



Information Notice for public office holders

Recusal

Here is some general information to help public office holders understand the Conflict of Interest Act. This document explains how to meet its recusal requirement. You should also read about [complying with the Act](#) and [conflict of interest screens](#). Get confidential advice by calling 613-995-0721 or [sending an email](#).

Source: [Section 6](#), [section 21](#) and [section 25](#) of the [Conflict of Interest Act](#)

Recusal—stepping away from any discussion, decision, debate or vote on any matter in which they have a conflict of interest—is the best way for public office holders to address or manage a conflict of interest situation.

Recusal is a cornerstone of an effective conflict of interest regime. The *Conflict of Interest Act's* recusal requirement applies to **all** public office holders.

- 1. What is a recusal?**
- 2. When do I have to recuse?**
- 3. How do I recuse?**
- 4. Are there any exceptions to the Act's recusal requirement?**
- 5. Do I need to report recusals?**
- 6. Can the Commissioner order a recusal?**
- 7. Do I have to recuse if I have a conflict of interest screen?**
- 8. What happens if I do not recuse when I should?**
- 9. Has the Commissioner done any investigations about recusals?**

1. What is a recusal?

A recusal means removing yourself as a decision-maker from a particular matter because of a conflict of interest. Recusing means having nothing to do with the matter.

A recusal is different from an abstention. It is more than simply staying silent during a discussion or refraining from voting, because the mere presence of an individual can influence another participant.

2. When do I have to recuse myself?

You must recuse yourself from any discussion, decision, debate or vote on any matter where there is an **opportunity** to further your private interests or those of your [relatives](#) or friends, or to improperly further the private interests of anyone else. The outcome—that is, whether or not those private interests were furthered—is not relevant.

For example, you would have to recuse yourself from a meeting organized between your department and your spouse to discuss a contract between the government and your spouse's employer, whether or not their employer gets the contract. If you are on a public sector entity's board of directors, you must recuse yourself from evaluating any funding requests from a company you own, whether or not the company gets any funds. You must recuse yourself from a hiring process in which your friend is a candidate, whether or not they are hired.

The Act's recusal requirement is set out in [section 21](#).

It supports the prohibition in [subsection 6\(1\)](#) against making a decision or participating in decision-making if you know or reasonably should know that it would place you in a [conflict of interest](#).

To identify if a recusal is required, ask yourself the following questions:

- Do I have a private interest, such as a financial interest, in this matter?
- Do I have a relative or friend whose private interests could be affected by the matter?

3. How do I recuse?

To recuse yourself, you must first declare your conflict to other participants. Then you must remove yourself from the location—physical or virtual—where the discussion, decision, debate or vote is taking place, so your mere presence cannot be seen to influence others.

For in-person meetings, this means leaving the room. For conference calls and online meetings, it can mean exiting the meeting call, or being moved to a virtual waiting room. You cannot be present for, listen to, or observe the discussion or decision-making process.

Recusing also includes not sending emails or talking about the matter with colleagues.

If you are contacted directly **by phone** by an individual or an entity with whom you are in a conflict of interest, you must inform them of your conflict and tell them you cannot help them. You must also contact your advisor to disclose this recusal.

If you are contacted directly **by email** by an individual or an entity with whom you are in a conflict of interest, you must contact your advisor to determine the best course of action.

4. Are there any exceptions to the Act's recusal requirement?

You do not have to recuse when your interest in a matter is not a private interest

An interest in the following matters is not considered a [private interest](#) under the Act. Therefore, you do not have to recuse yourself from discussions, decisions, debates or votes on matters that:

- are of general application. This exception applies equally to an undetermined number of persons who fall within the jurisdiction of the decision-maker. A matter of general application does not apply to a specific person or group of persons, or to a particular situation.
- affect you as one of a broad class of persons. This is a personal exception for public office holders only. A broad class includes a large number of persons who may have all sorts of characteristics or attributes, but share at least one important one. Examples of broad classes of persons might be occupational groups (teachers, lawyers, farmers, etc.) or other readily identifiable groups, such as homeowners or children, that include a large number of people. Your advisor can help you determine if this exception applies to you.
- concern the pay or benefits associated with being a public office holder.

Ministers and parliamentary secretaries may abstain instead of recusing in the House of Commons

If you are a minister or parliamentary secretary, you must abstain—rather than recuse—from debates or votes in the House of Commons or at committee on matters that would put you in a conflict of interest.

This means you do not have to leave the House of Commons chamber or committee room while the debates or votes are taking place. Instead, you may stay and just observe.

Ministers and parliamentary secretaries are also subject to the rules in the [Conflict of Interest Code for Members of the House of Commons](#) (sections 12 and 13). If Members are present during a discussion in the House or in committee of a matter that might affect their private interests, they must disclose, orally or in writing, the general nature of the interest. They must also disclose its general nature in writing as soon as possible to the Clerk of the House.

The Clerk will include the disclosure in the [Journals](#) and send it to the Commissioner, who will post it in the public registry.

When a discussion that affects your private interests comes up in any other circumstances involving your parliamentary duties and functions, you must disclose your private interest as soon as possible to the party concerned and notify the Commissioner in writing.

5. Do I need to report recusals?

Reporting public office holders

If you are a reporting public office holder and have recused to avoid a [conflict of interest](#), you must **tell the Office** about the recusal as soon as possible. You can use the [Declaration Portal](#) or contact your advisor.

You must also **publicly declare** the recusal within 60 days after the day it took place. Your public declaration must include enough detail to identify the conflict of interest that you avoided.

If you do not publicly declare a recusal on time, you risk an [administrative monetary penalty](#) of up to \$500.

You do not have to publicly declare a recusal if the matter falls under one of the Act's [exceptions](#) to this reporting requirement. For example, a recusal declaration will not be published if the very fact of the recusal could reveal, directly or indirectly, a Cabinet confidence (information contained in certain types of documents presented to or considered by Cabinet). Please speak with your advisor to see if an exception applies.

Public office holders without reporting obligations

If you are a public office holder without reporting obligations, you do not have to report recusals.

However, you should make sure your recusals are clearly documented in meeting agendas and minutes, your organization's list of conflicts of interest, and other records.

6. Can the Commissioner order a recusal?

Yes. Under [section 30](#) of the Act, the Commissioner may order you to take any compliance measure, including recusal, that the Commissioner determines is necessary to comply with the Act.

[Compliance orders](#) are posted in the [public registry](#).

7. Do I have to recuse if I have a conflict of interest screen?

Having a [conflict of interest screen](#) makes it less likely you will be involved in discussions or decision-making processes on matters that could give rise to a conflict of interest. That is because those matters will not be brought to your attention so you will not be aware of them.

However, you may still become aware of a matter that should have been caught by the screen. If that happens, you must recuse yourself from any discussions or decisions about it, redirect them to your screen administrator, and publicly declare the recusal.

8. What happens if I do not recuse when I should?

If the Commissioner has reason to believe that a reporting public office holder has contravened the Act, the Commissioner may investigate and issue a public report.

9. Has the Commissioner done any investigations about recusals?

Yes. These examination reports deal with recusals under the *Conflict of Interest Act*:

[Ouimet Report](#)

[Verschuren Report](#)

[Ng Report](#)

[Morneau II Report](#)

[Trudeau III Report](#)

[The Leblanc Report](#)

[The Chapman Report](#)

[The Morneau Report](#)

[The Trudeau Report](#)

[The Fonberg Report](#)

[The Watson Report](#)