



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

REVIEW OF THE CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS: PART 1

**Report of the Standing Committee on Procedure and
House Affairs**

Honourable Bardish Chagger, Chair

**JUNE 2022
44th PARLIAMENT, 1st SESSION**

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**Hon. Bardish Chagger
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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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has the honour to present its

ELEVENTH REPORT

Pursuant to its mandate under Standing Order 108(3)(a)(viii) and section 33 of the *Conflict of Interest Code for Members of the House of Commons*, the committee has studied the *Conflict of Interest Code for Members of the House of Commons* and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That, pursuant to Standing Orders 108(1)(a) and 108(1)(c), a Subcommittee on the *Conflict of Interest Code for Members of the House of Commons* be established to conduct a more in-depth and thorough review of the *Conflict of Interest Code for Members of the House of Commons* including but not limited to issues raised in the current study that require further consideration, and specifically the examination of the potential for a values-based code; that the Subcommittee be composed of five (5) members, of which two (2) shall be from the Government party, one (1) from the Official Opposition, one (1) from the Bloc, and one (1) from the NDP; that the Whip of each party deposit with the Clerk of the Standing Committee on Procedure and House Affairs a list of his or her party’s members to serve on the Subcommittee; that the Whip of each party submit his or her initial list of members to serve on the Subcommittee; that membership substitutions be permitted from time to time, if required, in the manner provided for in Standing Order 114(2); that the Subcommittee be chaired by a member of the Government party; and that the Subcommittee be granted all the powers of the Committee pursuant to Standing Order 108(1) except the power to report directly to the House..... 11

Recommendation 2

That the *Conflict of Interest Code for Members of the House Commons* be amended to exclude interns from the definition of “benefit” under sections 3 (1)(a) and (b)..... 16

Recommendation 3

That section 27(2.1) of the *Conflict of Interest Code for Members of the House Commons* be amended to provide that a member who has requested that an inquiry be launched cannot make public comments about this inquiry until the Commissioner has completed the preliminary review of the request and both members have been notified under section 27(3.2)(b); and 29

Recommendation 4

That section 27(5.1) of the *Conflict of Interest Code for Members of the House Commons* be amended to delete all of “(i) confirm that a request for an inquiry has been received” and replace current (ii) with the following wording:
(ii) confirm that a preliminary review has been completed..... 29

Recommendation 5

That sections 31 and 31.1 of the *Conflict of Interest Code for Members of the House Commons* be amended to remove the language suggesting that documents provided to the Commissioner pursuant to the Code are compellable by a court. 36

Recommendation 6

That the *Conflict of Interest and Ethics Code for Members of the House of Commons* be amended to require individualized mandatory training for members, which includes the use of educational scenarios, within the first 120 days after their confirmation of election. 37

Recommendation 7

That the Conflict of Interest and Ethics Commissioner create guidelines for members to instruct them about the appropriate use of endorsements for other persons or entities. 39

Recommendation 8

That section 3(1) of the *Conflict of Interest Code for Members of the House Commons* be amended to incorporate by reference the definition of “parliamentary functions” used in the *Members By-law*. 39

Recommendation 9

That the French-language version of section 3(3) of the *Conflict of Interest Code for Members of the House Commons* be amended to match the reading of the English-language version. 41

Recommendation 10

That in the *Conflict of Interest Code for Members of the House Commons*, sections 21(1)(a)(i) and (ii) be amended to read “\$10,000 or more,” and section 21(1)(b) to read “\$1,000 or more.”..... 42

Recommendation 11

That the reference in section 23(2) of the *Conflict of Interest Code for Members of the House Commons* to public inspection of the paper file be struck from this provision. 43

Recommendation 12

That the French-language version of section 27(2) of the *Conflict of Interest Code for Members of the House Commons* be amended to include a reference to the provision that is alleged to have been contravened. 43

Recommendation 13

That the Clerk of the House be authorized to make any required editorial and consequential alterations to the Standing Orders. 43



REVIEW OF THE *CONFLICT OF INTEREST CODE* FOR MEMBERS OF THE HOUSE OF COMMONS: PART 1

INTRODUCTION

On 3 February 2022, pursuant to its mandate under Standing Order 108(3)(a)(viii) and section 33 of the *Conflict of Interest Code for Members of the House of Commons* (“the Code”), the Standing Committee on Procedure and House Affairs (“the Committee”) began a comprehensive review of the Code.

Section 33 of the Code sets out that the Committee must conduct a comprehensive review of the provisions and operation of the Code, within every five-year period following the preceding comprehensive review. The Committee must report the results of its review to the House of Commons.

As part of the review, the Committee heard from 12 witnesses during three meetings. The Committee wishes to extend its sincere gratitude to all witnesses who participated in this study for their insights and valuable contributions.

BACKGROUND

A. The Conflict of Interest Code for Members of the House of Commons

All members of the House of Commons are subject to the Code. The Code is Appendix I to the *Standing Orders of the House of Commons*.

The legal basis for the Code derives from the constitutional rights and immunities possessed by the Parliament of Canada and its members known as parliamentary privilege. Recognized as part of these rights are the House’s right to regulate its internal affairs and to discipline its members. Members found by the Conflict of Interest and Ethics Commissioner (the Commissioner) to have deliberately contravened the



guidelines contained in the Code would be subject to the disciplinary powers possessed by the House of Commons.¹

The Code should not be confounded with the *Conflict of Interest Act*, a statute that applies to public office holders, including members of the House who are ministers of the Crown, ministers of state and parliamentary secretaries, but not all members. In contrast, the Code applies to every member of House of Commons, including ministers and parliamentary secretaries.

The Code provides a set of rules of conduct for members. It establishes a disclosure process under which members, their spouses, and their family members are required annually to disclose information about, among other things, their assets, liabilities and sources of income.

The Code also establishes an inquiry process under which a complaint against a member for an alleged failure to comply with an obligation under the Code can be investigated by the Commissioner. In carrying out duties under the Code and the *Parliament of Canada Act*,² the Commissioner possesses the same privileges and immunities, under parliamentary privilege, as does the House and its members.³

The Code was first adopted in 2004, following the presentation in the House of the Committee's Twenty-Fifth Report.⁴ It came into force at the beginning of the 38th Parliament. Since that time, the Committee has reviewed and recommended amendments to the Code in June 2007, February 2008, June 2009 and June 2015.

B. The Role of the Committee in Respect of the Code

The *Parliament of Canada Act* provides that the Commissioner carries out duties and functions that relate to the conduct of members under the general direction of a committee of the House of Commons designated or established for that purpose.⁵ The

1 Marc Bosc and André Gagnon, eds., "[Chapter 3: Privileges and Immunities – Power to Discipline](#)," *House of Commons Procedure and Practice*, 3rd ed., 2017.

2 [Parliament of Canada Act](#), R.S.C., 1985, c. P-1.

3 House of Commons, Standing Committee on Procedure and House Affairs (PROC), *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1100 (Charles Robert, Clerk of the House of Commons).

4 PROC, *Twenty-Fifth Report*, 37th Parliament, 3rd Session, presented on 27 April 2004, concurred in on 29 April 2004.

5 *Parliament of Canada Act*, s. 86(3).

House of Commons Standing Committee on Procedure and House Affairs has been designated as this committee.

The mandate of the Committee includes, pursuant to Standing Order 108(3)(a)(viii), “the review of and report on all matters relating to the Conflict of Interest Code for Members of the House of Commons.” As such, the duties and functions of the Commissioner that relate to the Code fall under the jurisdiction of the Committee.

The Commissioner can appear before the Committee about duties performed under the Code, provide proposed amendments to the Code, and is required by the Code to submit any procedural and interpretative guidelines, and all forms, to the Committee for approval. The Committee is also instructed under the Code to conduct a comprehensive review of the Code every five years.

The Commissioner is required to submit an annual report to the House of Commons on the office’s activities under the *Conflict of Interest Act*, as well as an annual report on their activities under the *Parliament of Canada Act*.

It should, again, be noted that the Committee’s mandate with respect to the Commissioner ought not to be confounded with the mandate of the House of Commons Standing Committee on Access to Information, Privacy and Ethics. The latter is responsible for the *Conflict of Interest Act* applicable to public office holders. The mandates of the two committees are separate, and do not overlap.

C. Summary of the 2012/2015 Review of the Code

In May 2012, the Committee began a comprehensive review of the Code. However, prior to its completion, the Committee’s review was interrupted by competing priorities and was only recommenced in February 2015.

For its study, the Committee held 12 meetings: three public meetings where it heard from witnesses, and nine in camera meetings where it deliberated on potential changes to the Code or considered a draft report.

In its Thirty-Ninth Report,⁶ the Committee made ten substantive recommendations related to the Code. The proposed amendments dealt with

6 PROC, *Review of the Conflict of Interest Code for Members of the House of Commons*, Thirty-Ninth Report, June 2015.



- gifts and other benefits (lowering the threshold for declaration from \$500 to \$200);
- sponsored travel (lowering the threshold for declaration from \$500 to \$200 and altering the public disclosure obligations);
- changes to time periods for the compliance process related to the preparation of a member's disclosure statements; and
- matters related to inquiries conducted by the Commissioner (allowing for public comments by the Commissioner when an inquiry is not pursued, and a confidentiality requirement for members requesting an inquiry lasting a certain period of time).

The House concurred in the Committee's report in June 2015.

TOPICS, DISCUSSION AND RECOMMENDATIONS

At their core, the conflict of interest frameworks enacted by legislative bodies are used to demonstrate and ensure integrity of conduct of its members and increase public trust. The overarching goal of the Code is to maintain and enhance public confidence in Parliament and members of the House of Commons. The Code also serves an important function in preventing conflicts of interest by ensuring transparency and allowing members to seek advice and guidance from the Commissioner in advance of any problem.

The Committee holds a strong interest in ensuring that the Code responds to the public's expectations. Charles Robert, Clerk of the House of Commons, told the Committee that its review of the Code forms part of an ongoing incremental development of a conflict of interest framework that seeks to demonstrate that members' work is fully in accord with ethical standards and representative standards.⁷

In carrying out its work, the Committee has undertaken to fully assess the operation of the current Code. However, the Committee is mindful that the Commissioner has stated that

7 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1130 (Robert).

in my view a review is not required at this point. The Code is working. There are no situations where we are prevented from doing what is right, what is in keeping with the objectives of the code, because of a loophole, because of an obstacle in the Code.⁸

Nonetheless, the Committee takes seriously its role under section 33 of the Code. During its review, it heard the opinions, concerns and viewpoints of witnesses, including present and former federal, provincial, territorial, and international commissioners, and observers. This testimony has greatly assisted the Committee in its work and informed its recommendations. The topics and recommendations that the Committee heard during its study are outlined in below.

A. Purposes and principles of the Code

1. Topic

Should the purposes and principles currently outlined in the Code be reviewed?

2. Current requirement(s) under the Code

Pursuant to section 1 of the Code, its purposes are:

- (a) 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;
- (b) demonstrate to the public that members are held to standards that place the public interest ahead of their private interests and to provide a transparent system by which the public may judge this to be the case;
- (c) provide for greater certainty and guidance for members in how to reconcile their private interests with their public duties and functions; and
- (d) foster consensus among members by establishing common standards and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan adviser.

Section 2 of the Code outlines the principles the House expects its members to follow, given that service in Parliament is a public trust. These principles include, among others,

8 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 3, 14 December 2021, 1110 (Mario Dion, Conflict of Interest and Ethics Commissioner).



serving the public interest and representing constituents to the best of their abilities, fulfilling public duties with honesty, avoiding real or apparent conflicts of interests, and not accepting gifts that might reasonably be seen to compromise their personal judgment or integrity.

3. Relevant written submissions or testimony

While no witness recommended specific amendments to the principles and purposes currently set out in the Code, several addressed its role in enhancing public trust in the House of Commons and its members.

Responding to a question as to whether some of the guiding principles of the Code might be enhanced as to better build moral judgment among members of the House, Mr. Robert expressed that the basis of the Code is largely reputational, as it mainly establishes minimum boundaries one must follow to ensure the overall reputation of Parliament with the public.⁹

On the topic of public trust in the democratic process, Dr. Kathryn Stone, Parliamentary Commissioner for Standards of the United Kingdom House of Commons, told the Committee that a code is not simply a guide that identifies a wrong, but must also be an educative and informative tool to enhance greater understanding of what conduct can be expected of elected representatives.¹⁰ In her written submission, she indicated that public office requires not only understanding, but also following these principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.¹¹

4. Recommendation(s)

The Committee recommends:

9 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1120 (Robert).

10 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1225 (Kathryn Stone, Commissioner, House of Commons, United Kingdom Parliament); Office of the Parliamentary Commissioner for Standards, *Written submission*.

11 Office of the Parliamentary Commissioner for Standards, *Written submission to the Committee*. These seven principles, known as the “Nolan principles” or the “Seven Principles of Public Life”, were first identified by Lord Nolan in 1995 in the first report of the United Kingdom’s Committee on Standards in Public Life. See: U.K. Government, [*The Seven Principles of Public Life*](#), 31 May 1995.

Recommendation 1

That, pursuant to Standing Orders 108(1)(a) and 108(1)(c), a Subcommittee on the *Conflict of Interest Code for Members of the House of Commons* be established to conduct a more in-depth and thorough review of the *Conflict of Interest Code for Members of the House of Commons* including but not limited to issues raised in the current study that require further consideration, and specifically the examination of the potential for a values-based code; that the Subcommittee be composed of five (5) members, of which two (2) shall be from the Government party, one (1) from the Official Opposition, one (1) from the Bloc, and one (1) from the NDP; that the Whip of each party deposit with the Clerk of the Standing Committee on Procedure and House Affairs a list of his or her party's members to serve on the Subcommittee; that the Whip of each party submit his or her initial list of members to serve on the Subcommittee; that membership substitutions be permitted from time to time, if required, in the manner provided for in Standing Order 114(2); that the Subcommittee be chaired by a member of the Government party; and that the Subcommittee be granted all the powers of the Committee pursuant to Standing Order 108(1) except the power to report directly to the House.

B. Interns in members' offices (section 3(1))

1. Topic

Interns in members' offices.

2. Current requirement(s) under the Code

Currently, the Code makes no explicit mention of interns working in members' offices. However, on 4 October 2018, the Commissioner issued an advisory opinion to all members, under subsection 26(4) of the Code, stating that interns placed by third parties in members' offices constitute a benefit under section 3 of the Code. It should be noted that this advisory opinion is not posted on the Commissioner's website.

As such, the offer of interns placed by a third party working in a member's office is subject to the acceptability test under section 14(1) and the disclosure obligations under section 14(3).



3. Relevant written submissions or testimony

A summary of the Commissioner's 4 October 2018 advisory opinion can be found in the Commissioner's *Annual Report 2018-2019 in respect of the Conflict of Interest Code for Members of the House of Commons*. In it, Mr. Dion indicates that members who accept intern services could be in a conflict of interest in respect of the organization that sponsors the intern.¹²

The 2018-2019 annual report states that unpaid interns are deemed by the Commissioner's office to be benefits and, therefore, must be made subject to the acceptability test.¹³ Members are not permitted to accept intern services from organizations that are registered to lobby the House of Commons.

Mr. Dion indicates that interns are deemed by his office to be benefits because members benefit from the provision of free labour, interns benefit from receiving parliamentary experience, and the sponsoring organizations may benefit, and some of which may be registered to lobby the House of Commons.

Further, Mr. Dion indicated in the annual report that unpaid interns from third party organizations are in fact not "unpaid;" they are paid by the organization that placed them.

Philippe Dufresne, Law Clerk and Parliamentary Counsel, indicated to the Committee that following the publication of the Commissioner's advisory opinion, he shared with the Commissioner his understanding that the provision of interns by the Parliamentary Internship Program is consistent with the Code, provided that the members are not likely to have official dealings with the organization and they report the service within 60 days after the start of the internship. Mr. Dufresne further told the Committee that it might want to consider whether and to what extent the provision of interns to members free of charge ought to be permissible under the Code.¹⁴

The Hon. J. David Wake, Ontario's Integrity Commissioner, told the Committee that Ontario's Legislature has a legislative intern program.¹⁵ Ariane Mignolet, Quebec's Ethics

12 Office of the Conflict of Interest and Ethics Commissioner, [*Annual Report 2018-2019 in respect of the Conflict of Interest Code for Members of the House of Commons*](#), 2019.

13 Ibid.

14 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1110 (Philippe Dufresne, Law Clerk and Parliamentary Counsel).

15 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1230 (Hon. J. David Wake, Commissioner, Office of the Integrity Commissioner of Ontario).

and Deontology Commissioner, told the Committee that Quebec's National Assembly has an internship program with its financing provided by a foundation, and that the program has not raised any issues.¹⁶

Furthermore, the Committee heard from three witnesses who represent organizations that have had their parliamentary internship program adversely affected or discontinued as a result of the Commissioner's October 2018 advisory opinion: Anne Dance, the former Director of the Parliamentary Internship Programme; Shimon Koffler Fogel, President and Chief Executive Officer, Centre for Israel and Jewish Affairs; and Paul Thomas, the current Director of the Parliamentary Internship Programme.

These three witnesses raised numerous concerns with the Committee about the 2018 advisory opinion and its negative impact on parliamentary internship programs. These included that the 2018 advisory opinion:

- Limited access to quality paid working opportunities in the parliamentary setting, especially for youth and in some cases, ethnic and marginalized communities.¹⁷ Numerous internship programs ended as a result of the advisory opinion, including but not limited to, the Centre for Israel and Jewish Affairs, the Canada-Poland Youth Internship Program, the National Council on Canada-Arab Relations, the Parliamentary Internship and Mentoring Program run by the Korean Canadian Scholarship Foundation, the Ukrainian Canadian Congress' internship program and the Canadian Tibet Committee's internship program.
- Reduced the representative nature of participants able to access parliamentary internships.¹⁸
- Created puzzling inconsistency between which interns are permitted and not permitted to work for members.¹⁹

16 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1230 (Ariane Mignolet, Ethics and Deontology Commissioner, National Assembly of Quebec).

17 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1135 (Anne Dance, Former Director, Parliamentary Internship Programme, As an Individual); PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1145 (Shimon Koffler Fogel, President and Chief Executive Officer, Centre for Israel and Jewish Affairs); and PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1135 (Dr. Paul Thomas, Director, Parliamentary Internship Programme).

18 Ibid., 1155 (Dance); and Ibid., 1220 (Fogel).

19 Ibid., 1140 (Thomas).



- Appeared legally inconsistent with section 3(1)(b) of the Code, which defines “benefit” as a “a service or property, or the use of property or money that is provided without charge or at less than its commercial value, other than a service provided by a volunteer working on behalf of a Member.”²⁰
- Made no improvement to the overall transparency of parliamentary internship programs.²¹

Mr. Thomas noted that the Code gives no guidance on the use of interns and the 2018 advisory opinion is posted nowhere on the Commissioner’s website. In fact, its actual text can only be found by using an internet search tool that brings up an archived version of the Commissioner’s website as it appeared in 2018.²² This is a matter of concern to the Committee as both members of the House and outside bodies seeking to launch a parliamentary internship program could run afoul of the advisory opinion, and create a conflict of interest, without knowing it.

Mr. Fogel told the Committee that the characterization of interns as a gift and other benefit to a member was dubious. He noted that public office holders have told him that having an intern provided them with a minimal benefit and often, no benefit at all. He further stated his organization facilitates the parliamentary internship program but derives no direct benefit from it.²³

Similarly, Ms. Dance told the Committee that, in her view, the classification in the 2018 advisory opinion of young professionals as gifts and other benefits was misleading, inaccurate and inappropriate.²⁴ Instead she stated that these were young professionals seeking to gain educational experience and that regarding them as gifts can lead to troubling and wholly unwanted connotations.²⁵

Mr. Fogel made the point that his organization represents a community that feels an imperative to contribute to the country, and encourage and foster a sense of belonging

20 Centre for Israel and Jewish Affairs, *Testimony by Shimon Koffler Fogel, President and Chief Executive Officer*, Written submission to the committee, 15 February 2022.

21 Ibid., 1135 (Thomas).

22 Ibid., 1215.

23 Ibid., 1150 (Fogel).

24 Ibid., 1135 (Dance).

25 Ibid.

and meaningful contribution to the upbuilding of Canada through public service.²⁶ He further noted that marginalized or ethnic communities do not necessarily have easy or equal access to programs that would encourage that kind of engagement.

Ms. Dance also noted that interns in the parliamentary setting often lack training and support infrastructure to guide their work.²⁷

In terms of a solution, Ms. Dance, Mr. Fogel and Mr. Thomas favoured the establishment of a framework for parliamentary interns that provided accountability, transparency and consistency.²⁸

Mr. Fogel suggested that the Committee consider using a framework for the use of parliamentary interns that was similar to the treatment of sponsored travel under the Code. Participating entities would register the volunteer, disclose the source of sponsorship and the information could be published publicly on a yearly basis.²⁹ Similarly, Mr. Thomas told the Committee that Parliament would benefit from having a formal registry of internship programs.³⁰

4. Recommendation(s)

The Committee considers parliamentary internship experiences to be invaluable opportunities for individuals to gain first-hand experience about parliamentary work and the functioning of the country's democracy. Likewise, members who host a parliamentary intern are given the opportunity to interact with young professionals from across the country and who have diverse academic and social backgrounds.

The Committee considers it important that parliamentary internship programs be regulated in a transparent, accountable and consistent manner.

Therefore, the Committee recommends:

26 Ibid., 1145 (Fogel).

27 Ibid., 1145 (Dance).

28 For example, Ibid., 1245 (Fogel).

29 Ibid.

30 Ibid., 1200 (Thomas).



Recommendation 2

That the *Conflict of Interest Code for Members of the House Commons* be amended to exclude interns from the definition of “benefit” under sections 3 (1)(a) and (b).

C. Defining a friend and expanding the definition of family members (sections 3(4), 8 to 10, 12 and 13)

1. Topic

Should the definition of “family” be expanded under the Code, and should furtherance of the private interests of a friend be analogous to furtherance of the private interests of one’s family?

2. Current requirement(s) under the Code

Pursuant to sections 8 to 10 of the Code, members of the House must not, in the context of their parliamentary role, act, influence another person’s decision or use insider information to further their own private interests and the private interests of members of their family. Further, members must not improperly further the private interests of another person or entity. The impropriety requirement is only applied when the interests in question are not those of the member or their family.

Section 12 of the Code requires for the disclosure of a private interest by a member for matters before the House or a Committee, while section 13 indicates a member must not participate in debate or vote on a question in which they have a private interest.

“Family,” as defined under section 3(4) of the Code, includes the member’s spouse or common-law partner, as well as minor or financially dependent children or children of their spouse or partner. Other relatives, such as parents or siblings, are not considered family members for the purpose of the Code.

3. Relevant written submissions or testimony

i. Expanding the current definition of family

In his written submission to the Committee, Mr. Dion recommended expanding the definition of family to align more closely with the definition of family of the *Members By-law*, which includes, among others, a member’s siblings, parents and in-laws. This would result in other consequential amendments needing to be made

throughout the Code, such as identifying which requirements should apply to this extended family and when only partners and dependent children should be concerned.

Mary Dawson, former Conflict of Interest and Ethics Commissioner of Canada, pointed out that she made a similar recommendation to the Committee in 2015, and therefore supports Mr. Dion's recommendation.³¹

Questioned on the definition of family, Mr. Dufresne indicated that although Mr. Dion's proposition would harmonize the definition included in the Code with that of the *Members By-law*, he cautioned that the by-law and the Code have different objectives and purposes. Mr. Dufresne stressed that the objective of potentially creating a new definition of family was to prevent the furthering of interests of more family members. As such, should the Committee adopt a new definition, it should not be expanded beyond the objective of the change.³²

Ms. Mignolet told the Committee that Quebec's *Code of Ethics and Conduct for Members of the National Assembly*³³ confines its definition of family to a member's spouse, dependent child and dependent stepchild.³⁴

David Phillip Jones, who serves concurrently as both the Yukon's Conflict of Interest Commissioner and the Northwest Territories' Integrity Commissioner, told the Committee that, in the relevant legislation in place in both territories he oversees, the definition of family is limited to the nuclear family. That is the member's spouse, children, adopted children and dependent children.³⁵ In a written submission provided to the Committee about the Northwest Territories, Mr. Jones stated that, in his view, an expanded definition of family was not necessary or workable. He noted that this was because the information about persons caught within the definition of family must be disclosed to the Integrity Commissioner and listed in the public disclosure statement.³⁶

31 Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*.

32 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1110 (Dufresne).

33 [LégisQuébec, C-23.1 - Code of ethics and conduct of the Members of the National Assembly](#).

34 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1250 (Mignolet).

35 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1250 (David Phillip Jones, Yukon Conflict of Interest Commissioner, and Northwest Territories Integrity Commissioner, Yukon Legislative Assembly and Northwest Legislative Assembly).

36 Northwest Territories Legislative Assembly, *Responses to Questions Asked by Committee Members*, Written submission to the committee, 15 February 2022.



Similarly, Mr. Wake told the Committee that under Ontario's *Member's Integrity Act*,³⁷ the definition of family is the member's nuclear family: the spouse, minor children and any other adult related to the member or spouse who shares a residence with the member and is primarily dependent on the member or spouse for financial support.³⁸

The Committee heard clearly from this testimony that most witnesses did not favour expanding the current definition of "family members" found in the Code, with the exception of the current and former federal Conflict of Interest and Ethics commissioners.

ii. Adding definition of a friend

Mr. Dion told the Committee that he is of the view that it would be worth amending the Code to prohibit a member from furthering a friend's private interests under sections 8 to 10, and to address subsequent disclosure and recusal obligations under sections 12 and 13. In his written submission, Mr. Dion underlines that, currently, furthering a friend's private interests must be qualified as improper to constitute a breach of a member's obligation under the Code. His suggested amendment would make it so that furthering the private interests of a friend would be considered as inherently improper, as is currently the case for members of the family. In his appearance before the Committee, Mr. Dion indicated that such a change would align these provisions of the Code to those of the *Conflict of Interest Act*.³⁹

Ms. Dawson pointed out that she made a similar recommendation to the Committee in 2015, and therefore supports Mr. Dion's recommendation.⁴⁰ In 2009, in a report conducted under the *Conflict of Interest Act* rather than the Code, Ms. Dawson indicated that a friend can include a "range of relationships," but that there should be "a close bond of friendship, a feeling of affection or a special kinship" between the public office holder and the other person to qualify as a friendship. The report further specifies that the office of the Commissioner "has interpreted friend, for the purposes of the Act, to

37 Ontario, *Members' Integrity Act*, 1994, S.O. 1994, c. 38.

38 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1235 (Wake).

39 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 5, 3 February 2022, 1125 (Dion).

40 Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*; PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1235 (Mary Dawson, Former Conflict of Interest and Ethics Commissioner).

mean a person with whom one has some history of mutual personal regard beyond simple association.”⁴¹

Mr. Wake told the Committee that, in his view, introducing the term friend into Ontario’s *Member’s Integrity Act* would be a “particularly problematic area.”⁴² Instead, he stated that under the Ontario legislation friends are treated as other persons: “[w]e’ve referred to it as ‘another person,’ and let it go at that.”⁴³

Ms. Mignolet told the Committee that Quebec’s code does not contain a definition of the term friend. Instead, friends are treated as “other persons.”⁴⁴

Mr. Jones told the Committee that the relevant legislation in the Yukon and Northwest Territories does not contain a definition of friends. He noted that friends are considered private persons whose interests cannot be improperly forwarded by a member.⁴⁵

For his part, Duff Conacher, Co-Founder of Democracy Watch, is of the view that friends should be covered by the Code.⁴⁶

4. Recommendation(s)

i. Expanding the current definition of family

Given that most witnesses did not favour expanding the current definition of “family members” found in the Code, with the exception of the current and former federal Conflict of Interest and Ethics commissioner, the Committee is of the view that the current definition of family set out in the *Conflict of Interest Code for Members of the House Commons* is adequate to ensure that a member does not seek to further the interests of persons in their immediate family circle. Any attempt to further the interests of other family members are sufficiently covered under the Code through the prohibition against improperly furthering the interests of another person.

41 Office of the Conflict of Interest and Ethics Commissioner, *The Watson Report*, 25 June 2009.

42 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1235 (Wake).

43 Ibid.

44 Ibid., 1235 (Mignolet).

45 Ibid., 1235 (Jones).

46 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1245 (Duff Conacher, Co-Founder, Democracy Watch).



ii. Adding definition of a friend

On balance, the Committee is of the view that the current restrictions against improperly furthering the interests of another person adequately protects against having a member use their position to further the interests of a friend. Indeed, the friendship status of an individual can already be taken into account in order to qualify the conduct of a member as being proper or not under the current Code. Attempting to crystallize such a prohibition under the *Conflict of Interest Code for Members of the House Commons* also creates issues regarding the definition of a friendship, which will differ from person to person.

D. Members engaging in professional activities outside of Parliament (section 7)

1. Topic

Should members of the House of Commons be permitted, under the Code, to engage in certain professional activities outside of Parliament?

2. Current requirement(s) under the Code

Currently, section 7 of the Code makes it explicit that members who are not ministers of the Crown or parliamentary secretaries can engage in certain professional activities in addition to carrying out their parliamentary functions as members of the House of Commons. This permission is subject to these members being able to fulfill their obligations under the Code.

The Code enumerates the professional activities that members can engage in outside of Parliament as follows:

- (a) engaging in employment or in the practice of a profession;
- (b) carrying on a business;
- (c) being a director or officer in a corporation, association, trade union or non-profit organization; and
- (d) being a partner in a partnership.

3. Relevant written submissions or testimony

In his written submission to the Committee, Mr. Dion recommended to the Committee that current section 7 of the Code be repealed. In its place, he proposed a new section be added that prohibited members from engaging in the same outside activities listed under current section 7. This new section would contain an exception to permit outside activities that the Commissioner determines are not incompatible with a member's parliamentary duties and functions.

According to Mr. Dion, many activities engaged in by members of the House outside of Parliament, especially those done for remuneration, were in his view incompatible with service to Parliament. He stated that when members engage in activities that seek to further their private pecuniary interests, the public interest is not best served.⁴⁷

Ms. Dawson indicated that she would leave the assessment of the merits of Mr. Dion's recommendation to the Committee. However, she noted that it could significantly lower the number of members able to start or continue to undertake such employment or activities. She further stressed that this change would effectively reverse the burden of proof onto the members, requiring them to satisfy the Commissioner that any outside activities were not incompatible with their role as a member of House.⁴⁸

In a written submission provided to the Committee, Mr. Dion provided further information about members engaging in professional activities outside of Parliament. While the initial disclosure process was underway, following the 44th general election, 25 members had disclosed one or more positions in private corporations, which may or may not be remunerated. Of these, 20 members disclosed earning an income of \$10,000 or more from these outside activities. In the 43rd Parliament, 67 Members disclosed one or more positions in private corporations, which may or may not be remunerated. Of these, 51 members disclosed earning income of \$10,000 or more from these outside activities.⁴⁹

47 Office of the Conflict of Interest and Ethics Commissioner, *Standing Committee on Procedure and House Affairs: Section 33 Comprehensive Review of the Conflict of Interest Code for Members of the House of Commons*, 2 February 2022, p. 4.

48 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1235 (Dawson); Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*.

49 Office of the Conflict of Interest and Ethic Commissioner, *Responses to Questions Asked by Committee Members*, Written submission to the committee, 21 February 2022.



Mr. Wake, Mr. Jones and Ms. Mignolet all told the Committee that no restrictions exist in their respective jurisdictions to prohibit members who are not cabinet ministers from engaging in professional activities outside of the legislature.⁵⁰

Mr. Wake noted that should it come to his attention that a member has been conducting work that may place that person in a conflict of interest, he would deal with it on a case-by-case basis.⁵¹

Mr. Jones stated that ministers can seek permission from the Commissioner to engage in certain activities, such as work done for not-for-profit organizations.⁵²

Ms. Mignolet told the Committee that Quebec's code sets out certain offices and posts that are "incompatible" with being a member of the Assembly and which no member is permitted to assume.⁵³

The offices listed as incompatible in the code are: municipal council, a school service centre's board of directors, or a school board council. The posts listed as incompatible in the code are: the government of Quebec or one of its departments or a public body; the government of Canada, the government of another province or of a territory, or a department or agency of such a government, except the regular Armed Forces or the Reserve; a foreign country; or an international non-profit organization.⁵⁴

For her part, Dr. Stone told the Committee that the United Kingdom House of Commons' code was currently undergoing review, and that one of the questions raised was whether their code should include limitations for outside roles members of Parliament can engage in while in office, as well as limitations on the amount that can be earned through such work. She reported that the current consensus for acceptability seems to be falling around whether the outside activities create a conflict of interest for the member. She indicated that, in her view, if a member earns more money and spends more time on another role, primary consideration is no longer given to those who elected that member.⁵⁵

50 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1255 (Wake); *Ibid.*, 1255 (Jones); and *Ibid.*, 1255 (Mignolet).

51 *Ibid.*, 1255 (Wake).

52 *Ibid.*, 1255 (Jones).

53 *Ibid.*, 1255 (Mignolet).

54 *Code of Ethics and Conduct for Members of the National Assembly*, s. 11.

55 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1230 (Stone).

4. Recommendation(s)

On balance, the Committee is of the view that the existent safeguards found in the Code to ensure the outside activities of members do not place them in a conflict of interest have functioned in a suitable, fair and acceptable manner. The Committee will continue to monitor the functioning of section 7 of the Code but it makes no recommendations for amendments to it at this time.

E. Establish a minimum threshold for gifts and other benefits (section 14)

1. Topic

Should section 14 of the Code include a minimum threshold for the acceptability of gifts and other benefits?

2. Current requirement(s) under the Code

Currently, the Code only provides for a maximum threshold above which gifts or other benefits received by a member requires declaration with the Commissioner (i.e., \$200 value or the same source giving a member gifts totalling a \$200 value during a 12-month period).

Further, the acceptability of a member receiving gifts from a source is subject to a “reasonableness test” set out in the Code (section 14(1)). This test provides that members and their family must not accept gifts and benefits that might reasonably be seen as being given to influence them in their parliamentary duties or functions.

Exempted from the acceptability test are gifts or other benefits received as normal expressions of courtesy or protocol, or within the customary standards of hospitality that normally accompany the member’s position. These exempted gifts are considered acceptable.

Acceptable and exempted gifts and benefits received by a member and their family are subject to a \$200 disclosure threshold provided for under section 14(3) of the Code.

3. Relevant written submissions or testimony

In his written submission to the Committee, the Commissioner recommended that the Code be amended to add a new subsection that sets out a minimum all-inclusive



threshold of \$30 in a 12-month period, for which the acceptability of a gift or other benefit must be assessed. In Mr. Dion's view, gifts received by a member below this \$30 threshold during a 12-month period are unlikely to present any conflict of interest, provided the gifts are not a recurring practice from the same donor.⁵⁶ This proposed amendment to the Code would include, in particular, the receipt by members of meals or refreshments offered by a lobbyist.

In her written submission, Ms. Dawson noted that Mr. Dion's recommendation aligns with a practice developed during her time as Commissioner. According to this practice, it was assumed that a gift of less than \$30 was of such minimal value that it would be very unlikely to create a conflict of interest. However, she noted that she was unsure whether Mr. Dion's proposed amendment would add clarity for members about the receipt of gifts. She further stated that it might be preferable not to make this a firm rule in the Code, but that she would leave that assessment to the Committee.⁵⁷ She also noted that the value of \$30 today is not what it will be in the future.⁵⁸

In a written submission provided to the Committee, Mr. Jones stated that both the Yukon and the Northwest Territories have a maximum threshold for the disclosure of acceptable gifts received by members, but not a minimum threshold. In the Northwest Territories, gifts valued at above \$400 (in aggregate in the year) must be disclosed and become the property of the government at the expiry of the member's term in office. In the Yukon, gifts having a value of more than \$150 (in aggregate in the year) must be disclosed.

Dr. Stone told the Committee that the threshold in the U.K. House of Commons for declaring gifts was 300 pounds (about \$520 CDN). This amount was chosen as it excluded gifts given by grateful constituents, such as flowers, boxes of chocolates or a homemade cake. She indicated that she felt it would be inappropriate to register such gifts as people would be constantly falling foul of the requirement to register a very small token gift.⁵⁹ In a follow-up communication to the Committee, she indicated that intention and perception were important factors in assessing the acceptability of gifts.⁶⁰

56 Office of the Conflict of Interest and Ethics Commissioner (2022), p. 2.

57 Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*.

58 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1245 (Dawson).

59 *Ibid.*, 1240 (Stone).

60 Dr. Kathryn Stone, Email to the Committee, 22 February 2022.

For his part, Mr. Conacher was of the view that Mr. Dion's recommendation would allow bigger businesses to have multiple lobbyists buying \$30 gifts for each member, which he estimated could add up to hundreds of dollars of gifts annually. In his view, section 14 should be amended to prohibit members and their staff from accepting any gifts or hospitality from any person or entity that has an interest in federal government decisions or action.⁶¹

4. Recommendation(s)

On balance, the Committee is of the view that the regime in place for the acceptability and disclosure of gifts provides sufficient transparency and accountability, and is in-line with current best practices for the prevention of real or perceived conflicts of interest. The Committee holds concerns that the addition of a minimum threshold for the acceptability of gifts could complicate an already complex process without substantially increasing transparency or accountability. The Committee will continue to monitor the functioning of section 14 of the Code but it makes no recommendations for amendments to it at this time.

F. Make sponsored travel subject to an acceptability test (section 15)

1. Topic

Should members' sponsored travel be made subject to an acceptability test?

2. Current requirement(s) under the Code

Currently, section 15 of the Code sets out the obligations and operation of members' sponsored travel. Sponsored travel is travel that has costs exceeding \$200 and those costs are not wholly paid from the consolidated revenue fund or by the member personally, their political party or any parliamentary association recognized by the House.

Under the Code, a member is permitted to accept sponsored travel that arises from or relates to their position. Guests may accompany the member during sponsored travel. Members must file with the Commissioner a statement declaring sponsored travel within 60 days after the end of the trip. The statement must contain

61 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1250 (Conacher).



- the name of the person or organization who paid for the travel costs;
- the name of any person accompanying the member;
- the destination or destinations;
- the purpose and length of the trip;
- the nature of the benefits received and the value; and
- supporting documents for transportation and accommodation.

The Commissioner must annually, by 31 March, compile a list of all sponsored travel. The list must set out the details required in a member's sponsored travel statement. The Commissioner provides this list to the Speaker of the House of Commons, who must table it when the House next sits.

3. Relevant written submissions or testimony

In his written submission to the Committee, Mr. Dion recommended to the Committee that current section 15 of the Code be amended to add an acceptability test for sponsored travel comparable to that used to assess the acceptability of gifts or other benefits.

Should such a test be added, he noted that the requirement to publish an annual list of all sponsored travel could be discontinued.

Mr. Dion noted in his submission that he has concerns that sponsored travel could reasonably be seen exert influence on a member in the exercise of their parliamentary duties. As such, in his view, many cases of sponsored travel give the appearance of a conflict of interest, which runs contrary to the Code's guiding principles. Further, Mr. Dion indicated that the financial costs involved in offering sponsored travel to members creates an uneven playing field between all individuals and organizations seeking to share their views and create dialogue with members, favouring those with greater resources.

Ms. Dawson indicated to the Committee that she recommended this change in 2015 and would therefore support this recommendation.

Mr. Wake told the Committee that under Ontario's *Members' Integrity Act*, sponsored travel is treated as a gift and that a member must seek the Commissioner's advice and determination on the acceptability of the offer of the trip.⁶²

According to Mr. Conacher, section 15 should be removed from the Code altogether. He is of the opinion that Mr. Dion's recommendation does not go far enough, as it would still allow a member to be sponsored to travel to speak at a conference.⁶³

4. Recommendation(s)

On balance, the Committee is of the view that the regime in place for the acceptability and disclosure of sponsored travel provides sufficient transparency and accountability, and is in-line with current best practices for the prevention of real or perceived conflicts of interest. The Committee will continue to monitor the functioning of section 15 of the Code but it makes no recommendations for amendments to it at this time.

G. The period of no comment for members who have requested an inquiry (section 27(2.1))

1. Topic

When a member initially requests that the Commissioner conduct an inquiry under section 27 of the Code, should the period of no comment by that member be extended beyond the current requirements?

2. Current requirement(s) under the Code

Currently, a member can formally request that the Commissioner conduct an inquiry into another member's alleged non-compliance with an obligation set out in the Code. In making a request for an inquiry, the member must, in writing, identify the alleged non-compliance, the reasonable grounds for that belief, and sign the request.

A member who has requested that an inquiry be launched cannot make public comments about this inquiry until either the Commissioner confirms that the member who is the subject of the inquiry has received a copy of the complaint, or 14 days have elapsed following the receipt of the request by the Commissioner, whichever is earlier.

62 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1220 (Wake).

63 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 8, 15 February 2022, 1255 (Conacher).



3. Relevant written submissions or testimony

In her written submission, Ms. Dawson indicated that current section 27(2.1) in the Code, which provides for a period of no comment to be observed by a member who has requested an inquiry, came as the result of a recommendation she made to the Committee during its previous revision of the Code. She noted that this recommendation was made, at least in part, to avoid a situation where the request might have been made as a political tactic, and to prevent its public release coming as a surprise to the subject of the inquiry or to the Commissioner.⁶⁴

The Committee heard from Mr. Dufresne that, while he had no specific recommendations about section 27, a balance must be struck in the Code between an inquiry process where issues can be raised without having a chilling effect, and at the same time evolve within the public sphere.

Asked whether the Code ought to be adjusted to prevent being used for political purposes, Mr. Dufresne pointed out that the Code does contain a remedy against a request for an inquiry that is found to be frivolous or vexatious. Enhancing understanding of the process surrounding an inquiry would be one way of ensuring the protection of a member's reputation when a request is first lodged.⁶⁵

Ms. Mignolet told the Committee that there are no provisions in Quebec's code to prevent members of the Assembly from speaking about a request for an inquiry that has been lodged with the Commissioner. However, she stated that she has, in the past, recommended that such a prohibition be put in place.⁶⁶

Mr. Jones told the Committee that, in his view, it would be helpful to strengthen the period found in the current federal Code for no commentary about a potential inquiry. He told the Committee that he has remarked upon the increased politicization of the inquiry process and that several ethics commissioners across the country have expressed dismay over instances where the complainant goes to the press immediately about a complaint, often even before the Commissioner themselves have received the complaint.⁶⁷

64 Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*.

65 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1115, 1120 (Dufresne).

66 *Ibid.*, 1240 (Mignolet).

67 *Ibid.*, 1235 (Jones).

4. Recommendation(s)

The Committee holds concerns that premature commentary by a member who has lodged a request for an inquiry with the Commissioner could potentially create undue harm to the reputation of the member who is the subject of the complaint, and could potentially prejudice the outcome of any investigation. Therefore, the Committee recommends:

Recommendation 3

That section 27(2.1) of the *Conflict of Interest Code for Members of the House Commons* be amended to provide that a member who has requested that an inquiry be launched cannot make public comments about this inquiry until the Commissioner has completed the preliminary review of the request and both members have been notified under section 27(3.2)(b); and

Recommendation 4

That section 27(5.1) of the *Conflict of Interest Code for Members of the House Commons* be amended to delete all of “(i) confirm that a request for an inquiry has been received” and replace current (ii) with the following wording: (ii) confirm that a preliminary review has been completed.

H. Report to the House (section 28)

1. Current requirement(s) under the Code

Pursuant to section 28 of the Code, following an inquiry, the Commissioner must report their findings to the Speaker, who presents the report to the House at its next sitting. Upon tabling (or reception, in case of prorogation or adjournment), the report is made publicly available. A report is also made public following the dissolution of Parliament.

The report must state whether the Commissioner found a contravention to the Code and, if such contravention was found, whether it was mitigated by such factors as being trivial, occurring through inadvertence or being made in good faith. In such cases, the Commissioner may recommend that no sanction be imposed to the member. However, if the contravention is deemed more severe, the Commissioner can recommend appropriate sanctions to the House. General recommendations on the interpretation of the Code or suggested revisions that arose from the inquiry may also be included in the report.



Within 10 sitting days after tabling of the report, the member who is the subject of the inquiry can make a 20-minute statement in the House following question period.

When a report found no contravention or mitigated contraventions, a motion to concur in the report may be moved during Routine Proceedings; if no such motion is moved and disposed of within 30 sitting days after tabling, the report is deemed concurred in. For a report having found an unmitigated contravention, the motion is considered for a maximum of two hours, after which all questions necessary to dispose of the motion is put forthwith and successively without further debate or amendment. If no such motion has been moved and disposed of by the 30th sitting day after tabling, a motion to concur in the report is deemed to have been proposed and is immediately subjected to a vote.

At any point before dealing with the report, the House may refer it back, with instructions, to the Commissioner for further consideration.

i. Effect of prorogation or dissolution on the Commissioner's report

1. Topic

Should the various timelines set out in the Code that pertain to the report start over at the beginning of a new Parliament? Further, should the Code address how to deal with a report whose subject is a former member of the House?

2. Relevant written submissions or testimony

During his appearance, Mr. Dufresne told the Committee that it is generally understood that section 28 continues to apply notwithstanding a prorogation or dissolution of Parliament. He underlined that this raised some questions with regards to timelines set out in the Code, notably the right of the member subject to the inquiry to make a statement in the House, as well as the limit of 30 sitting days to dispose of the Commissioner's report. Mr. Dufresne noted that the Committee might want to consider whether these timelines should start anew in a new Parliament, providing the member who is the object the inquiry the opportunity to make a statement to the members who will ultimately vote on the report, not those of the previous Parliament.⁶⁸

Furthermore, Mr. Dufresne noted that the Code could potentially be adjusted to address how the House should consider a report on a former member of the House. This situation could potentially arise if a member who is the subject of a report stepped

68 *Ibid.*, 1105 (Dufresne).

down or was not re-elected following a dissolution. He pointed out that the *Code of Conduct for Members of the House of Commons: Sexual Harassment between Members* addresses such a situation, as it explicitly provides that the inquiry process stops if the respondent is no longer a member.⁶⁹

3. Recommendation(s)

In light of the testimony it heard, the Committee is of the view that further study would be required to make an informed decision on this topic. The Committee, therefore, recommends that this issue be referred to the Subcommittee envisaged in subsection “A. Purposes and principles of the Code” in this report.

ii. Debate on the report

1. Topic

Should debate on a report having found no contravention to the Code be subjected to time limits?

2. Relevant written submissions or testimony

Mr. Dufresne told the Committee it might want to clarify the process applying to debates in the House on a Commissioner’s inquiry report. He underlined that a debate on a report that found a contravention to the Code is limited to two hours, with each member having a maximum of 10 minutes to speak. However, a report that found no contravention to the Code is currently not subjected to such time limits.

Mr. Dufresne stressed that the lack of such timelines meant that a longer debate could take place on a report having found no contravention to the Code than on a report that did find one. He indicated the Committee may wish to assess whether there are good reasons to treat the two types of reports differently.⁷⁰

In a follow-up submission, Mr. Dufresne outlined that to this day, there have been four instances in which debate has taken place following the tabling of a report that found a conflict of interest under the Code, and one debate on a report having found no conflict

69 Ibid., 1105, 1155.

70 Ibid.



of interest to the Code.⁷¹ In the latter case, debate took place for a period of three hours and 52 minutes.⁷²

3. Recommendation(s)

In light of the testimony it heard, the Committee is of the view that further study would be required to make an informed decision on this topic. The Committee, therefore, recommends that this issue be referred to the Subcommittee envisaged in subsection “A. Purposes and principles of the Code” in this report.

iii. Concurrence in the report

1. Topic

Should the Code clarify whether the Commissioner's recommendations in a report automatically become orders of the House once the report is concurred in?

2. Relevant written submissions or testimony

Mr. Dufresne told the Committee that an inquiry report can contain both recommendations for sanctions against a member and general recommendations on the interpretation of the Code. As such, ambiguity could exist as to whether all of the Commissioner's recommendations automatically become orders of the House following concurrence in a report. As an example, if a Commissioner's report under the Code contained both recommendations for sanctions and a recommendation that the Code be amended, would concurrence in the report automatically amend the Code? Mr. Dufresne told the Committee it might wish to examine whether provisions around the effects of the adoption of a commissioner's report ought to be clarified.⁷³

Of note, Mr. Dufresne specified in a follow-up written submission that, of the times a report was debated in the House, one report from the Commissioner recommended a sanction, but that the motion to adopt this report was negated by the House. Furthermore, another report did not itself recommend a sanction, but a motion was

71 While the report in question did not find contravention to the Code, it did find a contravention of *the Conflict of Interest Act*.

72 Philippe Dufresne, *Written Response to Questions*, 21 February 2022.

73 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1105 and 1155 (Dufresne).

adopted to require the member to table a written apology to the House, which was done.⁷⁴

3. Recommendation(s)

In light of the testimony it heard, the Committee is of the view that further study would be required to make an informed decision on this topic. The Committee, therefore, recommends that this issue be referred to the Subcommittee envisaged in subsection “A. Purposes and principles of the Code” in this report.

I. The process for amending forms and providing generalized guidance (section 30)

1. Topic

Should the Commissioner be allowed to provide generalized guidelines or forms relating to the Code without the approval of the Committee and concurrence from the House?

2. Current requirement(s) under the Code

Pursuant to section 30 of the Code, the Commissioner must submit any proposed procedural and interpretative guidelines and forms to the Committee for approval. The Committee must report its approval to the House to be concurred in. All forms and guidelines must remain confidential until reported to the House.

3. Relevant written submissions or testimony

In his written submission, Mr. Dion indicates that additional autonomy is critical to providing transparent and timely advice to members and improve public understanding of the Code. He recommended the Commissioner be granted the autonomous authority to provide guidelines to explain the Code’s provisions. This would require amendments to section 30 of the Code, to remove the need to seek the Committee’s approval and the House concurrence in the Committee’s report.

Ms. Dawson indicated to the Committee that she recommended this change in 2015 and would therefore support this recommendation.

74 Philippe Dufresne, *Written Response to Questions*, 21 February 2022.



Mr. Wake and Mr. Jones both stated that the relevant legislation in their respective jurisdictions does not contain any direction on publishing guidelines. As such, both have published guidelines, with Mr. Wake indicating that he has published guidelines about gifts and letters of support.⁷⁵

Ms. Mignolet indicated that Quebec's code authorizes her to enact and publish guidelines on subjects she considers relevant.⁷⁶

4. Recommendation(s)

The Committee thoroughly considered this topic and revisited it several times over the course of its study. After lengthy deliberation, the Committee has decided not to amend the current section 30 of the Code.

Firstly, the Committee notes that the Commissioner's office has neither submitted any proposed procedural and interpretive guidelines, nor any forms, to the Committee for its approval since February 2015, when the Committee last undertook a comprehensive review of the Code.

The Committee holds the view that procedural and interpretive guidelines prepared by the Commissioner about the operation of the Code, and members' corresponding obligations under the Code, along with forms, would serve as valuable educational resources in the conflict of interest regime that applies to members of the House. Further, once approved by the Committee, these guidelines and forms would become committee reports and be published on the House of Commons' website for members and the public to consult.

Additionally, the Committee notes that while it has not received guidelines or forms from the Commissioner's office over the past seven years, the Commissioner has been providing members with procedural and interpretive guidance about the Code in the form of advisory opinions prepared under section 26(4) of the Code.

However, it has come to the Committee's attention that these general advisory opinions are not retained in a public repository for consultation. This raised concerns that members of the House and the public could inadvertently breach the Code because

75 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1240 (Wake); and *Ibid.*, 1240 (Jones).

76 *Ibid.*, 1240 (Mignolet).

information about the manner in which the Code is being interpreted by the Commissioner's office is not accessible and consultable.

The Committee is of the view that members of the House, and the concept of public transparency, do not appear to be better served by the issuance of advisory opinions that disappear from the public domain versus the creation of procedural and interpretive guidelines that are retained in the public domain as committee reports. This without mentioning that the issuance of advisory opinions does not require approval by the Committee, whereas guidelines and forms do require the Committee's approval.

The Committee wishes to note that its oversight role with regard to the Commissioner's office is clearly defined in section 86(3) of the *Parliament of Canada Act*. It states that the Commissioner carries out duties and functions under the general direction of the Committee. Further, section 86(1) states that the Commissioner performs duties and functions that are assigned to that office by the House of Commons.

In conclusion, the Committee believes that the current process for the creation of guidelines and forms under section 30 of the Code requires further review. The Committee believes that its role with respect to the Code is to work collaboratively and efficiently with the Commissioner's office, but at the same time, to perform important oversight of the office and the overall operation of the Code.

J. Documents subjected to a Court order (sections 31 and 31.1)

1. Topic

Should the Commissioner be exempted from disclosing to a Court or another body documents relating to a member, as parliamentary privilege would dictate?

2. Current requirement(s) under the Code

Section 31 of the Code sets out an obligation for the Commissioner to retain documents relating to a member for a period of one year after that person ceases to be a member of the House of Commons. The same section provides for the destruction of the documents after that period, unless an investigation under the Code is underway or if a charge under an Act of Parliament has been laid against the member and the documents might be relevant.



In addition, section 31.1 provides that the Commissioner is required to keep documents and information obtained under the Code confidential unless otherwise ordered by the House or a court.

3. Relevant written submissions or testimony

Mr. Dufresne told the Committee that currently, sections 31 and 31.1 of the Code suggest that documents received by the Commissioner as part of an inquiry can be subject to production on a Court order. He reminded the Committee that the Commissioner's mandate under the Code is rooted in parliamentary privilege, and therefore such documents would normally not be compellable by the courts. He indicated that these provisions of the Code, as presently worded, may raise questions as to whether the House intended to limit its privileges in this regard.

4. Recommendation(s)

In light of this testimony, the Committee recommends:

Recommendation 5

That sections 31 and 31.1 of the *Conflict of Interest Code for Members of the House Commons* be amended to remove the language suggesting that documents provided to the Commissioner pursuant to the Code are compellable by a court.

K. Mandatory training for members (section 32)

1. Topic

Should the Code require mandatory training for members?

2. Current requirement(s) under the Code

There is currently no mandatory training requirement under the Code. Section 32 sets out that the Commissioner must undertake educational activities for members and the general public of the Code and his role.

3. Relevant written submissions or testimony

In his written submission, Mr. Dion underlines that while his office does provide training sessions on the Code, these are generally “poorly attended” by members.⁷⁷ He recommended that the Code be amended to require mandatory training for new members within the first 60 days after their confirmation of election, as well as annual training for all members. Mr. Dion indicated that the training could take the form of online self-directed training or interactive group sessions with a representative from his office.

In her written submission, Ms. Dawson outlined her support for this recommendation, indicating it would ensure organized and focused attention on this important educational requirement.⁷⁸

Mr. Wake brought to the Committee’s attention that Ontario does not have mandatory training for its members on their obligations under the *Members’ Integrity Act*.⁷⁹ However, Mr. Wake indicated that there is a tradition of the Integrity Commissioner addressing all members following a provincial general election.

Further, as part of the disclosure process, members must all meet annually with the Commissioner. Mr. Wake indicated that these meetings provided him with the opportunity to give refresher training to members. The Committee notes that section 22 of the current Code provides the Commissioner with the similar power to require any member, or their family members pending their availability, to meet with the Commissioner to discuss obligations found under the Code.

4. Recommendation(s)

The Committee agrees with the Commissioner’s proposal for mandatory training for members and therefore recommends:

Recommendation 6

That the *Conflict of Interest and Ethics Code for Members of the House of Commons* be amended to require individualized mandatory training for members, which includes the

77 Office of the Conflict and Interest and Ethics Commissioner (2022), p. 5.

78 Mary Dawson, *Opening Statement before the House of Commons Standing Committee on Procedure and House Affairs*.

79 PROC, *Evidence*, 1st Session, 44th Parliament, Meeting 7, 10 February 2022, 1215 (Wake).



use of educational scenarios, within the first 120 days after their confirmation of election.

L. Endorsements given by members outside of Parliament

1. Topic

Should the Code include explicit directions for members about endorsing another person or entity?

2. Current requirement(s) under the Code

Currently, the Code provides no explicit guidance about members endorsing (e.g., providing a letter of support for) other persons or entities. However, section 9 states: A member shall not use his or her position as a member to influence a decision of another person so as to further the member's private interests or those of a member of his or her family, or to improperly further another person's or entity's private interests.

3. Relevant written submissions or testimony

Mr. Dion suggested that the Committee could examine the issue of acceptability of letters of support. He indicated that many members have contacted his office to inquire about what a letter of support can say, what stationery can be used, etc. He also stated that his office could prepare a guideline for letters of support.

Mr. Jones, Ms. Mignolet and Mr. Wake all indicated to the Committee that their respective jurisdictions have in place guidelines for letters of support.⁸⁰ Mr. Jones told the Committee that the guidelines for the Northwest Territories with respect to letters of endorsement make clear that members should not be prevented from doing their duties as a member in representing their constituents.⁸¹

In a written submission provided to the Committee, Mr. Jones stated that members of the Legislature endorsing officials at other levels of government could raise the question of whether the member was improperly furthering the private interest of another person. Further, Mr. Wake provided to the Committee the guidance for members of Ontario's legislature on writing letters of reference that his office has prepared.

80 Ibid., 1235 (Jones); Ibid., 1235 (Mignolet); and Ibid., 1235 (Wake).

81 Ibid., 1225 (Jones).

4. Recommendation(s)

The Committee is of the view that guidelines created by the Commissioner about members endorsing (e.g., providing a letter of support for) other persons or entities would be beneficial for members and serve to prevent inadvertent conflicts of interest. Therefore, the Committee requests:

Recommendation 7

That the Conflict of Interest and Ethics Commissioner create guidelines for members to instruct them about the appropriate use of endorsements for other persons or entities.

M. Proposed technical amendments to the Code submitted by the Commissioner

1. Topic and recommendation

Mr. Dion recommended to add, under section 3(1), a definition of “parliamentary functions” that incorporates by reference the definition used in the *Members’ By-law*. The *Members’ By-law* defines parliamentary functions as follows:

parliamentary functions, *in relation to a Member, means the duties and activities that relate to the position of Member, wherever performed and whether or not performed in a partisan manner, namely, participation in activities relating to the proceedings and work of the House of Commons and activities undertaken in representing his or her constituency or constituents. (fonctions parlementaires)*

The Committee recommends

Recommendation 8

That section 3(1) of the *Conflict of Interest Code for Members of the House Commons* be amended to incorporate by reference the definition of “parliamentary functions” used in the *Members By-law*.

However, the Committee notes that some of its members respectfully disagreed with the Committee’s decision on this topic. Further, the Committee wishes to call to the attention of the Board of Internal Economy that the current definition of parliamentary functions, as found in the *Members By-law*, would benefit from the addition of a reference to members’ “managerial functions.”



2. Topic and recommendation

Currently, specific sections of the Code refer to the act of furthering of private interests of entities, particularly sections 8 to 10. In his written submission, Mr. Dion recommended to also add the word “entity” to sections 3(2) and 3(3) of the Code. These particular sections respectively define actions from a member that are “furthering private interests” and that are “not furthering private interests”, but currently do not contain a reference to furthering the interests of an entity, rather than a person.

The Committee recommends no amendment at this time.

3. Topic and recommendation

In his written submission, Mr. Dion recommended adding the word “council” to section 3(2)(e) of the Code, which currently reads as follows:

(2) Subject to subsection (3), a member is considered to further a person’s private interests, including his or her own private interests, when the member’s actions result, directly or indirectly, in any of the following

[...]

(e) the person becoming a director or officer in a corporation, association or trade union; and

According to Mr. Dion, the addition of the word “council” would clarify that organizations such as municipal and school councils are included.

The Committee recommends no amendment at this time.

4. Topic and recommendation

Section 3(3) of the Code currently enumerates four instances where a member is not considered to further their private interests or the interests of another person. According to Mr. Dion, the English-language provision requires the matter in question to be situated in one of the four enumerated categories. The *interest in the matter* is then evaluated to determine whether it can be properly excluded from the furthering of a private interest. However, the French-language version focuses only on whether the *interest* itself resides in one of the four enumerated categories.

Mr. Dion recommended amending the French-language version of subsection 3(3) to match the reading of the English-language version.

Therefore, the Committee recommends

Recommendation 9

That the French-language version of section 3(3) of the *Conflict of Interest Code for Members of the House Commons* be amended to match the reading of the English-language version.

5. Topic and recommendation

Currently, the French-language version of section 14(1) reads as follows:

(1) Le député ou un membre de sa famille ne peut accepter, même indirectement, de cadeaux ou d'autres avantages, sauf s'il s'agit d'une rétribution autorisée par la loi, qu'on pourrait raisonnablement donner à penser qu'ils ont été donnés pour influencer le député dans l'exercice de sa charge de député.

Mr. Dion recommended that the French-language version of section 14(1) be amended to read:

(1) Le député ou un membre de sa famille ne peut accepter, même indirectement, de cadeaux ou d'autres avantages, sauf s'il s'agit d'une rétribution autorisée par la loi, qui pourrait raisonnablement donner à penser qu'ils ont été donnés pour influencer le député dans l'exercice de sa charge de député.

The English-language version of section 14(1) would remain unchanged.

The Committee recommends no amendment at this time.

6. Topic and recommendation

The Commissioner proposes that sections 21(1)(a)(i) and (ii) be amended to read "\$10,000 or more," and section 21(1)(b) to read "\$1,000 or more."

Mr. Dion notes that under current that sections 21(1)(a)(i) and (ii) read "exceeds" \$10,000 and section 21(1)(b) reads "greater than" \$1,000. He contrasts this with current



section 24, under which assets or liabilities cannot be publicly shown in a member's disclosure summary if they have a value of "less than" \$10,000 and sources of income of "less than" \$10,000.

Mr. Dion indicates that this amendment is being proposed to ensure "there are no gaps" in what must be disclosed and subsequently made public. It is not mentioned in his submission, but the presumed gap would be for items that have a value of exactly \$10,000.

Therefore, the Committee recommends

Recommendation 10

That in the *Conflict of Interest Code for Members of the House Commons*, sections 21(1)(a)(i) and (ii) be amended to read "\$10,000 or more," and section 21(1)(b) to read "\$1,000 or more."

7. Topic and recommendation

The Commissioner proposes that section 24(1)(d) be repealed and its content (i.e. that these statements shall be filed with the Member's public disclosure documents on the Office's website) be moved instead under the sections for gifts, sponsored travel and material change.

Current section 24(1)(d) provides that the Member's disclosure summary shall include a copy of any statements of disclosure filed by the Member under subsection 14(3) (gifts), 15(1) (sponsored travel) and 21(3) (material changes to their disclosure statement).

Because these three categories of disclosure form part of the disclosure summary, a new summary is prepared and must be signed by a member upon receipt of every disclosure.

According to Mr. Dion, the reason for this proposal is to ease the administrative burden on both members and Commissioner's office of having to prepare and sign new disclosure summaries several times per year.

The Committee recommends no amendment at this time.

8. Topic and recommendation

Section 23(2) of the Code provides that paper copies of members' disclosure summaries be placed on file at the office of the Commissioner for public inspection during normal

registry on the Office’s website. The Commissioner notes that paper versions of disclosure summaries have been consulted in his office fewer than five times in the last five years.

Therefore, the Committee recommends

Recommendation 11

That the reference in section 23(2) of the *Conflict of Interest Code for Members of the House Commons* to public inspection of the paper file be struck from this provision.

9. Topic and recommendation

The Commissioner notes that the provisions of section 27(2) differ between the English and French versions. The English version sets out that requests for an inquiry “shall identify the alleged non-compliance and set out the reasonable grounds for that belief.” Mr. Dion indicates that he interprets this to mean that a specific rule of conduct must be identified, as well as the grounds for the alleged violation. However, the French version of this provision only requires that the grounds must be identified.

Therefore, the Committee recommends

Recommendation 12

That the French-language version of section 27(2) of the *Conflict of Interest Code for Members of the House Commons* be amended to include a reference to the provision that is alleged to have been contravened.

Lastly, the Committee recommends

Recommendation 13

That the Clerk of the House be authorized to make any required editorial and consequential alterations to the Standing Orders.

APPENDIX A – AMENDMENTS TO THE CONFLICT OF INTEREST CODE

That sections 31, 31.1 and 32, subsections 3(1), 3(3) in French, 23(2), 27(2) in French, 27(2.1) and 27(5.1), as well as paragraphs 21(1)(a) and (b) of the *Conflict of Interest Code for Members of the House of Commons* be amended to read as follows:

Definitions.

3. (1) The following definitions apply in this code.

“all-party caucus” « *caucus multipartite* ».

“all-party caucus” means a caucus open to all political parties.

“benefit” « *avantage* ».

“benefit” means

(a) an amount of money if there is no obligation to repay it; and

(b) a service or property, or the use of property or money that is provided without charge or at less than its commercial value, other than a service provided by an intern or a volunteer working on behalf of a member; but does not include a benefit received from a riding association or a political party.

“commissioner” « *commissaire* ».

“commissioner” means the Conflict of Interest and Ethics Commissioner appointed under section 81 of the Parliament of Canada Act.

“common-law partner” « *conjoint de fait* ».

“common-law partner”, with respect to a member, means a person who is cohabiting with the member in a conjugal relationship, having so cohabited for a period of at least one year.

“duties and functions” « fonctions ».

“duties and functions”, in relation to a member, refers to the definition of “parliamentary functions” of the *Members By-Law* of the House’s Board of Internal Economy.

“spouse” « époux ».

“spouse”, with respect to a member, does not include a person from whom the member is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.

Exclusions.

3. (3) Pour l’application du présent code, ne sont pas considérées comme favorisant les intérêts personnels d’un député ou d’une autre personne ~~eux~~ les affaires :

- a) qui sont d’application générale;
- b) qui ~~le~~ concernent le député ou l’autre personne en tant que membre d’une vaste catégorie de personnes;
 - b.1) qui ont trait au fait d’être partie à une action en justice relative à des actes posés par le député dans l’exercice de ses fonctions;
- c) qui ont trait à la rémunération ou aux avantages accordés au député au titre d’une loi fédérale.

Content of disclosure statement.

21. (1) The statement shall

- (a) identify and state the value of each asset or liability of the member and the members of the member’s family that;
 - (i) in the case of a credit card balance, ~~exceeds~~ is of \$10,000 or more and has been outstanding for more than six months;
 - (ii) in all other cases, ~~exceeds~~ is of \$10,000 or more;
- (b) state the amount and indicate the source of any income of greater than \$1,000 or more 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;

Public inspection.

23. (2) At the expiry of the period provided for in subsection (1), including an extension granted under subsection (1.1), 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.

Forme de la demande.

27. (2) La demande d'enquête est présentée par écrit et signée et elle énonce l'infraction présumée et les motifs pour lesquels il est raisonnable de croire que le présent code n'a pas été respecté.

No public comment.

27. (2.1) The member who requested that an inquiry be conducted shall make no public comments relating to the inquiry until the commissioner ~~confirms that the member who is the subject of the inquiry has received a copy of the complaint or 14 days have elapsed following the receipt of the request by the commissioner, whichever is earlier~~ has completed the preliminary review and both members have been notified pursuant to paragraph (3.2)(b) of this section.

Public comments.

27. (5.1) The commissioner shall make no public comments relating to any preliminary review or inquiry except to:

- ~~(i) confirm that a request for an inquiry has been received;~~
- (ii) confirm that a preliminary review ~~or inquiry~~ has ~~commenced or~~ been completed; or
- (iii) describe the reasons for not proceeding with an inquiry where the matter to which the inquiry relates has already been made public.

Retention of documents.

31 The commissioner shall retain all documents relating to a member for a period of 12 months after he or she ceases to be a member, after which the documents shall be destroyed unless there is an inquiry in progress under this code concerning them ~~or a charge has been laid against the member under an act of Parliament and the documents may relate to that matter.~~

Confidentiality.

31.1 Except as otherwise ordered by the House ~~or a court~~, or as required for the purposes of this code, the commissioner shall keep confidential documents and information received pursuant to this code, including documents and information received in the course of an inquiry that the commissioner suspended in accordance to paragraph 29(1)(a) or documents and information referred to in section 31.

Mandatory training and educational activities.

32. The commissioner shall undertake individualized mandatory training for members, which includes the use of educational scenarios, within the first 120 days after their confirmation of election, as well as educational activities for members and the general public regarding this code and the role of the commissioner.

APPENDIX B LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
Office of the Conflict of Interest and Ethics Commissioner Mario Dion, Conflict of Interest and Ethics Commissioner	2022/02/03	5
House of Commons Charles Robert, Clerk of the House of Commons Philippe Dufresne, Law Clerk and Parliamentary Counsel	2022/02/10	7
National Assembly of Quebec Ariane Mignolet, Ethics and Deontology Commissioner	2022/02/10	7
Office of the Integrity Commissioner of Ontario J. David Wake, Commissioner	2022/02/10	7
Yukon Legislative Assembly and Northwest Legislative Assembly David Phillip Jones, Yukon Conflict of Interest Commissioner, and Northwest Territories Integrity Commissioner	2022/02/10	7
As an individual Anne Dance, Former Director Parliamentary Internship Programme Mary Dawson, Former Conflict of Interest and Ethics Commissioner of Canada	2022/02/15	8
Centre for Israel and Jewish Affairs Shimon Koffler Fogel, President and Chief Executive Officer	2022/02/15	8
Democracy Watch Duff Conacher, Co-Founder	2022/02/15	8

Organizations and Individuals	Date	Meeting
Office of the Parliamentary Commissioner for Standards Kathryn Stone, Commissioner House of Commons, United Kingdom Parliament	2022/02/15	8
Parliamentary Internship Programme Paul Thomas, Director	2022/02/15	8

APPENDIX C LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Democracy Watch

Office of the Conflict of Interest and Ethics Commissioner

Parliamentary Internship Programme

MINUTES OF PROCEEDINGS

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 5, 7, 8, 10 to 12, 14, 17 and 27](#)) is tabled.

Respectfully submitted,

Hon. Bardish Chagger
Chair

REVIEW OF THE CONFLICT OF INTEREST CODE SUPPLEMENTARY OPINIONS OF THE OFFICIAL OPPOSITION

We are pleased to support this report on the Procedure and House Affairs Committee's review of the *Conflict of Interest Code for Members of the House of Commons* which reflects a consensus of its members. That said, we want to take this opportunity to add a couple reflections.

We should have heard more evidence about the new “parliamentary functions” definition

We believe some of our colleagues on the Committee may have acted too quickly in accepting the Conflict of Interest and Ethics Commissioner's “technical” proposal to incorporate into the Code the definition of “parliamentary functions” used in Board of Internal Economy's *Members By-law*.

The Law Clerk and Parliamentary Counsel's comments in respect of the proposal to link the Board's definition of immediate family to that found in the Code—which the Committee considered persuasive in declining the Commissioner's recommendation—are equally instructive here, we believe:

I think it's important to look at the purpose and the impact of the definition. The Board of Internal Economy's by-law for members is dealing with different things, the same as the *Conflict of Interest Act* is in dealing with ministers....

A broad definition like that would have different impacts and broader impacts.¹

Indeed, one of those potential impacts might be visible already through the Commissioner's 2019 *Vandenbeld Report*, which relied upon the definition found in the *Members By-law*, in concluding that an MP endorsing a candidate for another elected office would be unethical:

[129] As noted earlier in the Concerns and Process section of this report, the *Members By-law* specifically prohibits the use of parliamentary resources for non-parliamentary functions, which include “activities designed, in the context of a federal, provincial, or municipal election, or any other local election, to support or oppose a political party or an individual candidate.”

[130] If it is improper to use parliamentary resources for the purpose of endorsing or supporting a political party or individual candidate, the logical conclusion to be drawn in my view is that using one's position as a Member of Parliament for that purpose is also improper.

¹ Standing Committee on Procedure and House Affairs, *Evidence*, February 10, 2022, p. 3

[131] In my view, the Code does not encroach in any way on Members' participation in election campaigns as long as they do so without using their position as Members. As such, they may endorse candidates, but only in their private or partisan capacity.²

Anchoring into the Code the notion that any activity which an MP cannot spend his or her office budget on is automatically unethical would be, in our view, absurd. There are many things done by—and expected of—elected officials which are not eligible for office reimbursements and nor should they be.

While it is absolutely right that our taxpayer-funded budgets should not be available for partisan campaigning, our constituents often expect their politicians to have views and take positions on the major discussions in their community, including provincial and municipal elections. To expect our constituents to understand that that their MP can speak about politics, yet not “as an MP”, beggars belief; and to explain that there is a distinction probably would actually diminish the view that audience would hold of politicians and political institutions. Picturing the scenario calls to mind the metaphor “how many angels can dance on the head of a pin?”

In the circumstances, we believe the Committee's decision to decline the Commissioner's recommendation to include specific reference to municipal and school council membership among interests which could be furthered should be instructive to the Commissioner with respect to the views and interpretations of our Committee when it comes to MPs' engagement in political campaigns in our communities. To do otherwise would be equally confusing and unexpected for both Members and our constituents.

Just slapping the label “technical” on the Commissioner's proposal does not necessarily mean its implications could not be far-reaching and consequential and that inquiry may be waived. In our opinion, this proposal and its implications should have been probed with greater depth before a decision was taken.

Any further study would be better done by the full Committee

As we acknowledge in the foregoing comments, there are matters related to the Code which do require further reflection and study.

We are concerned, however, by the Committee's suggestion to hive off this work to a panel of just five MPs, acting as a subcommittee of the Committee. Two factors motivate our point of view.

Firstly, the ethical rules which bind all Members of Parliament are an important part of our life and work as parliamentarians. At a minimum, continued studied should be entertained by a full committee of the House.

² Conflict of Interest and Ethics Commissioner, *Vandenbeld Report* (2019), p. 22

Secondly, so long as hybrid proceedings are in place for the House, there would be serious resource implications for the work of the House's committees. Effectively, for every new meeting added—which would include any for a subcommittee—requires another meeting to be cancelled. The Committee's recommendation is a clever, indirect vehicle for the government to throw a wet blanket on other committees when they are busy holding it accountable over one problem or another.

In light of those considerations, we believe that any further review of the Conflict of Interest Code ought to be conducted by the full Procedure and House Affairs Committee.

That said, we have hesitations about the interest in shifting toward a “values-based code”, which the Committee's recommendation mentions, and which Liberal members urged in questioning witnesses during this study.³ While we are open to considering ideas which would raise and strengthen ethics in Parliament, we also do not want to see the adoption of a mindset and rules whereby unethical conduct can be excused so long as “your heart is in the right place”.

This report reflects the strength of consensus deliberations

Finally, in passing, we want to acknowledge that this report reflects the strength of the Committee proceeding on a consensus basis when it comes to reviewing the rules which govern and guide the House, its Members and our work.

Conservatives have long insisted that changes to our internal rules ought to be adopted on a consensus basis. With this report, the Committee has accomplished just that—and demonstrated that it is not too hard to achieve. To that end, we want to acknowledge the role our Chair played in forging a consensus among the members of the Committee as we worked through several engaging, productive conversations.

The natural inclination she demonstrated building a consensus on this report leads us to speculate that, back in 2017, when she, as Government House Leader, rejected Conservative calls to handle her discussion paper on procedural reforms with a consensus-driven approach that she was perhaps, in all reality, simply acting under the directions of a Prime Minister's Office which has, time and again, proven its commitment to wedging and dividing parliamentarians and all Canadians.

³ Standing Committee on Procedure and House Affairs, *Evidence*, February 3, 2022, pp. 8, 16; February 10, 2022, p. 4

