coordinating role for the network by gathering and disseminating within it information and materials from various Canadian jurisdictions. Last September, I participated in CCOIN's annual general meeting, which was held in Winnipeg, Manitoba.

In September and October, my Office participated in two training sessions and two working sessions on parliamentary affairs for employees in the offices of agents of Parliament.

In December 2014, I attended the annual conference of the Council on Governmental Ethics Laws (COGEL) in Pittsburgh, Pennsylvania. My Office is a member of COGEL, an international organization of government ethics administrators.

As in previous years, my Office hosted several international delegations. We welcomed visiting academics from Australia in April 2014, a parliamentarian from the Philippines in May, and two delegations from South Africa in October and November.

We responded to several surveys and other information requests from international organizations, including the Organisation for Economic Cooperation and Development, the World Bank, France's High Authority for Transparency in Public Life, and the Hong Kong Legislative Secretariat. We also responded to a request for information from the Commonwealth Parliamentary Association.

### **Inquiries from Media and Members of the Public**

My Office has continued to receive requests for information from journalists and members of the public, and has responded to such requests. I believe that the actions taken by my Office have contributed to a growing level of public awareness over the years about the Act and the Members' Code and the role of my Office in applying them. In the past fiscal year, there were 318 media mentions of my Office. While this number can fluctuate quite significantly from year to year, depending on what stories are popular in the media, the overall trend line is upwards.

In the past fiscal year, we received 140 media inquiries to which we have responded, and I participated in eight media interviews. While these figures can also fluctuate, I believe that the overall increase in media inquiries since my Office was created reflects heightened and sustained awareness among journalists about Canada's federal conflict of interest regimes. By way of contrast, we received only 28 media requests during my Office's first full year of operation in 2008-2009. My approach to media relations requires my Office to be as forthcoming with information as we are permitted to be under the two regimes. We regularly issue news releases, media statements and backgrounders, and respond to queries from journalists on a range of matters.

We received almost 600 inquiries from members of the public by email, telephone, fax and letter mail, down from approximately 1,100 the previous fiscal year. They included inquiries



related to my mandate, such as requests for information about the application of the Act and the Members' Code, requests for documents issued by my Office, and requests for information about ongoing investigations and compliance matters. We also received information from members of the public about possible contraventions of the Act and the Members' Code.

As in past years, many of the inquiries from members of the public consisted of requests for information, action or assistance that were not related to my mandate. In keeping with my objective of increasing public awareness about the application of the Act and the Members' Code, my staff responded to those inquiries by providing information clarifying my mandate and, where possible, referred the correspondents to bodies better suited to respond to the issues raised.

The following table tracks the number of inquiries received by my Office over the past seven fiscal years.

Table 5-1: Inquiries from the Media and Members of the Public

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Media	28	17	44	102	185	213	140
Public	429	581	544	593	839	1097	597

## Public Communications

I have continued to take steps to build the profile of my Office and its mandate in order to increase awareness and understanding of the Act and the Members' Code.

In the fall of 2014, my Office implemented a two-pronged expansion of its use of Twitter. One component involved significantly increasing the number of individuals and organizations that the Office follows. The other involved sending regular tweets about various aspects of my mandate, with links to specific information on the Office website, in addition to tweeting about report releases and other Office activities. We also created several hashtags relating to the Act and the Members' Code.

In April 2014, I issued three fact sheets whose intended audience includes members of the media and the general public. The first provides an overview of the Act, the second provides an overview of the Members' Code, and the third provides information on the role and mandate of the Conflict of Interest and Ethics Commissioner.

In May 2014, I led a day-long workshop at Concordia University in Montreal as part of the Workshops on Social Science Research series. I did so again in May 2015.

### **Framework for Future Action**

I recognize that effective communications and outreach planning is important to my Office's success in applying the Act and the Members' Code. It contributes to education, transparency and accountability, as well as to compliance with the conflict of interest regimes, while enhancing confidence and trust in elected and appointed public officials.

Now that my Office has reached a certain level of maturity as an organization, I have led in the past fiscal year a significant expansion and update of our communications and outreach strategy, which now incorporates specific components on parliamentary outreach, social media, education and training, and domestic and international outreach. I look forward to reporting on the progress of initiatives identified in this renewed strategy in the future.





## **VI. ADMINISTRATION**

### **Accountability**

As an entity of Parliament, my Office operates under the *Parliament of Canada Act*. Legislation governing the administration of the public service does not usually apply to my Office. Nor do Treasury Board policies and guidelines.

To ensure sound resource management, my Office has established a solid internal management framework over the last eight years. Recently, the *Directive on the Procurement of Goods and Services* was implemented to document existing practices and define roles and responsibilities, although the procurement of goods and services is relatively limited given the mandate and operating budget of the Office. Furthermore, the *Delegation of Human Resources Management Authorities* instrument, which was implemented at the Office in 2010, was updated in 2014 to reflect other new policies and guidelines that my Office developed.

I also make sure that our resource management practices are consistent with those found in the public service and in Parliament. To this end, employees of the Office have joined networks and working groups that focus on the management of resources both in the public sector and in Parliament.

Transparency continues to be a guiding principle for the work of my Office. Annual financial statements, quarterly financial reports and status reports on travel, as well as conference and hospitality expenses, are publicly disclosed and easily accessible through my Office website.

Since 2010-2011, the annual financial statements for my Office have been audited by an independent auditor. No concerns have been raised and the financial statements have consistently been positively received by the auditing firms.

External partners provide expertise in the area of information technology and security (House of Commons), accounts payable and external reporting (Library of Parliament) and compensation (Public Works and Government Services Canada). This results in greater efficiency and an additional level of scrutiny in the management of resources.

### **Human Resources Management**

Employee turnover remains low in my Office: one employee accepted a one-year assignment in the public service; another employee left the Office to pursue a career opportunity; and one employee retired. As of March 31, there were four vacant positions. Staffing processes are underway for two of these positions, while another will be launched later this year. There is no short-term plan to staff the remaining vacant position because of funding pressures.



Some turnover is expected in the coming year as a result of planned retirements and new employment opportunities outside the Office. In some cases, these changes may lead to some organizational restructuring.

Employee development is a priority at my Office. The job shadowing program continues to attract interest. In 2014-2015, five employees participated in this program. Furthermore, two employees were assigned new responsibilities in another division within the Office for development purposes. These initiatives allow employees to learn new skills, gain experience, and support the Office's efforts in the area of succession planning.

In my 2013-2014 annual reports, I referred to the plan to implement competency profiles for all positions at my Office by the summer of 2014. These profiles were finalized in August 2014 with the assistance of a consultant and in close consultation with employees and managers. The competencies and associated behaviours identified in the profiles now constitute the basis for staffing and succession planning, and will be considered for performance assessment and training commencing in 2015-2016.

## **Financial Management**

An operating budget of \$6.9 million was allocated to my Office for 2014-2015. Given the nature of my mandate, salaries represent the most important expenditure against my budget. Non-salary expenditures are mostly related to the cost of shared services agreements and the standard costs of running an office, such as telecommunications, mail delivery, computer equipment and licences, and office supplies.

Measures implemented internally to reduce spending continue to produce expected results. These measures include the use of email, rather than traditional mail, to communicate with our stakeholders; the use of webcasts to participate in conferences, resulting in reduced travel costs; and the centralization of certain purchases and functions.

A table broadly outlining the financial information for the Office for the 2014-2015 fiscal year is provided in the Appendix under the heading Financial Resources Summary. Detailed financial information can be found on our website.

My Office continues to spend less than its allocated budget, in part as a result of the measures just mentioned, but also because of the decision not to immediately fill positions that have become vacant during the year. I maintain a reserve within my Office to cover unexpected operational pressures, such as an increase in investigation activities. I also use this reserve to internally fund projects and initiatives that lead to greater efficiency, such as the new public registry.



In the fall of 2014, my Office conducted an internal exercise aimed at applying the principles introduced in the *Guide on Internal Services Expenditures: Recording, Reporting and Attributing* released by the Treasury Board Secretariat. More specifically, we wanted to ensure that expenditures made to support the needs of the programs administered by the Office are properly coded to internal services. As a result, minor adjustments to coding practices will be implemented, effective April 1, 2015. The budget allocation between program and internal services is now fully consistent with the approach being promoted by the Treasury Board Secretariat.

### **Information Management and Information Technology**

The ongoing partnership with the House of Commons for information technology services continues to produce positive results for my Office. We have access to a reliable and secure network infrastructure. Solid measures have been put in place to segregate the information of the Office from that of the House, and vice versa.

Over the years, my Office has put in place good practices and systems to ensure that employees have access to complete and accurate information necessary for the performance of their duties. For example, a function-based records classification structure is used to classify paper documents. An integrated case management system introduced in 2012 tracks the status of all activities related to stakeholders and allows users to add and view related documents, such as emails and letters. Stakeholders' information is also maintained in paper files that are created according to the above-mentioned classification structure and kept up to date and stored in a secure filing area.

My Office will continue to improve the way it organizes and manages electronic records, including emails. For example, we plan to introduce a convention for naming our electronic records. The shared electronic drive is being reorganized to make it easier to find information. An information management policy will be introduced early in 2015-2016, along with tools and training, to facilitate the transition to a more consistent approach to managing information, regardless of its format.

### **Security**

My Office relies on a number of partners to ensure the security and safety of its employees and other assets. A security plan was developed in the summer of 2014 that included the identification and assessment of risks faced by the Office, and the establishment of priorities to address some of these risks.



Security bulletins were introduced in my Office in September 2014 to communicate important information on internal practices and management expectations related to security. Over the next year, the Office plans to implement a policy on security management and a resumption plan to follow emergencies.

## VII. LOOKING AHEAD

The year ahead promises to be a busy one for my Office, with an anticipated election, possible changes to the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House Commons* (Members' Code), the launch of the renewed public registry, and the pursuit of a number of other important priorities.

The 2015 federal election is set to take place later this year, bringing with it a significant impact on the work of my Office. The addition of 30 new ridings, and the fact that a number of incumbents have declared their intention not to seek re-election, will result in an increase in the number of new Members subject to the Members' Code. In addition, the election may result in changes to the ranks of those subject to the Act. My Office is anticipating the election by putting in place plans and procedures to ensure the appropriate, effective and timely outreach to new and returning Members and public office holders, in order to help them meet their obligations.

It is also possible that the next year could bring changes to the Act and the Members' Code. Following the completion of the five-year review of the Act, the Government tabled its response, agreeing with some of the recommendations raised in the report of the Standing Committee on Access to Information, Privacy and Ethics. To date, no changes have been implemented. The Standing Committee on Procedure and House Affairs recently re-launched its review of the Members' Code, originally initiated in 2012. Whenever changes are made to either the Act or the Members' Code, my Office is prepared to ensure their effective implementation.

Another key priority that was implemented early in the new fiscal year is the launch of the renewed public registry. My Office previously maintained separate registries under the Act and the Members' Code. The new registry combines the two, making it possible for visitors to more quickly and easily access information about individuals covered by either or both of the regimes. The second phase of the registry, to be implemented later this year, will give public office holders and Members access to a portal system that will enable them to file their public declarations electronically.

Other priorities that my Office will pursue over the next year include finalizing and implementing new communications and outreach initiatives that are designed to increase knowledge and awareness of the Act and Members' Code among target audiences, including public office holders, Members and other interested stakeholders such as the public. We will continue succession planning to ensure that all processes and procedures continue to be documented, corporate memory preserved and organizational flexibility enhanced.



Finally, we will of course continue to provide public office holders and Members with advice and support to ensure they meet their obligations under the Act and the Members' Code. Our investigations work into possible contraventions of both regimes continues.

The pursuit of these priorities will support my Office in its effective administration of the conflict of interest rules for public office holders and Members, in order to maintain and enhance the trust and confidence of the Canadian public in the conduct of their elected and appointed officials. I look forward to continuing to work with public office holders and Members in the coming year in support of that goal.

## VIII. APPENDIX – FINANCIAL RESOURCES SUMMARY (from page 48)

Program Activity	(thousands of dollars)				Alignment to Government of Canada Outcomes
	2013-2014 Actual Spending	2014-2015			
		Main Estimates	Total Authorities	Actual Spending	
Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i>	5,336	6,178	6,178	5,608	Government Affairs
Contributions to Employee Benefit Plans	699	760	760	669	
<b>Total Spending</b>	<b>6,035</b>	<b>6,938</b>	<b>6,938</b>	<b>6,277</b>	
Plus: Cost of services received without charge	1,060	n/a	n/a	1,044	
<b>Net Cost of Department</b>	<b>7,095</b>	<b>6,938</b>	<b>6,938</b>	<b>7,321</b>	

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.

Complete financial statements can be found on our website at <http://ciec-ccie.parl.gc.ca>.

