



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique



The 2015 Review of the *Conflict of Interest Code for Members of the House of Commons*

**Submission to the Standing Committee on Procedure
and House Affairs**

February 19, 2015

**Mary Dawson
Conflict of Interest and Ethics Commissioner**

PREFACE

The Office of the Conflict of Interest and Ethics Commissioner administers the *Conflict of Interest Code for Members of the House of Commons* (Code) and the *Conflict of Interest Act* for public office holders. The Code, which came into effect in June 2004, has been amended several times since its establishment, including amendments brought in 2007, 2008 and 2009.

In May 2012, a review of the Code was launched by the House of Commons Standing Committee on Procedure and House Affairs. At that time, the Conflict of Interest and Ethics Commissioner submitted to the Committee a number of written proposals for amendments to the Code, based on her experience in administering the regime, and also appeared before the Committee to discuss her recommendations.

Drawing on both previous and more recent experience in administering the Code, the Conflict of Interest and Ethics Commissioner has developed this new submission, which incorporates and updates previous recommendations contained in the May 2012 submission. As requested by the Committee, this submission, dated February 19, 2015, replaces the previous submission of May 2012.

Table of Contents

THE 2015 REVIEW OF THE *CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS*

I.	INTRODUCTION	1
II.	RULES OF CONDUCT	2
	Furthering Private Interests	2
	Gifts and Other Benefits	3
	Sponsored travel	6
	Fundraising.....	8
III.	ADMINISTERING THE CODE	9
	Consultations by new Members	9
	Deadline to complete the initial compliance process and annual reviews	10
	Amendments to the disclosure provisions	10
	Approval of forms and guidelines	11
	Administrative monetary penalties	12
IV.	MANAGING INVESTIGATIONS	13
	Public comment related to inquiries.....	13
	Ability to compel witnesses and documents	14
	Other amendments to the inquiry provisions	14
V.	HARMONIZING THE ACT AND THE CODE	16
VI.	REGULATING PARTISAN AND PERSONAL CONDUCT	17
VII.	CONCLUSION	19
	SUMMARY LIST OF RECOMMENDATIONS	20
	APPENDIX A: AMENDMENTS TO THE DISCLOSURE PROVISIONS OF THE CODE – SECTIONS 20 TO 25.....	23
	APPENDIX B: INQUIRY REQUEST FORM.....	37
	APPENDIX C: AMENDMENTS TO THE DISCLOSURE PROVISIONS OF THE CODE – SECTIONS 27 AND 28.....	43

I. INTRODUCTION

The review of the *Conflict of Interest Code for Members of the House of Commons* presents an important opportunity to explore how well the Code is working and whether it can be enhanced to meet its purposes. As the Standing Committee on Procedure and House Affairs (the Committee) again takes up its study of the Code, with the goal of providing recommendations to the House of Commons on how it may be improved, I am providing the Committee with recommendations based on my own experience in administering the Code.

Many of the challenges that I highlight in this submission will not be a surprise to the Committee, as I have in past years raised a number of issues during my appearances before the Committee, in my annual reports and in my inquiry reports. Some issues, mainly relating to gifts, have already been addressed through amendments to the Code that were approved by the House of Commons in June 2009. Others are yet to be addressed, and are consolidated here for the consideration of the Committee.

My recommendations deal with the following subjects: rules of conduct (including gifts and sponsored travel); administering the Code; managing investigations; harmonizing the *Conflict of Interest Act* (Act) and the Code; and the question of a Code of Conduct for Members and their staff. In the appendices to this submission, I have augmented my recommendations dealing with disclosure rules and with managing investigations with more detail and possible draft language. I have also included a suggested form to be used for inquiry requests.

I note that the timing of this review of the Code may coincide with the implementation of changes emerging from the five-year review of the *Conflict of Interest Act*. Since the two have similar provisions, it would be an opportune time to explore areas where the two could be harmonized. I have found that each regime has strengths. In some cases, I believe that the Act might benefit from an amendment to follow the Code's model. In other cases, it is the Act that sets out clearer provisions. Since my mandate is governed by three separate instruments – the Act, the Code and the *Parliament of Canada Act* – amendments to all three might be required to bring changes that would harmonize, streamline and make more efficient the federal conflict of interest regimes.

I hope that the Committee will find this discussion useful, and will consider my recommendations for actions that could be taken to strengthen the Code and assist Members in meeting their obligations, with the goal of maintaining and enhancing public confidence and trust in the integrity of Members and the House of Commons.

II. RULES OF CONDUCT

Furthering Private Interests

Sections 8, 9 and 10 of the Code set out prohibitions against a Member furthering the Member's private interests or those of a member of his or her family, or improperly furthering another person's or entity's private interests. The definition of family in the Code includes a Member's spouse or common-law partner, and a son or daughter of the Member or of the Member's spouse or common-law partner if under the age of 18 or dependent for financial support. There is no reference to parents, siblings or other relatives. Nor do those sections make reference to friends.

Situations may arise where a Member has the opportunity to further the private interest of a friend or a relative other than a spouse, common-law partner or dependent child. I believe that all three of these sections should therefore be broadened to prohibit Members from furthering their own private interests, as well as those of relatives or friends. The Committee may wish to consider a definition of "relative" similar to that in the Act. These amendments would bring the Code more closely in line with the Act.

RECOMMENDATION 1

That sections 8, 9 and 10 of the Code be broadened to include a prohibition against Members furthering the private interest of relatives or friends.

I have also found that the Code does not sufficiently address a Member's obligation to recuse himself or herself from participating in discussion, decision, debate or vote where he or she may be in a position to further a private interest. Sections 12 and 13 set out obligations for a Member to ensure that he or she does not participate in a debate or vote on a question in which he or she, alone, has a private interest. In my opinion, these sections do not go far enough. Section 12 could be strengthened by requiring that a Member disclose not only when he or she has a private interest in a matter before the House or a committee of which the Member is a member, but also when the Member's relative or friend has a private interest in the matter. Section 13 could also be strengthened by adding a prohibition against participating in a discussion, decision, debate or vote on a question where the Member, or a Member's relative or friend, has a private interest. Such an amendment would bring this clause into line with the spirit of the rest of the Code, as well as the language of the Act.

RECOMMENDATION 2

That the Code be amended by adding broader disclosure and recusal obligations to include an obligation to disclose a private interest of relatives or friends (section 12), and a prohibition against participating in discussion, decision, debate or vote where the Member, or his or her relative or friend, has a private interest (section 13).

Gifts and Other Benefits

The disclosure and declaration of gifts

In late 2008 and early 2009, I met with this Committee to discuss changes to the gift rules under the Code. I found that generally Members were not adhering to the Code, which at the time established an absolute prohibition against gifts that related to their position. I recommended that the rules be changed to apply a test similar to that in the *Conflict of Interest Act*, namely that a Member cannot accept a gift if it can reasonably be seen to have been given to influence him or her in the course of his or her duties. If a gift is found to be acceptable, then a Member could keep it but would have to publicly declare anything valued at \$500 or more (or gifts from one source that totalled \$500 or more in a twelve-month period). I was pleased to see that the changes I recommended were adopted by the House of Commons in June 2009.

Since the new rules were introduced, however, the misperception has persisted among some Members that a gift is automatically acceptable as long as it is valued at less than \$500. Members do not often contact my Office to determine whether the gifts under that value are acceptable. I have said on numerous occasions, in my annual reports, in caucus presentations and before this Committee, that, while Members are required to publicly declare a gift when the value is \$500 or more, the monetary value is not the determining factor as to whether or not the Member should accept the gift.

Some Members have indicated to me that they believe the gift rules are unnecessary, that they do not adhere to them as they are their own best arbiter of what is appropriate, and that they “cannot be bought”. There is a wide range of opinion among Members and ethics practitioners on what the gift rules should be, ranging from no limits at all to an absolute ban on gifts. However, I believe that most Members would agree that there should be rules on gifts and that the current acceptability test is appropriate.

The potential for confusion persists around the reporting requirements. In my opinion, the \$500 reporting threshold is far too high. I have come to the conclusion that to ensure Members are meeting their obligations under the Code with respect to gifts, the rules should once more be modified to require that almost all gifts be disclosed to the Office of the Conflict of Interest and Ethics Commissioner and publicly declared. This would involve setting a significantly lower threshold than the \$500 one that currently exists for public declaration.

In my earlier submission to this Committee, I suggested that the threshold could, for example, be \$30 (or gifts from one source that totalled \$30 or more in a twelve-month period), on the working assumption that a gift worth less than \$30 would not reasonably be seen to have been given to influence the Member. While some Members may feel that \$30 is too low, I would strongly suggest that the threshold should be much closer to \$30 than to the current \$500. I note that the threshold under the Act is \$200.

The acceptability test would remain unchanged for gifts. Members would not be able to accept gifts, irrespective of their value, if the gift could reasonably be seen to have been given to influence them. Setting a lower threshold for public reporting would be clearer, would result in better communication between Members and my Office about gifts and would increase the overall transparency of what gifts are received by Members.

RECOMMENDATION 3

That the Code be amended to require Members to disclose to the Office of the Conflict of Interest and Ethics Commissioner and publicly declare all gifts valued at a significantly lower threshold than the current \$500.

Invitations involving meals and receptions

Invitations are the most frequent form of gift that Members receive. As noted above, all gifts are subject to an acceptability test. I am told that invitations for Members to attend meetings, receptions or information sessions, particularly in Ottawa while the House of Commons is in session, and sometimes on Parliament Hill, often involve meals or refreshments being served. My Office does not often hear about these invitations.

In speaking with some Members, I attempted to ascertain how often they receive such invitations. What I heard was that Members frequently accept such invitations and that they are commonly considered a regular part of a Member's daily routine.

Members, individually or in groups, are often invited by organizations (including lobbying organizations) to sessions that seek to provide them with information about an issue or cause. These information sessions are often held during mealtimes, as those times are seen to be the most convenient opportunities to fit into a Member's schedule and to encourage attendance. While information gathering is an important part of a Member's duties, the meal or refreshment offered in conjunction with the event is nonetheless a gift under the Code. Members also frequently accept invitations to cocktail parties and other receptions where refreshment is offered.

Some Members I spoke to at a meeting several years ago claimed that meals or refreshments offered in these circumstances should not be considered to be gifts and that it would be impossible to influence the Member just by providing a drink or a meal. Other Members shared my understanding that these are gifts and may be given to influence them. They observed, however, that the meal is often the incentive for attendance because, if a meal or refreshment was not provided, Members would be unlikely to attend the event. It might be the only opportunity during a busy day in which they could have something to eat.

Some Members noted their belief that meals and refreshments fall into the category of customary hospitality. I have concerns about this. I do not believe that it is the intent of this section of the Code to allow for the acceptance in most instances of meals and refreshment from those individuals or organizations seeking to influence, or seeking assistance from,

a Member. For something to fall within the definition of hospitality, the Member must be present at the event in an official, protocol or ceremonial capacity, not merely to listen to a presentation or meet someone. Categorizing the meals and refreshments that Members are offered while attending receptions, information sessions or meetings as customary hospitality does not adequately recognize the reason why these meals and refreshments are offered, namely, to gain access to a Member and, in so doing, to seek to influence them in the course of their duties.

I found my earlier discussions with Members on this issue frank and insightful. Based on these discussions, it is clear to me that invitations to events where meals and refreshments are served are a special category of gift, and perhaps one that is less easily regulated than other gifts. I take the point that Members are expected to meet with people, and it is often most expedient to do so at an event where a meal or refreshment may be offered.

In the final analysis, a meal or refreshment will in certain circumstances reasonably be seen to have been given to influence the Member and may be unacceptable. Instances where such an offer would be inappropriate may include, for example, an invitation from a company to a Member, when the committee on which the Member sits is studying legislation that may impact that company's business. Acceptability must be determined on a case-by-case basis.

I note, as well, that this practice has the effect of creating some disparity between groups that can afford to offer meals and refreshments, and those that cannot, with the possible result that those groups with greater resources will have greater access to Members, effectively creating a two-tier system.

Members should consider whether they wish to amend the Code to expressly identify certain situations that would fall outside the prohibition against gifts. Unless Members make such an amendment to this section of the Code, I will continue to apply the gift rules in this area. It may be useful to amend the Code to explicitly exclude from the gift rules a Member's attendance at any reception or event to which *all* Members of the House of Commons are invited. Invitations extended to individual members, committees or caucuses would not fall within this exception; nor would gifts received at such events, other than meals or refreshments offered to *all* Members.

RECOMMENDATION 4

That the Code be amended to explicitly exclude from the gift rules attendance at any reception or event to which all Members of the House of Commons are invited. Invitations extended to individual Members, committees or caucuses would not fall within this exception, nor would gifts received at such events other than meals or refreshments offered to all Members.

Sponsored travel

The practice of sponsored travel, where an individual, an organization or a country funds travel by a Member to attend a particular conference, promote a regional company or interest or visit a region, is permitted under the Code and is specifically excluded from the acceptability test under the gift provisions. There is a striking paradox here, whereby an inexpensive gift from an organization seeking to influence a Member would not be acceptable, but a trip to a foreign locale sponsored by the same organization would be permitted without question.

While I understand that many Members have spoken about sponsored travel as being necessary to allow Members, with limited travel budgets, to gather information and learn about issues, I believe that there are risks arising from sponsored travel if it is not subject to an acceptability test (i.e. whether the travel could reasonably be seen to have been given to influence them). Travel to other countries may provide excellent learning opportunities for Parliamentarians. That said, there could also be instances where sponsored trips, depending on who is sponsoring the trip or what the Member's committee responsibilities are, should not be accepted. Moreover, this practice could result in disparities between organizations that can afford to offer sponsored travel, and those that cannot, with the consequences that those organizations with greater resources will have greater access to Members.

Adding an acceptability test would at least put to rest any concerns over whether the sponsored travel could reasonably be seen to have been given to influence a Member in the course of their duties. If travel is acceptable under the new test, the current practice of making a public declaration and providing supporting documents should be continued.

RECOMMENDATION 5

That section 15 of the Code be amended to introduce an acceptability test to be applied to sponsored travel, as is the case with gifts and other benefits. The current practice of publicly declaring sponsored travel should be continued.

Section 15 of the Code requires Members to disclose any sponsored travel that they accept if the travel costs exceed \$500, except where these costs are wholly or substantially paid from the Consolidated Revenue Fund or by the Members personally, by his or her political party, or by any inter-parliamentary association or friendship group recognized by the House. These public declarations are the only means by which sponsored travel by Members is disclosed and public scrutiny can take place.

The expression "substantially paid" in subsection 15(1) is open to interpretation and could be interpreted in such a way that funding by a third party that exceeds \$500 would not be publicly reported. I am of the view that this would undermine the transparency process because the public would not be informed that the Member received significant third party sponsorship.

In the interests of improving transparency around sponsored travel, I believe that subsection 15(1) should be amended to require disclosure to my Office and, consequently, public disclosure in any case where travel costs paid by one or more third parties exceed \$500, regardless of the proportion paid by the sources listed in subsection 15(1).

RECOMMENDATION 6

That subsection 15(1) of the Code be amended to require public disclosure of all sponsored travel where any travel costs paid by one or more third parties exceed \$500, regardless of the proportion paid by the sources listed in subsection 15(1).

I have recommended in this submission that the reporting threshold for gifts be lowered. If that recommendation is accepted, the threshold for reporting any sponsored travel costs paid by any third party should also be adjusted to that same amount.

RECOMMENDATION 7

That the threshold for reporting any sponsored travel costs paid for by any third party be adjusted to the same amount as the reporting threshold set for gifts.

In April 2012, the Joint Inter-parliamentary Council, which has as part of its mandate the responsibility for determining all budgetary and administrative matters relating to parliamentary associations, passed a resolution on the issue of sponsored travel. According to the minutes of the meeting, Members of the Council agreed “That the restriction on receiving outside funding be lifted for inter-parliamentary groups, with the provision that, where applicable, sponsored travel above the limit prescribed in the appropriate conflict of interest code be reported to the relevant ethics commissioner by each of the parliamentarians who participates.”

Under the current Code, any travel costs paid by an inter-parliamentary association or friendship group recognized by the House are exempt from the requirement to publicly declare sponsored travel. This would mean that any organization could contribute to the costs through an inter-parliamentary association or friendship group without that sponsorship being disclosed in the annual *List of Sponsored Travel* tabled in the House and made publicly available.

In order to ensure some transparency in this regard, I recommend that the Code be adjusted to take into account the above quoted resolution, and make the original source of funding transparent. For example, the Code could require Members, when they disclose their sponsored travel, to provide information in their public statement on any outside source of funding that would have been used by the inter-parliamentary association or friendship group to cover the costs of such travel.

RECOMMENDATION 8

That the Code be amended to require Members to publicly declare any outside source of funding for sponsored travel, regardless of whether that funding is directed through an inter-parliamentary association or friendship group.

Fundraising

There are several areas where the Code could be strengthened by adding new compliance obligations. These are discussed below and are reflected in the next three recommendations.

In two of my inquiry reports under the Code (The Raitt Report and The Dykstra Report), I raised concerns relating to fundraising by Members. The Code does not contain a provision similar to section 16 of the Act, which prohibits the personal solicitation of funds by public office holders where doing so would place them in a conflict of interest.

While it may be more likely that situations of conflict of interest could arise in relation to the functions or duties of a minister or parliamentary secretary, they could also arise in relation to the functions or duties of a Member of the House of Commons. For example, a conflict could arise if a Member solicits funds from a person or entity that is a stakeholder or that may appear before a committee on which a Member sits. Consideration should be given to amending the Code to include a provision dealing with fundraising similar to that in the Act.

RECOMMENDATION 9

That the Code be amended by adding prohibitions against personal solicitation of funds by Members where to do so would raise concern relating to furthering private interests.

III. ADMINISTERING THE CODE

Consultations by new Members

Newly elected Members of Parliament face a number of challenges in transitioning to their new role, including setting up Hill and constituency offices, learning the ropes in the House of Commons and meeting their caucus and political obligations. Added to these challenges are new obligations under the Code.

There is currently no mandatory training requirement for Members. My Office communicates with all elected Members as soon as notice of their election is published in the *Canada Gazette*. We notify them of their obligations and provide them with the necessary disclosure forms. Usually Members contact their advisors to discuss their personal situations. We have also adopted the standard practice of offering presentations to party caucuses on an annual basis to remind Members of their obligations under the Code. While we have also held presentations for new Members organized through the Library of Parliament as part of their new Member orientation program, we find that they are not well-enough attended to reach our intended audience as these sessions are not mandatory.

Members could benefit from individual meetings to better understand how the Code applies to their personal situation. A mandatory discussion between a new Member and my Office, with a deadline to meet this obligation linked to the proposed 120-day deadline to fulfill their initial compliance obligations, would help to ensure that Members are fully cognizant of their obligations under the Code. This could be done in-person or by telephone.

My Office would also continue to offer such meetings to returning Members who would like a refresher on their obligations.

We will continue to offer annual presentations to party caucuses, and suggest that parties might wish to consider making attendance at these sessions mandatory. An annual review of the Member's obligations under the Code would help to reinforce their knowledge of the Code and to keep their obligations in mind.

RECOMMENDATION 10

That the Code be amended to include an obligation for every new Member to communicate directly with the Office of the Conflict of Interest and Ethics Commissioner to review his or her obligations under the Code. The discussion (whether in-person or by telephone) must take place within the same 120-day period as is proposed in this submission as a deadline for completing their initial compliance process.

Deadline to complete the initial compliance process and annual reviews

Subsection 20(1) of the Code establishes a deadline for Members to file a confidential statement of their private interests and those of their families, within 60 days after the notice of their election appears in the *Canada Gazette*. In contrast to the *Conflict of Interest Act*, the Code does not impose deadlines for Members to complete their initial compliance process. As a result, it may sometimes take many months for Members to finalize their initial compliance arrangements. It takes significantly longer for Members under the Code than for reporting public office holders under the Act to complete their initial compliance process. This should not be the case since the Code is less restrictive in some areas and Members are therefore not required to take specific compliance measures such as divestment or ceasing to hold certain positions of office.

As I noted in my 2009-10 Annual Report under the Code, “I believe that the lack of a deadline under the Code diminishes the urgency and importance of completing the compliance process.” Although some improvements have been seen in the last few years, there is still room for more improvement. I have recommended on several occasions that the Code include a deadline to complete the initial compliance process, that is reviewing and signing the disclosure summary so that it can be made available on the public registry. I believe that the 120-day deadline to complete the initial compliance process, like that set out in the Act, is a reasonable model. I therefore recommend that the Code be amended to include the same deadline of 120 days.

RECOMMENDATION 11

That the Code be amended to include a 120-day deadline to complete the initial compliance process.

Moreover, there is currently no deadline in the Code for completing the annual review process. Despite the administrative burden on my Office of issuing several reminders, this process continues to take too long. In some cases, it has taken several months to complete. I would therefore recommend a deadline of 30 days for the annual review process.

RECOMMENDATION 12

That the Code be amended to include a 30-day deadline to complete the annual review process.

Amendments to the disclosure provisions

I have identified a number of amendments that would help to clarify and strengthen the Code’s disclosure provisions and make them more easily understood. These amendments are summarized below. I have also developed suggested draft language, which is included with this submission as *Appendix A: Amendments to the Disclosure Provisions of the Code (Sections 20 to 25)*.

Section 20 of the Code provides general instructions to Members relating to the disclosure statement, but combines two distinct requirements, namely the initial disclosure subsequent to an election and the annual review of the information initially disclosed. I recommend that these processes be separated to provide greater clarity and to avoid overlap and duplication for re-elected Members.

I recommend the slight expansion of the information to be included in a Member's disclosure statement to explicitly include any partnerships as well as directorships in an organization of a philanthropic, charitable or non-commercial nature.

As mentioned above, I have identified a need for a specific deadline for finalizing the initial compliance process, which is within 120 days, as well as a deadline of 30 days to complete the annual review process. I also recommend, in this connection, that the Commissioner be given the discretion to extend deadlines where it is reasonable to do so in unforeseen circumstances.

I recommend that some of the practices that the Office follows relating to the disclosure summary (which is made public) and the reporting of material changes that are not clearly provided for be reflected explicitly in the Code.

Finally, I propose that any failure to comply with the proposed deadlines be included in a notice to the Member, which would be made public on the registry.

RECOMMENDATION 13

That the disclosure provisions in sections 20 to 25 of the Code be strengthened and clarified along the lines set out in more detail in Appendix A.

Approval of forms and guidelines

Section 30 of the Code requires that I obtain the approval of the House of Commons, on the recommendation of the Procedure and House Affairs Committee, for all forms and guidelines under the Code. This requirement has created unreasonable delays due to time constraints of the Committee. In practice, it has limited the independence of my Office and has impeded my Office in its attempts to improve the administration of the Code and from assisting Members to comply with their obligations under the Code. I have raised my concern with the Committee in the past and asked it to consider whether there is a need for this approval.

Under the *Conflict of Interest Act*, there is no requirement to have guidelines or forms approved by the House or a committee. I have issued several guidelines aimed at assisting public office holders to better understand their obligations under the Act, as well as several forms, including one for requesting that the Commissioner launch an examination. I have had feedback from public office holders that they appreciate having these tools.

RECOMMENDATION 14

That the requirement for approval of forms and guidelines by the House of Commons upon recommendation of the Procedure and House Affairs Committee set out in section 30 of the Code be removed.

I submitted a standard form for approval to the Committee in March 2010 that would be used to request an inquiry. This form would help streamline and expedite the inquiry process. This matter remains outstanding. The suggested Inquiry Request Form is included as *Appendix B* for the Committee's consideration should Recommendation 14 not be accepted.

RECOMMENDATION 15

That the Committee approve the Inquiry Request Form set out in Appendix B if Recommendation 14 has not already been implemented.

Administrative monetary penalties

Subsection 28(6) of the Code provides that the Commissioner may recommend appropriate sanctions for instances where a Member has not complied with an obligation under the Code, or where a request for an inquiry was frivolous, vexatious or was not made in good faith. The House of Commons reserves the right to discipline its own Members, and is responsible under the current system for imposing and administering sanctions, including any recommended by the Commissioner.

I have previously noted that, unlike the *Conflict of Interest Act*, the Code does not provide for administrative monetary penalties for failures to meet deadlines. The Act sets out an administrative monetary penalty regime that allows the Commissioner to impose penalties up to a maximum of \$500, largely for failures to meet the Act's reporting provisions. I believe that the penalties, and the corresponding publication of the notice of penalty on the online public registry, serve as an incentive for those subject to the regime to meet its deadlines. It may be that it is not possible to impose such penalties on Members for breaches of the Code. The question of what measures would be appropriate to employ, I leave to the Committee to consider.

RECOMMENDATION 16

That the Committee consider what sanctions, including public reporting, might be available for failures to meet reporting deadlines.

IV. MANAGING INVESTIGATIONS

I have identified several recommendations relating to the sections of the Code relating to inquiries. I summarize these and elaborate on them below. Specific suggestions, including draft language, are set out in *Appendix C: Amendments to the Disclosure Provisions of the Code (Section 27 to 28)*.

Public comment related to inquiries

Sometimes, a Member will make a public statement when he or she submits a request for an inquiry to my Office. On several occasions, these statements have included misinformation related to the request. If I proceed to an inquiry in relation to that request my report is made public and I can use this opportunity to correct any misinformation. If I conclude that an inquiry is not warranted and do not proceed to an inquiry, however, I am not able to comment publicly on my reasons for not investigating the matter and therefore have no opportunity to correct the public record.

My inability to comment in these circumstances can have a deleterious effect on both the reputation of the person who is the subject of the request and that of my Office. While there is an obvious need to maintain confidentiality, I believe the Commissioner should have some ability to comment on a matter when he or she considers that doing so is in the public interest.

RECOMMENDATION 17

That the Code be amended to allow the Commissioner to comment publicly on his or her reasons for not pursuing a matter, where doing so is in the public interest.

A related issue is the extent to which requests for investigation should be commented on publicly by Members making the requests. I have said in previous appearances and submissions and in my annual reports that a Member who makes a request should refrain from public comment until I have confirmed that I have received the request and have notified the person who is the subject of that request. I believe that this is fair and appropriate, and does not inhibit the Member from making any public comment once those steps have been followed.

RECOMMENDATION 18

That the Code be amended to require that Members requesting an inquiry refrain from commenting publicly on the request until the Commissioner has confirmed that he or she has received the request, and has notified the person who is the subject of that request.

Ability to compel witnesses and documents

In one inquiry conducted under the Code, I was unable to obtain direct access to documents stored electronically on the House of Commons server that were necessary to conduct my investigation. Instead, the documents were given to the Member to review. At least one document that I expected to receive as a result of a file search – and that I knew existed because I had received a copy from other sources – was not provided. Passing the documents through the Member who is subject to the inquiry can compromise the integrity of the inquiry process because I can never be sure whether I had received all the relevant documents that have been found.

In my 2010-11 Annual Report, I discussed this issue in some detail and noted that I must have direct access to documents under the control of the House of Commons in a timely manner when I request it during an inquiry. An amendment to the Code that explicitly gives me direct access to any needed documents under the control of the House of Commons would assist greatly in this regard.

Unlike the *Conflict of Interest Act*, the Code does not empower my Office to compel witnesses to appear or to produce documents. I have previously suggested that the Code be amended to provide the Commissioner with the power to compel third party witnesses to appear for interviews or to produce requested documents in relation to inquiries conducted by my Office. Having the express power to summon witnesses and compel documents, as well as making it clear that the Commissioner has the authority to have direct access to documents from the House of Commons, would greatly enhance the investigative regime under the Code and ensure my independence.

RECOMMENDATION 19

That the Code be amended to give the Commissioner explicit power to summon any witness or compel any document necessary in the course of his or her investigative role, and that the Commissioner be given direct access to any document requested from the House of Commons.

Other amendments to the inquiry provisions

I have also identified a number of amendments that would help to clarify the Code's inquiry provisions. These included reordering these provisions logically by setting out separately the three ways in which an inquiry may be commenced and ensuring consistency between the English and French versions of the Code.

As set out in section 27 of the Code, an inquiry may be commenced at the request of a Member, by resolution from the House of Commons or on the Commissioner's own initiative. Section 27 also contains several procedural provisions, some of which apply to only one of the three mechanisms and others of which apply to all three. I have recommended that each of the three mechanisms, and the related procedures that are unique to each, be set out in separate sections.

I have also noted two provisions where there are substantive differences between the English and French versions. Subsection 27(2) requires that a request from a Member set out the alleged non-compliance. This requirement is missing from the French. There are also inconsistencies between the French and English versions in section 27(7), which require the Commissioner to ensure that Members have opportunities to make representations during the inquiry process.

RECOMMENDATION 20

That the Code be amended to clarify the inquiry provisions and to remove inconsistencies between the English and French versions by implementing the more detailed recommendations set out in Appendix C.

V. HARMONIZING THE ACT AND THE CODE

I administer two separate but similar conflict of interest regimes: the Act and the Code. These two regimes have similar, but not identical provisions. This can be confusing, particularly in the case of Members who are also ministers, and therefore subject to both regimes. As well, there is a requirement to produce two annual reports, and two separate investigative reports where a single matter results in both an examination under the Act and an inquiry under the Code. I have sought efficiencies in the drafting and production processes wherever possible, but harmonization would further help to address this.

In my 2010-11 Annual Report, I raised the possibility that the Code and Act might be combined into a single act, which would set out conflict of interest rules for Members and the more stringent rules for ministers and parliamentary secretaries. Alternatively, it would be desirable, at least, to harmonize the wording of the two where possible. Distinctions could be kept where appropriate for different classes of public office holders or for Members. This model has been followed by a number of provinces.

I recommend that Parliament consider ways in which the two regimes might be harmonized.

RECOMMENDATION 21

That Parliament take steps to harmonize the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons to ensure consistency of language and processes.

As a first step, I believe that the requirement to produce two separate annual reports under the Act and the Code should be addressed. This would require an amendment to the *Parliament of Canada Act*, which specifically requires the Commissioner to produce two separate annual reports. Having to produce two separate reports at the same time creates administrative challenges relating to resource requirements and separate tabling procedures. Moreover, much of the content required in the two reports is the same. As all my reports tabled in Parliament are printed and distributed in paper form to Members and Senators, this means that the amount of paper used in their production could be nearly halved by combining the reports, significantly reducing the environmental impact.

RECOMMENDATION 22

That the Parliament of Canada Act be amended to authorize the Commissioner to produce a single annual report to Parliament on the administration of the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons.

VI. REGULATING PARTISAN AND PERSONAL CONDUCT

Among the stated purposes of the *Conflict of Interest Code for Members of the House of Commons* is to “maintain and enhance public confidence and trust in the integrity of Members as well as the respect and confidence that society places in the House of Commons as an institution.” The Code further states that service in Parliament is a public trust, and sets out principles by which Members are expected to comport themselves. These principles assert that Members are to “perform their official duties and functions and arrange their private affairs in a manner that bears the closest public scrutiny.” With the purpose and principles of the Code in mind, I wish to offer some observations about regulating the partisan and personal conduct of Members.

My Office has received a number of complaints about the partisan behaviour of politicians. While I understand why citizens may wish to raise these concerns with my Office, and I find them to be legitimate concerns, I believe, and have stated on several occasions, that partisan political conduct is largely beyond the scope of both the Act and the Code. Both regimes deal specifically with conflict of interest, with the focus largely on ensuring that Members and public office holders do not use their positions to further private, largely pecuniary, interests. Interest in enhancing political profiles is a political interest and not a private interest as understood by the two regimes.

As I stated in my 2009-10 Annual Report, “If there is a real desire that my Office look into conflicts of interest in relation to political interests, changes to the Act and the Code would be required to establish this as part of my mandate. It would seem to me, however, that this is ultimately a matter for the electorate to judge.” I have subsequently commented that, in the absence of any clear rules governing the ethical aspects of the conduct of politicians, the House may wish to consider implementing a separate set of rules to address the political conduct of Members and their staff. These rules could rely on voluntary compliance or could be overseen by a group of former parliamentarians from various political backgrounds.

I note that partisan activities may be carried on in such a way as to raise questions as to the propriety of personal behaviour. I also note that the House of Commons has publicly stated that it will explore means of regulating the personal conduct of Members. It may be an opportune time to consider both issues at once. In connection to this, I mention that the Commonwealth Parliamentary Association is currently engaged in consultations on draft benchmarks for codes of conduct within Commonwealth nations, and has incorporated both managing conflict of interest and personal behaviour into the draft benchmarks as part of this exercise. Jurisdictions may choose to address personal behaviour separately from managing conflict of interest, including separate responsibility for oversight and administration.

While it is for the House of Commons to determine how best to achieve its goals in this area, I recommend that the House of Commons consider establishing a code of conduct that addresses both partisan and personal conduct.

RECOMMENDATION 23

That the House of Commons consider implementing a code of conduct to address the partisan and personal conduct of Members and their staff.

VII. CONCLUSION

In this submission, I have sought to identify the main issues that have created challenges in my administration of the *Conflict of Interest Code for Members of the House of Commons*. In so doing, I am cognizant that there may be other issues that arise in the future. I will continue to work with the Procedure and House Affairs Committee as appropriate, and will continue to use my annual reports as communication tools to discuss issues I encounter in administering the Code. I hope that this submission will be useful for the Committee as it continues its study. My staff and I are, as always, pleased to meet with the Committee to discuss this or any other matter pertaining to the Code.

SUMMARY LIST OF RECOMMENDATIONS

- Recommendation 1: That sections 8, 9 and 10 of the Code be broadened to include a prohibition against Members furthering the private interest of relatives or friends.
- Recommendation 2: That the Code be amended by adding broader disclosure and recusal obligations to include an obligation to disclose a private interest of relatives or friends (section 12), and a prohibition against participating in discussion, decision, debate or vote where the Member, or his or her relative or friend, has a private interest (section 13).
- Recommendation 3: That the Code be amended to require Members to disclose to the Office of the Conflict of Interest and Ethics Commissioner and publicly declare all gifts valued at a significantly lower threshold than the current \$500.
- Recommendation 4: That the Code be amended to explicitly exclude from the gift rules attendance at any reception or event to which all Members of the House of Commons are invited. Invitations extended to individual Members, committees or caucuses would not fall within this exception, nor would gifts received at such events other than meals or refreshments offered to all Members.
- Recommendation 5: That section 15 of the Code be amended to introduce an acceptability test to be applied to sponsored travel, as is the case with gifts and other benefits. The current practice of publicly declaring sponsored travel should be continued.
- Recommendation 6: That subsection 15(1) of the Code be amended to require public disclosure of all sponsored travel where any travel costs paid by one or more third parties exceed \$500, regardless of the proportion paid by the sources listed in subsection 15(1).
- Recommendation 7: That the threshold for reporting any sponsored travel costs paid for by any third party be adjusted to the same amount as the reporting threshold set for gifts.
- Recommendation 8: That the Code be amended to require Members to publicly declare any outside source of funding for sponsored travel, regardless of whether that funding is directed through an inter-parliamentary association or friendship group.

- Recommendation 9: That the Code be amended by adding prohibitions against personal solicitation of funds by Members where to do so would raise concerns relating to furthering private interests.
- Recommendation 10: That the Code be amended to include an obligation for every new Member to communicate directly with the Office of the Conflict of Interest and Ethics Commissioner to review his or her obligations under the Code. The discussion (whether in-person or by telephone) must take place within the same 120-day period as is proposed in this submission as a deadline for completing their initial compliance process.
- Recommendation 11: That the Code be amended to include a 120-day deadline to complete the initial compliance process.
- Recommendation 12: That the Code be amended to include a 30-day deadline to complete the annual review process.
- Recommendation 13: That the disclosure provisions in sections 20 to 25 of the Code be strengthened and clarified along the lines set out in more detail in Appendix A.
- Recommendation 14: That the requirement for approval of forms and guidelines by the House of Commons upon recommendation of the Procedure and House Affairs Committee set out in section 30 of the Code be removed.
- Recommendation 15: That the Committee approve the Inquiry Request Form set out in Appendix B if Recommendation 14 has not already been implemented.
- Recommendation 16: That the Committee consider what sanctions, including public reporting, might be available for failures to meet reporting deadlines.
- Recommendation 17: That the Code be amended to allow the Commissioner to comment publicly on his or her reasons for not pursuing a matter, where doing so is in the public interest.
- Recommendation 18: That the Code be amended to require that Members requesting an inquiry refrain from commenting publicly on the request until the Commissioner has confirmed that he or she has received the request, and has notified the person who is the subject of that request.

- Recommendation 19: That the Code be amended to give the Commissioner explicit power to summon any witness or compel any document necessary in the course of his or her investigative role, and that the Commissioner be given direct access to any document requested from the House of Commons.
- Recommendation 20: That the Code be amended to clarify the inquiry provisions and to remove inconsistencies between the English and French versions by implementing the more detailed recommendations set out in Appendix C.
- Recommendation 21: That Parliament take steps to harmonize the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons* to ensure consistency of language and processes.
- Recommendation 22: That the *Parliament of Canada Act* be amended to authorize the Commissioner to produce a single annual report to Parliament on the administration of the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*.
- Recommendation 23: That the House of Commons consider implementing a code of conduct to address the partisan and personal conduct of Members and their staff.

APPENDIX A:
AMENDMENTS TO THE DISCLOSURE PROVISIONS OF THE CODE – SECTIONS 20 TO 25
(FROM PAGES 10 AND 11)

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Disclosure statement</p> <p>20.(1) <u>Subject to this section</u>, a Member shall, within 60 days after the notice of his or her election to the House of Commons is published in the Canada Gazette, file with the Commissioner a full statement disclosing the Member's private interests and the private interests of the members of the Member's family.</p>	<p>Disclosure statement</p> <p>20.(1) A Member shall, within 60 days after the notice of his or her election to the House of Commons is published in the Canada Gazette, and <u>annually on or before a date established by the Commissioner</u>, file with the Commissioner a full statement disclosing the Member's private interests and the private interests of the members of the Member's family.</p>	<p><u>Section 20</u></p> <p>The suggested amendments would establish distinct disclosure processes and deadlines for re-elected Members and for the annual review process.</p> <p>The reference to the annual review has been removed from section 20 and a new section 20.1 is being added to deal with annual reviews.</p>
<p>Reasonable efforts</p> <p>(2) Information relating to the private interests of the members of the Member's family shall be to the best of the Member's knowledge, information and belief. The Member shall make reasonable efforts to determine such information.</p>	<p>Reasonable efforts</p> <p>(2) Information relating to the private interests of the members of the Member's family shall be to the best of the Member's knowledge, information and belief. The Member shall make reasonable efforts to determine such information.</p>	<p>No change is suggested.</p>
<p>Confidentiality</p> <p>(3) The Commissioner shall keep the statement confidential.</p>	<p>Confidentiality</p> <p>(3) The Commissioner shall keep the statement confidential.</p>	<p>No change is suggested.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>Procedure on re-election</u></p> <p><u>(4) Where a Member is re-elected, if the Commissioner deems it appropriate, the Member may, instead of filing a full disclosure statement under subsection (1), review and amend as necessary the information contained in the disclosure statement previously filed under subsection (1), but must do so within the same 60-day period as is required under subsection (1).</u></p>		<p>Technically, Members are currently required to complete and file a full disclosure statement with my Office following every election, whether or not they are elected for the first time or re-elected. This applies even though they may have just completed an annual review and updated the information contained in their previously completed disclosure statement.</p> <p>It is suggested that following an election, Members who have been re-elected need not necessarily file a full disclosure statement again if the Commissioner deems it appropriate. Instead, re-elected Members would be given the option of reviewing the information previously filed, in a similar fashion to the annual review process. This amendment would reflect the practice that has been followed by my Office.</p> <p>Under this alternative procedure, re-elected Members would continue to be subject to a 60-day deadline to file the required information.</p>
<p><u>Extension</u></p> <p><u>(5) The Commissioner may extend the 60-day deadline referred to in subsection (1) or (4) if he or she is of the view that the extension is warranted in the circumstances.</u></p>		<p>There are no provisions in the current Code for an extension of the 60-day deadline.</p> <p>It is suggested that the Code be amended to give the Commissioner discretion to extend the deadline. There may be circumstances beyond a Member's control where it may be difficult or impossible for a Member to provide the required information within the 60-day deadline.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
		<p>Section 20.1</p> <p>For annual review purposes, the practice of my Office is to send to each Member every year a document referred-to as the <i>Summary of Confidential Disclosure</i> with a request that the Member confirm whether or not there have been any changes to that information and, if so, to let my Office know of any changes. In recent years, my Office has also adopted the practice of attaching a questionnaire to assist Members in ensuring that all required information is disclosed. If necessary, a revised public declaration (the <i>Disclosure Summary</i> referred to in section 24) is forwarded to the Member for signature. This mirrors the practice established under the <i>Conflict of Interest Act</i>.</p>
<p><u>Annual review</u></p> <p><u>20.1(1) The Commissioner shall review annually with each Member the information included in the disclosure statement filed by the Member pursuant to subsection 20(1) and make any necessary amendments.</u></p>		<p>Subsection 20.1(1) would parallel a similar provision in the <i>Conflict of Interest Act</i>. It would make it clear that the obligation to initiate the annual review process would rest with the Commissioner and that it would not normally be necessary to complete a full disclosure statement every year.</p>
<p><u>Amendments</u></p> <p>(2) A Member shall within 30 days after he or she receives notice of an annual review under this section submit any amendments to his or her confidential disclosure to the Commissioner.</p>		
<p><u>Extension</u></p> <p>(3) The Commissioner may extend the 30-day deadline referred to in subsection (2) if he or she is of the view that the extension is warranted in the circumstances.</p>		

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Content of disclosure statement</p> <p>21.(1) The statement <u>required under subsection 20 (1)</u> shall</p> <p>(a) identify and state the value of each asset or liability of the Member and the members of the Member’s family that;</p> <p>(i) in the case of a credit card balance, <u>is \$10,000 or more</u> and has been outstanding for more than six months;</p> <p>(ii) in all other cases, <u>is \$10,000 or more</u>;</p> <p>(b) state the amount and indicate the source of any income greater than \$1,000 that the Member and the members of the Member’s family have received during the preceding 12 months and are entitled to receive during the next 12 months;</p> <p>(b.1) <u>identify</u> every trust known to the Member from which he or she could, currently or in the future, either directly or indirectly, derive a benefit or income;</p>	<p>Content of disclosure statement</p> <p>21.(1) The statement shall</p> <p>(a) identify and state the value of each asset or liability of the Member and the members of the Member’s family that;</p> <p>(i) in the case of a credit card balance, <u>exceeds \$10,000</u> and has been outstanding for more than six months;</p> <p>(ii) in all other cases, <u>exceeds \$10,000</u>;</p> <p>(b) state the amount and indicate the source of any income greater than \$1,000 that the Member and the members of the Member’s family have received during the preceding 12 months and are entitled to receive during the next 12 months;</p> <p>(b.1) <u>Notwithstanding paragraph (b), every Member shall disclose to the Commissioner</u> every trust known to the Member from which he or she could, currently or in the future, either directly or indirectly, derive a benefit or income;</p>	<p><u>Section 21</u></p> <p>The amendments suggested to this section are very technical. The order of paragraphs has been changed slightly so as to list them in what appears to be a more logical order.</p> <p>The additional words suggested in the opening words of subsection 21(1) reflect the change suggested for the annual review process under suggested subsection 20(4) as well as that suggested for re-elected Members.</p> <p>The change to “\$10,000 or more” instead of “exceeds \$10,000” is proposed because of the gap that currently exists in the Code whereby assets and liabilities of exactly \$10,000 do not require disclosure to my Office but would require public disclosure since assets and liabilities with a value of less than \$10,000 are not to be publicly disclosed. This change would make this provision consistent with the approach taken in paragraphs 24(3)(a) and (b) of the Code and would follow the same approach as is taken for similar provisions in the <i>Conflict of Interest Act</i>.</p> <p>No change is suggested.</p> <p>This change is purely technical and would merely make the format of this paragraph consistent with the other paragraphs in the subsection.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>(c) list any partnership in which he or she or a member of his or her family is a partner, as well as the names and addresses of all partners, and include any information about the partnership's activities;</u></p>	<p>(c) state all benefits that the Member and the members of the Member's family, and any private corporation in which the Member or a member of the Member's family has an interest, have received during the preceding 12 months, and those that the Member and the members of the Member's family or corporation are entitled to receive during the next 12 months, as a result of being a party, directly or through a subcontract, to a contract with the Government of Canada, and describe the subject-matter and nature of each such contract or subcontract;</p> <p><u>(c.1)</u> For the purpose of paragraph (1)(c), benefits include compensation resulting from expropriation by the Government of Canada;</p>	<p>This is a new paragraph that would deal with partnerships which are now covered in the current paragraph (e) along with directorships or offices in a corporation.</p> <p>In the case of an ownership interest in a corporation, the Code also requires disclosure of the names and addresses of other shareholders as well as information about the corporation's activities. There are currently no such explicit requirements for partnership interests. However, subsection 24(2) refers to "an interest in a partnership or corporation" in connection with the public <i>Disclosure Summary</i>. This appears to indicate an inadvertent omission.</p> <p>For consistency, it is suggested that the Code be amended so that the disclosure requirements relating to partnerships will parallel those relating to corporations.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>(d) list the name of any private corporation in which he or she or a member of his or her family has an interest, and</u></p> <p>(i) include any information about the corporation's activities and sources of income that the Member is able to obtain by making reasonable inquiries,</p> <p>(ii) state the names of any other corporations with which that corporation is affiliated,</p> <p>(iii) list the names and addresses of all persons who have an interest in the corporation, and</p> <p>(iv) list the real property or immovables owned by the private corporation.</p>	<p><u>(d) if the statement mentions a private corporation,</u></p> <p>(i) include any information about the corporation's activities and sources of income that the Member is able to obtain by making reasonable inquiries,</p> <p>(ii) state the names of any other corporations with which that corporation is affiliated, and</p> <p>(iii) list the names and addresses of all persons who have an interest in the corporation;</p> <p>(iv) list the real property or immovables owned by the private corporation.</p>	<p>This is a new paragraph.</p> <p>The Code currently requires disclosure of all partnership interests irrespective of value, as well as disclosure of all directorships in corporations, irrespective of ownership interests (current paragraph 21(1)(e)). On the other hand, an ownership interest in a private corporation is only required if the value of the asset exceeds \$10,000 (paragraph 21(1)(a)) or if the private corporation derives a benefit from a contract with the Government of Canada (current paragraph 21(1)(c)).</p> <p>It is suggested that the disclosure requirements with respect to an ownership interest in all corporation and partnerships be similar.</p> <p>The current disclosure form, already approved by the Committee, provides for the disclosure of business assets, whether held as a sole proprietorship, partnership or private corporation, irrespective of value.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>(e)</u> state all benefits that the Member and the members of the Member's family, and any <u>partnership or private corporation</u> in which the Member or a member of the Member's family has an interest, have received during the preceding 12 months, and those that the Member and the members of the Member's family, <u>partnership or corporation</u> are entitled to receive during the next 12 months, as a result of being a party, directly or through a subcontract, to a contract with the Government of Canada, and describe the subject-matter and nature of each such contract or subcontract</p> <p><u>(f)</u> list the directorships or offices in a corporation, trade or professional association or trade union, <u>or in an organization of a philanthropic, charitable or non-commercial character</u> held by the Member or a member of the Member's family; and</p> <p><u>(g)</u> include any other information that the Commissioner may require.</p>	<p><u>(e)</u> list the directorships or offices in a corporation, trade or professional association or trade union held by the Member or a member of the Member's family <u>and list all partnerships in which he or she or a member of his or her family is a partner;</u> and</p> <p><u>(f)</u> include any other information that the Commissioner may require.</p>	<p>This replaces the current paragraph 21(1)(c).</p> <p>It is suggested that partnerships be added to this paragraph. A benefit may be received by a partnership as well as by a corporation, and there would appear to be no reason to exclude partnerships from this provision.</p> <p>This replaces the current paragraph 21(1)(e).</p> <p>It is suggested that organizations of a philanthropic, charitable or non-commercial character be added to the list, whether incorporated or not. This would reflect the disclosure form, already approved by the Committee.</p> <p>This is the current paragraph 21(1)(f). No change is suggested.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Source of income</p> <p>(2) For the purposes of paragraph (1)(b), a source of income is</p> <p>(a) in the case of income from employment, the employer;</p> <p>(b) in the case of income from a contract, the party with whom the contract is made; and</p> <p>(c) in the case of income arising from a business or profession, that business or profession.</p>	<p>Source of income</p> <p>(2) For the purposes of paragraph (1)(b), a source of income is</p> <p>(a) in the case of income from employment, the employer;</p> <p>(b) in the case of income from a contract, the party with whom the contract is made; and</p> <p>(c) in the case of income arising from a business or profession, that business or profession.</p>	<p>No change is suggested.</p>
<p><u>Compensation from expropriation</u></p> <p>(2.1) For the purposes of paragraph (1)(e), benefits include compensation resulting from expropriation by the Government of Canada.</p>		<p>This subsection would replace the current paragraph 21(1)(c.1) which would more appropriately fit as a subsection. The reference to paragraph 21(1)(e) instead of paragraph 21(1)(c) results from the change of the order of paragraphs in subsection (1).</p>
<p>Material change</p> <p>(3) The Member shall <u>inform the Commissioner in writing of</u> any material change to the information required under subsection (1) to the Commissioner within 60 days after the change.</p>	<p><u>Statement: material change</u></p> <p>(3) The Member shall <u>file a statement reporting</u> any material change to the information required under subsection (1) to the Commissioner within 60 days after the change.</p>	<p>It is suggested that Members not be obliged to use the notice of material change statement form to report material changes.</p> <p>Members notify my Office of changes to the information contained in their disclosure statement in writing, by letter, by email or through a notice of material change statement. Currently, a Member who notifies us of a material change otherwise than through a material change statement must now be sent a notice of material change statement to sign. The original notification would be sufficient.</p> <p>This suggested amendment would not only simplify, but also streamline, the process for both Members and my Office.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Meeting with the Commissioner</p> <p>22. After reviewing a Member's statement filed under section 20 or <u>the information provided under subsection 21(3)</u>, the Commissioner may require that the Member meet with the Commissioner, and may request the attendance of any of the members of the Member's family, if available, to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Code.</p>	<p>Meeting with the Commissioner</p> <p>22. After reviewing a Member's statement filed under section 20 or subsection 21(3), the Commissioner may require that the Member meet with the Commissioner, and may request the attendance of any of the members of the Member's family, if available, to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Code.</p>	<p>This technical amendment is consequential on the amendment suggested to subsection 21(3).</p>
<p>Disclosure summary</p> <p>23.(1) The Commissioner shall prepare a disclosure summary based on each Member's statement filed under section 20(1), <u>or a revised disclosure summary where an amendment is necessary as a result of information received pursuant to subsection 20(4) or (5) or subsection 21(3)</u>, and submit <u>the disclosure summary or revised disclosure summary</u> to the Member for review.</p>	<p>Disclosure summary</p> <p>23(1) The Commissioner shall prepare a disclosure summary based on each Member's statement filed under section 21 and submit <u>it</u> to the Member for review.</p>	<p>This technical amendment is consequential on the amendments suggested to sections 20 and 21.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Public inspection</p> <p>(2) Each summary is to be placed on file at the office of the Commissioner and made available for public inspection during normal business hours, and posted on the website of the Commissioner. Each summary shall also be available to the public, on request, by fax or mail.</p>	<p>Public inspection</p> <p>(2) Each summary is to be placed on file at the office of the Commissioner and made available for public inspection during normal business hours, and posted on the website of the Commissioner. Each summary shall also be available to the public, on request, by fax or mail.</p>	<p>No change is suggested.</p>
<p>Content of disclosure summary</p> <p>24.(1) The summary shall</p> <p>(a) subject to subsection (3), set out the source and nature, but not the value, of the income, assets and liabilities referred to in the Member's statement filed under section 20;</p> <p>(b) identify any contracts or subcontracts referred to in paragraph 21(1)(e) and describe their subject-matter and nature;</p> <p>(c) list the names of <u>partnerships disclosed under paragraph 21(1)(c) or any corporations disclosed under paragraph 21(1)(d)</u>;</p>	<p>Content of disclosure summary</p> <p>24.(1) The summary shall</p> <p>(a) subject to subsection (3), set out the source and nature, but not the value, of the income, assets and liabilities referred to in the Member's statement filed under section 20;</p> <p>(b) identify any contracts or subcontracts referred to in paragraph 21(1)(c) and describe their subject-matter and nature;</p> <p>(c) list the names of any <u>affiliated corporations referred to in that statement</u>;</p>	<p><u>Section 24</u></p> <p>The only changes suggested are to paragraphs 24(1)(c) to (e). No changes are suggested for subsection 24(2) or (3).</p> <p>This technical amendment is consequential on the amendments suggested in the new paragraphs 21(1)(c) and (d).</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>(d) include a copy of any statements of disclosure filed by the Member under subsection 14(3) or 15(1);</p> <p>(e) list the positions and corporations, trade or professional associations, trade unions <u>and organizations of a philanthropic, charitable or non-commercial character disclosed under paragraph 21(1)(f)</u>; and</p> <p>(f) list any trusts disclosed under paragraph 21(1)(b.1).</p>	<p>(d) include a copy of any statements of disclosure filed by the Member under subsections 14(3), 15(1) and 21(3);</p> <p>(e) list the positions and corporations, trade or professional associations and trade unions disclosed under paragraph 21(1)(e); and</p> <p>(f) list any trusts disclosed under paragraph 21(1)(b.1).</p>	<p>The amendment to paragraph (d) is consequential on the amendment suggested to subsection 21(3) (material change).</p> <p>The statement of material change referred to in the current subsection 21(3) often relates to information that is not subject to public disclosure and therefore should not be included in the public registry. The current wording of the Code would appear to make it mandatory to include any statement of material change in the <i>Disclosure Summary</i> deposited in the public registry, irrespective of whether or not it relates to information subject to public disclosure.</p> <p>The suggested amendment to paragraph (e) is consequential on the amendment suggested to the new paragraph 21(1)(f) (current paragraph 21(1)(e)).</p>
<p><u>Deadline for disclosure summary</u></p> <p><u>24.1(1) A Member shall, within 120 days after the notice of his or her election to the House of Commons is published in the Canada Gazette sign the disclosure summary or revised disclosure summary prepared under subsection 23(1) and return it to the Commissioner.</u></p>		<p>This is a new section.</p> <p>There is currently no deadline in the Code for Members to sign the <i>Disclosure Summary</i> that is made available in the public registry. There is, however, a 60-day deadline under section 20 to submit the initial disclosure statement.</p> <p>Under the suggested amendments, a Member would have 60 days from the date of notice of his or her election in the Canada Gazette to file the disclosure statement (or, if re-elected, to review his or her previous disclosure statement). The Member would then have an additional 60 days within which to sign the <i>Disclosure Summary</i> prepared by my Office for the public registry. The suggested deadline would provide a reasonable amount of time for all Members to complete the disclosure process following a general election. It is noted that the deadline provided for under the <i>Conflict of Interest Act</i> within which a reporting public office holder must complete his or her compliance arrangements is 120 days from the date of appointment.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>Extension</u></p> <p><u>(2) The Commissioner may extend a deadline set out in subsection (1) if he or she is of the view that the extension is warranted in the circumstances.</u></p>		<p>It is also suggested that the Commissioner be given the discretion under subsection 24(2) to extend the 120-day deadline in appropriate circumstances.</p>
<p><u>Failure to comply</u></p> <p><u>24.2(1) The Commissioner shall notify any Member who fails to comply with subsection 20(1) or (5) or section 24.1 that a notice of failure to comply will be made public under subsection (2) unless those provisions are complied with within 10 days after the notice is received by the Member.</u></p>		<p>This is a new section.</p> <p>There are currently no measures under the Code, other than a formal inquiry under section 27 and a subsequent report to the Speaker under section 28, that deal with a failure to meet any of the deadlines related to disclosure. Information as to which Members have signed a <i>Disclosure Summary</i> is available through the public registry maintained on our website. However, there is no direct reporting on whether or not the various deadlines were met. The Committee could consider whether they feel it would be appropriate to make public a failure to meet any of those deadlines.</p>
<p><u>Public Inspection</u></p> <p><u>(2) Each notice of failure to comply prepared pursuant to this section shall include the nature of the failure to comply and the name of the Member who failed to comply, and shall be placed on file at the office of the Commissioner and made available for public inspection during normal business hours, and posted on the website of the Commissioner.</u></p>		<p>Subsection 24.2(2) suggests a possible approach. It would provide for a notice of failure to comply to be made public if a Member fails to file the disclosure statement or fails to sign the <i>Disclosure Summary</i> within the prescribed deadlines unless the failure is remedied within 10 days after the notice is received by the Member.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Evasion</p> <p>25. A Member shall not take any action that has as its purpose the circumvention of the Member's obligations under this Code.</p>	<p>Evasion</p> <p>25. A Member shall not take any action that has as its purpose the circumvention of the Member's obligations under this Code.</p>	<p><u>Section 25</u></p> <p>No change is suggested.</p>

**APPENDIX B:
INQUIRY REQUEST FORM
(FROM PAGE 12)**

See attached page.



CONFIDENTIAL

**REQUEST FOR AN INQUIRY UNDER SUBSECTION 27(1) OF THE
CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS**

Submit the signed and completed form to:

Office of the Conflict of Interest and Ethics Commissioner
66 Slater Street, 22nd Floor
Ottawa, Ontario K1A 0A6
Tel: 613-995-0721
Fax: 613-995-7308

A. General Contact Information

Under subsection 27(1) of the *Conflict of Interest Code for Members of the House of Commons* (the Code), Members of the House of Commons may request that the Conflict of Interest and Ethics Commissioner initiate an inquiry when they have reasonable grounds to believe that another Member has failed to comply with his or her obligations under the Code.

Please provide your contact information as a Member:

Name	
Title	
Address	<hr/> <hr/> <hr/> <hr/>
Telephone	
Fax	
Email	

B. Identity of Member

Please identify the Member(s) alleged to have contravened the Code.

Name	
Title	
Address	<hr/> <hr/> <hr/> <hr/>
Telephone	
Fax	
Email	

Name	
Title	
Address	<hr/> <hr/> <hr/> <hr/>
Telephone	
Fax	
Email	

[Add separate pages as necessary]

C. Grounds for Making Inquiry Request

Subsection 27(2) of the Code sets out two content requirements for all inquiry requests made by Members, namely that they: 1) identify the alleged non-compliance; and 2) set out the reasonable grounds for their belief that another Member has failed to observe his or her obligations under the Code. The Commissioner also asks that concerned Members identify which provisions of the Code they believe have been contravened.

Alleged non-compliance	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
------------------------	---

List of relevant events and/or facts supporting your reasonable grounds to believe that the Code has been contravened	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
---	---

Please indicate whether you provided supporting documentation: Yes: No:
Attach any supporting documentation to your request for inquiry.

Relevant provisions of the Code	<hr/> <hr/>
---------------------------------	-------------

[Add separate pages as necessary]

D. Declaration

I make this inquiry request in good faith and I declare that all of the information provided is true and accurate to the best of my knowledge.

I understand that it is my responsibility to provide the Conflict of Interest and Ethics Commissioner with all of the information required by this form and to attach any relevant documentation that I may have in my possession to support my request.

Signature _____

Date _____

Note: A Member who has either requested an inquiry or who intends to do so is precluded from making any public statements with respect to the request until he or she has been notified by the Commissioner that the Member who is the subject of the request has received a copy of the complaint.

The Commissioner is required to conduct all inquiries in private and must refrain from making any public comments about the inquiry process other than to confirm that an inquiry request has been received or that a preliminary review or inquiry has been commenced and/or completed. However, where, after conducting a preliminary review, she determines that an inquiry is not warranted, the Commissioner may make public her reasons for not proceeding when the matter to which the request relates has already been made public.

Members are required to cooperate with the Commissioner with respect to the conduct of any inquiry.

APPENDIX C:
AMENDMENTS TO THE DISCLOSURE PROVISIONS OF THE CODE – SECTIONS 27 AND 28
(FROM PAGES 13 TO 15)

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
		<p><u>Section 27</u></p> <p>Currently, section 27 of the Code sets out three mechanisms by which an inquiry may be commenced, namely:</p> <ul style="list-style-type: none"> • a request from a Member of the House of Commons; • a resolution from the House of Commons; and • a decision by the Conflict of Interest and Ethics Commissioner to self-initiate an inquiry. <p>The amendments would create three sections (27, 27.1 and 27.2) to provide separately for each of the three mechanisms by which an inquiry may be commenced.</p> <p>Section 27.3 would include in one section the provisions that apply generally to all inquiries.</p> <p>Section 27.4 would set out the powers of the Commissioner to summon witnesses and to compel evidence in conducting inquiries.</p>
<p>Request for an inquiry</p> <p>27.(1) A Member who has reasonable grounds to believe that another Member has not complied with his or her obligations under this Code may request that the Commissioner conduct an inquiry into the matter.</p>	<p>Request for an inquiry</p> <p>27.(1) A member who has reasonable grounds to believe that another Member has not complied with his or her obligations under this Code may request that the Commissioner conduct an inquiry into the matter.</p>	<p>The new section 27 includes the provisions specific to requests made by Members of the House of Commons. No substantive change is suggested to subsection 27(1) or (2).</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Form of request</p> <p>(2) The request shall be in writing, signed, and shall identify the alleged non-compliance and set out the reasonable grounds for that belief.</p>	<p>Form of request</p> <p>(2) The request shall be in writing, signed, and shall identify the alleged non-compliance and set out the reasonable grounds for that belief.</p>	<p>The French version of subsection 27(2) has been adjusted to include the element “the alleged non-compliance”, which is found in the English version but missing from the current French version.</p>
	<p>Direction by the House</p> <p>(3) The House may, by way of resolution, direct the Commissioner to conduct an inquiry to determine whether a Member has complied with his or her obligations under this Code.</p>	
<p>Notice</p> <p>(3) The Commissioner shall forward without delay <u>a copy of</u> the request for an inquiry to the Member who is the subject of the request and afford the Member 30 days to respond, <u>and shall notify the Member who has made the request when a copy has been received by the Member who is the subject of the request.</u></p>	<p>Notice</p> <p>(3.1) The Commissioner shall forward without delay the request for an inquiry to the Member who is the subject of the request and afford the Member 30 days to respond.</p>	<p>The new subsection 27(3) corresponds to the current subsection 27(3.1), which sets out the notice to be provided to the Member who is subject of a request for an inquiry.</p> <p>The additional words are consequential on the amendment suggested in subsection 27(4) relating to public comments.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p><u>Public statements limited</u></p> <p><u>(4) A Member shall make no public statement relating to a request he or she has made or intends to make under subsection (1) until the Member has been notified by the Commissioner that the Member who is the subject of the request has received a copy of the complaint pursuant to subsection (3).</u></p>		<p>This new provision is intended to regulate the circumstances in which a Member may make public comments with respect to a request for an inquiry. The Member who makes a request for an inquiry would be precluded from making any public commentary in relation to the request for inquiry until he or she is notified by the Commissioner, pursuant to subsection 27(3), that the Member who is the subject of the request has received a copy of it.</p> <p>My Office regularly learns of impending inquiry requests through the media. In some circumstances, no request is ever forwarded to my Office; in others, there are extensive delays before such requests are received. The proposed amendment to subsection 27(4) would not only reduce potential confusion, but would also assist in ensuring fairness by requiring that all interested parties as well as my Office be informed of the substance of a request before any public commentary is permissible.</p>
<p>Preliminary review</p> <p><u>(5) The Commissioner shall</u></p> <p><i>(a)</i> conduct a preliminary review of the request and the response to determine if an inquiry is warranted; and</p> <p><i>(b)</i> notify in writing both Members of the Commissioner’s decision within 15 working days of receiving the response.</p>	<p>Preliminary review</p> <p><u>(3.2) The Commissioner shall</u></p> <p><i>(a)</i> conduct a preliminary review of the request and the response to determine if an inquiry is warranted; and</p> <p><i>(b)</i> notify in writing both Members of the Commissioner’s decision within 15 working days of receiving the response.</p>	<p>The new subsection 27(5) corresponds to the current subsection 27(3.2). No change is suggested.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
	<p>Initiative of Commissioner</p> <p>(4) If, <u>after giving the Member concerned written notice and 30 days to respond to the Commissioner's concerns</u>, the Commissioner has <u>reasonable grounds to believe</u> that a Member has not complied with his or her obligations under this Code, the Commissioner may, on his or her own initiative conduct an inquiry to determine whether the Member has complied with his or her obligations under this Code.</p>	<p>The current subsection 27(4) would be moved to subsection 27.2(1) and (2) below.</p>
	<p>Public comments</p> <p>(5.1) Other than to confirm that a request for an inquiry has been received, or that a preliminary review or inquiry has commenced, or been completed, the Commissioner shall make no public comments relating to any preliminary review or inquiry.</p>	<p>Subsection 27(5.1) would be moved to in subsection 27.3(1) below.</p>
<p>Non-meritorious requests</p> <p>(6) If the Commissioner is of the opinion that a request for an inquiry was frivolous or vexatious or was not made in good faith, the Commissioner shall so state in dismissing the request in a report under subsection 28(6) and may recommend that further action be considered against the Member who made the request</p>	<p>Non-meritorious requests</p> <p>(6) If the Commissioner is of the opinion that a request for an inquiry was frivolous or vexatious or was not made in good faith, the Commissioner shall so state in dismissing the request in a report under subsection 28(6) and may recommend that further action be considered against the Member who made the request.</p>	<p>No change is suggested.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
	<p>Inquiry to be private</p> <p>(7) The Commissioner shall conduct an inquiry in private and with due dispatch, provided that at all appropriate stages throughout the inquiry the Commissioner shall give the Member reasonable opportunity to be present and to make representations to the Commissioner in writing or in person by counsel or by any other representative.</p>	<p>Subsection 27.3(3) would replace the current subsection 27(7).</p>
	<p>Cooperation</p> <p>(8) Members shall cooperate with the Commissioner with respect to any inquiry.</p>	<p>Subsection 27.3(4) would replace the current subsection 27(8).</p>
<p>Direction by the House</p> <p>27.1(1) The House may, by way of resolution, direct the Commissioner to conduct an inquiry to determine whether a Member has complied with his or her obligations under this Code.</p>		<p>Section 27.1 would include the provisions specific to inquiries directed by resolution of the House of Commons.</p> <p>No change is suggested to subsection 27.1(1) which corresponds to the current subsection 27(3).</p>
<p>Notice</p> <p>(2) The Commissioner shall forward without delay a copy of the resolution to the Member who is the subject of the resolution and shall afford the Member 30 days to respond.</p>		<p>This subsection, which corresponds to the current subsection 27(3.1), is parallel to subsection 27(3) proposed above.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Initiative of Commissioner</p> <p><u>27.2(1)</u> If the Commissioner has reason to believe that a Member has not complied with his or her obligations under this Code, the Commissioner may, on his or her own initiative, conduct an inquiry to determine whether the Member has complied with his or her obligations under this Code.</p>		<p>Section 27.2 would include the provisions specific to inquiries initiated by the Commissioner.</p> <p>Subsections 27.2(1) and (2) are new and are based on the current subsection 27(4). Two changes are reflected:</p> <ul style="list-style-type: none"> the 30-day delay, afforded to the Member who is the subject of the inquiry to respond to the allegations made in the inquiry request, has been moved to a new subsection (2); and the words “reasonable grounds to believe” have been changed to “reason to believe”, which is the standard used in section 45 of the <i>Conflict of Interest Act</i> for self-initiated examinations. There is little, if any, distinction to be made between these two phrases.
<p>Notice</p> <p><u>(2)</u> Before conducting an inquiry, the Commissioner shall notify the Member in writing of the reasons for the Commissioner’s belief that the Member has not complied with his or her obligations under this Code, and shall give the Member 30 days to respond.</p>		
<p>Preliminary review</p> <p><u>(3)</u> After reviewing the Member’s response, the Commissioner shall determine if an inquiry is still warranted and shall notify the Member in writing of the decision of the Commissioner within 15 working days of receiving the response.</p>		<p>This new subsection would parallel the preliminary review process for Member-initiated inquiries set out in new subsection 27(5). After receiving the Member’s response, the Commissioner would determine whether an inquiry is warranted and notify the Member of the decision.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Public comments</p> <p><u>27.3 (1) Subject to subsection (2), other than to confirm that a request or direction for an inquiry has been received, or that a preliminary review or inquiry has commenced, or been completed, the Commissioner shall make no public comments relating to any preliminary review or inquiry.</u></p>		<p>Section 27.3 addresses both the Commissioner’s authority to make public comments and the private nature of inquiries. It relates to all inquiries, however initiated.</p> <p>Subsection 27.3(1) is similar to the current subsection 27(5.1). The amendment would authorize the Commissioner to confirm that a direction as well as a request has been received. It would continue to provide that, as a general rule, the Commissioner is limited in her public comments and can only confirm that a direction or a request for an inquiry has been received and that a preliminary review or inquiry has been commenced or completed.</p>
<p><u>Where inquiry not warranted</u></p> <p><u>(2) Where the Commissioner determines that an inquiry is not warranted, the Commissioner may make public his or her reasons for not proceeding where the matter to which the request relates has already been made public.</u></p>		<p>Subsection 27.3(2) is new. It would provide that, where the matter to which a request for an inquiry has already been made public, the Commissioner be allowed to make public her reasons for determining that an inquiry is not warranted in the circumstances.</p> <p>As currently drafted, the Code requires the Commissioner to issue a public report when she determines that an inquiry is warranted as well as when she dismisses an inquiry request. At the present time, however, the Commissioner is prevented from publicly commenting on her reasons for determining, after conducting a preliminary review, that an inquiry is not warranted. In these circumstances, although the Commissioner informs both the Member who made the request and the Member who is the subject of the request of the reasons for which an inquiry is not warranted, this rationale is not made public. The basis for such decisions could be of general interest to other Members and could serve to both prevent misconceptions and clarify the Commissioner’s approach to interpreting a given section of the Code.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Inquiry to be private</p> <p>(3) The Commissioner shall conduct an inquiry in private and with due dispatch, provided that at all appropriate stages throughout the inquiry the Commissioner shall give the Member reasonable opportunity to be present and to make representations to the Commissioner in writing or in person by counsel or by any other representative.</p>		<p>No change is suggested in the English version. This subsection corresponds to the current subsection 27(7).</p> <p>The French version has been modified to reflect the English version which includes the concept of “appropriate” in the phrase “at all appropriate stages”.</p>
<p>Cooperation</p> <p>(4) Members shall cooperate with the Commissioner with respect to any inquiry.</p>		<p>No change is suggested. This subsection corresponds to the current subsection 27(8).</p>
<p>Powers of the Commissioner</p> <p><u>27.4 Except where the House otherwise orders, the Commissioner has the power to summon witnesses and require them</u></p> <p><u>(a) to give evidence – orally or in writing – on oath if they are persons entitled to affirm in civil matters, or on affirmation; and</u></p> <p><u>(b) to produce any documents and things, that the Commissioner considers necessary.</u></p>		<p>This is a new section. It would specifically provide the Commissioner with the power to compel documents and witnesses during an inquiry under the Code. Although Members of the House of Commons are required to cooperate with the Commissioner, there is no obligation on the part of other witnesses to participate in the process. If the Commissioner considered it necessary to issue a summons or to require the production of documents, the source of the Commissioner’s powers to compel evidence is unclear, as are the processes that would have to be followed. More particularly, it is unclear not only whether the Commissioner exercises such powers directly or through the Speaker of the House of Commons, but also what procedures should be followed in these circumstances.</p> <p>The suggested amendment largely mirrors the powers conferred upon the Commissioner by subsection 48(1) of the <i>Conflict of Interest Act</i>. It also recognizes that these powers would be exercised in a parliamentary context. In particular, paragraph (b) reflects the wording in paragraph 108(1)(a) of the <i>Standing Orders of the House of Commons</i> as it relates to the powers of standing committees to compel evidence.</p>

SUGGESTED AMENDMENTS	CURRENT PROVISIONS	EXPLANATORY NOTES
<p>Report to the House</p> <p>28.(1) Forthwith following an inquiry <u>or a dismissal under subsection 27(6)</u>, the Commissioner shall report to the Speaker, who shall present the report to the House when it next sits.</p>	<p>Report to the House</p> <p>28.(1) Forthwith following an inquiry, Commissioner shall report to the Speaker, who shall present the report to the House when it next sits</p>	<p>This subsection governs the process by which reports are issued and then acted upon by the House of Commons. There is only one technical amendment proposed to subsection 28(1). This technical amendment reflects the fact that a report may be tabled not only after an inquiry has been completed, but also after a dismissal under subsection 27(6).</p> <p>No other amendments to section 28 are suggested.</p>