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Ministerial Staff: Issues of Accountability and Ethics

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Ministerial Staff: Issues of Accountability and Ethics
(Background Paper)

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MINISTERIAL STAFF: ISSUES OF ACCOUNTABILITY AND ETHICS

1 INTRODUCTION

In addition to staff allotted to Members of Parliament and Senators for their parliamentary and constituency offices, ministers of the Crown can hire political staff which are paid by public funds. These are often referred to as “exempt staff” because they are exempt from the normal public service hiring processes and regulations. They are expected to provide ministers with the political support and advice that the non-partisan public service cannot.

Ministerial staff have become the subject of debate. Because they can have a significant influence on the development and administration of public policy, concerns have been expressed about their accountability and, on occasion, their ethical conduct. While there is some guidance and, more recently, legislation, governing the conduct of ministerial staff, there may be ways in which this guidance can be improved.

This paper provides background on the employment of ministerial staff and discusses issues of accountability and ethics. It examines guidance documents on the accountability of ministerial staff, explores several controversies involving ministerial staff and outlines standards of ethical conduct, such as conflict of interest requirements. This paper also looks at how Australia and the United Kingdom utilize ministerial staff.

2 EMPLOYMENT OF MINISTERIAL STAFF

Ministers are empowered to hire staff under the *Public Service Employment Act*.¹ The role of ministerial staff is to brief the minister on relevant policy, legislative and administrative issues; liaise with the department for which the minister is responsible, the Prime Minister’s Office and other ministers’ offices; prepare speeches and media releases; organize scheduling; and handle other administrative tasks as required.² The Privy Council Office describes their function in this way:

The purpose of establishing a Minister’s or Minister of State’s office is to provide Ministers and Ministers of State with advisers and assistants who are not departmental public servants, who share their political commitment, and who can complement the professional, expert and non-partisan advice and support of the Public Service. Consequently, they contribute a particular expertise or point of view that the Public Service cannot provide.³

While the employment of ministerial staff is exempt from the normal public service hiring processes and regulations, the management of ministerial offices and staff is governed by guidelines established by the Treasury Board.⁴ The Treasury Board sets the overall budget range for staff salaries, a budget that varies depending upon departmental size and complexity, and it provides the salary ranges for various positions within ministerial offices.⁵

The prime minister sets the budget for each minister. Ministers with regional responsibilities and ministers with a parliamentary secretary receive more funds to hire staff than do other ministers. Ministers' budgets also include funds for departmental assistants, that is, public servants who are seconded from the department in question to the minister's office to liaise with the department and provide non-political departmental advice.

The minister has discretion to configure his or her staff as desired and to set the salaries, as long as the overall budget and salaries are within the specified ranges.⁶ The minister also has complete discretion over hiring, although the Prime Minister's Office is sometimes involved in the selection of senior staff, especially the chief of staff.

Ministerial staff usually obtain their positions through political and personal connections, a situation that has from time to time prompted some to question whether senior ministerial staff have adequate experience, training and professional standards for the jobs they hold.⁷ On the other hand, a survey of 20 chiefs of staff who were in office in 1990 found that the average age at the time of appointment was 38 and most had at least several years of work experience in ministers' offices.⁸

Ministerial staff have very little job security. They cease to be employed 30 days after their minister is no longer a minister, and they can be dismissed at the discretion of the minister with no mechanisms for complaint or appeal. They are entitled, however, to severance pay, and the minister may provide separation pay.⁹ As well, ministerial staff contribute to a public service pension and receive health and other benefits.¹⁰

In September 2008, at the dissolution of the 39th Parliament, there were just over 600 ministerial staff members serving 27 ministers and 5 secretaries of state.¹¹ This included approximately 80 staff members working for the Prime Minister's Office.

3 ACCOUNTABILITY

By legislation and convention, ministers are accountable to Parliament for the operation of their departments. The senior public servant of the department, the deputy minister, is accountable to the minister, and in turn, public servants within the department are accountable through the bureaucratic hierarchy to the deputy minister.¹² Similarly, ministerial staff are accountable to their minister.

On behalf of the prime minister, the Privy Council Office provides general advice to ministers in a guide entitled *Accountable Government: A Guide for Ministers and Ministers of State*, which includes a section regarding ministerial staff. According to the guide, "Ministers and Ministers of State are personally responsible for the conduct and operation of their office."¹³ While ministerial staff regularly interact with departments within the minister's responsibility, "[e]xempt staff do not have the authority to give direction to public servants, but they can ask for information or transmit the Minister's instructions, normally through the deputy minister. Good working relations between the Minister's or Minister of State's office and the department ... are essential in assisting the Minister and deputy minister in managing

departmental work.”¹⁴ In 2006, stronger language regarding exempt staff–public service relations was added to the guide:

Such a relationship requires that exempt staff in the Minister’s office respect the non-partisanship of public servants and not seek to engage them in work that is outside their appropriate role.

In meeting their responsibility to respect the non-partisanship of public servants, exempt staff have an obligation to inform themselves about the appropriate parameters of Public Service conduct, including Public Service values and ethics, and to actively assess their own conduct and any requests they make to departmental officials in the light of those parameters. Ministers and deputy ministers should be vigilant in ensuring that the appropriate parameters of interaction between officials and exempt staff are observed.

To the extent practicable, relations between officials and exempt staff should be conducted through the deputy minister’s office. The deputy minister’s office should be informed about contact between exempt staff and public servants in the department.¹⁵

The very broad and general guidance provided by the Privy Council Office presents an ideal picture of the interaction between ministerial staff and departmental officials, but, as a former Clerk of the Privy Council admitted, there is “a huge amount of flexibility in our system about who interacts with whom and we don’t have walls to stop it.”¹⁶ The numerous contacts between ministerial staff and departmental officials can make it impractical to inform the deputy minister’s office of each interaction, and there can be genuine reasons to bypass the hierarchy, such as urgent reaction to a crisis. Also, interaction between a minister’s office and the department covers a wide variety of activities, which may range from participation in departmental meetings to advice on revising a document or a funding formula.

Whether “advice” from ministerial staff constitutes inappropriate “direction” can be a matter of interpretation, especially since ministerial staff often act as a proxy for a busy and preoccupied minister. In practice, it may be very difficult for a public servant to tell whether ministerial staff are passing on ministerial instructions or acting on their own initiative. Ministerial staff have no legislated delegated authority, but may nevertheless speak on behalf of their minister. Liane Benoit, who conducted a study on ministerial staff for the Commission of Inquiry into the Sponsorship Program and Advertising Activities, sums up the situation: “To the issue of whether political staff give, or attempt to give, direction to departmental officials, one can only conclude that the practice is subtle, reasonably pervasive and, in many instances, a practical necessity.”¹⁷ She goes on to say, “As long as all sides stick to their respective roles, the system, by and large, bumps along with an acceptable degree of efficacy, efficiency and propriety. Except, of course, when it doesn’t.”¹⁸

4 CONTROVERSY

On several occasions, the actions of ministerial staff have been the source of political controversy, which has raised concerns about their accountability. The following are three high-profile cases.

In 1991, Mohammed Al-Mashat, a former Iraqi ambassador to Washington during the Gulf War, discreetly requested and received highly expedited permission to enter Canada as a landed immigrant.¹⁹ When this occurrence became known, controversy erupted and the then Secretary of State for External Affairs, Joe Clark, said he could not be held responsible for this extremely sensitive decision, because he had not been made aware of Al-Mashat's application. After an internal inquiry, the government placed blame on the associate undersecretary of state for External Affairs and on Mr. Clark's chief of staff for not doing enough to bring the matter to the attention of the Secretary of State.

In 2004, the then Minister of Citizenship and Immigration, Judy Sgro, was accused of giving temporary residence and work permits to people who had volunteered on the Minister's re-election campaign. The Ethics Commissioner was asked to investigate the alleged conflict of interest.²⁰ The Commissioner concluded that the main burden of responsibility for placing the Minister in a conflict of interest lay with the Minister's chief of staff, who continued to work on departmental matters during the election. The Commissioner said this did not absolve the Minister of responsibility, quoting from Privy Council Office guidance stating that ministers are responsible for the actions of officials under their management; but he noted that the meaning of "responsibility" in this context was rather vague.

In his 2004–2005 investigation into the Sponsorship Program administered by Public Works and Government Services Canada, Justice John Gomery concluded that there was direct input by the then minister and his staff, as well as the chief of staff for the prime minister, regarding the selection of particular activities for sponsorship support by the Government of Canada. Justice Gomery determined that this constituted inappropriate "political encroachment into the administrative domain."²¹ Moreover, the deputy minister at the time was not kept informed of interactions between the minister's office and bureaucrats in charge of the program.

Justice Gomery recommended that the government prepare a code of conduct for ministerial staff, which would include provisions that "exempt staff have no authority to give direction to public servants and that Ministers are fully responsible and accountable for the actions of exempt staff."²² Justice Gomery also recommended that, to help them understand their role, "all exempt staff should be required to attend a training program to learn the most important aspects of public administration."²³

As ministerial staff often act on behalf of their minister and serve as a buffer between the department and the minister, they wield considerable influence, if not de facto authority. While they are not to direct public servants, there is a lack of clarity about what constitutes appropriate interactions with public servants. These examples demonstrate how this lack of clarity has led to disputes over the proper role of ministerial staff and what it means for the minister to be responsible and accountable for their actions when controversy arises. Apart from the brief advice provided in the Privy Council Office's *Accountable Government* guide noted above, the role of ministerial staff remains relatively undefined.

5 STANDARDS OF ETHICAL CONDUCT

While guidance on the accountability and responsibility of ministerial staff is somewhat limited, there are detailed standards of ethical conduct for ministerial staff with respect to conflict of interest and lobbying.

The adoption of the *Federal Accountability Act* in December 2006 put standards of ethical conduct for ministerial staff into law. This Act brought into force the *Conflict of Interest Act* and made significant amendments to the *Lobbyists Registration Act*, including renaming it the *Lobbying Act*. Both Acts contain provisions that outline various requirements and prohibitions for ministerial staff. Prior to this, the actions of ministerial staff in these areas were primarily governed by a code of conduct set by the prime minister – the *Conflict of Interest and Post-Employment Code for Public Office Holders*.²⁴

The *Conflict of Interest Act* has several purposes: to establish clear conflict of interest and post-employment rules, to minimize the possibility of conflicts of interest and to establish the Conflict of Interest and Ethics Commissioner. Many of the Act's provisions apply to ministerial staff.²⁵ Under the Act, ministerial staff must:

- arrange their private affairs to prevent them from being in a conflict of interest,
- not be involved in making any decision in which they would be in a conflict of interest,
- not give preferential treatment to any person or organization based on their identity,
- not use insider information to further their private interests,
- not use their position to influence a decision in order to further private interests,
- not be influenced by plans for, or offers of, outside employment,
- not accept gifts that might reasonably be seen to influence them,
- not accept travel unless required in their official capacity,
- not engage in contracts with immediate family members while exercising official duties,
- not engage in the practice of a profession,
- not manage or operate a business or commercial activity,
- not be a director or officer in a corporation or an organization (with some exceptions),
- not hold office in a union or professional association,
- not serve as a paid consultant,
- not be an active partner in a partnership,
- not solicit funds from any person or organization if it would result in a conflict of interest and
- not take any actions with the purpose of circumventing obligations under the Act.²⁶

In addition, Ministerial staff must submit a confidential report to the Conflict of Interest and Ethics Commissioner in which they disclose their assets and liabilities and describe certain activities. They also must report gifts exceeding a value of \$200 from any one source other than friends or relatives, all firm offers of employment and the acceptance of offers of outside employment.

Ministerial staff are also required to publicly declare if they have recused themselves in order to avoid a conflict of interest. They must publicly declare assets that are neither controlled (whose value could be directly or indirectly affected by government decisions) nor exempt and they must declare certain outside activities, gifts of a value of \$200 or more and travel accepted as part of their official duties.²⁷ They must divest themselves of controlled assets by selling them in an arm's-length transaction or by placing them in a blind trust.

The *Conflict of Interest Act* also prohibits certain post-employment activities. Ministerial staff are not permitted to do the following:

- take improper advantage of their previous public office,
- act on behalf of any person or organization in their relations with the Crown with respect to areas in which they had acted for the Crown,
- give advice to clients or employers on the basis of non-publicly available information obtained in their official capacity,
- not enter into contracts or accept employment for a period of one year with an entity that they had significant official dealings with and
- not make representations for a period of one year to any government organization with which they had significant dealings.

For a period of one year, they must also report to the Commissioner any communications or meetings for the purpose of lobbying.

The Conflict of Interest and Ethics Commissioner has numerous responsibilities relating to ministerial staff.²⁸ The Commissioner reviews the confidential reports provided by ministerial staff, provides confidential advice, maintains a registry of public disclosures, may investigate possible instances of non-compliance with the Act and may order ministerial staff to take any measures necessary to comply with the Act.

Violations of certain sections of the Act relating to confidential reports, public disclosure and divestment of assets can be punishable by a fine of up to \$500. However, no penalties are specified for failing to adhere to the many prohibitions or the post-employment provisions in the Act. The Commissioner, though, issues public reports about investigations into possible contraventions of the Act and may order current ministerial staff not to have official dealings with former ministerial staff.²⁹

In addition to the numerous provisions outlined in the *Conflict of Interest Act*, former ministerial staff are prohibited under the *Lobbying Act* from engaging in lobbying activities, as defined under the Act, for a period of five years after ceasing to be ministerial staff. (The Commissioner of Lobbying is able to grant exemptions to this

five-year ban on lobbying.) The Commissioner of Lobbying can investigate possible contraventions of this Act, and the penalty for such contraventions could be a fine of up to \$50,000. The Commissioner can also make public any offence committed under the Act and name the offender.

There are also several ethical guidelines for ministerial staff in the Privy Council Office document *Accountable Government: A Guide for Ministers and Ministers of State*. One example is this: “Public office holders shall act with honesty and uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of the government are conserved and enhanced.”³⁰ Compliance with these guidelines is considered to be a term and condition of appointment.

6 INTERNATIONAL COMPARISONS

Canada’s parliamentary system is not the only Westminster system to employ political ministerial staff with public funds. Both Australia and the United Kingdom began systematically to use ministerial staff, or “special advisers” as they are called in the United Kingdom, in the early 1970s.³¹ In both countries, ministerial staff have become the source of considerable controversy and subsequent parliamentary study and debate.

6.1 AUSTRALIA

In Australia, ministers are empowered to hire staff and consultants under the *Members of Parliament (Staff) Act 1984*. In 2003, there were approximately 370 government staff, in addition to the three staff members allocated to each Member of Parliament.³²

The behaviour of ministerial staff is guided by a *Code of Conduct for Ministerial Staff*, which was released in July 2008.³³ The code directs ministerial staff to behave honestly and with integrity; to take reasonable steps to avoid conflicts of interest; to declare all hospitality, gifts and travel received; and to have no involvement in outside employment. It also contains several provisions outlining appropriate relations with the Australian Public Service (APS). Ministerial staff must:

- not knowingly or intentionally encourage or induce a public official by their decisions, directions or conduct to breach the law or parliamentary obligations or fail to comply with an applicable code of ethical conduct;
- acknowledge that ministerial staff do not have the power to direct APS employees in their own right and that APS employees are not subject to their direction; and
- recognize that executive decisions are the preserve of ministers and public servants and not ministerial staff acting in their own right.³⁴

The actions of ministerial staff have been the source of several political controversies in Australia, especially the “children overboard” affair.³⁵ This event resulted in a study and report by the Senate Select Committee on a Certain Maritime Incident, which in

turn led the Australian Senate Finance and Public Administration References Committee to conduct a review of the governance and accountability of ministerial staff.³⁶ This latter committee recommended that the government define ministerial staff in legislation, develop a code of conduct and statement of values, publish an annual report on their numbers and cost, establish an ethics adviser, provide adequate training and allow ministerial staff to appear before parliamentary committees.

A key concern in Australia is whether ministerial staff can be compelled to testify before parliamentary committees when controversy arises.³⁷ For the most part, ministers have resisted allowing their staff to appear before committees to answer questions.

6.2 UNITED KINGDOM

In the United Kingdom, ministers' private offices are run by civil servants called principal private secretaries. Ministers are authorized to appoint up to two special advisers (paid or unpaid) for their offices by making temporary appointments to the civil service.³⁸ The prime minister is not subject to this limit and may allow exceptions to this rule.³⁹

It is worth noting that in 1997 up to three special advisers to the Prime Minister were authorized to have executive powers. This has since been rescinded.⁴⁰

The government reports annually on the numbers, names, pay ranges and overall cost of special advisers.⁴¹ As of July 2008, there were 73 special advisers, and in 2007–2008, the annual cost was £5.9 million.⁴²

The conduct of special advisers is guided by the *Code of Conduct for Special Advisers* and a *Model Contract for Special Advisers*.⁴³ According to the code, special advisers provide assistance that is more politically committed and politically aware than would be available from the permanent civil service. The code states that special advisers should:

- act in accordance with the *Civil Service Code* (except the provisions on impartiality and objectivity);
- act with integrity and honesty and not deceive or knowingly mislead Parliament or the public, not misuse their position to further private interests, not receive benefits that might compromise their judgment and not disclose confidential information; and
- not use official resources for party political activity.

With respect to relations with the civil service, special advisers may convey their minister's views and priorities, request information and data and hold meetings with officials. However, they must not:

- ask civil servants to undertake activities inconsistent with the *Civil Service Code*,

- have responsibility for budgets or involvement in the award of external contracts and
- suppress or supplant the advice prepared for ministers by permanent civil servants.

The code also indicates what civil servants should do when they are concerned about requests from special advisers.

The role and status of special advisers have been the subject of considerable debate and some controversy in the United Kingdom, particularly with respect to communications. This has resulted in numerous studies and reports, both by a parliamentary committee⁴⁴ and the Committee on Standards in Public Life.⁴⁵ The reports have raised concerns and made recommendations about the recruitment process, numbers, training, conduct and accountability of special advisers, as well as their relationship with the permanent civil service.

In response, the government developed and updated the above-mentioned *Code of Conduct for Special Advisers* and *Model Contract for Special Advisers*. In March 2008, it also presented a Draft Constitutional Renewal Bill, which includes a definition of special adviser and formalizes the requirement for a code of conduct and an annual report on the number and cost of special advisers.

7 CONCLUSION

Ministerial staff have become a significant part of the Canadian political system and play an important role in assisting ministers in ways that non-partisan public servants cannot. Ministers are provided with detailed guidelines for the employment of ministerial staff and some guidance on their accountability. Additionally, there are extensive legal requirements governing the behaviour of ministerial staff with respect to conflict of interest and lobbying. However, ministerial staff have been involved in a number of political controversies, which has led to considerable debate over their role and accountability. These debates are similar to those in other countries that employ ministerial staff. In both Australia and the United Kingdom, controversies have arisen over the actions of ministerial staff and proposals for change have been made.

While it may not be possible to avoid political controversy entirely, some areas could be clarified:

- How should ministers be responsible and accountable for their ministerial staff?
- What is the appropriate relationship between ministerial staff and public servants?
- What rules, ethical and otherwise, should govern the behaviour of ministerial staff and how should these rules be enforced?
- What kind of training should ministerial staff receive?
- How many ministerial staff are there, and what is their annual cost?

NOTES

1. *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12 and 13, s. 128: "A minister, or a person holding the recognized position of Leader of the Opposition in the House of Commons or Leader of the Opposition in the Senate, may appoint an executive assistant and other persons required in his or her office."
2. Some general job descriptions are found in Treasury Board of Canada Secretariat, *Policies and Guidelines for Ministers' Offices*, November 2008, Appendix A.
3. Privy Council Office, *Accountable Government: A Guide for Ministers and Ministers of State*, 2008, p. 37. Ministers of State are part of the ministry and provide support to ministers, including attending relevant Cabinet committee meetings, but they are not members of Cabinet.
4. Treasury Board of Canada Secretariat (2008).
5. As of November 2008, the annual budget range for all exempt staff salaries is between \$410,870 and \$978,150. The positions that ministers may fill include chief of staff, senior policy adviser, director of communications, director of parliamentary affairs, special assistants, support staff, and regional staff.
6. For example, if a minister pays staff higher salaries and has more senior staff members, then his or her office will have fewer staff members than an office that has more administrative staff.
7. See, for example, J. R. Mallory, "The Minister's Office Staff: An Unreformed Part of the Public Service," *Canadian Public Administration*, Vol. 10, No. 1, 1967, p. 32.
8. Micheline Plasse, "Ministerial Chiefs of Staff in the Federal Government in 1990," Canadian Centre for Management Development, April 1994.
9. Severance pay stays the same, whatever the circumstances of the termination, and is calculated at the rate of two weeks' pay for each year of service. Separation pay is at the discretion of the minister up to a maximum of four months' pay. Separation pay is intended to compensate for an unpredictable termination of employment. See Treasury Board of Canada Secretariat (2008), section 3.7.
10. Treasury Board of Canada Secretariat (2008), p. 14.
11. This number was compiled using the Government Employee Directory Services (GEDS). It should be noted that it includes departmental staff working in ministers' offices. Additionally, it is not clear from the directory which staff members are full-time and which are part-time.
12. The deputy minister is also accountable to the prime minister, the Treasury Board, and the Public Service Commission; see Privy Council Office, *Guidance for Deputy Ministers*, 2003. Additionally, the *Federal Accountability Act* made deputy ministers the accounting officers for their organizations, and as such, accountable before committees of Parliament to answer questions about departmental administration.
13. Privy Council Office (2008), p. 37.
14. Ibid.
15. Ibid., pp. 37–38.
16. Alex Himelfarb, as quoted in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Recommendations*, February 2006, p. 137.

17. Liane E. Benoit, "Ministerial Staff: The Life and Times of Parliament's Statutory Orphans," in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies Volume 1 – Parliament, Ministers and Deputy Ministers*, February 2006, p. 237.
18. *Ibid.*, p. 196.
19. S. L. Sutherland, "The Al-Mashat Affair: Administrative Accountability in Parliamentary Institutions," *Canadian Public Administration*, Vol. 34, No. 4, Winter 1991, pp. 573–603. See also Greg Taylor, "Bungle or Coverup"? *Maclean's*, Vol. 104, Issue 21, 27 May 1991, p. 20.
20. Office of the Ethics Commissioner, *The Sgro Inquiry: Many Shades of Grey*, June 2005. This Office is now the Office of the Conflict of Interest and Ethics Commissioner.
21. Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Who is Responsible? Fact Finding Report*, November 2005, p. 427.
22. Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Recommendations*, 2006, p. 139.
23. *Ibid.*, p. 139.
24. Prime Minister of Canada, *Conflict of Interest and Post-Employment Code for Public Office Holders*, 2006. Many elements of this code were incorporated into the *Conflict of Interest Act*.
25. A summary of rules that apply to ministerial staff can be found at Office of the Conflict of Interest and Ethics Commissioner, "Ministerial Staff (15 hours or more per week) and Ministerial Advisors," *Conflict of Interest Act*, August 2007, <http://ciec-ccie.gc.ca/Default.aspx?pid=20&lang=en>. It should be noted that the Act applies to more than ministerial staff. For example, ministers of the Crown and certain Governor in Council appointees are also subject to various requirements under the Act. In addition, the requirements of the Act are not stated in terms of "ministerial staff" but in terms of "public office holders," which includes ministerial staff and "reporting public office holders." "Reporting public officer holders" is a slightly different category than "public office holders," but it includes ministerial staff who work on average 15 hours or more a week. This section includes some provisions that apply to "public office holders" and some that apply to "reporting public office holders." If a ministerial staff member works more than 15 hours per week, then all of the provisions discussed apply.
26. The wording in the Act has been simplified in this section, and the Act should be consulted if greater precision is required.
27. The Office of the Conflict of Interest and Ethics Commissioner maintains a public registry of these disclosures on its website at <http://ciec-ccie.gc.ca/PublicSearch.aspx>.
28. More information about the Commissioner can be found in Kristen Douglas, *The Conflict of Interest and Ethics Commissioner*, PRB 05-59E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 11 October 2007, <http://www.parl.gc.ca/information/library/PRBpubs/prb0559-e.htm>.
29. The Commissioner can issue public reports under Section 44(8) of the *Conflict of Interest Act* and can make orders with respect to dealings with former ministerial staff under section 41.
30. Privy Council Office (2008), p. 67.
31. In Australia, Prime Minister Gough Whitlam introduced ministerial advisers in an ad hoc fashion in 1972. In the United Kingdom, Prime Minister Harold Wilson first used special advisers in 1964 and authorized the systematic appointment of special advisers in 1974.

32. There appears to be no clear way to measure the number of ministerial staff in Australia, as the number depends upon the definition used. The term “government staff” is roughly similar to the Canadian term “ministerial staff” and the figure of 370 comes from the Australian Senate Finance and Public Administration References Committee, *Staff employed under the “Members of Parliament (Staff) Act 1984,”* October 2003, page 10. Ian Holland also discusses the number of ministerial staff in *Accountability of Ministerial Staff?* Research Paper No. 19 2001-02, Parliamentary Library, Parliament of Australia, June 2002.
33. Senator John Faulkner, Cabinet Secretary and Special Minister of State, *Code of Conduct for Ministerial Staff*, rev. July 2008, http://www.smos.gov.au/media/code_of_conduct.html.
34. *Ibid.*, clauses 10–12.
35. In this 2001 incident, the media were led to believe in the lead-up to an election that sea-faring asylum seekers had thrown children overboard in a presumed ploy to secure rescue and passage to Australia. It was later revealed that this did not occur.
36. Australia, Senate Select Committee on a Certain Maritime Incident, *A Certain Maritime Incident*, October 2002; Australia, Senate Finance and Public Administration References Committee, *Staff employed under the “Members of Parliament (Staff) Act 1984,”* October 2003.
37. Holland (2002).
38. United Kingdom, Civil Service Order in Council 1995. In the original wording, “advice” was provided to ministers. This was amended in 2005 to “assistance.”
39. United Kingdom Cabinet Office, *Ministerial Code*, July 2007, s. 3.2.
40. Civil Service Management Code, Amendment 10, 1997.
41. United Kingdom Cabinet Office, July 2007, s. 3.4.
42. Gordon Brown, Written Ministerial Statement, 22 July 2008. Twenty-four of these advisers worked for the prime minister at No. 10 Downing St., and another six for the Treasury.
43. United Kingdom Cabinet Office, *Code of Conduct for Special Advisers and Model Contract for Special Advisers*, November 2007.
44. The Public Administration Committee Select Committee has issued several reports that touch on special advisers: “Fourth Report, Special Advisers: Boon or Bane,” March 2001; “Third Report, Special Advisers: Boon or Bane.” The Government Response to the Committee’s Fourth Report of Session 2000–01, December 2001; and “Eighth Report, ‘These Unfortunate Events’: Lessons of Recent Events at the Former DTLR,” July 2002.
45. The Committee on Standards in Public Life is an independent advisory committee to the United Kingdom government and has issued two reports that address concerns with special advisers: “Sixth Report, Reinforcing Standards: Review of the First Report,” January 2000; and “Ninth Report, Defining the Boundaries within the Executive: Ministers, Special Advisers, and the Permanent Civil Service,” April 2003.