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Chair: Mr. John Brassard



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• (0845)

[*Translation*]

The Chair (Mr. John Brassard (Barrie—Innisfil, CPC)): I call the meeting to order.

Welcome to meeting number 71 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

Today's meeting is taking place in a hybrid format, pursuant to the House order of Thursday, June 23, 2022. Therefore, members are attending in person in the room and remotely using the Zoom application.

Should any technical challenges arise, please advise me immediately. Please note that the meeting may need to be suspended for some time to ensure that all members are able to participate fully in the proceedings.

Pursuant to Standing Order 81(4), the committee will commence consideration of the main estimates 2023-24: vote 1 under the Office of the Conflict of Interest and Ethics Commissioner, vote 1 under the Office of the Senate Ethics Officer, vote 1 under the Office of the Commissioner of Lobbying, votes 1 and 5 under the Offices of the Information and Privacy Commissioners of Canada, referred to the committee on Wednesday, February 15, 2023.

I would now like to welcome the witnesses for the first hour of this meeting. From the Office of the Privacy Commissioner of Canada, we have Mr. Philippe Dufresne, Privacy Commissioner of Canada. From the Office of the Information Commissioner of Canada, we have Ms. Caroline Maynard, Information Commissioner of Canada.

[*English*]

Before we start, there are a couple of things I need to deal with for the committee.

I am going to leave a bit of time after our witnesses leave today, because we have to deal with procedural motions as they relate to the main estimates.

I understand that Ms. Saks has a procedural motion for the committee. It's on an individual, in order to allow that member to have access to the digital binder. Is that correct?

The third piece of information I need to pass on is this: We should have the documents from Madame Fournier, with the exception of two. The first is the timeline, which is going to take some time to be translated. I mentioned to the committee at the last meeting, on the ATIP document—the 160 pages—that the expectation is

we may not have those until next week. However, we should have the remainder of the documents today. I've instructed the clerk to release those documents to the committee—as long as they're in context and in a proper timeline—confidentially, at some point. It should be by the end of the day today.

That's the status of the documents. I just wanted to update the committee on that.

Mr. Dufresne, you have five minutes, sir, to address the committee. Please go ahead.

Thank you for being here.

[*Translation*]

Mr. Philippe Dufresne (Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada): Good morning, Mr. Chair and committee members.

I am pleased to be here today with my colleague Caroline Maynard, Information Commissioner of Canada, to discuss the main estimates for the Office of the Privacy Commissioner of Canada for the fiscal year 2023-24.

As Privacy Commissioner of Canada, I am responsible for protecting and promoting the privacy rights of Canadians in the public and private sectors. In my last annual report, tabled in Parliament in September 2022, I point out that this is a pivotal time for privacy in Canada, and I highlight the important work of my office in this regard.

• (0850)

[*English*]

My office investigates complaints and breaches that have meaningful impacts for Canadians and privacy in Canada. For example, earlier this year, we released the results of our investigation into Home Depot's sharing of personal information with Facebook when their customers opted for an electronic receipt at checkout.

We found this practice to be a breach of privacy law, in part because we concluded that it was unlikely that Home Depot customers would have expected that their personal information would be shared with a third party like Facebook simply because they opted for an email receipt instead of a printed one.

Since issuing our findings, my office has learned of several other retailers allegedly engaging in similar practices. We have reached out to those organizations and are in the process of confirming how they are complying with the expectations flowing from our investigation.

Looking ahead, my office recently announced investigations into TikTok that focus on its privacy practices as they relate to younger users, as well as the company behind the artificial intelligence-powered ChatGPT. Children are less able to understand and appreciate the long-term implications of consenting to their data collection and need even greater privacy safeguards. We can and must do more to protect their privacy. This will be one of my key priorities in the years ahead.

My office also needs to stay ahead of fast-moving technological advances. We need to monitor and research technology so that we can anticipate how it may impact privacy and so that we can promote the technologies that most enhance privacy. This is another of my key focus areas.

[Translation]

My office provides advice to government departments and private sector organizations, publishes reports on compliance with privacy laws, and raises public awareness about privacy issues. In this digital age, the world is at our fingertips, and the price of that convenience is often the disclosure of personal information. That is why it is so important for Canadians to be aware of their right to privacy, to be able to control when and how their personal information is collected, used and disclosed, and to know where to turn for help when they need it.

We also provide advice and recommendations to Parliament on legislative reform and on privacy issues of considerable interest and importance to the public. On that note, I would like to thank the committee for the reports it published following studies on the device investigation tools used by the Royal Canadian Mounted Police and on the use of facial recognition technology.

As I noted in my statements following the release of those reports last year, I welcome the committee's recommendations to improve privacy protections, to ensure that the law recognizes privacy rights as a fundamental right and requires federal institutions to consider and address the impact on privacy from the outset when designing and using new technologies, and to adequately regulate technologies that have an impact on privacy.

[English]

My office has an initial operating budget of \$29.5 million for 2023-24. We manage these resources optimally to protect and promote the privacy rights of Canadians as effectively as possible.

We are also looking ahead and preparing for law reform. The government took an important step toward modernizing the private sector privacy law with the tabling of Bill C-27, which has been referred to the Standing Committee on Industry and Technology for further study. My written submissions and recommendations to the INDU committee were made public by the committee earlier this week. I'm looking forward to appearing before the committee to discuss this important bill.

I was pleased to learn that in the recent budget, the government proposed temporary funding of \$6 million over two years for my office to undertake more in-depth investigations of privacy breaches and to improve response rates to privacy complaints, as well as \$15 million over five years to operationalize new processes required to implement the proposed consumer privacy protection act. Should Parliament adopt Bill C-27, it will be essential that my office be properly resourced to fully and effectively take on important new responsibilities, especially those focusing on prevention.

[Translation]

Canadians are more concerned than ever about protecting their privacy. That is why the work of my office is so important.

I look forward to your questions.

The Chair: Thank you, Mr. Dufresne.

Ms. Maynard, you have the floor for five minutes.

[English]

Ms. Caroline Maynard (Information Commissioner, Office of the Information Commissioner of Canada): Thank you for inviting me to speak to you this morning.

I am pleased to report that my office had another record year in 2022-23. During the last fiscal year, my team closed 8,089 complaints. Since the beginning of my mandate in 2018, the annual number of complaints closed by my office has increased by 310%.

This is good news, but it's only a part of the story.

We also saw a record influx of 7,407 new complaints. This represents a 7% increase compared to the previous year. Through my team's extraordinary efforts, we have just managed to keep pace with the growing volume of incoming complaints.

● (0855)

[Translation]

Since these new complaints simply replace the previous complaints that we were able to close, our backlog is slowly decreasing. Despite all the measures taken to improve our efficiency, and considering the growing number of complaints registered, our backlog now stands at approximately 3,400 complaints.

Even if we manage to reduce the number of complaints in the backlog by a few hundred a year, we will not be able to completely eliminate it by the end of my mandate. A lot of the files are very complex. They sometimes involve tens of thousands of pages and numerous exceptions are invoked. At the current rate, it will take us several more years to close all of these files.

[*English*]

I still intend to try to secure temporary funding to tackle this inventory, in spite of the fact that the government turned down my recent request for more resources. This brings me to a topic I raised during previous appearances as well as in a letter I sent to the chair of this committee last week.

On more than one occasion, agents of Parliament have been obliged to submit requests for additional funding through a minister overseeing a department for which the agent has an oversight role. Such requests are currently required to include language on how this will contribute to the government's priorities or other considerations, which should not be the determining factors for granting such funding.

Whether or not these requests are granted is secondary to the real issue. The optics of needing to work through central agencies in order to secure funding may create the appearance of a potential or real conflict of interest in the conduct of my investigations.

[*Translation*]

One suggestion that I made in the letter I sent to your committee was that your report on the access to information system review include a recommendation specifically addressing the need for an independent funding mechanism for the Office of the Information Commissioner. For some years now, my fellow officers of Parliament and I have been calling for a different funding model in order to be accountable only to Parliament, not to the government of the day.

[*English*]

There is no reason this cannot be achieved. Several other bodies associated with Parliament operate effectively under alternate funding and accountability models. My colleagues would agree that this is not about money; this is a matter of independence and the credibility of our role in our democratic institutions.

We will continue to work together to press for a commitment by the government that it will implement an alternative model that reflects our accountability to Parliament.

[*Translation*]

Last month, the President of the Treasury Board told this committee that she supports the independence of the Information Commissioner. If the government truly cares about access to information and the independence of officers of Parliament, it should demonstrate it by taking this important step as soon as possible.

That concludes my remarks.

The Chair: Thank you, Ms. Maynard.

We will now begin the first round.

Mr. Gourde, you have the floor for six minutes.

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

Thank you to both of our witnesses for being here this morning.

I would like to acknowledge your work, Ms. Maynard. You've been before this committee a number of times. When spring arrives in Ottawa, the tulips bloom and you come back to tell us about your work.

There is one word that somewhat bothers me. I was pleased to hear you talk about the independence of your work. In the spring, we learn all kinds of things. On January 23, a letter from the Clerk of the Privy Council was sent to your office. In this letter, which is not long, Janice Charette is asking you, on behalf of the Privy Council Office and pursuant to subsection 6.1(1) of the Access to Information Act, for your authorization not to proceed with certain requests, because the Office is of the opinion that these requests are frivolous. The clerk explains that the individual who made these requests is essentially abuses the right of access and it interferes with the office's operations. Personally, I know that the applicant in question works for a national francophone media outlet.

What bothers me is that you talk about independence, but the Privy Council sends you a letter asking you to authorize it to refuse to examine or work on an access to information request. Is that common?

• (0900)

Ms. Caroline Maynard: Section 6.1 that Ms. Charette is referring to is a new section of the act, which allows any institution, not just the Privy Council, that receives a complaint or access request that it considers abusive or frivolous to ask me for permission not to respond to it. Such a request is legal and is part of the process put in place following the passage of former Bill C-58.

I can't speak to the request itself because we haven't responded to it yet. However, I can tell you that this process was put in place to prevent institutions from rejecting such requests on their own initiative. They have to ask the Information Commissioner for permission. The Office of the Commissioner then reviews the institution's request and the requester's request to see whether they comply with the wording of subsection 6.1(1).

Mr. Jacques Gourde: Ms. Maynard, I personally find that this kind of letter puts you between a rock and a hard place, the rock being the right of access to information and the hard place being the Privy Council's request to allow it not to respond to a request for information. This practically forces you to examine the complaint in depth. I don't like the situation that puts you in. It's not your fault; you've been put in a really compromising situation.

Ms. Caroline Maynard: In fact, requests of that nature are exceptional. It is very rare that we accept that type of request precisely for the reasons you raise. The right to access information is a quasi-constitutional right. The request for information truly has to be abusive or frivolous and an abuse of the right of access for our commissioner to allow an institution to decline to respond to a request.

I am glad that there is a lot of jurisprudence on this. We have had this authority for just a few years. Over the past three or four years, out of 30 or so requests for permission to decline a request for information, I accepted maybe five. It is very rare for the request to be extremely abusive.

Mr. Jacques Gourde: This request comes from a national francophone media outlet. It is not Jacques Gourde asking you something about his private life.

Could you explain to Canadians what a vexatious request is?

Ms. Caroline Maynard: That is when the requester's intention is not really to have access to information. It is when the request is really abusive in the sense that it may constitute harassment or be completely unreasonable. At one point, we received a request involving over one million pages of information and the requester refused to negotiate.

Mr. Jacques Gourde: What I find odd is that the clerk of the Privy Council asks for your approval to reject the request. It asks for your permission to not provide the information requested. It feels like the clerk is putting that on your shoulders. At the end of the day, you are the one who decides whether the information is provided or not. The clerk washes their hands of it.

Ms. Caroline Maynard: Yes, but that is my role. It is a somewhat judicial role. I have to weigh the arguments of both parties, who, in these cases, have the opportunity to make representations. I am glad that the institutions have to go through my office. This helps limit these types of requests and ensures that rejections apply truly to exceptional cases.

Mr. Jacques Gourde: Do you receive this type of letter often?

Ms. Caroline Maynard: No, it is not common. As I was saying, we have received maybe 30 or so requests for permission to reject a request for access to information. We rarely approve those requests.

Mr. Jacques Gourde: Thank you very much, Ms. Maynard.

The Chair: You have 45 seconds left.

Mr. Jacques Gourde: I will stop there.

The Chair: Thank you, Mr. Gourde and Ms. Maynard.

Mr. Fergus, you are next. You have six minutes.

Hon. Greg Fergus (Hull—Aylmer, Lib.): Could I have the remainder of Mr. Gourde's time?

Hon. members: Ha, ha.

The Chair: No, but I could give you a bit more time.

Hon. Greg Fergus: That is fair. Thank you very much, chair.

I also want to thank the two witnesses for their work as commissioners in their respective fields.

Mr. Dufresne, several governments here and around the world have recently banned TikTok on government devices. Can you describe to Canadians in a very clear way what makes this app so dangerous?

• (0905)

Mr. Philippe Dufresne: Thank you, Mr. Fergus.

The Government of Canada and others have taken—

Mr. René Villemure (Trois-Rivières, BQ): I am sorry. I cannot hear my colleague, who is using the wrong microphone, I believe. His voice—

Hon. Greg Fergus: My voice is rather calm. Perhaps I should speak up.

The Chair: Is that better, Mr. Villemure?

Mr. René Villemure: I think he should be using the other microphone. I did not hear the question.

Hon. Greg Fergus: My question is this: what is the danger of using TikTok?

[English]

Mr. Damien Kurek (Battle River—Crowfoot, CPC): I have a point of order, Mr. Chair.

[Translation]

The Chair: I think that the interpreters did not understand what you said, Mr. Fergus. Use just one of the microphones, not both.

[English]

Mr. Kurek, do you have a point of order?

Mr. Damien Kurek: Yes. The interpreter provided some commentary and I'm listening to it. It's because you're looking over that way. Make sure you're looking toward the mike.

[Translation]

The Chair: Speak directly into the microphone, Mr. Fergus. I stopped the clock.

[English]

Apparently you're going to get the time you wanted. I've stopped the time, so please restart.

[Translation]

Hon. Greg Fergus: My question is this.

Mr. Dufresne, governments here and around the world have banned TikTok on government devices. Can you describe in a very clear way the dangers TikTok represents to privacy protection?

Mr. Philippe Dufresne: Thank you for your question, Mr. Fergus.

Indeed, the Government of Canada and other governments have decided to ban the use of TikTok on their devices for security and privacy reasons.

For my part, at the Commissioner's Office, I announced in February that I was launching an investigation with my provincial counterparts in Quebec, British Columbia and Alberta to verify whether TikTok's practices are consistent with privacy requirements, including when it comes to required consent, understanding and explanations, especially regarding young people. We know that most users are young people and we have seen cause to investigate these practices to protect the privacy of all Canadians, but especially the young people who use this platform.

This joint investigation is under way. I cannot say more about its potential findings. However, it illustrates the collaboration that exists between my office and the provincial commissioners. We will continue to collaborate in this way as much as possible.

Hon. Greg Fergus: Do you also have the opportunity to collaborate with international organizations or other governments?

Mr. Philippe Dufresne: Yes, absolutely.

In fact, this is allowed under the Personal Information Protection and Electronic Documents Act, which applies to the private sector. We are working with privacy commissioners from other countries and we are playing a leadership role with them in the international community. There is also the Global Privacy Assembly and countless other institutions that seek to facilitate this collaboration. It is therefore important to do this not only in Canada with the provinces and territories, but also internationally. There are of course other jurisdictions where commissioners have ruled on this.

We are sharing information, best practices and trends with some sub-groups. This allows for collaboration, determining best practices and trends and drawing conclusions that, as much as possible, will be achievable and consistent with those of different governments. This also makes things easier for organizations that have to comply with privacy requirements.

Obviously, privacy protection knows no borders and affects everyone. The more we can coordinate not just investigations, but also the promotion and development of guidelines to help organizations and prevent privacy breaches, the better off we will be. We are collaborating in all these ways.

Hon. Greg Fergus: Do you think it is important for parliamentarians to pay attention to TikTok as well?

Mr. Philippe Dufresne: I am focusing on my jurisdiction as Privacy Commissioner. We concluded that we need to determine whether we are adequately protecting the personal information of Canadians and young people. When the investigation is over, we will make it public and, if necessary, make recommendations. Some of these recommendations might call on parliamentarians if we determine that there are gaps in the legislation.

We make all sorts of recommendations. We can make some for businesses and also in the context of bills, such as Bill C-27. If it is a matter of privacy, it is part of our mandate and we will continue to focus on that.

● (0910)

Hon. Greg Fergus: How much time do I have left, chair?

The Chair: You have a minute left, Mr. Fergus.

Hon. Greg Fergus: Given the role of Parliament and your collaboration work with the provinces and territories, do you know approximately when you will finish your inquiry and publish a report? Are we talking months?

Mr. Philippe Dufresne: It is hard to say because it obviously depends on how the investigation unfolds. We launched the investigation in February this year and my objective is to finish it no later than next February. We want to complete it as soon as possible, but we also want to do it properly as well. These are important issues that have significant repercussions on children, on Canada and for TikTok. I told my team and my provincial colleagues that we must work as quickly as possible, but as diligently as possible as well. We need to strike a balance.

Hon. Greg Fergus: Thank you.

The Chair: Thank you, Mr. Fergus and Mr. Dufresne.

Mr. Villemure, you now have the floor for six minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Thank you for being here, Commissioner. I think I might start with a bit of a joke. Do you personally use TikTok?

Mr. Philippe Dufresne: No, I don't. I can't use it under the directive, but I didn't use it before either.

Mr. René Villemure: Okay. Thank you. That was just a joke.

This morning, the committee is studying the estimates. Bill C-27, which we are going to study a bit later, raises a lot of issues in terms of artificial intelligence, obviously, but also in terms of privacy. Does your office have the means to protect privacy in light of the new requirements set out in Bill C-27?

Mr. Philippe Dufresne: We received additional financial support in the last budget in connection with Bill C-27 so that we can do the work to prepare for the coming into force of this bill, if Parliament decides to pass it. That is a good thing, as I mentioned.

If this bill is passed as it now stands, we expect my office to have additional responsibilities, for example, the authority to make orders and to recommend financial penalties. What is more, there will be more stringent requirements for the complaints process and we will be responsible for reviewing the organizations' codes of practice. Those are all positive things that will expand our role. That being said, we have determined that we will need additional resources to do our work properly.

Mr. René Villemure: Do you think that Bill C-27 as it now stands creates any privacy risks?

Mr. Philippe Dufresne: We made recommendations to the Standing Committee on Access to Information, Privacy and Ethics and those recommendations were made public this week. In our opinion, the bill is a step in the right direction, but it needs to be improved.

We made 15 key recommendations that we feel are very important. The first is to recognize privacy as a fundamental right. That is the message that the commissioner's office and I have been conveying since I was appointed. In my opinion, that is the starting point because it will anchor everything. We are also recommending that the government strengthen the legislation's preamble and the clause that deals with the objectives.

Essentially we want to reinforce, confirm and maintain what has already been established by the Supreme Court, which is that privacy is a fundamental, quasi-constitutional right. That does not mean, however, that innovation or the public interest should be hampered. In fact, as commissioner, one of my priorities is to support privacy in such a way that it does not create barriers to innovation or the public interest. However, we are talking about a fundamental right that affects our dignity and freedom. If there is an unavoidable conflict, then privacy needs to take precedence. However, we need to try to avoid such conflicts.

● (0915)

Mr. René Villemure: Okay. Thank you very much.

Ms. Maynard, you recently sent us a letter about the need or your desire for the commissioner's office to be financially independent, like many other commissioner's offices. If I understand correctly, you were appointed by Parliament and so you are independent from government in that sense, but you still rely on the government for resources. Is that right?

Ms. Caroline Maynard: Yes.

Mr. René Villemure: Okay. What would you like to see happen in that regard?

Ms. Caroline Maynard: I would like the commissioner's office to have access to an independent funding mechanism, where a process is put in place, as is the case for other agents of Parliament who are completely independent. That way, we could appear before the committee or before a committee that is specially created for that purpose to present our financial needs and report on our spending. We would be accountable directly to Parliament rather than to the government of the day.

Mr. René Villemure: Given that your office is currently required to report to the government of the day, do you not think that the office's independence is really just a facade?

Ms. Caroline Maynard: I can assure you that I conduct independent investigations. The only thing affected by the lack of funding is the number of investigations we can conduct and the resources we have when we have to go to court. Right now, we have to make choices. If we need to conduct more investigations, but the government is imposing limits on our funding, then that raises questions about our independence. In our opinion, it would be better if Parliament, which appointed me and to whom I would report, was also the one to decide on our funding mechanism.

Mr. René Villemure: In other words, right now, you have certain choices that you have to make and you might be making different choices if you had a different funding mechanism.

Ms. Caroline Maynard: Yes.

Mr. René Villemure: Okay. I assume the government is not preventing you from making choices, just that, overall, those choices could be different.

Ms. Caroline Maynard: As the Auditor General has said before in committee, Parliament sometimes grants us new powers, but there are costs associated with that. That is also true for Mr. Dufresne. For example, since the coming into force of former Bill C-58, I now have the authority to make orders and publish reports. However, that costs a lot of money and we also want to be able to meet the demand.

Right now, I have a backlog of 3,400 complaints, and I don't have the resources needed to investigate them. I would be delighted to be given additional temporary funding to conduct those investigations. On the other hand, I would also be prepared to give money back if the number of complaints that I have to deal with were to decrease. I think that sort of trade-off and accountability are important. If such were the case, we would not be required to extend the time frame for investigating complaints because of a lack of resources.

Mr. René Villemure: For some, that backlog of 3,400 complaints may make it seem as though they are being denied access to information.

The Chair: Thank you, Mr. Villemure.

[English]

Mr. Dufresne, I have to clarify something. When Mr. Villemure was asking questions about Bill C-27, you said that you sent the letter to the ethics committee. Is it possible you sent it to the industry committee?

Mr. Philippe Dufresne: I sent it to the industry committee. I apologize if I misspoke.

The Chair: Yes, I checked with the clerk, and we didn't receive it. There may be portions of Bill C-27 this committee will have to deal with, so could I suggest that you share that letter with this committee as well? Is that possible?

Mr. Philippe Dufresne: I'm in the hands of the committee.

I think the submission has been made public. We've made it public on our website, so it's publicly available anyway.

The Chair: Perfect. Perhaps somebody in your office could send us that letter, if you don't mind, sir.

Mr. Philippe Dufresne: Okay.

The Chair: I just wanted to clarify that, Mr. Dufresne.

Next, Mr. Green, you have six minutes. Go ahead, please.

Mr. Matthew Green (Hamilton Centre, NDP): Thank you very much, Mr. Chair.

To all of our friends, welcome back to this committee.

My good friend from the Bloc has raised some very important questions.

Having had the privilege of sitting on the public accounts committee, I would be doing myself a disservice if I didn't reference the good work of my predecessor, David Christopherson, who in the 42nd Parliament was at the public accounts committee. The committee made recommendation in a report called "Do Service Well". Mr. Ferguson was the AG at the time.

Recommendation 1 was:

The Committee strongly believes that as the officer of Parliament tasked with ensuring accountability and value for taxpayer money in the federal administration, the OAG should not have to be concerned about the vagaries of parliamentary cycles as regards to their funding to effectively meet their mandate. In fact, as stated by Sylvain Ricard, Interim Auditor General, it is not appropriate for the OAG to lobby Finance Canada and also possibly be in a position to have to audit them. Therefore, the Committee strongly recommends that Parliament and the Government of Canada implement a statutory, fixed mechanism that ensures stable, long-term, and predictable funding for the OAG.

That particular committee at that particular time made that recommendation for public accounts.

All of you are here today for the estimates. I also recognize, Ms. Maynard, that in the past you have had to receive stopgap funding. You just referenced the need for interim supports in order to meet your mandate, but of course you are advocating a more fixed-term process.

To put to both of you, would you agree that it be a recommendation of this committee at the appropriate time to provide this type of external, stable, long-term and predictable funding in order to maintain the independence, integrity, efficiencies and strength of your respective independent organizations?

I'll start with you, Ms. Maynard. Do you believe that?

• (0920)

Ms. Caroline Maynard: Yes. In my opening remarks....

Given that you are preparing a report with respect to the review of the Access to Information Act and the Privacy Act system, I think it is appropriate for the committee to add recommendations with respect to having a mechanism that's independent for my office and for agents of Parliament. I'm talking for me and Mr. Dufresne, and I will let him talk, but definitely those recommendations would go a long way.

Mr. Matthew Green: Thank you.

Mr. Dufresne, we'll allow you to address that question.

Mr. Philippe Dufresne: Thank you, Mr. Green.

I agree. I think that a mechanism that would provide more distance from the executive.... I think the challenge is not necessarily the actual decisions that are made but the fact that we are regulating activities of the executive and being mindful of that potential perception. Is the executive making certain decisions or are the agents making certain decisions based on that funding reality? I agree with Commissioner Maynard that having parliamentary oversight over this area addresses that issue.

I think it's important that there be accountability, of course. The desire is not to have agents of Parliament have unilateral control. There needs to be that accountability, but that accountability ought to be parliamentary.

There are many mechanisms. The one you described would be one. There would be others, but this would be the key focus—transparency and distance from the executive.

Mr. Matthew Green: Mr. Dufresne, is there one you would prefer over the other?

Mr. Philippe Dufresne: The one that you describe highlights ensuring appropriate resources. As I say, I'm not too concerned about parliamentary involvement in this, given our role as agents of Parliament, but I think a mechanism that would guarantee sufficient funding to at least fulfill the mandate that Parliament gives us would be essential. It may also help parliamentarians themselves by depoliticizing these types of issues and ensuring that this is something that really would follow—that if there is a parliamentary mandate, there's parliamentary resourcing to meet that mission.

Mr. Matthew Green: Let's talk about that for a moment.

The 2023-24 departmental plan states the office will be "exploring solutions to enhance capacity to address incoming complaints and breach reports more efficiently, so that we can dictate greater resources to proactively identifying and addressing violations of law that are of the greatest risk to Canadians."

Does your office have sufficient funding to increase the capacity to address complaints and breach reports, Mr. Dufresne?

Mr. Philippe Dufresne: No, we do not. We're very grateful for having received temporary funding in this respect in the last budget. That is a positive step, and we will certainly use that.

Mr. Matthew Green: What is the impact of not having the capacity to identify and address violations of privacy law?

Mr. Philippe Dufresne: The impact really increases the risk on Canadians, if we're talking about breaches. We're seeing this as more and more of an issue for all us in terms of these massive situations when organizations that have lots of information are compromised because of an error or because of a cyber-attack. Due to our inability to be involved in more of those and to provide advice, we lose the ability to mitigate those risks.

My goal is really to mitigate those risks at the front end so that the issue doesn't arise at all. That's obviously the goal, but if it does happen, we need to be advised early. We need to be able to react and provide advice so that we can contain the situation.

That's the missed opportunity here: We have to make difficult choices about where we're going to be involved and we have less of an ability to do it proactively.

• (0925)

The Chair: Thank you, Mr. Dufresne and Mr. Green.

That concludes our first round of questioning. We are now going to start our second round. This is a five-minute round, starting with Mr. Kurek.

Go ahead, sir.

Mr. Damien Kurek: Thank you very much, Mr. Chair and all those involved.

Thank you to our commissioners. It's good to have you back before the committee again.

Ms. Maynard, to follow the line of questioning that my colleague Mr. Gourde asked, I saw this letter. The Clerk of the Privy Council and Secretary to the Cabinet responds to an access to information request with language that accuses the requester, in this case a media outlet, of being vexatious. That's a pretty serious accusation.

If you could, just expand a little bit about the process you go through when a government department comes to you and says, "We don't want to fulfill this request because we think"—in this case it's a media outlet, and feel free to answer more generally—"it is making a vexatious access to information request." Can you expand on that?

Ms. Caroline Maynard: I'm happy you made that distinction, because the act does make a distinction. It's the request itself that has to be abusive, malicious, vexatious or unreasonable, not the requester. We are spending a lot of time reviewing the wording of the request, making sure that what's being asked meets the intent of the Access to Information Act and that the request itself is not abusive or vexatious.

The application for the authorization to not act on a request is made by the department. We review it. Sometimes, just by reviewing the argument of the institutions, we can say no right away. It is an exceptional mechanism, because we are taking away somebody's right of access. We make sure that these representations from the institutions are shared with the requester so that they have a chance to respond, and then, based on the response and the argument from the institutions and the wording of the request, we issue a decision to allow or not allow the institution to not act on the request.

Mr. Damien Kurek: Thank you for that.

It seems this is closely connected to the funding question. Here you have, basically, the Prime Minister's department. He's the leader of the government. It would put you in a pretty uncomfortable position, especially when you've explained to this committee that you need more resources to ensure that Canadians can have access to their government. It's not the government itself as an entity, but Canadians need to have access to their government.

I would certainly not question your integrity and independence, but certainly the situation puts you in a very challenging spot as an officer of Parliament and as an institution vis-à-vis the highest-ranking public servant, who is going to be involved in the passing of the budget, and now all of a sudden there's this conflict. I know you've expanded on that a bit.

Can you explain how you make sure this doesn't happen? Again, it's concerning that there would be what could be perceived as an institutional challenge.

Ms. Caroline Maynard: I can assure you, as I said earlier, that I am definitely feeling the independence in my role. I use all the authorities I have under the act. The challenge is, as you said, with the optics and what it looks like. However, I am not at all challenged in my authority with respect to who is making that decision or who's asking for the application.

The lack of resources results in people waiting longer for an answer, which is unfortunate. Currently we have 3,500 complaints that are not being investigated because we don't have enough investigators. We have requests that require legal services, and those take away from other types of cases, so we need more resources to be able to respond more effectively.

• (0930)

Mr. Damien Kurek: I appreciate that, because you're a relatively small independent office against the entire infrastructure of government. There's a bit of an imbalance that exists there.

I'm sure, Ms. Maynard, you've probably heard the testimony the minister provided to this committee, saying that, "Yes, there are a few challenges, but we're making great strides." There seems to be a massive disconnect between what the minister said and the experience of people we have heard from, including your testimony, as well as what we have heard from many who have tried to use the access to information system in this country.

Does it concern you that there seems to be this disconnect between those who are making the decisions and the lived experiences of so many Canadians?

The Chair: We're going to need a very quick response, Ms. Maynard.

Ms. Caroline Maynard: It is concerning there's no action plan being created or any actual actions being taken this year. It looks like we'll have to wait for the next round of reviews of the legislation in five years, which I'm not going to be here for.

Mr. Damien Kurek: Thank you.

The Chair: Thank you, Mr. Kurek and Ms. Maynard.

Ms. Hepfner, you have five minutes.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you, Chair.

I would like to start my time by putting a motion on notice. It's a motion that should have been sent to the clerk, and I'm happy to read it into the record at this point.

[Translation]

I propose:

That, the deadline to submit witnesses for the study [technical difficulties] be end of day Friday [technical difficulties] 2023, and that the committee begin hearing from witnesses on Tuesday, May 30th, 2023.

[English]

The Chair: I'm sorry, Ms. Hepfner. I've stopped your time, as something is going on with the headsets there. The translators cannot hear, especially when you started speaking in French. Could you do that again, and make sure the microphone is near your mouth?

Go ahead, please.

Ms. Lisa Hepfner: It's because I've turned on the translation on my computer here, and it's interfering with my ability.

[*Translation*]

It would be:

That, the deadline to submit witnesses for the study of the use of TikTok and its parent company, ByteDance Ltd be end of day Friday, May 19th, 2023, and that the committee begin hearing from witnesses on Tuesday, May 30th, 2023.

[*English*]

The Chair: Okay.

Thank you, Ms. Hepfner—

Ms. Lisa Hepfner: With that, Chair, I would like to return to where my colleague Mr. Greg Fergus left off in his line of questioning.

Mr. Dufresne, I'm not sure if you're aware that we passed a motion unanimously—

The Chair: Can I stop you for a second?

Ms. Lisa Hepfner: I'm sorry, Chair. I can't hear you.

The Chair: I'm going to stop you for a second. I want to make sure that the clerk has received that notice of motion.

Go ahead. I am going to start your time. You have four minutes left.

Ms. Lisa Hepfner: Chair, I can't hear you. Is something going on suddenly with my audio?

The Chair: It appears that there may be. My microphone is working.

Do you have your volume up, Ms. Hepfner?

Ms. Lisa Hepfner: Can you hear me now? I can't hear you guys. I don't know what is going on with my earphones.

• (0935)

The Chair: Okay. We need the proper headset for interpretation. Is there anybody else on the Liberal side who wants to...?

I can't stop the meeting at this point.

[*Translation*]

Are you rising on a point of order, Mr. Villemure?

Mr. René Villemure: Perhaps another Liberal colleague could step in.

The Chair: Yes.

[*English*]

Mr. Fergus or Ms. Saks, are you prepared to carry on with Ms. Hepfner's line of questioning?

Ms. Lisa Hepfner: I can't hear the chair.

The Chair: Ms. Hepfner, we're going to continue with Mr. Fergus, if that's possible. Maybe the technicians can figure out what's going on with your headset. They'll give you a call.

Mr. Fergus, you have four minutes. Go ahead, please.

Hon. Greg Fergus: I am going to try my best to do justice to Ms. Hepfner's questions, if you'll just give me a second here, sir.

Moving on to the Privacy Commissioner, I am hoping that the question from Ms. Hepfner would have been along the lines of the TikTok study.

Again, because of the coordination and the importance you have accorded to working with the provinces to come up with a collaborative study and because this is very much an internationally recognized concern, I presume it would be helpful for Parliament to pronounce itself on these issues and make sure that we can move forward on having a view on TikTok.

Mr. Philippe Dufresne: I would say it certainly would be.

We are conducting our joint investigations on the basis of the legislation in our jurisdiction and are working with colleagues internationally.

This committee has done studies on privacy issues that have been hugely impactful and it has made recommendations on issues. I've commented publicly on a number of them, including privacy impact assessments at the front end and recognizing privacy as a fundamental right.

To the extent that the committee would study the issue in this respect—obviously, we will conduct our investigation separately—any guidance or any principles that you would recommend or put forward and any coordination you would bring forward in terms of expertise on the themes that ought to be considered in the principles and potential changes are always things we look at very carefully.

Hon. Greg Fergus: I am going to cede my time to Ms. Saks.

Ms. Ya'ara Saks (York Centre, Lib.): Thank you to my colleague, Mr. Fergus.

Thank you, Chair.

To continue on with TikTok and maybe with people in the room, I have two teenage daughters who use TikTok. As a parent, I tend to go in once in a while to see what's there and what they're looking at, and I'll be frank: There are times when it's alarming. I've seen hate material on there. I've seen content that could lead to body dysmorphia. The list goes on and on.

Governments across Canada have had this big cry to ban it for government use and to not use it on our phones and devices. The U.S. is also considering banning it universally.

What danger do you believe it poses to Canadians, especially young Canadians like my own two daughters?

Mr. Philippe Dufresne: I think we're very focused on protecting children and how we use their personal information. Children are exposed more and more, obviously, to the digital world in everything they do, whether it's in school or socializing with their friends. We need to look at it. Our laws need to be updated to reflect this reality.

One of my recommendations on Bill C-27 in the report has to do with the protection of children and ensuring we're treating children's personal information in the best interest of the child, looking at what they are exposed to and the information they share and making sure they're aware and have a good understanding of what's going on and the long-term implications of it.

In many respects, sometimes they're exposed to things and face implications that they're not equipped to understand. We're treating them like adults, to some extent. We have to make sure they have the appropriate protection in terms of their information and their participation in the digital world.

• (0940)

The Chair: Thank you, Mr. Dufresne. Thank you, Ms. Saks.

[Translation]

Mr. Villemure, you have two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair. It's always tough to ask questions in just two and a half minutes.

Ms. Maynard, I would like to know what you think about the review of the act. We talked a little bit about it in the past.

Ms. Caroline Maynard: From what we've heard from Treasury Board, I don't think there is going to be any follow up to the government's study or consultations in the coming months or years. From what I understand, no recommendations were made in that regard. There has been no indication that changes will be made to the act, despite the recommendations from my office and from many stakeholders involved in the process.

The next step is the tabling of your report. I think that the committee's report will be essential in determining whether changes need to be made to the act. I am counting on you to table a report with recommendations regarding the act. We are often told that changes need to be made to the system, and I agree. The act needs to be amended so that we can advance the access to information process and make positive changes.

In July, we will be celebrating the 40th anniversary of the Access to Information Act. In all those years, no major changes have been made to any of the exemptions or exclusions.

Mr. René Villemure: The act is reviewed approximately every five years, is it not?

Ms. Caroline Maynard: Well, there is a five-year mandated review. The next review is already coming up in two years.

Mr. René Villemure: That's right. Thank you very much, Ms. Maynard.

Mr. Dufresne, is there sufficient privacy literacy, especially among young people? Do we need to do more? It seems to me that electronic media are taking more space. What should we do about that?

Mr. Philippe Dufresne: I think that we should do more, whether in schools or universities. We should find tools to help young people. My office certainly has a role to play in that regard, as do my provincial counterparts.

As I was saying earlier, children are more and more exposed to that world. In many ways they are very comfortable and adept, but I

think that they need to be better equipped to handle it. I think that they need to better understand the implications of this environment because there are many.

Mr. René Villemure: Do you have the resources do to that?

Mr. Philippe Dufresne: We have resources to promote the right to privacy, but this is a different kind of outreach that we would like to do more of. However, we do not have the resources to do as much as I would like.

Mr. René Villemure: Thank you very much, Mr. Dufresne.

The Chair: Thank you, Mr. Villemure.

[English]

We are now at our final intervention for this panel.

Mr. Green, you have two and a half minutes. Go ahead, please.

Mr. Matthew Green: Ms. Maynard, your office is funded to conclude 4,414 complaint investigations annually, but the OIC is on track to receive more than 7,000 complaints this year.

How many additional staff members would the OIC need to keep up with the number of complaints received annually?

Ms. Caroline Maynard: I can tell you that we have done so well in being more effective because we have no more resources. We became more efficient in doing our investigations. We closed 8,000 this year. I think we can keep a pace of about 7,000 complaints a year. That means we can keep up with what we're receiving if there are no increases.

What we can't do is diminish the number of cases in our inventory, which has stayed at about 3,500 since the beginning of my mandate. We would need another 15 to 20 investigators on a temporary basis to do that for the next three to four years.

Mr. Matthew Green: The percentage of administrative complaints assigned to investigators within 30 days of being registered was 27.7% in 2021-22. Is this a reflection of the constraints your office is facing?

Ms. Caroline Maynard: Yes, the amount of time the files are waiting in the inventory to be assigned is ridiculous. It's something that we're working on. Without more resources, our investigators have big portfolios, and they just can't take more.

Mr. Matthew Green: Mr. Dufresne, the departmental plan states that in your coming year, your office will continue to engage with government officials to raise awareness of your office's funding needs. Specifically, what are your office's funding needs?

Mr. Philippe Dufresne: Our funding needs would be to have increased budgets. I would say a 50% increase of our current budget would be required to address the chronic underfunding that we have.

Mr. Matthew Green: In real dollars, what is that?

Mr. Philippe Dufresne: Our current funding is \$30 million, so it would be half of that. We have specific requests for potential Bill C-27 responsibilities in terms of additional guidance and additional investigation responsibilities.

• (0945)

Mr. Matthew Green: Will that have a material impact on the operations of your office?

Mr. Philippe Dufresne: It will have a material impact in terms of proactivity, in terms of volume and in terms of time for complaints. We want our complaints responses to be faster. We want them to—

Mr. Matthew Green: What is the estimate on that?

Mr. Philippe Dufresne: In terms of the timing, we asked for a temporary budget to help us with that. We've received that, so we're going to use it to improve the timing. However, it remains an issue that I want to address.

Mr. Matthew Green: Thank you.

The Chair: Thank you, Mr. Green.

Mr. Dufresne, I have a question for you.

The Bank of Canada governor has indicated that they are going to pursue a study of digital currency. Have you, or has your office, been contacted to participate with the Bank of Canada on a study on digital currency? Do you expect that you will be participating?

Mr. Philippe Dufresne: I'm not aware.... I have not personally been contacted. My staff, my office, may have been contacted at the official level, but I don't know. Certainly our position would be that a privacy impact assessment should be done at the front end of impactful initiatives. I would welcome them to reach out in this respect.

The Chair: Okay. Thank you, Mr. Dufresne.

[*Translation*]

Thank you, Ms. Maynard.

[*English*]

That concludes our first panel.

On behalf of the committee, I thank you for being here today.

We're going to suspend for a few minutes as we change our panels. We'll return in a couple of minutes.

Thank you.

• (0945)

(Pause)

• (0950)

The Chair: We are ready to resume the meeting on the main estimates.

First of all, for the second hour, I would like to welcome Nancy Bélanger, Commissioner of Lobbying, from the Office of the Commissioner of Lobbying.

Welcome, Ms. Bélanger.

From the Office of the Conflict of Interest and Ethics Commissioner, we have two guests: Melanie Rushworth, director of communications, outreach and planning, and Sandy Tremblay, director, corporate management.

Ms. Bélanger, you have up to five minutes to address the committee. Please start.

Ms. Nancy Bélanger (Commissioner of Lobbying, Office of the Commissioner of Lobbying): Good morning, Mr. Chair and committee members.

Thank you for the opportunity to appear before you today on the main estimates, together with my colleagues from the Office of the Conflict of Interest and Ethics Commissioner.

The Lobbying Act requires that I maintain the registry of lobbyists, that I offer education to increase awareness and understanding of the lobbying regime and that I conduct compliance work to ensure that the Lobbying Act and the Lobbyists' Code of Conduct are respected.

[*Translation*]

I would highlight that, in 2022-23, a record of almost 8,500 lobbyists were active in the year, with nearly 7,000 lobbyists registered at any given time. The number of active registrations at any given time grew to over 5,300 from 4,900 in 2021-22. Reports of oral and arranged communications with designated public office holders reached a record high, at over 30,500 communications. We reached more than 700 stakeholders through approximately 80 presentations. In addition to the files we had carried over, we initiated 29 preliminary assessments and determined that no further action was required in 24 cases. We initiated three investigations and made one referral to the RCMP.

Priorities for the current fiscal year include the continuous improvement of the registry of lobbyists. This work always aims at making it easier to input and find information about registered lobbying. We also plan to provide more research reports and statistics in the registry.

On the education front, we will work to ensure that lobbyists understand the updated Lobbyists' Code of Conduct that should come into force this summer. We are also developing ways to expand affected individuals' awareness and understanding of the act. This includes using stakeholder feedback to help focus our educational activities and reach an even greater number of individuals.

This year, we will also refine our guidance on the application and enforcement of the Lobbying Act so that stakeholders have access to clearer and more comprehensive information.

As for our work in compliance, the Lobbying Act requires that an investigation be conducted when I have reason to believe that it is necessary to ensure compliance. We are advancing on 37 ongoing files, of which 33 are preliminary assessments and four are investigations. When I have reasonable grounds to believe an offence has occurred, I refer the matter to the appropriate police authority and suspend the matter. At the conclusion of an investigation, my findings are reported to Parliament.

[English]

The office delivers on its mandate and fulfills its corporate functions through the invaluable work of a small number of dedicated employees, which has recently averaged 28 staffed positions.

My total annual budget is approximately \$5.5 million. Roughly \$4 million goes to salaries and benefits for 33 full-time employees, leaving an operating budget of \$1.5 million. About \$700,000 of that operating budget is spent to obtain services such as HR and information technology management from other government institutions.

This is a very small budget envelope. It provides little flexibility to reallocate resources or to hire additional employees. Many people in our office hold multiple responsibilities. Even at 33 positions, we do not have adequate depth or backup, in particular when we encounter new corporate responsibilities or plan innovations to better deliver on our mandate. Despite this challenge, we foster an exceptional work environment through career development, employee retention efforts and mental health initiatives.

I was very pleased that the office was identified in budget 2023 to receive an additional ongoing \$400,000. This will give us the flexibility to hire four additional indeterminate staff to help alleviate, somewhat, the depth-of-capacity risks. If our submission to the government is approved, we should receive these funds in late fall.

I would like to conclude by thanking each and every employee of the office. They know how grateful I am for their dedication, professionalism and excellence in delivering on our mandate.

Mr. Chair, committee members, thank you. I will welcome your questions.

• (0955)

The Chair: Thank you, Ms. Bélanger.

I'm now going to give the floor to the Office of the Conflict of Interest and Ethics Commissioner.

Sandy, I see that your microphone is on.

Please go ahead. You have up to five minutes to address the committee.

[Translation]

Ms. Sandy Tremblay (Director, Corporate Management, Office of the Conflict of Interest and Ethics Commissioner): First off, I'd like to thank you for inviting us to appear before you today to talk about the Office of the Conflict of Interest and Ethics Commissioner's achievements over the past year as well as its plans for the upcoming year.

My name is Sandy Tremblay and I'm director of corporate management and chief financial officer at the office. I'm here today with Melanie Rushworth, who is director of communications, outreach and planning, and also responsible for parliamentary affairs.

At the administrative level, the office has 51 full-time employees and had a budget of \$8.1 million in the previous fiscal year. Although we were able to fulfill our mandate with that amount, we underwent a reallocation exercise in order to better target our resources based on available programs, with an emphasis on supporting consultation and awareness-raising services. To that end, Mario Dion, the former commissioner, had asked for a budget increase of a little under \$200,000 for the current fiscal year, representing about 2% of our budget.

[English]

While the majority of the \$8.3-million budget for the office—a little over 80%—is for salaries, from an information technology standpoint, 65% of the professional services budget provides for an IT agreement for support and development from the House of Commons administration.

Part of the work we have been undertaking with their expertise in the past two fiscal years is to develop a new system that will consolidate the declaration portal, the case management system and the public registry, including the ability to securely receive financial documents. When complete, the new system will be rolled out with appropriate internal and external educational materials to aid in a successful transition. We anticipate being in a position later this fiscal year to present to PROC for approval the new forms under the Conflict of Interest Code for Members of the House of Commons that underpin the system.

[Translation]

The office seeks to show Canadians and Parliament that they can trust in its ability to fulfill its duties and functions under the Parliament of Canada Act and to use the funds at its disposal responsibly and efficiently, in other words, that it is a trusted manager of public funds.

I'd now like to yield the floor to Melanie Rushworth, who will outline some of the work we do with public office holders and the public.

[English]

Ms. Melanie Rushworth (Director, Communications, Outreach and Planning, Office of the Conflict of Interest and Ethics Commissioner): Thank you.

One of the key functions of the office is demonstrated in its commitment to providing timely, expert advice to regulatees such as public office holders and members of the House of Commons. A team of advisers provides confidential one-on-one advice that has been instrumental in preventing conflicts of interest before they arise, in promoting responsible decision-making and in safeguarding the public's interests.

This group has been stretched, as the number of regulatees has grown by 6% in the last five years, or by 178 people. This growth is in fact a 15% increase in reporting public office holders, which is the group that requires the most interaction with an adviser as part of the initial compliance process. The reallocation of funds has added one more full-time employee to this team.

With the intention of ensuring that regulatees better understand the requirements of the Conflict of Interest Act and the code, the office has expanded its educational programs. The first step was two important surveys that were undertaken in 2022, one for all public office holders and a second tailored to members of the House of Commons. The response rates for each of these surveys were 30% and 43% respectively, which has provided good insight for our planning.

Recognizing the importance of proactive measures, the office has implemented initiatives aimed at preventing conflicts of interest by educating regulatees about their obligations. It aims to foster a culture of integrity and ethical behaviour throughout the tenure of all regulatees, with further learning reinforced during initial compliance meetings and with ongoing discussions with a personal adviser. Anticipating the changes to the code that pertain to education, former commissioner Dion prioritized funds for this fiscal year to prepare to provide individualized mandatory training for members within the first 120 days of their confirmation of election.

One of the notable accomplishments of the office has been its dedication to the publication of reports and related investigations into potential conflicts of interest in a timely manner. All reports by former commissioner Dion were completed within a year, and in his last year as commissioner, five reports were published.

• (1000)

[*Translation*]

Given the work undertaken over the past year, the office is well positioned moving forward.

We welcome any questions the committee might have about the work of the office.

[*English*]

The Chair: Thank you to both of you for your statements.

Just as a reminder to the committee, we have some things that we need to dispose of at the end of the meeting.

Mr. Barrett, are you up for six minutes?

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Yes, sir.

The Chair: Okay. I'm sorry. I had Mr. Kurek here. Go ahead. I'm going to stick to the timelines. That's the point I was making. Thanks.

Go ahead, Mr. Barrett.

Mr. Michael Barrett: Thanks, Chair.

Thanks to the witnesses for being here today. Commissioner Bélanger, it's nice to see you again.

I have a couple of quick questions for you.

What would your reaction be if the government cut your salary by \$110,000? Do you think that would send a message of support for transparency in the service that your office provides?

Ms. Nancy Bélanger: I am going to hope that never happens. That's the first thing I'm going to say. I would fight, and I would fight greatly, if that were to ever happen. I don't see that it will, because I was just in the budget of 2023, but that would have a very serious impact not only on our work but on the morale of the team, which to me is absolutely important. I have the most dedicated employees, and that would be really tough, so I hope that never happens.

Mr. Michael Barrett: Yes, I think that proposing a cut to a commissioner's salary signals future cuts to the budget and not an eye on the important work that our independent officers of Parliament do. I thank your staff, and the staff here on behalf of the Conflict of Interest and Ethics Commissioner's office as well.

Commissioner, how many investigations have you referred to the Royal Canadian Mounted Police?

Ms. Nancy Bélanger: In the past year, it was one.

Mr. Michael Barrett: Okay.

Ms. Nancy Bélanger: Currently they have five files in their hands that I have referred.

Mr. Michael Barrett: What's the oldest of those five files?

Ms. Nancy Bélanger: Of those five files, there's one that dates back to 2019. They have returned to me some files that I had referred in the year 2018.

Mr. Michael Barrett: Are you able to tell the committee what the subject is of those referrals?

Ms. Nancy Bélanger: I can't. I'm sorry.

Mr. Michael Barrett: Okay. Thank you very much.

To Ms. Tremblay and Ms. Rushworth, the folks from the Ethics Commissioner's office, thank you for being here.

Is your office at this time able to fully administer the Conflict of Interest Act?

Ms. Melanie Rushworth: There are two parts to my response to that question.

There are absolutely certain things that we cannot do at this time. Those are things like post-employment waivers for public office holders, administrative monetary penalties and moving forward with investigations.

On the other hand, what the office absolutely can do is continue to provide dedicated one-on-one advice to all of the regulatees who must remain in compliance with the act and the code, even in the absence of a commissioner.

Mr. Michael Barrett: Yes, those ongoing services that are being provided are of course essential. Members right now are going through their annual disclosure process. I know that I appreciate and rely on the help of the office.

You said you're not able to initiate an investigation. Are you able to initiate an investigation of your own volition, or are you not able to do it either by request by a member or on your own undertaking?

Ms. Melanie Rushworth: The authority to initiate an investigation rests with the commissioner.

Mr. Michael Barrett: Are you able to issue a report setting out facts in question, as well as your analysis and conclusions, in relation to requests for investigation?

Ms. Melanie Rushworth: That is not something we would be able to do, because the analysis and conclusions would rest with the commissioner.

Mr. Michael Barrett: Are you able to refer investigations or any findings of the office to the Speaker of the House of Commons at this time?

Ms. Melanie Rushworth: I'm not aware of the obligations in that respect, but I cannot imagine that we'd be able to do that without the commissioner. That would be a conversation we would have with the Speaker if the need arose.

Mr. Michael Barrett: Are you able to summon witnesses requiring them to give evidence, orally or in writing, on oath—or if they're persons entitled to affirm in civil matters, on affirmation—and to produce any necessary documents or other materials that you consider necessary?

• (1005)

Ms. Melanie Rushworth: Those types of requests would be something that would be within an investigation process. That would be at the direction of the commissioner.

Mr. Michael Barrett: Okay.

Though there are a range of services that you're able to provide to members—and, based on my experience, you're doing so ably and as well as ever—there are several functions of the office that cannot be executed at this time due to the ongoing vacancy in the commissioner's position. Is that correct?

Ms. Melanie Rushworth: That is correct, but I will say that any matter that is up to 10 years old can be looked at by the commissioner, and the commissioner has five years from the time that the information became known to him or her, as the commissioner, to act on it.

Mr. Michael Barrett: Potentially, there would be work on the desk of an incoming commissioner. It doesn't stale-date in the intervening period.

Ms. Melanie Rushworth: That's correct. The same applies if there was a decision to take on an administrative monetary penalty, post-employment waivers, the ability to reimburse blind trust fees and that type of thing. All of those things would be held for the future commissioner.

Mr. Michael Barrett: For now, if I as a member referred an issue to you or if the experts in your office observed something that was viewed as a violation of the act, there would be no investiga-

tion initiated and that essential transparency function would not be provided for Canadians at this time.

Ms. Melanie Rushworth: With regard to the ability to launch an investigation, a future commissioner has up to five years after the information is brought forward to them to do that. In the interim, the office is absolutely still paying attention to the roles and responsibilities of all regulatees to follow both the act and the code.

Mr. Michael Barrett: Take notes and keep receipts.

Thanks very much.

The Chair: Thank you, Mr. Barrett and Ms. Rushworth.

Mr. Bains, you have six minutes. Go ahead, please.

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair, and thank you to our guests for joining us today.

For my first question, I'd like to go to Madam Bélanger.

Do you have any updates on the lobbying code of conduct that you wish to share with the committee?

Ms. Nancy Bélanger: First of all, I will thank the committee for the work that it did on this code.

You will have noticed that some of the issues were very polarizing. What I can tell you is that I've considered all the recommendations. I have completed my review. I have finalized it and I have sent it to the Gazette to be published.

The Gazette has told me they're aiming to publish it on May 27. The timing is good, because I knew you would be away the week before that. What I'll do is write to the committee and confirm when I know for sure that it is going to be tabled on May 27 for an effective date of July 1. There will be plenty of time for people to look at it and react.

Mr. Parm Bains: Okay.

In the 2023-24 departmental plan of the Office of the Commissioner of Lobbying, it is indicated that additional funds were allocated to your organization in the 2022-23 year but that your organization did not expect to be able to staff all vacant positions before the end of March 2023.

Were those positions filled by the end of the fiscal year?

Ms. Nancy Bélanger: We're still missing one. It's in IT. We received that money to hire in IT and information management. There's one position we have yet to staff.

We're looking for an expert in the Java language, and I understand—I know nothing about IT—that this expertise is hard to find, so we are still working on that. However, we are hopeful that by the fall we'll have someone in place.

Mr. Parm Bains: When the new lobbying code comes into effect, will it apply to those who left prior to the new code taking effect or will they be grandfathered into the old system?

Ms. Nancy Bélanger: The code applies at the time that you lobby, so it would apply as of July 1 moving forward to those who have lobbied. Anything that happened prior would be subject to the old code. It's at the time of the lobbying activity, so it will be based on the circumstances of the time.

We are going to be issuing some information and guidance to make sure that lobbyists understand the transition properly.

Mr. Parm Bains: The new code takes effect in the fall, and they would then have a 24-month cooling-off period and not the compulsory four to five as before. Is that correct?

Ms. Nancy Bélanger: I'm sorry; the code would be applicable as of July 1.

• (1010)

Mr. Parm Bains: Okay.

What are the rules around lobbying after someone is no longer a public office holder?

Ms. Nancy Bélanger: When a former designated public office holder leaves office, they cannot lobby for five years. There is a small gap if you work for a corporation, in that you can lobby up to 20% of your time. However, if that person is a senior official, it's complicated. They end up in the registry and then they are subject to the code, but unless you're on the registry of lobbyists, you're not subject to the code.

As another aspect, anyone who leaves public office is subject to a five-year restriction. If anyone ever decides to leave office, I encourage them to call my office to understand the rules, because they're complicated.

Mr. Parm Bains: What are the rules around accepting to work with someone you previously dealt with in your position as a public office holder?

Ms. Nancy Bélanger: Anyone who leaves office is prohibited from communicating with public office holders, so they simply can't communicate unless they fall into a category. Going to work with someone that you have dealt with before comes under the post-employment rules of my colleague's office, so if you don't mind, I will pass the baton.

Mr. Parm Bains: Sure.

Ms. Melanie Rushworth: Thank you very much for that, Madam Bélanger.

The post-employment rules under the Conflict of Interest Act apply for a period of one year for reporting public office holders and for a period of two years for ministers. There are also a series of rules that apply for life to all public office holders.

Mr. Parm Bains: Maybe I will stay with you on the last question.

Some of your provincial counterparts have a dual mandate, that of registrar of lobbying and of conflict of interest and ethics commissioner.

Would you see any benefits, financial or otherwise, in merging the two federal offices into one?

Ms. Melanie Rushworth: I think that would be a question that would be appropriate for a future commissioner to answer.

Mr. Parm Bains: Okay.

That is all I have to say.

The Chair: Thank you, Mr. Bains.

[*Translation*]

Mr. Villemure, you have six minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Ms. Bélanger, thank you for appearing before the committee once again.

We received a lot of correspondence recently and we studied the Lobbyists' Code of Conduct. Have we reached the point where we should consider reviewing the Lobbying Act?

Ms. Nancy Bélanger: Yes, absolutely. We should've reviewed it in 2017, but we didn't. We should've reviewed it in 2022, but we didn't. Now, here we are in 2023, but I'm seeing no indication of it happening. And yet, it's high time to review the act.

The weaknesses in the code flow from the weaknesses in the act. There's a lot of lobbying that goes on that doesn't require registering and it's high time we address that problem. I'm here to help if ever you decide to review the act.

Mr. René Villemure: That's an excellent avenue to consider. We might even call it the "McKinsey clause".

What are the two main points on which a review of the act should focus?

Ms. Nancy Bélanger: The first should be the threshold that organizations and companies are subject to. Everyone remains under the threshold, and yet there's a lot of lobbying that can happen before reaching that threshold. Someone can do up to 32 hours of lobbying per month before having to register as a lobbyist. That's too much. I would take an opposite approach whereby lobbyists need to register by default unless some very specific and objective criteria aren't met.

The other thing we might consider changing involves the information that needs to be disclosed in the registry. There's room to supply details that would add a bit more context and information, especially in the monthly disclosures. For instance, we know which designated public officer holders attended a given meeting, but we have no idea which lobbyists were present. There are flaws, and it is high time that we correct them.

Mr. René Villemure: How old is the act?

Ms. Nancy Bélanger: It was passed in 2008.

Mr. René Villemure: Have there been many changes to the act since 2008?

Ms. Nancy Bélanger: None. The act has been reviewed, but no changes have been made.

Mr. René Villemure: No major overhaul was undertaken.

Ms. Nancy Bélanger: No, far from it.

• (1015)

Mr. René Villemure: Okay. The previous review should've happened five years ago, is that right?

Ms. Nancy Bélanger: Yes.

Mr. René Villemure: Okay. So it's overdue.

Ms. Nancy Bélanger: Yes.

Mr. René Villemure: Understood.

There's been talk in Parliament recently of the merits of creating a foreign agent registry. I imagine that the creation of such a registry might benefit from your experience. Could you share your thoughts on that?

Ms. Nancy Bélanger: Of course.

I will always support any endeavour that promotes transparency. It would be a good thing. That said, in my experience with the registry of lobbyists, in order for a foreign agent registry to be effective, its objectives will need to be clear. I don't know what a foreign agent registry would look like, but I do know that its criteria and parameters will need to be clear and that it should include no threshold, because it's too easy to remain under the threshold. What's more, enforcement powers will need to be provided for. If we're unable to enforce the act and the registry, it won't do much good.

There will definitely be some overlap with the Lobbying Act and the registry of lobbyists, and I'll keep a close eye on that. It is possible that some people will have to register with both registries, which is fine.

Mr. René Villemure: Might it be relevant to consider consolidating these registries under a single authority? The activities in question, namely contact with foreign agents or contact with lobbyists, are similar.

Ms. Nancy Bélanger: Indeed, these communications are similar, but we will need to ensure that the foreign agent registry not include all communications with Canadian citizens, because these activities don't constitute lobbying.

The Lobbying Act recognizes lobbying as a legitimate activity. We will need to carefully define the objectives and the purpose of the foreign agent registry. If both that registry and the registry of lobbyists were to fall under a single authority, there's no doubt that this authority should have the power to carry out investigations outside of Canada. I can tell you that I don't have that authority and that I certainly don't have the staff to carry out such activities.

Mr. René Villemure: I don't doubt that.

Let's move on to budgetary independence. Like the other commissioners, you're independently appointed by Parliament. As such, you're independent in terms of your appointment. That said, do you also have budgetary independence?

Ms. Nancy Bélanger: No.

Mr. René Villemure: Is that something you'd want?

Ms. Nancy Bélanger: Absolutely.

I've been working with officers of Parliament since 2007 or 2008, so it's a conversation we've been having for a long time. Over 20 years ago now, this very committee stated that we should have budgetary independence, and I completely agree.

I'm very happy to have received funds, but I didn't get what I'd asked for. So the answer is yes.

Mr. René Villemure: Do you still have vacancies?

Ms. Nancy Bélanger: Several. We have about 28 staff members, but we should have 33. With the funds I'll be receiving, I'll be able to hire four more employees, at which point we'll be 37. I currently

don't have much of a choice, since our staffing pool is quite shallow, meaning that I have one staff per position, but no backups. We're trying to fill the vacancies, but it's tough these days.

Mr. René Villemure: So you have financial difficulties and staffing issues, obviously, all of which force you to make choices you wouldn't necessarily be making if you were independent.

Ms. Nancy Bélanger: Absolutely.

Mr. René Villemure: Okay. Thank you very much.

Ms. Nancy Bélanger: Thank you.

The Chair: Thank you, Mr. Villemure and Ms. Bélanger.

[English]

Mr. Green, you have six minutes. Go ahead, please.

Mr. Matthew Green: Thank you very much.

The Office of the Commissioner of Lobbying has published six investigation reports since 2017. The latest one was in 2021.

Do the financial resources of the Office of the Commissioner of Lobbying have an impact on the number of investigations it conducts?

Ms. Nancy Bélanger: Here's what I'll say. The resources I have do not impact on how many I conduct. It's the speed—the efficiency—that is not as fast as I would like.

However, we look at everything. I have never been resource-oriented. I make sure we look at all the files. Obviously, if we had more people, we could probably turn them around a little faster.

Mr. Matthew Green: The departmental plan states that in 2022 your office identified “depth of capacity” as the primary risk for your organization. Can you expand on this risk?

Ms. Nancy Bélanger: Absolutely.

We have a pretty big mandate—the registry, education and compliance. Up until that budget in 2021, the budget had not changed since 2008. It's always been 28 employees.

The number of lobbyists, and therefore the number of calls our office gets, keeps going up. The number of investigations and the compliance work keep going up. The corporate demands coming from the centre keep going up. There are all sorts of reports and plans that we need to do, and we have always been at 28 employees.

We commissioned an outside firm to look at our office, and yes, the capacity is a problem. When somebody goes away, the files stay on their desk, because I have no backup. There is no backup in policy, communications or any position. It's hard, but my goodness, I have employees who believe in what they do, and they're willing to do more than their job description. That's a good thing, because they otherwise wouldn't survive in an office of 28 with the mandate we have.

● (1020)

Mr. Matthew Green: I might suggest, as a guy who's pretty supportive of unions, that their collective bargaining work be protected with adequate compensation and adequate scope of their roles.

You submitted a budget proposal to the government to add seven full-time positions. What responsibilities and operations would these seven full-time staff members undertake?

Ms. Nancy Bélanger: For the seven requests I made in the budget, it's \$400,000. It's half of what I asked for. The four positions I am looking to fill are in my public affairs policy shop, in order to have a backup in policy; a backup in communications; an editor-writer type of person; and a position in the corporate area. Right now, I have an executive director who's in charge of corporate, and I have no one helping him with access to information and HR. This person would be in that role.

Those are the positions right now that we would be looking for.

Mr. Matthew Green: Just so I can make sure there's nothing lost in the nuances of a word, when you say “backup”, do you mean there's enough work for two workers? If there's enough work for two workers, I wouldn't necessarily consider them backup. When I hear “backup”, I think “redundant”. Would there be an expansion of the roles?

I heard in your presentation, Ms. Bélanger, that you really support your workers and you know they're working hard. Could you clarify that “backup” might not be appropriate?

Ms. Nancy Bélanger: Yes, I hear you. I do not want to talk about redundancy. Maybe it's not backup. It's backup in the sense that when someone is away, the work stops. That's the type of backup I'm talking about. Is there enough work for two? Yes, there's enough work for three or four, but we make choices.

Mr. Matthew Green: If you had the four other positions, what would they be?

Ms. Nancy Bélanger: It would be a second position in communications and a second position in policy.

Mr. Matthew Green: I'm sorry. I meant that you requested seven, but you only got four.

Ms. Nancy Bélanger: Yes. The four of those—

Mr. Matthew Green: What would the other three be?

Ms. Nancy Bélanger: The other three would have been one person in finance and the other two in investigations and compliance work.

Mr. Matthew Green: How much would those two additional compliance support workers have provided in terms of the flexibility of your operational plan?

Ms. Nancy Bélanger: Well, right now we have 37 ongoing files, which we're splitting among three people. If I would be able to add two more workers, obviously we'd be able to spread the wealth a little bit better.

The problem right with my compliance work, and the reason I chose not to fill those positions, is that we have a number of vacancies. I figured I might as well fill up those vacancies first and see how that goes, and then in the future we may ask for more.

Mr. Matthew Green: The departmental plan states that due to your office's “limited budget”, you don't have “the flexibility to devote a fixed percentage of program funds to...innovation in program design and delivery.”

What is the impact of this limitation on your organization?

Ms. Nancy Bélanger: It's probably that I feel we're often very reactive instead of being able to be proactive.

I have an education mandate. We are asked to do a lot of presentations. I want to be out there and reaching out to organizations, but I only have one person doing it all. I think that's the impact. I have staff who are innovative and have great ideas, and then we ask who is going to do it.

That, to me, is the—

Mr. Matthew Green: Is there a logic that if you had more outreach and more education, you might have fewer complaints and investigations? Is that a safe—?

Ms. Nancy Bélanger: Possibly. I'm hoping that there would be more individuals ensuring that they register when they should be, but they don't know that. Yes, maybe it would have an impact on compliance.

However, when you think that at any give time there are 7,000 lobbyists and I have 37 compliance files, you can see that in general people are abiding by the rules.

The Chair: Thank you, Mr. Green and Ms. Bélanger.

Mr. Matthew Green: Thank you.

The Chair: That concludes the first round.

We should have time for five minutes, five minutes, two and a half and two and a half. We're going to need some time at the end to deal with matters.

We are going to start with Mr. Kurek. Go ahead, Mr. Kurek, for five minutes.

Mr. Damien Kurek: Thank you very much, Mr. Chair.

Thank you to our witnesses. I appreciate your coming before the committee.

This is to the folks from the conflict of interest office.

Mr. Barrett highlighted some of these things, but when it comes to the commissioner being the one who pulls the trigger on launching an investigation—and then the other various aspects of what that looks like—over the course of the last number of months, have there been files put on the commissioner's desk that need to be looked into more closely or that may warrant an investigation?

As with all MPs, I've worked with folks from your office and have been very pleased and have appreciated the services that you provide. However, have there been files placed on the desk of the future commissioner that need to be looked into?

• (1025)

Ms. Melanie Rushworth: As a general rule, the office doesn't talk about investigations while they are under way or before they are launched. We wait until there is a report published at the end of an investigation process.

I will say that the office absolutely continues to pay attention to the work that is being undertaken and to media queries at different places where we look for information that could be of interest to a future commissioner, but the work absolutely continues for us in making sure that people remain in compliance with the act and the code.

Mr. Damien Kurek: Thank you, and I appreciate that, but there seems to be a wall that's been built from the ability of being able to actually see the important work that the commissioner's role is able to do, so I think it highlights the importance of ensuring for the fact that Canadians need to be able to trust their institutions.

Ms. Bélanger, I appreciate your coming back. I know you've been here a number of times.

You referenced a little bit about the foreign agents registry. If you're lobbying in Canada on behalf of a grocery store or a food bank, I know that folks can go online and search through the lobbyist registry. There are interactions with public office holders and ministers and the whole deal. There's a ton of information there.

Certainly I've heard from many of my constituents about the idea of a foreign agents registry. If you're in Canada and working on behalf of a foreign state, in particular a foreign state that's hostile to Canada's interests, it seems to be common sense that there would be a mechanism in place.

I know you were asked a couple of questions about that before, but I'm wondering if you could expand on your thoughts in that regard.

Ms. Nancy Bélanger: Yes, absolutely.

I'm a great believer in transparency. If the registry helps with any type of transparency with respect to foreign agents coming into Canada to do whatever they want to do...

Currently, though, on the registry for lobbying, in the scenario you just provided, they would be required to register on the registry of lobbyists if they're communicating on behalf of a foreign agency. We currently have on our registry some consultants who are representing foreign countries, so there will be an overlap.

However, as I was saying, I think the registry for foreign influence will have to.... What's the purpose? The success of that registry will depend on how it's designed and what it aims to cover. Is it just communications with all of you? Is it communications with Canadians? What are the requirements? There will have to be no thresholds. The requirements will need to be very clear, because there will be a lot of organizations, corporations and individuals who will go under the radar if there is a threshold. There should be, as well, enforcement mechanisms and strict sanctions—

Mr. Damien Kurek: If I could, only because my time is quickly disappearing—

Ms. Nancy Bélanger: Yes, absolutely

Mr. Damien Kurek: There are examples in other states, including some of our allies, of models we could look at. The lobbyist registry is different, but there are similarities.

I'm wondering if you could comment. In your work, is there somewhere we could look to say, "Hey, that's a best practice that we could model after"?

Ms. Nancy Bélanger: The first thing I will say is that I am not a national security expert. I know my registry. That's it.

Having looked a bit, having sat on panels with individuals who deal with the American registry and having looked at the Australian registry, I think there would be an advantage to communicating with those individuals to see what the pros and the cons of their registries are. I have heard that in the U.S., for example, it speaks of "agent", while in Australia, we're talking about "activities", even activities that are trying to influence Canadians.

There is good in those registries that exist, and I think it would be good for anyone to study them, but I'm certainly not the expert.

• (1030)

The Chair: Thank you, Madame Bélanger and Mr. Kurek.

Mr. Fergus, you're up for five minutes.

[Translation]

Hon. Greg Fergus: Thank you very much, Mr. Chair.

I'd like to thank Ms. Bélanger, Ms. Rushworth and Ms. Tremblay for being here with us today.

Ms. Rushworth or Ms. Tremblay, I'd like to follow up on the questions posed by my colleague about the vacancy in the position of commissioner and the appointment process to fill the position of ethics commissioner. From what I understand, between now and the new commissioner's appointment, if a decision needs to be taken about a monetary or administrative penalty, the work will still continue, you will prepare the file and the decision will be announced as soon as the new commissioner takes office. Is that right?

Ms. Sandy Tremblay: We will continue working, but we can't do anything until we have a commissioner.

Hon. Greg Fergus: You're still going to conduct investigations.

Ms. Sandy Tremblay: We can't conduct any investigations at this time, but we're doing the preparatory work. We do the research and analysis, but we can't initiate anything until we have a commissioner.

Hon. Greg Fergus: The new commissioner will be able to make a decision at some point and can then take advantage of the work you've done in advance.

Ms. Sandy Tremblay: Exactly.

Hon. Greg Fergus: The cases involving the Speaker of the House, the House and Parliament can also be dealt with when the new person is appointed, right?

Ms. Sandy Tremblay: Yes.

Hon. Greg Fergus: If investigations have been requested, they may or may not be initiated when the commissioner takes up their duties.

Ms. Sandy Tremblay: Exactly.

Hon. Greg Fergus: So you'll still be preparing options for the individual who is going to fill that position.

Ms. Sandy Tremblay: Yes.

Hon. Greg Fergus: You mentioned that there was a five-year window for some things and a 10-year window for others. Can you explain the difference between them?

Ms. Sandy Tremblay: As I understand it, the commissioner has five years to initiate their work, their investigation, but they can look at facts or activities that took place up to 10 years in the past.

Hon. Greg Fergus: Do you have any examples of decisions made that reflect this situation?

Ms. Sandy Tremblay: I don't know of any.

[*English*]

Melanie, do you know of any?

[*Translation*]

Ms. Melanie Rushworth: Of the reports we've produced under the act, I believe there are one or two examples of investigations related to the provisions on post-employment rules.

Hon. Greg Fergus: How much time do I have left, Mr. Chair?

The Chair: You have one minute and eight seconds.

Hon. Greg Fergus: theThank you.

Ms. Tremblay, I have one last question. No one's been appointed yet, but the work continues on. Personally, I've contacted my agent, who has clarified some things for me. I guess I'm not the only one, and the service is available to all parliamentarians.

• (1035)

Ms. Sandy Tremblay: Yes, that's right.

Hon. Greg Fergus: Okay. I'd like to congratulate you.

Thank you very much, Mr. Chair.

The Chair: Thank you, Mr. Fergus.

Mr. Villemure, the floor is yours for two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Ms. Rushworth, if I'm not mistaken, you have eyes, you have ears, you can't talk and you have no arms.

Ms. Melanie Rushworth: Yes.

Mr. René Villemure: All right.

My colleague talked about time frames. If we go a long time without a commissioner, the files will pile up. What would happen if the parliamentarian you were investigating gave up their seat, for example?

Ms. Melanie Rushworth: I'm not absolutely certain, but the fact that we still don't have a commissioner is not an issue right now because we can still do investigations, and we'll be able to do the work that we can't do now when the new commissioner is appointed.

Mr. René Villemure: If there was a reprimand of some sort and the individual was no longer a parliamentarian, there would therefore be no effect.

Ms. Sandy Tremblay: If I'm not mistaken, even if the individual is no longer a parliamentarian, we can still pursue the investigation.

Mr. René Villemure: Okay, thank you very much.

Right now, the commissioner position is vacant and the cases are piling up. I'm not asking you to tell me how many there are, but in your opinion, can this situation go on for long without it becoming an issue? I'm not talking about what's in the government's hands here.

Ms. Sandy Tremblay: As far as operations go, things can continue on without any issue. It's more the investigations and other things listed in the act that we can't—

Mr. René Villemure: Those other things, you can only accumulate so much of them, I imagine. I understand that there are five-year and 10-year windows, but if the individual is going to be appointed and set up with a big pile of files on their desk, that isn't the best thing.

What would you prefer? Would you like to see the commissioner appointed immediately?

Ms. Sandy Tremblay: We'd certainly like to have someone in the position, but it's not our decision to make.

Mr. René Villemure: I understand, but for you, the sooner someone's in the position, the better, operations-wise.

Ms. Sandy Tremblay: It depends what part of operations. On my end, within my units, everything can continue on right now.

Mr. René Villemure: What about investigations?

Ms. Sandy Tremblay: As far as investigations go, yes, it would certainly be ideal if we had a commissioner.

Mr. René Villemure: All right.

How do you feel about the commissioner's salary being one-third lower? In your opinion, will that have any incidence on hiring the next commissioner?

Ms. Melanie Rushworth: That type of question is not within our mandate. It would be better if you asked the Privy Council Office, which is responsible for filling the position.

Mr. René Villemure: Okay, but when three commissioners have similar salaries and the fourth one has their salary cut by a third, I don't see that as a good sign. I just wanted to point that out. Thank you very much.

The Chair: Thank you, Mr. Villemure.

[*English*]

Next we have Mr. Green for a final intervention. You have two and a half minutes.

Mr. Matthew Green: Thank you.

This question is for the conflict of interest and ethics folks who are with us here today, and whoever feels that they want to take this on.

The Chair: Hang on, Mr. Green. We don't see you on our screen here. Do you have the video?

There you are. Go ahead, please.

Mr. Matthew Green: Thank you very much.

This question is for the folks from the Office of the Conflict of Interest and Ethics Commissioner.

Do you feel that you have enough financial and human resources to pursue examinations to the extent you feel is required?

Ms. Sandy Tremblay: We were able to fulfill our mandate last year with a similar budget. We are only asking for a 2% increase this year. We do feel that we can continue to fulfill our mandate this year with this amount.

Mr. Matthew Green: I know that in the appendix of the Office of the Conflict of Interest and Ethics Commissioner's report, it is indicated that the actual spending for 2021-22 was \$6.57 million, which is an amount that is lower than the total spending authorities for which Parliament's approval was sought for that period, which was \$6.8 million.

Can you explain why the office spent less than the authorities last year?

Ms. Sandy Tremblay: The surplus last year was basically due to salary.

As I mentioned earlier, over 80% of our budget is for salaries. We had some delays in staffing last year. We had a little bit of a higher turnover rate last year, so we had to fill these vacant positions. That is mostly what caused the surplus last year.

• (1040)

Mr. Matthew Green: Was funding received by your office last year carried over to this fiscal year?

Ms. Sandy Tremblay: No.

Mr. Matthew Green: You aren't allowed to carry it over.

Ms. Sandy Tremblay: Well, we don't really have a need to carry it over. We also have a reserve of \$100,000. We think that would be plenty to fulfill our mandate this year.

Mr. Matthew Green: Pursuant to section 45 of the act, if you have “reason to believe that a public office holder or former public officer holder has contravened the Act”, you can examine the matter on your own.

How often are examinations launched on the initiative of the commissioner?

Ms. Melanie Rushworth: Are you asking about the number of investigations that have been launched in the last couple of years?

Mr. Matthew Green: I mean investigations under the initiative of the commissioner on public office holders.

Ms. Melanie Rushworth: All examinations that are launched are under the authority of the commissioner. If you give me a moment, I'll check in my notes to see if I have the full number that were launched.

Mr. Matthew Green: You can also submit them. I don't want to put you on the spot.

The Chair: I was going to suggest that, Mr. Green.

Ms. Melanie Rushworth: Thank you very much for that recommendation. I would be happy to get back to you with that.

The Chair: Thank you, Ms. Rushworth.

Thank you, Mr. Green.

That concludes our round of questioning.

Ms. Rushworth and Ms. Tremblay, I understand that it's an unusual circumstance not to have the commissioner before us in dealing with the main estimates, but I want to thank both of you for according yourselves very well. You were very knowledgeable in your responses.

On behalf of the committee, I want to thank Ms. Bélanger as well. I'm looking forward to seeing what's coming. Hopefully some of the recommendations of the committee are part of that. Thank you so much.

I'm going to dismiss the witnesses. There are a few issues of committee business—the main estimates in particular—that we have to deal with here.

I am going to ask the committee whether we have unanimous consent to adopt all votes referred to the committee in one vote.

Mr. Michael Barrett: On division.

The Chair: Shall all votes referred to the committee in the main estimates 2023-24 carry?

OFFICE OF THE COMMISSIONER OF LOBBYING

Vote 1—Program expenditures.....\$4,843,470

(Vote 1 agreed to on division)

OFFICE OF THE CONFLICT OF INTEREST AND ETHICS COMMISSIONER

Vote 1—Program expenditures.....\$7,421,554

(Vote 1 agreed to on division)

OFFICE OF THE SENATE ETHICS OFFICER

Vote 1—Program expenditures.....\$1,325,451

(Vote 1 agreed to on division)

OFFICES OF THE INFORMATION AND PRIVACY COMMISSIONERS OF CANADA

Vote 1—Program expenditures – Office of the Information Commissioner.....\$14,212,216

Vote 5—Program expenditures – Office of the Privacy Commissioner.....\$26,250,549

(Votes 1 and 5 agreed to on division)

Shall I report the main estimates 2023-24 to the House?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: That completes that part of our business.

Ms. Saks, I understand you have a procedural motion that you would like to put forward to the committee.

Go ahead, please.

Ms. Ya'ara Saks: Thank you, Chair. I'll make it quick for colleagues.

Ryan Turnbull will be joining us at committee for the near future, replacing MP Khalid. I would like to request access to the digital binder so that he is able to access all the information we need to conduct business.

The Chair: Okay. René and Matt, are we good?

(Motion agreed to)

Ms. Ya'ara Saks: Thank you, Chair.

The Chair: Is that noted, Madam Clerk?

That concludes today's meeting. I want to thank everyone.

I see that Ms. Hepfner's hand is up. Go ahead, Ms. Hepfner.

Ms. Lisa Hepfner: Thank you, Chair.

I would like to move the motion that I gave notice of earlier today, if that's appropriate.

The Chair: Ms. Hepfner, it does require time. You put the motion on notice. I'm going to clarify with the clerk, but I believe it's 48 hours before you can move that motion.

Give me a second, please.

Ms. Lisa Hepfner: Okay.

The Chair: It does, and this is not formally committee business, just so we're clear. These are issues that we are dealing with at the end. The main estimates are not part of committee business. That's part of today's meeting, so unless I have unanimous consent to have Ms. Hepfner move the motion she placed on notice earlier, we won't be able to dispose of that today. That is my advice.

Ms. Lisa Hepfner: It was my understanding that we were in committee business, and that's why I thought I had the leeway to move that motion.

The Chair: There was no indication of committee business that was put onto today's notice, Ms. Hepfner. We were disposing of the issue of the main estimates, and then Ms. Saks indicated to me that she had a procedural issue to insert Mr. Turnbull, and we dealt with that. Unless I have unanimous consent at 10:45 at the end of the meeting here...?

I don't have unanimous consent, so the motion is on notice and you'll be able to move it at the next earliest opportunity.

Go ahead, Monsieur Villemure.

• (1045)

[*Translation*]

Mr. René Villemure: Mr. Chair, I'd like an update on Ms. Fournier's documents.

The Chair: All right.

I approved a notice at the beginning of the meeting, but the documents have arrived. I believe the clerk will be able to send them out at the end of the day.

That said, two of the documents can't be sent yet. The first is the event timeline, which Ms. Fournier wrote, but it will have to be translated. The second is related to an access to information request by the Globe and Mail—it's 160 pages long. We will receive both documents next week.

I mentioned to the clerk that, later this afternoon, he could distribute the other documents Ms. Fournier submitted to the committee, if the dates and content are accurate.

Mr. René Villemure: Will we receive them at our usual email address?

The Chair: Yes.

Mr. René Villemure: Thank you.

[*English*]

The Chair: Thank you to everyone. Have a great weekend.

The meeting is adjourned.

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