



41st Parliament, Second Session

The Standing Committee on Procedure and House Affairs has the honour to present its

THIRTY-NINTH REPORT

On May 15, 2012, 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. As part of this review, the Committee invited the Conflict of Interest and Ethics Commissioner to provide a list of recommendations for amendments to the Code to the Committee for its consideration. Prior to its completion, the Committee’s review was interrupted and set aside due to conflicting priorities.

On February 19, 2015, the Committee recommenced its study on the Code. The Committee is pleased to report as follows:

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

The Code emanates from the parliamentary privilege possessed by the House of Commons as a collectivity to discipline its members and to regulate its own internal affairs.¹ Separate from the *Conflict of Interest Act*² that applies to public office holders, the Code forms part of the *Standing Orders of the House of Commons*³ and applies to all Members. For the sake of clarity, it is worth pointing out that the Code, unlike the *Conflict of Interest Act*, does not take the form of a statute.

The Code includes rules of conduct for Members on avoiding conflicts of interest, processes for the confidential disclosure by Members of personal financial information including assets, liabilities and sources of income, along with mechanisms for public reporting of the summaries of disclosure statements prepared by Members. The Code also establishes an inquiry process through which a complaint brought forward against a Member is to be investigated in a confidential manner by the Conflict of Interest and Ethics Commissioner.

¹ Audrey O’Brien and Marc Bosc, *House of Commons Procedure and Practice*, 2nd ed., Éditions Yvon Blais, Montreal, 2009, p. 119.

² *Conflict of Interest Act*, S.C. 2006, c. 9, s. 2.

³ *Conflict of Interest Code for Members of the House of Commons*, s. 34.

The Code was first adopted in April 2004,⁴ and it came into force at the beginning of the 38th Parliament in October 2004. Before then, rules of conduct for Members were dispersed in various documents, mainly the Standing Orders and the *Parliament of Canada Act*.⁵ As is the case with the Standing Orders, the Code can be amended directly by the House, but almost all amendments to the Code are based on recommendations made by the Committee.

Section 33 of the Code mandates the Committee to conduct a comprehensive review of the provisions and operation of the Code and report to the House of Commons every five years. The first and only comprehensive review was completed when the Committee presented its report⁶ to the House on June 11, 2007. The report of the Committee recommended multiple amendments to the Code; it also made a number of recommendations regarding the Commissioner. The report was adopted by the House of Commons on the day it was presented. The Committee also undertook and completed another study that led to amendments to the Code, mainly with respect to gifts and other benefits. The report,⁷ adopted by the House on June 4, 2009, was prepared for the most part by a subcommittee.

Evidence

During the course of its study, the Committee heard from the following witnesses: Ms. Mary Dawson, Conflict of Interest and Ethics Commissioner; Ms. Sherry Perreault, Director, Policy, Research and Communications, Office of the Conflict of Interest and Ethics Commissioner; Ms. Martine Richard, General Counsel and Acting Director, Reports and Investigations, Office of the Conflict of Interest and Ethics Commissioner; Ms. Lyne Robinson-Dalpé, Assistant Commissioner, Advisory and Compliance, Office of the Conflict of Interest and Ethics Commissioner; Mr. Paul D.K. Fraser, Conflict of Interest Commissioner of British Columbia; Ms. Alyne Mochan, Legal Officer, Office of the Conflict of Interest Commissioner of British Columbia; Mr. Marc Bosc, Acting Clerk of the House of Commons; Mr. Philippe Dufresne, Law Clerk and Parliamentary Counsel of the House of Commons; and Hon. Peter Milliken, Former Speaker of the House of Commons. The Committee also received written briefs from Ms. Lynn Morrison, Integrity Commissioner, Office of the Integrity Commissioner of Ontario; and Mr. Jacques Saint-Laurent, Ethics Commissioner, Quebec National Assembly. The Committee appreciates the insights, recommendations, and advice offered by all of the individuals.

Conflict of Interest and Ethics Commissioner Ms. Mary Dawson appeared before the Committee on February 19, 2015. She submitted a written brief that outlined a variety of recommendations related to the Code, most of which contained suggestions for amendments.

⁴ House of Commons, Standing Committee on Procedure and House Affairs, *Twenty-Fifth Report*, 37th Parliament, Third Session, presented on 27 April 2004, concurred in on 29 April 2004.

⁵ *Parliament of Canada Act*, R.S.C. 1985, c. P-1.

⁶ House of Commons, Standing Committee on Procedure and House Affairs, *Fifty-Fourth Report*, 39th Parliament, First Session, presented and concurred in on June 11, 2007.

⁷ House of Commons, Standing Committee on Procedure and House Affairs, *Eighteenth Report*, 40th Parliament, Second Session, presented and concurred in on June 4, 2009.

In her testimony before the Committee, Commissioner Dawson mainly focused on three topics: gifts and sponsored travel, administering the Code, and inquiries. With respect to gifts, Ms. Dawson discussed what she sees as lingering confusion over two separate tests set out in the Code with respect to gifts: the acceptability test, which determines whether a gift may be accepted, and the disclosure test, which sets the value at which acceptable gifts must be publicly declared.

Many members mistakenly believe that gifts and other benefits valued at less than \$500 are automatically acceptable. In fact, all gifts, regardless of value, are subject to the Code's acceptability test, which prohibits members from accepting any gift that could reasonably be seen to have been given to influence them.⁸

On the topic of sponsored travel, Ms. Dawson recommended amendments to the current exemption for sponsored travel from the Code's gift provisions. She noted that it seems anomalous that sponsored travel, which can be very costly, would not be subject to the same requirements as gifts of much lower value. She also suggested amendments to require public disclosure of any third-party funding of travel.

On the administration of the Code, Ms. Dawson recommended that deadlines be imposed for completing certain obligations under the Code. Specifically, she recommended establishing a 120-day deadline for completing the initial compliance process, and a 30-day deadline for completing the annual review process. With respect to inquiries, Ms. Dawson recommended that the Conflict of Interest and Ethics Commissioner should be empowered to comment publicly on reasons for not pursuing an inquiry following a preliminary review. She also suggested that the Committee consider whether Members should refrain from commenting on their inquiry requests until the Member who is the subject of the request has been notified.

On April 9, 2015, the Committee received a submission from Ms. Lynn Morrison, the Integrity Commissioner of Ontario. Ms. Morrison provided her views on a number of the recommendations made by Ms. Dawson to the Committee, while comparing these to the statutes and experience in Ontario. She noted misunderstandings frequently arose among members of Ontario's Legislature in regards to the acceptability rules for gifts; as is the case at the federal level in Canada, these rules are distinct from disclosure rules. She indicated that she often advised members prior to accepting a gift to consider whether the donor had current or potential business dealings with the government, and whether the gift established an expectation that a service or favour might be done in return for the gift or benefit. Ms. Morrison noted that the Commissioner's role in Ontario was not one of enforcement; her office can only provide advice, including recommending that a gift be returned or the donor be reimbursed.

Ms. Morrison noted that Ontario's *Members' Integrity Act* does not define either the term relative or friend; instead, her office interprets these terms broadly. By contrast, Ms. Dawson recommended to the Committee that the Code be amended to include these terms in respect of certain rules of conduct.

⁸ House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, February 19, 2015.

Ms. Morrison expressed support for Ms. Dawson's recommendation that Members requesting an inquiry refrain from commenting publicly on the request until the commissioner has confirmed that he or she has received the request. Ontario does not have any such prohibition in its rules.

Ontario provisions do allow Members of the Provincial Parliament to disseminate all or part of an opinion received from the Integrity Commissioner's office. However, the provincial statute specifically states that if only a portion of the opinion is released by the Member, the Commissioner retains the power to release all or part of the opinion and recommendations without obtaining the Member's consent.

On April 21, 2015, Mr. Paul Fraser, the Conflict of Interest Commissioner of British Columbia appeared before the Committee. In his testimony, Mr. Fraser discussed the conflict of interest regime in British Columbia and his views on Ms. Dawson's recommendations. During his appearance, Mr. Fraser explained many of the key features of the *Members' Conflict of Interest Act* ("British Columbia's Act") while also noting differences between British Columbia's regime and the federal Code (e.g. the process for appointing commissioners, self-initiated investigations, appeal processes, ability to sanction members, etc.).

Mr. Fraser indicated that British Columbia's Act does not provide a definition of friend or relative. In reviewing potential conflicts of interest, private interests have been interpreted broadly, recognizing that a Member of the Legislative Assembly of British Columbia may benefit from another person's private interest being furthered (particularly if that person is a relative or friend). He also discussed blind trusts. The Commissioner's office has devised a system in which Members who wish to trade equities may continue to do so as Members of the Assembly. An arrangement was concluded between the Assembly, the Commissioner's office and several large equity firms to permit Members to continue to invest through a financial advisor, provided that the Member did not have any knowledge of the nature of the investments.

In respect of gifts and other benefits, Mr. Fraser indicated he placed emphasis, in terms of their acceptability by Members, on the nature of gifts rather than the value. He noted that the disclosure threshold for gifts in the province was \$250, and the assessment as to the acceptability of gifts involved assessing information pertaining to the donor and how the gift related to the Member's role. There are no separate provisions in British Columbia's Act that address sponsored travel; it is treated as a gift and personal benefit.

Mr. Fraser also mentioned that British Columbia's Act is silent on the matter of public commentary in relation to requests for inquiries. In practice, the commissioner refrains from commenting on a matter except to confirm that a request for an opinion has been received, and to publish the final report online.

On April 21, 2015, the Committee received a brief submitted by the Ethics Commissioner of Quebec. In it, the Ethics Commissioner of Quebec provided the Committee with comments pertaining to a select number of the recommendations made by the federal Conflict of Interest and Ethics Commissioner.

The Ethics Commissioner of Quebec noted that the *Code of Ethics and Conduct of the Members of the National Assembly* (“Quebec’s Act”) does not provide for a definition of relatives or friends. Quebec’s Act prohibits Members from “improperly further[ing] another person’s private interests.” As Members are prohibited from improperly furthering any other person’s private interest, the Ethics Commissioner of Quebec indicates that it is not necessary for the Commissioner in Quebec to determine whether the individual in question was a friend or a relative in order to find an ethical violation under Quebec’s Act.

Quebec’s Act requires Members to declare gifts, hospitality and other acceptable benefits valued at more than \$200. Additionally, Members must publicly declare all gifts that could be reasonably seen to influence them regardless of their value. The same rules apply to travel. The Ethics Commissioner of Quebec noted that informing Members of the need to declare gifts that could be seen to influence them regardless of their value remained a challenge.

On May 5, 2015, Hon. Peter Milliken, former Speaker of the House of Commons, appeared before the Committee. Speaker Milliken’s testimony dealt principally with his views on the acceptability and the disclosure obligations of gifts and other benefits given to Members. He indicated to the Committee that he understood Members were invited to numerous receptions and meals almost daily; in his view, these were social situations that had a negligible impact on a Member’s perception of an issue. Token gifts if received at such events were intended, in his view, to remind Members of that event, as opposed to serving as influence on Members that would affect how they voted.

Mr. Milliken indicated that he was comfortable with the existing threshold of \$500 for the declaration of acceptable gifts received by Members. He stated that, in his view, lowering the threshold could create a number of issues, including that ascertaining the value of a gift is often difficult, especially at first glance, as well as inconvenient and time consuming generally, and it would create an increased number of gifts that would need to be declared by Members, thereby increasing the administrative burden both for Members and the Commissioner’s office.

Mr. Milliken also noted that he believed the existing process for review and disclosure was adequate and that other mechanisms existed to ensure adequate checks on the behaviour of Members. For example, he noted that for receptions that may be sponsored by an interest group, often these are attended by media, as well as by Members from other parties.

Discussion and Recommendations

To begin, the Committee would like to address the interruption and consequent delay of its comprehensive review of the Code that initially began in May 2012. Parliamentary committees are frequently dealt heavy workloads. In spite of foresight, cooperation and planning, situations all too often arise where the demands on a committee’s time are beyond its power to control and create conflicting priorities as to the studies it must undertake.

The workload undertaken by the Committee during the 41st Parliament included numerous lengthy and challenging studies. The Committee regrets that, due to its workload, it was unable to dedicate more time to the review of the Code. Nonetheless, the Committee would like to underline that the

interruption of its study of the Code ought not to be viewed as a reflection of any lack of intention or willingness in regards to the undertaking of a thorough review of the subject matter. On the contrary, the Committee's deliberations on the provisions and operation of the Code involved the full engagement of the members of the Committee, and the discussions held on the Code were lengthy and complex.

In contemplating the current operation of the Code, the Committee gave thorough consideration to the proposed amendments put forward by the Commissioner. In order to better ground these deliberations, for every recommendation made by the Commissioner, the Committee canvassed all ten provincial jurisdictions for equivalent rules or obligations, and the manner in which these rules and obligations function. As noted in the Evidence section, the Committee supplemented its understanding of these provincial rules and obligations by hearing testimony and/or receiving briefs from three provincial ethics commissioners.

The discussions on the Commissioner's recommendations prompted members of the Committee to bring forward other aspects of the operation of the Code that it was felt ought to be examined for potential amendments, based on their knowledge of the Code. These discussions included, but were not limited to, whether or not an inquiry undertaken by the Commissioner ought to be able to run in parallel to an investigation undertaken by the proper authorities on the same matter, whether the public ought to have the explicit power to initiate an inquiry on the part of the Commissioner, and whether the provisions in the Code related to an appeal process for Members who are subject to an inquiry ought to be strengthened.

In the course of its deliberations on improving the operation of the Code, the Committee also considered the merits of altering the structure of the current Code. Currently, the Code is written in statute form; it contains numerous cross-references to different sections, certain sections are heavily detailed while others are ambiguous and require extensive interpretation, and in some instances the language used may not be as accessible as possible. The Committee considered whether the themes and principles underlying the current Code could instead be grouped together into a few broad themes, with each theme providing simple and clear provisions, and drafted in as readable a manner as possible. Such an approach would result in a Code more similar to a handbook or guide than a formal statute. The Committee's deliberations on this matter remain incomplete.

Indeed, due to time constraints, the Committee's overall deliberations on the provisions and operations of the Code remain a work in progress. The Committee did complete its assessment of ten recommendations brought forward by the Commissioner, and it is pleased to provide recommendations related to them below. The Committee regrets that it was not able to finalize its views regarding its entire review of the provisions and operation of the Code, along with the recommendations made by the Commissioner. With this in mind, the Committee wishes to recommend that a future incarnation of the Committee give consideration to making the review of the Code a priority, among its future items of committee business, and to continue the work begun by the Committee in this Parliament on reviewing the Code.

The Committee recommends that in the 42nd Parliament, the Committee recommence a comprehensive review of the Code at its earliest opportunity. During such a study,

the Committee suggests that the briefing materials and documentation provided to the Committee during the 41st Parliament be employed to supplement any further materials or documentation provided to the Committee.

The Committee is pleased to provide its considerations and recommendations concerning the following elements covered by the Code:

a. Gifts and Other Benefits

The Code prohibits the acceptance of gifts and other benefits unless they are received “as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Member’s position.” This is a general rule unrelated to the value of the gift. A gift falling outside this courtesy/protocol/hospitality standard may not be accepted regardless of the amount. In addition, acceptable gifts must be disclosed if they have a value that exceeds \$500 from the same source annually. This is a transparency mechanism designed to give a negative publicity incentive for members to take extra care to ensure the gift does not fall outside the acceptance standard. In 2009, the Committee recommended amendments to the gifts and other benefits provisions following representations made by the Commissioner. While Members may continue to accept gifts given as ordinary expressions of courtesy, protocol or hospitality, a conflict of interest test, similar to the rule applicable to public office holders in the *Conflict of Interest Act*, was inserted into the Code. Current section 14(1) provides that neither a Member nor the Member’s family may accept any gift or other benefit that might be reasonably seen to have been given to influence the Member in the exercise of a duty or function.

In her most recent brief to the Committee, the Commissioner notes that despite the 2009 amendments, some misconceptions remain concerning the \$500 disclosure threshold. In her view, a misperception persists among some Members that a gift is automatically acceptable so long as it is valued at less than \$500. To address this misperception, she recommends that a new lower threshold for disclosure of acceptable gifts be established.

The Committee notes that four provinces have set disclosure thresholds for acceptable gifts at \$200, which is the same threshold for disclosure for public office holders and their families under the federal *Conflict of Interest Act*, and a further four provinces have thresholds for disclosure of \$250. The Committee is of the view that lowering the current threshold from \$500 to \$200 would be in keeping with current standards across the provincial jurisdictions, could serve as a potential reminder to Members of their disclosure obligations under the Code, and would not be so low as to create an undesirable administrative burden.

The Committee recommends that the threshold for disclosure of gifts accepted under section 14 of the Code be lowered from \$500 to \$200.

b. Sponsored Travel

Travel both within Canada and to other countries is an essential part of a Member’s duties. Through such visits, Members are able to experience first-hand the circumstances, challenges and opportunities of different communities, enhance their understanding of such communities, and

share their perspectives as elected representatives on issues of mutual concern, while cultivating positive dialogue with interested partners. For these reasons, section 15 of the Code creates an exception to the gift provisions for sponsored travel. It allows Members to accept sponsored travel that arises from or relates to their position.

Section 15(1) provides that if travel costs exceed \$500 and those costs are not wholly or substantially paid from the Consolidated Revenue Fund, by Members personally, their political party or any interparliamentary association or friendship group recognized by the House, Members must disclose the trip publicly.

The Commissioner noted in her brief that the phrase “substantially paid” in section 15(1) is vague and could lead to the failure to disclose significant third-party contributions to travel. In the interests of improving transparency, the Committee believes that there should be increased public disclosure of travel costs paid by third parties.

The Committee recommends that the Code be amended to require public disclosure of all sponsored travel where any travel costs paid by one or more third parties exceed the gift disclosure threshold, regardless of the portion paid by other sources listed in section 15(1).

Further, in keeping with the goal of increasing transparency, the Committee believes, as was suggested by the Commissioner in her brief, that the disclosure threshold for third-party contributions to sponsored travel should be set at the same amount as that for gifts.

The Committee recommends that the threshold for reporting any sponsored travel costs paid by third parties be set to the same amount as the disclosure threshold for gifts.

The Commissioner observed in her brief that the Joint Interparliamentary Council (JIC) passed a resolution in 2012 to allow interparliamentary groups to receive third-party funding. She raised the concern that this could mean that third parties could direct funds through interparliamentary groups to contribute to sponsored travel, and these funds would not be publicly disclosed. It is important to note, however, that parliamentary associations that are officially recognized by the JIC receive funding through Parliament, and that parliamentary associations must provide financial disclosure to the House pursuant to Standing Order 34(1).⁹

The Committee recommends that the Code be amended to require that Members publicly declare any funding for sponsored travel directed through any interparliamentary group.

c. Compliance Process Related to Disclosure Obligations

Under section 22 of the Code, the Commissioner may require a meeting with a Member to ensure adequate disclosure has been made and to discuss the Member’s obligations under the Code. In her

⁹ Office of the Clerk of the House of Commons, *Submission to the Committee*, April 23, 2015.

brief to the Committee, the Commissioner recommends that an obligation be inserted in the Code requiring every new Member to meet with the Office of the Conflict of Interest Commissioner, whether in person or by telephone, within the timeframe for completing the Member's initial compliance process.

The Committee considers timely and open communication between Members and the Commissioner's office to be of importance in ensuring Members meet their obligations under the Code. In the Committee's view, potential opportunities for the Commissioner's office to connect with new Members could be added as part of the orientation program for new Members, during which the House of Commons Administration advises Members of their administrative duties and responsibilities.

The Committee recommends that the House of Commons Administration work with the Commissioner's office, as it has done in the past, to provide opportunities for the Commissioner's office to connect with new Members, in order to ensure that all new Members comprehend their obligations under the Code.

As part of the initial compliance process, a Member must file with the Commissioner a confidential disclosure statement within 60 calendar days following the publication of his or her election in the *Canada Gazette*, and annually on or before a date set by the Commissioner. The initial disclosure statement is reviewed by the Commissioner, after which a public summary prepared by the Commissioner and submitted to the Member for review and approval.

While there is a deadline for the first step of this compliance process (the 60 days afforded to Members to file their initial confidential disclosure statements), there is no deadline to complete the compliance process following the Member's election to the House. In her brief to the Committee, the Commissioner suggests a 120-day deadline, beginning on the Member's date of election, for the Member to complete the initial compliance process.

The Committee notes that public office holders are currently obliged to complete a summary statement within a 120-day period under the *Conflict of Interest Act*. The Committee considers the establishment of a deadline for the initial compliance process to be a useful mechanism to ensure that Members conform to their disclosure obligations under the Code within a reasonable time period. Further, the Committee is of the view that the 120-day time period ought to be divided into two distinct periods, as timeliness in the completion of this process is the responsibility of both Members and the Commissioner's office.

The Committee, therefore, recommends that Members be afforded 60 days after the publication of their election to the House of Commons in the *Canada Gazette* to complete their initial confidential disclosure statements, and a second 60-day time period for completing the process that begins once the Commissioner submits the public disclosure summary to the Member for approval. The Commissioner may extend this deadline upon the request of the Member, and a reasonable request should not ordinarily be refused.

The Commissioner also recommends that a 30-day deadline to complete the annual disclosure review process be established in the Code. After their initial confidential disclosure, the information provided by Members in their initial disclosure is reviewed annually, and if necessary, additional information is provided and a new public disclosure summary is prepared. The Committee agrees in principle with this recommendation but considers the 30-day timeframe proposed by the Commissioner to be potentially inadequate, given that there are extended periods in the parliamentary calendar when Members may be travelling abroad or are otherwise occupied by their duties and functions.

The Committee, therefore, recommends that Members be afforded a 60-day time period to submit their confidential disclosure statement to the Commissioner, and a second 60-day time period, that begins once the Commissioner submits the public disclosure summary to the Member for approval, for completing the annual review process. The first 60-day time period would begin on a day designated by the Commissioner. The Commissioner may extend these deadlines upon the request of the Member, and a reasonable request should not ordinarily be refused.

d. Inquiries

Under section 27 of the Code, the Commissioner is empowered to conduct inquiries to investigate possible non-compliance with the Code. Under section 27(1), a Member may request that the Commissioner conduct an inquiry of another Member's alleged non-compliance. Currently, pursuant to section 27(2), the request must be in writing, must be signed, and must identify the alleged non-compliance and the reasonable grounds for that belief.

Ms. Dawson has proposed a form to be used to request an inquiry, to "help streamline and expedite the inquiry process." The form, entitled *Request for an Inquiry under Subsection 27(1) of the Conflict of Interest Code for Members of the House of Commons*, would require that members requesting an inquiry:

- provide their name and contact information;
- indicate the name of the Member or Members alleged to have contravened the Code;
- indicate the grounds for their request including the alleged non-compliance and the reasonable grounds for their belief; and
- declare that the request is made in good faith and that the information provided is true and accurate to the best of their knowledge.

The form reminds Members that they may not make any public statements with respect to the request until notified by the Commissioner that the Member who is the subject of the request has received a copy of the complaint. It further reminds Members that the inquiry process must be conducted in private and the circumstances under which the Commissioner may make public comments. The form is appended to this report (Appendix B).

Pursuant to section 30(1), the Committee must review all forms the Commissioner proposes for use under the Code. The Committee must report to the House any forms it has approved, and the form comes into effect when the report is concurred in by the House.

The Committee recommends that the form *Request for an Inquiry under Subsection 27(1) of the Conflict of Interest Code for Members of the House of Commons* be concurred in by the House.

Section 27(5.1) of the Code prohibits the Commissioner from commenting publicly on a preliminary review or inquiry, other than to confirm that an inquiry request was received, or that a preliminary review or inquiry was commenced or completed.

When a Member requests an inquiry, details of the request are sometimes made public, and these details may in some cases include misinformation. If the Commissioner proceeds to conduct an inquiry, any misinformation may be corrected in the resulting report. If a preliminary review does not reveal sufficient evidence to proceed to an inquiry, however, there is no report, and no opportunity for the Commissioner to correct any misinformation. These circumstances can lead to situations in which a Member's conduct has been impugned unfairly, but there is no mechanism to ensure that the Member's name is cleared. Further, the lack of transparency may lead the public to wonder why the Commissioner failed to investigate an apparent breach of the Code.

The Committee recommends that the Code be amended to allow the Commissioner to comment publicly on the reasons for not pursuing an inquiry, where to do so is in the public interest.

Ms. Dawson brought to the Committee's attention another issue related to the fairness of the inquiry request process. Specifically, when a request for an inquiry is made, the Member who is the subject of the request might hear about the request in the media or through other sources before hearing from the Commissioner's office. Ms. Dawson has requested that Members not comment publicly on requests they submit until the Member who is the subject of the request has been informed.

In the Committee's view, this prohibition would be fair to all Members and would not unduly constrain Members' right to freedom of speech, provided that the Commissioner's office undertook to inform affected Members in a timely manner.

The Committee recommends that the Code be amended to prohibit Members who request an inquiry from commenting publicly on the request until the Commissioner confirms that the Member who is the subject of that request has received a copy of the complaint. The commissioner must confirm that the subject member has been informed no later than 14 days after the commissioner received the request, failing which the requesting member may comment publicly.

Amendments to the Conflict of Interest Code for Members of the House of Commons

Finally,

The Committee recommends that the *Conflict of Interest Code for Members of the House of Commons* be amended as provided in Appendix A to this Report and that these changes come into force on October 20, 2015; and

That the Clerk of the House be authorized to make any required editorial and consequential alterations to the *Conflict of Interest Code for Members of the House of Commons*.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 86 and 87](#)) is tabled.

Respectfully submitted,

JOE PRESTON
Chair

APPENDIX A – AMENDMENTS TO THE CONFLICT OF INTEREST CODE

That subsections 14.(3), 15.(1) and 27.(5.1) and sections 20 and 23 of the *Conflict of Interest Code for Members of the House of Commons* be amended to read as follows:

Statement: gift or other benefit.

14. (3) If gifts or other benefits that are related to the Member's position are accepted under this section and have a value of \$200 or more, or if the total value of all such gifts or benefits received from one source in a 12-month period is \$200 or more, the Member shall, within 60 days after receiving the gifts or other benefits, or after that total value is exceeded, file with the Commissioner a statement disclosing the nature of the gifts or other benefits, their source and the circumstances under which they were given.

Sponsored travel.

15. (1) If travel costs exceed \$200 and those costs are not wholly paid from the Consolidated Revenue Fund or by the Member personally, his or her political party or any parliamentary association recognized by the House, the Member shall, within 60 days after the end of the trip, file a statement with the Commissioner disclosing the trip.

Disclosure statement.

20. (1) A Member shall file with the Commissioner a full statement disclosing the Member's private interests and the private interests of the members of the Member's family within:

(i) 60 days after the notice of his or her election to the House of Commons is published in the *Canada Gazette*; and

(ii) 60 days after the date established by the Commissioner for the annual review.

Extension of time.

(1.1) The Commissioner may extend the deadlines referred to in subsection (1) at the request of the Member and any reasonable request shall not ordinarily be refused.

Reasonable efforts.

(2) Information relating to the private interests of the members of the Member's family shall be to the best of the Member's knowledge, information and belief. The Member shall make reasonable efforts to determine such information.

Confidentiality.

(3) The Commissioner shall keep the statement confidential.

Disclosure summary. **23.** (1) The Commissioner shall prepare a disclosure summary based on each Member's statement filed under sections 20 and 21 and submit it to the Member for review. Upon receipt of the disclosure summary, the Member shall have 60 days to complete the review and submit the signed summary to the Commissioner.

Extension of time. (1.1) The Commissioner may extend the deadlines referred to in subsection (1) at the request of the Member and any reasonable request shall not ordinarily be refused.

Public inspection. (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.

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.

That section 27 of the *Conflict of Interest Code for Members of the House of Commons* be amended by adding the following subsection:

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.

**APPENDIX B – FORM
Request for Inquiry under Subsection 27(1) of the Code**

See attached page.



CONFIDENTIAL

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

Submit the signed and completed form to:

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

A. General Contact Information

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

Please provide your contact information as a Member:

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

B. Identity of Member

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

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

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

[Add separate pages as necessary]

C. Grounds for Making Inquiry Request

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

Alleged non-compliance	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
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List of relevant events and/or facts supporting your reasonable grounds to believe that the Code has been contravened	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
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Please indicate whether you provided supporting documentation: Yes: No:
Attach any supporting documentation to your request for inquiry.

Relevant provisions of the Code	<hr/> <hr/>
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[Add separate pages as necessary]

D. Declaration

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

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

Signature _____ Date _____

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

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

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

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