



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

2023-2024

ANNUAL REPORT

Conflict of Interest Act

Honourable Konrad von Finckenstein, C.M., K.C.

Conflict of Interest and Ethics Commissioner

Conflict of Interest and Ethics Commissioner – Annual Report 2023-2024, in respect of the
CONFLICT OF INTEREST ACT

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062024-116E



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

June 2024

The Honourable Raymonde Gagné, C.M., O.M., Senator
Speaker of the Senate
Senate of Canada
2 Rideau Street, Room E64-A
Ottawa, Ontario K1A 0A4

Dear Madame Speaker:

I am pleased to submit to you the report on the performance of the Commissioner's duties and functions under the *Conflict of Interest Act* in relation to public office holders, for the fiscal year ending March 31, 2024, for tabling in the Senate.

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

Sincerely,

Hon. Konrad von Finckenstein, C.M., K.C.

Conflict of Interest and Ethics Commissioner



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

June 2024

The Honourable Greg Fergus, P.C., M.P.
Speaker of the House of Commons
House of Commons
West Block, Room 233-C
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker:

I am pleased to submit to you the report on the performance of the Commissioner's duties and functions under the *Conflict of Interest Act* in relation to public office holders for the fiscal year ending March 31, 2024, for tabling in the House of Commons. The report is deemed permanently referred to the House of Commons Standing Committee on Access to Information, Privacy and Ethics, under Standing Order 108(3)(h)(v).

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

Sincerely,

Hon. Konrad von Finckenstein, C.M., K.C.
Conflict of Interest and Ethics Commissioner

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COMMISSIONER'S MESSAGE



I am pleased to report on the administration of the *Conflict of Interest Act* in 2023-2024.

The Commissioner's Office administers the Act and the *Conflict of Interest Code for Members of the House of Commons*. It does that by helping elected and appointed public officials avoid conflicts of interest. Ultimately, the goal is to safeguard public confidence in the integrity of Parliament and government institutions.

The Office has a two-fold purpose. One, to help elected and appointed public officials avoid and manage conflicts of interest, and two, to facilitate the movement of qualified people in and out of public service.

The Government of Canada benefits from a broad range of skills, experience, and perspectives when it appoints people from the private sector to various positions. The Act aims to encourage experienced and competent people to seek and accept public office, and to facilitate interchange between the private and public sectors.

Like all experienced and competent people, those individuals will, over time, face potential conflicts of interest. While they are in public office, the Commissioner's Office helps them avoid and manage such conflicts to protect the public interest.

This means giving them credible, consistent, and timely advice. It also means being helpful and innovative, and making it as easy as possible for them to comply with the Act. It does not mean just looking for possible contraventions. If there is non-compliance, the Office works with public office holders to bring them back into compliance.

If there is deliberate non-compliance, it will investigate and issue a report exposing the conflict.

To achieve its mandate and mission, the Office must be as transparent as possible. It must communicate as openly as it can with Parliament and Canadians about what it does and why, and in a way people understand.

Four changes were introduced in October to how the Office administers the *Conflict of Interest Act*. These changes of practice are based on common sense. They reflect our priority of applying the Act in a practical way to help public office holders avoid conflicts of interest. Please see [pages 9 and 10](#) for details.

To help the Office run more efficiently, administrative processes were streamlined, and more authority was delegated to members of the Senior Management Committee. The Commissioner is the key decision maker, supported by employees of the Office. Employees must be empowered and equipped so they can work independently and efficiently on things that do not need to cross the Commissioner's desk.

The Office worked to make its communications and outreach activities more effective. It conducted its second survey of public office holders to better understand their needs. It continued using plain language to make its materials easy to understand and accessible.

The Office testified six times before the House of Commons Standing Committee on Access to Information, Privacy and Ethics on various topics, to explain the workings of the Office.

Our approach is reflected in the Office's vision, mission, and mandate. They capture the why, what, and how of its activities.

I look forward to building on this approach to the role of Commissioner in the years to come.



Hon. Konrad von Finckenstein, C.M., K.C.

Conflict of Interest and Ethics Commissioner

VISION

To safeguard public confidence in the integrity of Parliament and government institutions.

MISSION

To help elected and appointed public officials avoid conflicts of interest.

MANDATE

Administer the *Conflict of Interest Code for Members of the House of Commons* and the *Conflict of Interest Act* to manage conflicts of interest and safeguard public trust.

ACTIVITIES AT A GLANCE

The Commissioner's Office helps public office holders manage conflicts of interests during each of the three stages of their journey as they move in and out of public office.

1

When they are appointed

Over 350 new or reappointed public office holders completed their initial compliance process.

2

While they are in office

Over 2,600 instances of advice provided every year about their individual circumstances.

3

When they leave

Guidance documents shared over 520 times with public office holders when they were leaving office.

The Office met the following **service standards** over 89% of the time:

- 3 days to contact new or reappointed public office holders
- 3 days to help public office holders when they reach out

Data is based on a five-year average from April 1, 2019 to March 31, 2024.

PUBLIC OFFICE HOLDERS

Individuals covered by the *Conflict of Interest Act* are called public office holders. They must all meet its recusal requirement, its core set of conflict of interest rules, and its post-employment rules that apply indefinitely.

Just over half of them (51%) must follow only those general rules.

These **public office holders without reporting obligations** include part-time members of federal boards, commissions and tribunals appointed by the Governor in Council (the Governor General acting on the advice of Cabinet), and ministerial staff who work on average less than 15 hours a week.

The rest (49%) have to follow additional rules. They must confidentially disclose certain information to the Office and publicly declare some information. They are restricted in their outside activities and they are not allowed to hold "controlled assets" such as publicly traded securities. They also face a cooling-off period after leaving public office.

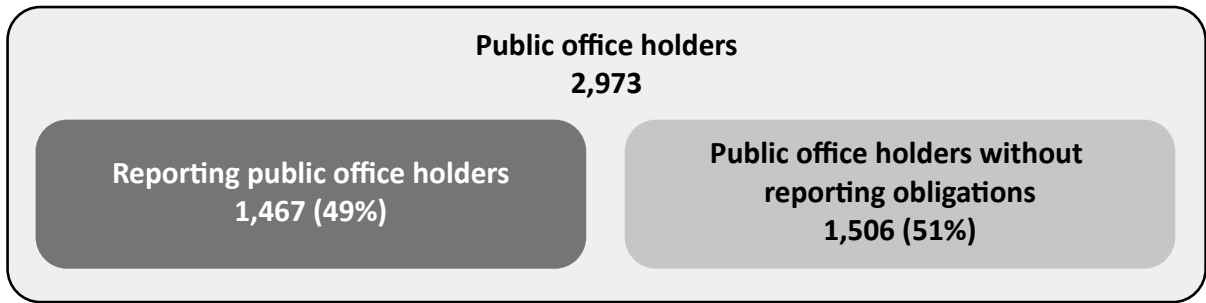
These **reporting public office holders** include ministers and parliamentary secretaries, ministerial staff who work on average 15 hours or more a week, and people appointed to full-time positions by the Governor in Council.

As tracked in the Office's [quarterly statistical reports](#), the number of public office holders went up and down during the year:

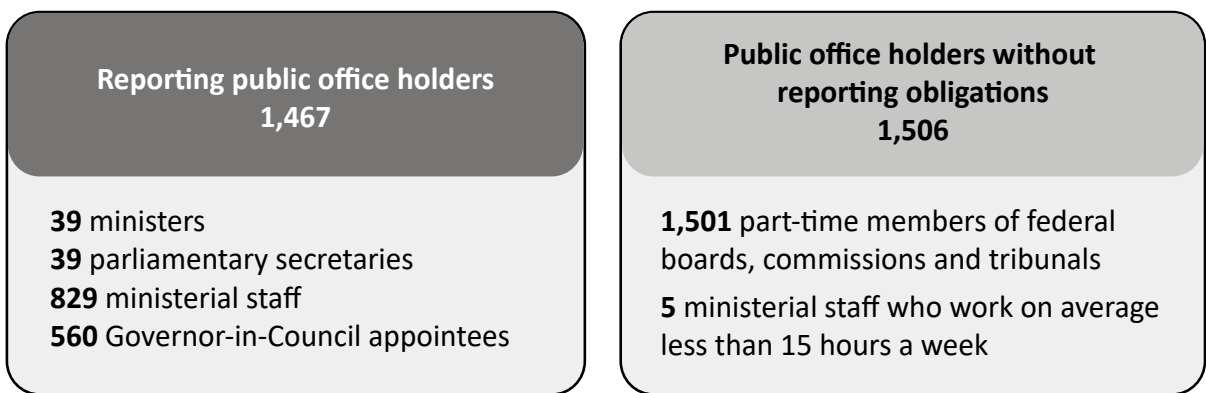
- 349 reporting public office holders were appointed or reappointed, and 333 left office;
- 341 public office holders without reporting obligations were appointed or reappointed, and 197 left office.

At the end of 2023-2024, 6% more people were subject to the Act than the five-year average.

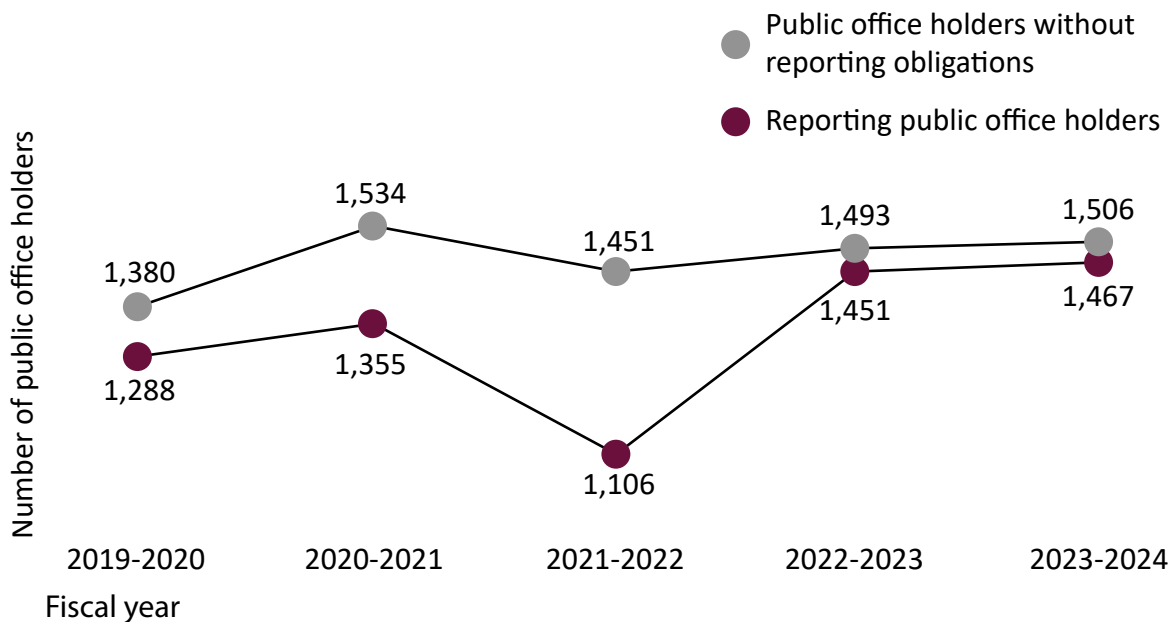
All public office holders (snapshot as of March 31, 2024)



Breakdown of public office holders (snapshot as of March 31, 2024)



Public office holders over the past five years



HELPING PUBLIC OFFICE HOLDERS COMPLY

The *Conflict of Interest Act* has many rules that public office holders must learn and follow to avoid conflicts between public and private interests. The Commissioner's Office guides them on how to follow the rules.

It also helps reporting public office holders identify and submit required information. That information helps the Commissioner's Office spot possible conflicts of interest. To support transparency and prevent conflicts of interest, some of it is made public.

The Commissioner's Office reaches out to all public office holders early in their mandate. It aims to contact each one personally within three days after learning of their appointment or reappointment. It met this service standard 96% of the time in 2023-2024, more than its 80% target.

Soon after they are appointed, it tells new public office holders without reporting obligations about the rules that apply to them. It also communicates with them from time to time while they are in office. In 2023-2024, it shared with them the [2022-2023 annual report](#) under the Act, and invited them to six educational sessions. When the end of their term is coming up, it explains the Act's post-employment rules that apply to them.

Personal guidance

The Commissioner's Office works with reporting public office holders regularly while they are in office.

It starts by assigning each one an advisor who can focus on their individual needs. This opens an ongoing dialogue that lasts for their time in office. Reporting public office holders can ask their advisor for advice at any time.

Public office holders without reporting obligations can contact the Commissioner's Office when they have questions.

In a January 2024 survey, most public office holders identified access to an advisor as the Office's biggest benefit.

Their personal advisor helps them understand and follow the rules, and meet the Act's reporting requirements. They also give them advice tailored to their personal situation.

Initial compliance process

Advisors walk newly appointed reporting public office holders through the [initial compliance process](#). This is a critical step that they must complete to achieve compliance with the Act. It is an opportunity for them to learn the rules and address potential issues.

Reporting public office holders must give the Commissioner's Office a lot of personal and financial information, by filling out a [Confidential Report](#).

Their advisor reviews that information and helps them arrange their affairs to avoid conflicts of interest. For example, they may have to quit certain [outside activities](#), or set up a [conflict of interest screen](#).

Once they complete the initial compliance process, reporting public office holders are on track to avoid conflicts of interest going forward.

If they have [controlled assets](#) (publicly traded securities and other assets whose value could be directly or indirectly affected by government decisions or policy), they must sell them or put them in a [blind trust](#) ("divest" them). The Commissioner's Office will order their organization to pay them back for certain costs linked to blind trusts. Reimbursement rates are listed in an [information notice](#) that the Commissioner's Office updated in February 2024.

The Commissioner can let reporting public office holders who are not ministers or parliamentary secretaries keep some controlled assets. Their total market value must be so low there is no risk of conflict with their job duties. After capping this "[minimal value exemption](#)" at \$30,000 for about 10 years, in October 2023 the Commissioner doubled it to \$60,000. This is a more realistic amount given the changed economic situation and inflation.

In October 2023, the Commissioner's Office started letting people appointed to the Canada Energy Regulator deal with some assets differently. The [Canadian Energy Regulator Act](#) has a broader definition of conflict of interest than the *Conflict of Interest Act*. This was interpreted as meaning they had to sell any open-ended mutual funds and exchange-traded funds (ETFs) containing energy stocks. The Commissioner adopted a more liberal interpretation. Now, they can keep open-ended mutual funds, as these are [exempt assets](#) under the *Conflict of Interest Act*. They must still divest ETFs, as these are controlled assets under that Act. However, they now have the option of putting them in a blind trust instead of just selling them.

The advisor prepares a summary of the information in the reporting public office holder's Confidential Report (it is called a "summary statement") for them to review and sign.

When the Commissioner's Office posts the summary statement in the [public registry](#), the initial compliance process is over. This signals that the reporting public office holder has met their initial reporting obligations under the Act. They are now on track to maintain their compliance and avoid conflicts of interest going forward.

Ongoing reporting requirements

Reporting public office holders must tell the Commissioner's Office about any [gifts or other advantages](#) worth \$200 or more that they or a family member accept. These could include event invitations and tickets, meals, services, property, or the use of property at a reduced rate or no cost.

Public office holders and their family members may not accept gifts that might reasonably be seen to have been given to influence the public office holders in how they do their job.

There are several exceptions to this rule. One is for gifts that are within the customary standards that normally accompany a public office holder's position. Since October 2023, the Commissioner has allowed them, under that exception, to accept certain gifts worth \$40 or less, with a yearly cap of \$200 worth of such gifts from one donor. This change mirrors the exemption in the new *Lobbyists' Code of Conduct* (2023).

Reporting public office holders must also tell the Commissioner's Office about:

- Changes to the information in their Confidential Report. These are called [material changes](#).
- Recusals (when they stepped back from talking about, deciding on, debating, or voting on anything they might have a conflict of interest in). All public office holders must recuse if they have a conflict of interest, but only reporting public office holders have to tell the Office about such recusals.
- [Firm offers of outside employment](#) and their acceptance. If a reporting public office holder is considering an offer, their advisor can tell them if accepting it would violate the Act's post-employment rules.

Since October 2023, outside employment does **not** include jobs or contracts with federal public sector entities other than the Senate or House of Commons.

In 2023-2024, reporting public office holders disclosed to the Commissioner's Office over 20 firm offers of outside employment and their acceptance.

- Private flights accepted by ministers and parliamentary secretaries, a member of their family, a ministerial adviser, or ministerial staff. They can only accept private flights if required for their job, in exceptional circumstances, or with the Commissioner's prior approval.

Some of this information will be made public.

Reporting public office holders must also complete an **annual review**. Every year, they must review their information with their advisor, and update it as needed.

Advice

The Commissioner's Office advises public office holders on issues that may involve potential conflicts of interest. It encourages them to get in touch any time they have questions or concerns. In 2023-2024, the Office received 8% more requests for advice than the five-year average.

The Office aims to respond to public office holders' requests for advice within three business days. It met this service standard 93% of the time in 2023-2024, more than its 80% target.

To make sure the advice it gives public office holders is consistent, the Commissioner's Office records how the Commissioner interprets the Act in an internal practice manual. It launched a major update of this tool in 2023-2024.

The Commissioner's Office also tracks the kinds of things public office holders ask about, so it can identify training needs and spot trends that might impact its workload.

When asked, the Office explains the Act's requirements to candidates for public office holder positions.

Post-employment

After they leave public office, former public office holders must follow the Act's [post-employment rules](#).

There is a cooling-off period of two years for former ministers and one year for other former reporting public office holders. During that time, they may not contract with or accept a job offer from an entity they had [direct and significant official dealings](#) with during their last year in office.

Since October 2023, the Commissioner's Office has excluded federal public sector entities from the Act's definition of **entity**. This means, for example, that reporting public office holders no longer need to ask for an exemption, reduction, or waiver of their cooling-off period to accept such work. The change recognizes that the government is one entity, and there cannot be any conflicts of interest between different parts of it.

October 2023 changes of practice

- Exclusion of federal public sector entities from the definition of "entity" in the Act's post-employment rules
 - Low-value gift exemption
 - Doubling of the minimal value exemption for controlled assets
 - Allowing Canada Energy Regulator appointees to deal with some assets differently
-

2023-2024 in numbers

The Commissioner's Office helps public office holders understand the rules and arrange their affairs, so they can avoid conflicts of interests at every stage: when they enter public office, while they are in office, and after they leave it.

1

Helping public office holders understand the rules in the *Conflict of Interest Act*

- 341 emails outlining rules and obligations sent to new and reappointed public office holders without reporting obligations
- 349 emails outlining rules and obligations sent to new and reappointed reporting public office holders

2

Helping reporting public office holders arrange their affairs to avoid conflicts of interests

- 305 initial compliance processes completed
- 1,241 annual reviews completed
- 2,767 instances of advice provided
- 778 public registry postings (includes postings related to initial compliance and ongoing obligations)
- 83% of reporting public office holders submitted their initial compliance information on time. Of the rest, more than half submitted it within one week of the deadline
- 9 conflict of interest screens set up
- 49 divestments of controlled assets (37 by sale and 12 by blind trust)
- 150 reimbursement orders issued for blind trust fees totalling \$790,000

3

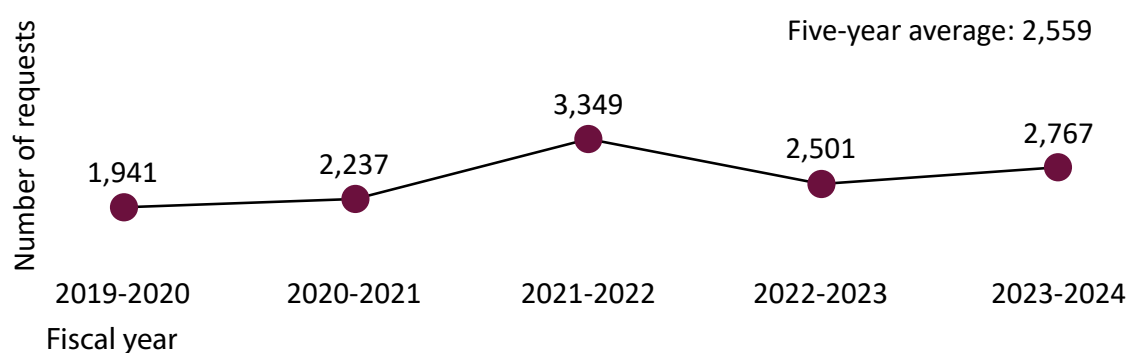
Helping former public office holders avoid conflicts of interests after they leave

- 197 post-employment reminders sent to former public office holders without reporting obligations
- 333 post-employment reminders sent to former reporting public office holders
- 305 individuals were still subject to a cooling-off period at the end of the fiscal year
- 2 post-employment exemptions, waivers or reductions granted

Advice by topic in 2023-2024

Requests for advice from individuals subject to the Act	2,767
General obligations	851
Material changes	839
Post-employment obligations	407
Gifts or other advantages	380
Outside activities	290

Requests for advice over five years



Public declarations by public office holders in 2023-2024

Public declarations by topic	765
Summary statements	271
Outside activities	153
Gifts or other advantages	146
Assets	103
Liabilities	49
Recusals	38
Travel	5

EDUCATING AND INFORMING

Prevention is a major focus of the *Conflict of Interest Act*. Public office holders must learn the rules so they can recognize potential conflicts of interest and take steps to avoid them.

The Commissioner's Office helps them understand what they must—and must not—do to avoid conflicts of interest.

It offers education and training on the Act's conflict of interest rules and its other requirements. To help public office holders understand and retain important information, the Office gives them the same information more than once, and in different ways.

Soon after they are appointed, the Commissioner's Office gives every public office holder some general information. That information helps them understand the Act. It also helps them know when they should ask their advisor questions.

The Commissioner's Office also gives educational sessions and presentations to groups of public office holders.

In 2023-2024, it gave 24 of these, mostly online. Over 300 public office holders participated. This is in line with the number of presentations offered the year before.

Six of those educational sessions and presentations were to:

- ministers' offices (Indigenous Services Canada, Crown-Indigenous Relations and Northern Affairs Canada); and
- organizations with public office holders (Elections Canada, Invest in Canada).

The other 18, attended by over 170 participants, were for groups of public office holders from across a range of organizations. The Office organizes educational sessions like these in a purposeful way and delivers them on a regular basis.

Regularly scheduled educational sessions

Topic	Audience
What is a conflict of interest?	Reporting public office holders appointed in last 60 days
Overview of the Act	Public office holders appointed in last 120 days
General information	New reporting public office holders
General information	Ministerial staff

In July 2023, the Commissioner's Office gave a presentation to members of the Privy Council Office's appointments staff. The Privy Council Office directs potential Governor in Council appointees to the Commissioner's Office for information about the Act's requirements. It also tells new public office holders about educational sessions offered by the Commissioner's Office.

In January 2024, the Director of Communications, Outreach, and Planning gave a presentation to a Carleton University class. The students included current and future public office holders and ethics practitioners.

The Office's strategic communications and engagement plan is a framework for all these activities. It is aimed at meeting the needs of public office holders, a primary audience. Actions in the plan are designed to help the Commissioner's Office give them the information they need promptly, and in the formats they prefer.

The Office also accepts all on-demand requests for presentations.

2024 public office holders survey

In January 2024, the Commissioner's Office surveyed public office holders to better understand their needs. It wanted to know what worked well when communicating and engaging with them. Just as important, it also wanted to know how it could do better. The Office ran the same kind of survey in 2022.

The survey results confirmed its approach in areas like education and training. They also showed there is room for improvement.

The Commissioner's Office will use the results to build on what is working, and to make any needed changes. For example, improving educational opportunities and simplifying its communications.

Survey highlights

- Public office holders continued to have a positive opinion of the Commissioner's Office and were satisfied with their interactions.
- A large majority continued to strongly agree that advisors are courteous and helpful, and that they provide useful, timely and accurate information. They also indicated that access to an advisor is the Office's greatest value-add.
- A large majority said getting emails from the Office is more helpful than getting information from its website.
- A small minority were dissatisfied with the rules.
- Respondents said they would like more training options.

The survey responses represent the views of all public office holders at a 95% confidence level.

ADDRESSING NON-COMPLIANCE

The Commissioner's Office upholds the *Conflict of Interest Act's* focus on prevention by helping public office holders avoid conflicts of interest. It also helps them meet the Act's other requirements, like disclosing information and arranging their private affairs.

Sometimes, however, public office holders fail to comply with the Act. This can happen for all kinds of reasons, including some that are not in their control. It is rare for someone to deliberately ignore their obligations under the Act, or to refuse to cooperate with the Commissioner's Office.

When a public office holder does not comply with the Act, their advisor in the Commissioner's Office works with them to get them back on track.

The Office also helps former reporting public office holders follow the Act's post-employment rules. They can call the Office for post-employment advice at any time after they leave public office, even years later.

Former reporting public office holders do not have to tell the Commissioner's Office about any new jobs they accept, so it monitors sources of public information about their employment activities. If the Office spots any risk of conflict of interest, it steps in with advice.

The involvement of the Commissioner's Office usually solves issues of non-compliance. If it does not, there are some enforcement mechanisms the Office can use, depending on the circumstances.

Administrative monetary penalties

There are deadlines in the Act for getting information to the Commissioner's Office, and penalties for missing them.

Under sections 52 and 53 of the Act, the Commissioner can impose [administrative monetary penalties](#) of up to \$500 for not meeting certain reporting requirements on time. Penalties are posted in the public registry.

Compliance orders

Under section 30 of the Act, the Commissioner may order a public office holder to take any measure to comply with it.

Compliance orders cover things like submitting documents for an annual review, divesting controlled assets or quitting prohibited activities. They are posted in the public registry.

Investigations

The Commissioner can investigate public office holders if it looks like they may have contravened the Act. (Investigations under the Act are called “examinations.”)

Under section 44 of the Act, the Commissioner must investigate if asked by a Senator or Member of the House of Commons who provides reasonable grounds to believe the Act has been contravened. The Office received six examination requests from Members in 2023-2024.

Under section 45, the Commissioner may take the initiative to investigate something if there is reason to believe a current or former public office holder has broken the rules. The Commissioner may decide to investigate under section 45 of the Act based on information from media reports or complaints from members of the public, among other sources. The Commissioner’s Office received 11 examination requests from members of the public in 2023-2024.

The involvement of the Commissioner’s Office usually solves issues of non-compliance. If it does not, there are some enforcement mechanisms it can use.

The Commissioner reports publicly on completed examinations. These examination reports can be found on the Office’s website, and in the public registry.

When the Commissioner discontinues an examination launched under section 44 of the Act, a discontinuance report is issued. However, when an examination launched under section 45 is discontinued, the Commissioner decides whether to issue a report.

The Commissioner reports on examinations under the Act to the Prime Minister.

No examination reports were issued in 2023-2024.

As of March 31, 2024, the Commissioner’s Office was working on two examinations.

Referrals from the Public Sector Integrity Commissioner

The Public Sector Integrity Commissioner may refer matters to the Commissioner under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*.

Under section 68 of the *Conflict of Interest Act*, the Commissioner must issue a public report on each referral, whether or not an examination is launched.

In 2023-2024, the Commissioner's Office did not report on any referrals from the Public Sector Integrity Commissioner.

Case files

The Commissioner's Office sometimes receives information that someone may have contravened the *Conflict of Interest Act*. That information might come from a Senator or Member of the House of Commons, media reports, or complaints from members of the public.

When it gets such information, it may open a case file. Then it does an initial review. Some of these reviews may lead to examinations. When the Commissioner's Office finds an examination is not warranted, it closes the case file.

2023-2024 in numbers

Administrative monetary penalties

- Two \$200 penalties paid for failing to disclose a material change
- Two \$250 penalties paid for failing to disclose a material change

Case files (a case file is a concern that is reviewed by the Office)

- **Total case files: 19**
 - o Ongoing: 3
 - o Closed without an examination: 16
 - o Closed with publication of report: 0

Breakdown of case files

Subject of each case file	
Current or former minister and parliamentary secretary	7
Current or former public office holder	11
Person not subject to the Act	1

Source of these case files	
Member of the House of Commons	6
Office of the Public Sector Integrity Commissioner	0
Media	2
Member of the general public	11
Within the Office	0

Nature of the concern*	
Furthering a private interest (subsection 6(1) of the Act)	10
Duty to recuse (section 21)	6
Post-employment rules (sections 33 to 35)	0
Influence (section 9)	8
Preferential treatment (section 7)	1
Private air travel (section 12)	0
Prohibited activities (section 15)	2
Public declaration (section 25)	3
Insider information (section 8)	0
Gifts and other advantages (section 11)	1
Material changes (section 22)	0

**A case file can have more than one concern*

REPORTING TO PARLIAMENT

The Conflict of Interest and Ethics Commissioner has a duty to report to Parliament, testify before parliamentary committees, and answer questions from Parliament.

The Commissioner reports on behalf of Canadians to Parliament directly, not through a minister. This is because the Commissioner is an independent Officer of the House of Commons.

By June 30 each year, the Commissioner must send an annual report on the administration of the *Conflict of Interest Act* to the Speakers of the Senate and the House of Commons. The Speakers table it in those chambers.

The Office sends communiqués to parliamentarians about reports and other activities under the Act and the *Conflict of Interest Code for Members of the House of Commons*. It sent three communiqués in 2023-2024.

The House of Commons Standing Committee on Access to Information, Privacy and Ethics (ETHI) has oversight responsibility for the Office. It reviews the Office's annual spending estimates, and matters related to the Commissioner's reports under the Act.

In 2023-2024, the Commissioner and other senior Office representatives appeared before ETHI six times.

ETHI appearances

Subject	Main Estimates 2023-24: Vote 1 under Office of the Conflict of Interest and Ethics Commissioner
Date	May 12, 2023
Appearing	Sandy Tremblay, Director, Corporate Management Melanie Rushworth, Director, Communications, Outreach and Planning

Subject	Appointment of the Hon. Navdeep Bains as Chief Corporate Affairs Officer at Rogers Communications
Date	June 20, 2023
Appearing	Lyne Robinson-Dalpe, Director, Advisory and Compliance

Subject	Briefing session with the Interim Conflict of Interest and Ethics Commissioner
Date	September 18, 2023
Appearing	Commissioner Konrad von Finckenstein with Lyne Robinson-Dalpe, Director, Advisory and Compliance

Subject	Briefing on Annual Reports and Other Reports of the Conflict of Interest and Ethics Commissioner
Date	October 16, 2023
Appearing	Commissioner Konrad von Finckenstein (Former Commissioner Mario Dion also appeared)

Subject	Briefing Session with the Conflict of Interest and Ethics Commissioner
Date	January 30, 2024
Appearing	Commissioner Konrad von Finckenstein with Lyne Robinson-Dalpe, Director, Advisory and Compliance

Subject	Decision of the Royal Canadian Mounted Police (RCMP) to Not Pursue a Criminal Investigation in Relation to the SNC-Lavalin Affair
Date	March 21, 2024
Appearing	Commissioner Konrad von Finckenstein with Michael Aquilino, Legal Counsel (Former Commissioner Mario Dion also appeared)

SUPPORTING TRANSPARENCY

Transparency is like a window that lets people see how things work. It is a pillar of the *Conflict of Interest Act* and, indeed, of all effective conflict of interest regimes. Ultimately, it can promote trust in government decision making.

Public office holders must not only follow the rules in the Act, they must be seen to do so. By seeing how things work, Canadians can feel confident that the government is doing what it is supposed to do. To keep the government accountable, Parliament and Canadians need access to clear, accurate and up-to-date information.

Transparency is built into the Act through its disclosure and public declaration requirements.

Reporting public office holders must give the Commissioner information about their financial interests, personal relationships, and other factors that could potentially influence their decision making.

Public registry

Some of that information is made public. The Act requires the Commissioner's Office to maintain a [public registry](#). This searchable database contains all the information about individual public office holders that the Commissioner is allowed to make public.

Reporting public office holders' information stays in the registry until the end of their one- or two-year cooling-off period under the Act's [post-employment rules](#). After that, it is no longer available from the Office.

Public communications

The Commissioner's Office also aims for transparency in its public communications. By law, it must keep some information—like any dealings it has with individual public office holders—private. But it shares as much information as it can, and in different ways.

For example, the Office posts information on its website and on social media, and responds to media and members of the public who ask for information.

The Office uses social media to keep track of conversations about ethics issues. It also shares information about its activities and the public registry on social media. The Office aims its messaging at educating its secondary audiences: media, academics, international and domestic ethics practitioners, and others who are interested in what it does. It communicates with public office holders in other ways.

When responding to inquiries from media and members of the public, the Office gives as much information as possible about how the Act works. It also includes links to the public registry when appropriate. The Office only answers emails that are directly addressed to it, not ones it is just copied on.

The Office aims to respond to media inquiries within four hours, and to inquiries from members of the public within 10 business days, at least 80% of the time. In 2023-2024, it met these service standards 96% of the time for media inquiries, and 91% of the time for public inquiries.

The Office is also transparent about its activities. It publishes [quarterly statistical reports](#) that show, for example, how many times it responded to public office holders' requests for advice, and what it is doing in the area of education. These reports also include figures on how it meets its service standards.

2023-2024 in numbers

Public registry

- Almost 1,300 items posted, in line with the five-year average
- Over 120,000 public registry page views, up 40% from the year before

Website

- 51,000 new users, up 22% from the year before
- 200,000 page views, up 35% from the year before
 - About 59% of website traffic resulted from Internet searches. This could mean that people were interested in the work of the Office and decided to access the website that way
 - The Office's emails, social media posts and media advisories drove most of the rest of the users to the website

Social media

- The Office's X followers grew by 8% to 4,284
- It tweeted 30% less than in the previous year
- Its LinkedIn followers rose from 35 to 599

Public inquiries

- The Office received over 3,100 emails and phone calls from members of the public

Media inquiries

- The Office received and responded to over 140 media requests, up 23%
 - Almost a third of these requests resulted in an article or social media mention
 - 50% were questions about a specific public office holder or Member of the House of Commons, or the status of a current case file
 - 42% were general inquiries about the Office's role and mandate
 - 8% were about its investigation reports
 - Two media interviews were granted
-

CONNECTING WITH OTHERS

In support of its vision, mission, and mandate, the Commissioner's Office shares information, expertise, and best practices through organizations in Canada and other countries.

Domestic Outreach

The Commissioner's Office continues to coordinate information sharing within the Canadian Conflict of Interest Network (CCOIN). It is made up of federal, provincial, and territorial conflict of interest commissioners.

The Commissioner, the Senior General Counsel and the Director of Communications, Outreach and Planning attended CCOIN's September 2023 annual meeting. The Conflict of Interest Commissioner of Nova Scotia, Joseph P. Kennedy, hosted it in Halifax.

The Commissioner also participated in CCOIN's March 2024 online semi-annual meeting.

In December, the Commissioner's Office hosted interns from Quebec's [Fondation Jean-Charles-Bonenfant](#) [link in French only].

International Outreach

The Commissioner's Office is an active member of two international ethics organizations:

- The Réseau francophone d'éthique et de déontologie parlementaires (RFEDP), a group of public institutions in the [Organisation internationale de la Francophonie](#) [link in French only] that are involved in ethics and codes of conduct.
- The Council on Governmental Ethics Laws (COGEL), a U.S.-based organization of government ethics practitioners.

RFEDP activities in 2023-2024:

- The Director of Advisory and Compliance continued to serve on the RFEDP's Bureau.
- The Commissioner's Office is a member of a working group on best practices that remained active.

- The Office continued to work with the RFEDP on a project to partner with universities on research about various topics.
- In June, the Director spoke at the [École de printemps en études parlementaires : Éthique et déontologie](#) [link in French only] at the University of Luxembourg.
- In July, the Director spoke at the 48th session of the [Assemblée parlementaire de la Francophonie](#) [link in French only] in Tbilisi, Georgia.
- In October, the Commissioner, the Director of Advisory and Compliance and the Director of Communications, Outreach and Planning attended the RFEDP's Annual General Meeting in Quebec City.

COGEL activities in 2023-2024:

The Commissioner and several other Office representatives attended COGEL's 2023 conference, held in Kansas City, Missouri, in December.

- The Director of Communications, Outreach and Planning was a member of the program committee for the conference, and moderated panels on data and generative AI, and academic collaboration.
- The Manager, Strategic Planning and Analysis, who co-chairs the Office's Equity, Diversity, and Inclusion Committee, moderated an armchair discussion on equity, diversity, and inclusion. The Manager was also part of a panel on strategic planning.

Other international outreach activities:

- Attended the [2024 Global Anti-Corruption and Integrity Forum](#) of the Organisation for Economic Co-operation and Development. (March 2024)
- Presentation to the 15th Canadian Parliamentary Seminar in Ottawa. (March 2024)
- Meeting with Public Safety Canada to discuss their ongoing work on options to establish a foreign influence transparency registry (FITR). (December 2023)
- Meeting with a delegation from Vietnam. (November 2023)
- Meeting with Members of the European Parliament's Committee on Constitutional Affairs. The Members are working to set up an ethics body that would bring in unified ethics and transparency standards across European Union institutions. (November 2023)
- Input to Global Affairs Canada for its response to a questionnaire from the [APEC Anti-Corruption and Transparency Experts Working Group](#) (ACTWG). The questionnaire was about how Asia-Pacific Economic Cooperation members have been implementing the [APEC Anti-Bribery Principles](#). (May 2023)

MANAGING THE COMMISSIONER'S OFFICE

A team of 53 people supports the Commissioner. They are experts in compliance, law, communications, information management and technology, investigations, parliamentary relations, and other areas.

This team actively manages the day-to-day tasks involved in administering the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*. It also makes sure the processes and structures are in place to support their administration.

The Commissioner gives the Office overall direction and makes the decisions that need his input and approval.

The Commissioner works closely with other members of the Office's Senior Management Committee.

Conflict of Interest and Ethics Commissioner's Office



Hon. Konrad von Finckenstein, C.M., K.C.,
Commissioner

Advisory and Compliance



Lyne Robinson-Dalpe,
Director

Investigations and Legal Services



Martine Richard,
Senior General Counsel

Communications, Outreach and Planning



Melanie Rushworth,
Director

Corporate Management



Sandy Tremblay,
Director

The post of Commissioner was vacant for much of the first five months of the fiscal year, after former Commissioner Mario Dion resigned in February 2023.

Senior General Counsel Martine Richard served as Interim Commissioner from March 28 to April 19, 2023. On August 30, Konrad von Finckenstein was appointed Commissioner for a six-month term. Effective March 5, 2024, he was appointed for seven years.

When the post was vacant, the Commissioner's Office continued to do what was needed to support its mandate. For example, it advised public office holders, gave educational sessions and training, kept the public registry up to date, and responded to information requests. The Senior Management Committee gave guidance when necessary.

It also kept working to comply with the [Employment Equity Act](#) and the [Accessible Canada Act](#).

Without a Commissioner, however, there were some things the Office could not do. For example, it could not issue reimbursement orders for blind trust fees, or decide whether to investigate matters that had come to its attention.

As a first priority after Commissioner von Finckenstein's appointment, the Office cleared the backlog of items that needed a Commissioner's approval. He then delegated more authority to members of the Senior Management Committee to increase the Office's functionality in his absence.

Improving the Office's administrative efficiency was another priority.

To make sure it has the right positions and the right people in them to support its mandate, the Office ran five staffing processes in 2023-2024. Employee turnover fell as just two employees left.

The Office's financial statements are audited each year by an independent external auditor. Its financial information for 2023-2024 is outlined in the [Appendix](#).

ADDRESSING LEGAL MATTERS

The Commissioner's decisions on investigations are sometimes challenged in court. Dealing with these cases can help clarify the Commissioner's mandate and powers.

One court case was underway in 2023-2024.

Democracy Watch asked the Federal Court of Appeal to review former Commissioner Mario Dion's findings in the 2021 [Trudeau III Report](#). He had concluded that Prime Minister Justin Trudeau did not contravene the *Conflict of Interest Act* when the government chose WE Charity to run a COVID-19 program, even though some of his family members were closely involved in some of WE Charity's projects. The Commissioner determined that the Act only covers real or potential conflicts of interest, and a situation that simply appears to be a conflict does not contravene the rules.

In the Notice of Application for Judicial Review it submitted to the Court, Democracy Watch pointed out mistakes it believes the Commissioner made in both law and fact. It argued that the Commissioner was wrong to conclude that the Act's definition of conflict of interest excludes the appearance of conflict, and that he was wrong about Mr. Trudeau not being friends with WE Charity's cofounders. Democracy Watch also asked for a certified copy of everything the Commissioner looked at in the investigation (called the "certified tribunal record").

Responding on the Commissioner's behalf, the Attorney General of Canada objected to that request because section 66 of the Act does not allow the types of grounds for review that Democracy Watch raised. Section 66 is the Act's privative clause, a provision that aims to limit or exclude judicial review of decisions.

In a motion to strike the Notice of Application, the Attorney General also wrote that section 66 does not allow the Court to review the alleged errors of law and fact.

The judge who heard that motion decided that the full panel of the Court hearing the merits of Democracy Watch's application should examine the question about section 66, so it could clarify the important issue of how privative clauses should be interpreted and applied (*Democracy Watch v. Canada [Attorney General]*, 2022 FCA 208).

Democracy Watch filed a specific motion to get the certified tribunal record. The Attorney General objected, noting that much of the material is confidential.

In a second decision, the judge wrote that the Commissioner should not be required to disclose confidential documents in support of a ground that the Court might not be allowed to review because of section 66 (*Democracy Watch v. Canada [Attorney General]*, 2023 FCA 39). The judge decided that the Court should therefore proceed in two stages:

- In stage 1, the full panel of the Court will determine how section 66 of the Act applies to the matter. If the Court determines that section 66 applies, it may dismiss Democracy Watch's application.
- If it determines that some or all of the grounds are allowed, it may move on to stage 2 and review the application on its merits.

The Federal Court of Appeal heard Stage 1 on March 24, 2024. It has not yet made a decision.

APPENDIX: FINANCIAL RESOURCES SUMMARY

(thousands of dollars)					
Program Activities	2022-2023 Actual Spending	Main Estimates	2023-2024 Total Authorities	Actual Spending	Alignment to Government of Canada Outcomes
Administration of the <i>Conflict of Interest Act</i> and the <i>Conflict of Interest Code for Members of the House of Commons</i>	6,769	7,421	7,421	6,875	Government Affairs
Contributions to employee benefit plans	812	912	912	839	
Total spending	7,581	8,333	8,333	7,714	
Plus: cost of services received without charge	1,133	N/A	N/A	1,017	
Net cost of department	8,714	8,333	8,333	8,731	

The Office of the Conflict of Interest and Ethics Commissioner's budget process is set out in the *Parliament of Canada Act*. Before each fiscal year, the Office prepares an estimate of its budgetary requirements. The Speaker of the House of Commons considers the estimate then transmits it to the President of the Treasury Board, who lays it before the House with the Government of Canada's estimates for the fiscal year. The Standing Committee on Access to Information, Privacy and Ethics reviews and reports on the Office's effectiveness, management and operations, and its operational and expenditure plans.

The figures in this summary have not been audited. Complete audited [financial statements](#) will be available on the Office's website.