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• (1100)

[English]

The Chair (John Brassard (Barrie South—Innisfil, CPC)):
Good morning, everyone. I call the meeting to order.

[Translation]

Welcome to meeting number 13 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Wednesday, September 17, 2025, the committee is resuming its review of the Conflict of Interest Act.

[English]

I would like to welcome our witnesses for today.

[Translation]

We have with us Ariane Mignolet, ethics commissioner of Quebec.

[English]

From the Office of the Integrity Commissioner of Ontario, we have Cathryn Motherwell, who is the Integrity Commissioner of Ontario.

I'd like to welcome you both to the committee.

[Translation]

Ms. Mignolet, we'll start with you. You have five minutes.

Ariane Mignolet (Ethics commissioner of Québec, Commissaire à l'éthique et à la déontologie du Québec): Mr. Chair and members of Parliament, I want to begin by thanking you for your invitation to participate in the review of the Conflict of Interest Act.

The democratic exercise that you've invited us to take part in is essential to ensuring the healthy development of the rules governing the conduct of public office holders so that they reflect the high expectations of the public in terms of integrity.

As ethics commissioner for the Quebec National Assembly, it gives me great pleasure to contribute to your deliberations. First, I would like to emphasize that I am here to share my thoughts on the subject of your review, as well as my experience as Quebec commissioner. My comments will be limited to this and, as you will no doubt understand, I will not comment on any specific cases.

The integrity of public office holders, such as a member of Parliament, is an essential condition for maintaining and strengthening the public's trust in the Crown and its institutions. It is therefore

closely linked to democratic legitimacy. Integrity, even the appearance of integrity, is of paramount importance.

As Quebec's ethics commissioner, I am responsible for overseeing the ethics and professional conduct of members, ministers and their staff. Unlike my federal counterpart, I do not, however, exercise such a responsibility with respect to other public office holders.

The Code of Ethics and Conduct of the Members of the National Assembly of Quebec sets out the values and ethical principles that must guide the actions of Quebec members, as well as the rules that govern the exercise of their duties. These rules include functional incompatibilities, conflicts of interest, gifts and benefits, and the use of government property and services. In addition, the code contains specific rules that apply only to ministers. Staff of members and ministers are subject to substantially similar statutory instruments.

Like the Quebec code, the Conflict of Interest Act contains several rules that aim to ensure this integrity by governing the conduct of public office holders. More specifically, they seek to prevent conflicts of interest at the same time as they seek to ensure proper management of those that will inevitably occur. It's important not to lose sight of the fact that every person, regardless of their background and experience, has personal interests, and conflicts, or at least interference between those interests, are inevitable. It is important that conflicts that arise be resolved in the public interest and the common good, not in favour of personal interests.

The rules governing conflicts of interest are designed to ensure that the public interest is always at the heart of the decisions made by those in whom the public places its trust. They provide a common framework that applies to everyone, regardless of experience or skill. However, these rules are not intended to deter individuals from participating in public life. On the contrary, they help put everyone on an equal footing and ensure that the rules of the game are the same for all, given that the state benefits from having people with diverse backgrounds working for the common good.

While ethical rules are very important, they are not the only tool for ensuring the integrity of public office holders and members. Acting with integrity refers primarily to ethics, which involves a moral judgment and reflection on what should be done or what is best in a given situation. In a parliamentary or governmental context, ethics refers to the values and principles that must guide the actions of members or public office holders in the performance of their duties. The Quebec code also places great importance on ethics, which is essential for preventing problematic or inappropriate situations.

Values should be used, on the one hand, to assess what is appropriate in a given situation and, on the other hand, to interpret applicable standards and rules. Public office holders and members should always strive to ensure that their actions are consistent with these values, even if their actions do not contravene the rules that apply to them. This is an essential condition to maintaining public confidence in them and in democratic institutions.

Ethics, professional conduct, values and standards are therefore complementary. All are necessary to ensure the integrity of those who play a role in government and to strengthen the public's trust in them.

Transparency, that is to say disclosing information and making data accessible, is therefore essential. It helps preserve the appearance of integrity of public office holders and members, and it also strengthens the bond of trust between them and the public. Citizens must be able to know what a decision is based on in order to be able to assess whether that decision is in the public interest. This does not mean, however, that transparency is necessarily synonymous with full and systematic disclosure of all information.

● (1105)

I think full and absolute transparency would serve neither the objective of ensuring the integrity of public office holders nor the broader public interest.

As a society, we have chosen to give commissioners the responsibility of ensuring that public office holders and members conduct themselves in an ethical and professional manner. We must trust them and give them the flexibility they need to carry out their duties independently and impartially, taking into account the circumstances of each situation.

While there are always ways to strengthen transparency, it must be done with an eye to maintaining the delicate balance between citizens' expectations for transparency, respect for the privacy of public office holders and members, and the necessary independence with which they carry out their duties.

Thank you for listening. I am now ready to answer your questions.

The Chair: Thank you for your statement, Madam Commissioner.

[*English*]

We're going next to Commissioner Motherwell from Ontario.

Welcome. You have up to five minutes to address the committee.

Cathryn Motherwell (Integrity Commissioner of Ontario, Office of the Integrity Commissioner of Ontario): Good morning. Thank you for inviting me to appear before you today.

I appreciate the opportunity for many reasons, not least because I believe we must seize every chance available to talk about ethics and integrity in government and public service.

Where we see ethics and accountability offices under attack in other jurisdictions, it is time well spent to reflect on our frameworks to understand how they contribute to and strengthen government, provide critical guideposts for public servants, and make sure Canadians understand how these frameworks are deployed to ensure the integrity of the government decision-making process.

As you know, the Canadian structure is unique with each jurisdiction having an appointed commissioner. We go by different titles—conflict of interest commissioner, ethics commissioner, and in my case, integrity commissioner—but our responsibilities and roles have many common elements. Key among these is the concept of commissioner and the important role that entails. I am non-partisan, appointed by the assembly as a whole. Much of my work is confidential by law. This does not diminish its importance. It is essential that there is trust among the elected members and the public service that I will be fair and impartial and that my advice to them is grounded in the legislation and the facts presented. There must also be trust from the public that having taken the oath and stepped into this work, a commissioner will fulfill their duties fully mindful of the public interest.

I am pleased today to appear with Commissioner Mignolet. I am also pleased to support Commissioner von Finckenstein's call for a review of this legislation. I appreciate the value of regular and thoughtful reviews. This work is important and it matters.

That said, I will confine my remarks to Ontario's legislation and experience and provide a brief overview of certain features of the Members' Integrity Act, which sets out the conflict of interest rules and ethical obligations for members of Ontario's provincial parliament.

Ontario has 124 elected members. Each is required to comply with the Members' Integrity Act and its provisions on avoiding a conflict of interest, on not using insider information or improper influence, on gifts and more. The act also includes provisions for MPPs to ask for my confidential advice on how the rules apply to their work. All members must submit an annual financial disclosure, and they are required to meet with me to discuss that submission and their obligations under the act. Meeting individually with 124 MPPs certainly takes time, but in my view, as I said, any time spent discussing ethics is time well spent.

The act also contains restrictions for ministers. They are not permitted to hold or trade securities, stocks, futures or commodities. Permitted investments include broadly based mutual funds, fixed value securities and assets with a value of less than \$2,500. Ministers are also not allowed to manage or hold an interest in a business. They cannot acquire land, with certain exceptions. These provisions exist to protect government decision-making, to make sure a member's private interest is separate from their public duties. Of course, many do have these holdings when they are elected. To assist them, we look to our ethical tool box.

Ontario's legislation explicitly provides the option of placing these restricted holdings into a trust. The details of each trust, as well as the selected trustee, must be approved by the integrity commissioner. Currently, eight Ontario ministers have trusts. Our experience has been positive. I am the one who receives the financial statements. Only high-level aggregate information is provided to the minister. Ministers cannot communicate with their trustees; they must go through me.

Trusts are essential tools, but they are also distinct from ethics screens. While trusts are used for financial interests, screens are generally used for conflicts related to relationships, for example, family, friends and previous employers. I advise on the use of screens across all roles: ministers, parliamentary assistants, MPPs as well as ministers' staff.

In closing, I would like to note that my office is unique among the provinces and territories in that I wear many hats. I have the mandates and authority of three federal independent officers, the Conflict of Interest and Ethics Commissioner, the Commissioner of Lobbying, and the Public Sector Integrity Commissioner. I am also what we call the ethics executive, essentially the ethics adviser for ministers' staff, as well as the chairs and certain executive leaders in approximately 130 provincial public bodies.

• (1110)

Thank you again for the opportunity. Like Commissioner Mignolet, I would be pleased to answer any questions you may have.

The Chair: Thank you, Commissioner.

We're going to start our first six-minute round with Mr. Barrett from the Conservative Party of Canada.

Go ahead, Mr. Barrett.

[*Translation*]

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): Good afternoon, Ms. Mignolet.

I have some questions for you, and I'll ask them in English.

[*English*]

I appreciate your being here.

I'm looking to draw on your experience and some of the parallels and contrasts with respect to the legislation that empowers your office.

The Conflict of Interest Act does not allow for the recommendation of the removal of the Prime Minister or ministers from office for ethics violations, even in the case of using offshore tax havens or serious breaches of the act.

Do you believe that having the ability to recommend removal of ministers from office is a necessary deterrent for serious breaches of the legislation that you oversee?

• (1115)

[*Translation*]

Ariane Mignolet: I understand that you want to know whether the act contains this type of measure in Quebec. The Code of Ethics and Conduct of the Members of the National Assembly of Quebec applies to both members and ministers. The code I apply isn't a code of internal economy, but rather an act that applies to all elected officials. It allows me to recommend sanctions for a breach of the code. These sanctions are set out in the code and range from reprimand to loss of status as a member of the executive council, if applicable. So I have the option of recommending a sanction, including reimbursement penalties. There are several levels, and eight sanctions can be imposed.

Obviously, it's just a power to make recommendations. It would then be up to the House to decide whether sanctions apply. In the case of ministers, as in the case of members of the legislative assembly, I could recommend a sanction that is obviously proportional to the seriousness of the breach. In fact, there is a whole logic behind the appropriateness of such a sanction and a full analysis must be done on whether or not to recommend it. Finally, if a sanction is recommended, it is necessary to know which one to choose.

[*English*]

Michael Barrett: You have the ability to recommend sanctions that include fines and monetary penalties and the ability to recommend removal from office for serious breaches. Do you think that contributes to the deterrent effect of that power and also to public confidence in the system that you're responsible for?

[*Translation*]

Ariane Mignolet: In Quebec, although the ethics commissioner only has the power to recommend sanctions, this power gives some weight to the findings in their reports. Obviously, each analysis is done on a case-by-case basis. A lot of thought goes into whether or not to recommend a sanction, and which one. That said, I can't comment on how the public perceives this. However, it's set out in the code and is something I have to navigate, whether or not the sanction is subsequently adopted.

[English]

Michael Barrett: Should legislation concerning the conflicts of interest of reporting office-holders ensure that there is public reporting, for example, with ethics screens? Should there be reporting to the public on when the screen is used and what issue triggered the use of the screen?

[Translation]

Ariane Mignolet: Conflict of interest screens are certainly an excellent measure. I have recommended that this provision be applied and included in the code, since this isn't yet the case. Right now, I can ask a member of the National Assembly to implement measures, but they won't be made public. It's a good thing that these screens are made public. However, I'm not convinced that triggering each screen necessarily leads to greater public confidence.

The role of commissioners is to implement and recommend measures to ensure that the public interest is given priority over any particular interest. We also have a responsibility to investigate if there are reasonable grounds to believe that these measures haven't been applied, but this doesn't extend to constant monitoring. It's up to the people who are subject to these rules to make sure they comply with them.

• (1120)

The Chair: Thank you, Commissioner Mignolet.

Ms. Lapointe, from the Liberal Party, you have the floor for six minutes.

Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much, Mr. Chair.

Commissioners, welcome to our committee and our study.

Ms. Mignolet, I had the opportunity to serve in the National Assembly, and now I'm here in the House of Commons. In your opinion, what are the main strengths of the Quebec model, of the legislation you enforce as ethics commissioner, that the federal government could draw inspiration from?

Ariane Mignolet: First, I would answer that the presence of values and ethical principles in the Code of Ethics and Professional Conduct of the Members of the National Assembly, which I am responsible for enforcing, is very important. The conduct of members of the National Assembly and public office holders is based as much on ethical rules as it is on personal reflection, appropriate conduct, ethical principles and values that must guide these individuals. That's a strong point. There isn't much in the Canadian model to provide all these details.

It allows us to both interpret the ethical rules and apply them when there are no specific provisions. This is important in a context where ethics and professional conduct are constantly changing. Citizens' expectations are constantly evolving and, without necessarily making changes on a regular basis, it still allows the code to stay up to date and, above all, to hold those subject to these rules accountable. That's the crux of it. We have slightly different statutes, and all codes refer to conflicts of interest, common measures, and similar things, but that's the biggest difference I would emphasize.

Linda Lapointe: Ms. Motherwell said earlier that eight of the Ontario ministers had a blind trust. Can you tell us how many Quebec ministers have the same thing?

Ariane Mignolet: It's important to note that the Quebec code talks about blind trusts or blind management agreements. It can be one or the other. There are currently five ministers who have them. We had a few more in the last Parliament—eight. It varies between five and eight.

Linda Lapointe: Thank you, it was to compare.

Has making ethics training mandatory had a positive effect on compliance with ethics and professional conduct rules in Quebec?

Ariane Mignolet: Unfortunately, despite several requests to this effect, training isn't yet mandatory in Quebec, so we are using a great deal of imagination to make training as attractive as possible and develop training programs, but it isn't mandatory, while it should be.

Linda Lapointe: Do you think the fact that the commissioner is appointed by two thirds of the National Assembly of Quebec strengthens public trust?

Ariane Mignolet: Absolutely.

Beyond the fact that the appointment must be approved by two thirds of the Quebec National Assembly, it's important to note that the appointment of the ethics commissioner is very specific to Quebec. The process differs from the appointment process for other individuals designated by the Quebec National Assembly, such as the auditor general of Quebec or the chief electoral officer. Not only must the appointment be adopted by two thirds, but it must also be the result of a motion tabled jointly with the official opposition. I am the only person appointed by the assembly according to this appointment process. I think it's very relevant and makes the position even more independent and impartial.

• (1125)

Linda Lapointe: Would the federal government benefit from adopting a more educational approach toward the public, like the one in Quebec?

Ariane Mignolet: I'm not an expert on what the federal government does in terms of communicating to the public. I think it's very important to raise awareness, and not just inform clients of the measures that apply to them.

However, I think it's very important to inform the public. We are making a lot of effort, and we have many partnerships with universities. We are trying to reach and educate the entire public service, as well as all those who engage from the sidelines with public office holders, members of Parliament and ministers, so that they are aware of the rules that apply to public office holders and ministers.

We are seeing that it is having an impact. For example, when we're responsible for enforcing post-mandate rules, we are increasingly finding that when ministers or members of ministers' offices try to find another job, they come to us and tell us that their new employer is asking for confirmation that they can take the job and under what conditions they can do so. They want something official from the commissioner. Those requests are made through the transmission of information.

Linda Lapointe: Thank you very much.

The Chair: Thank you, Ms. Lapointe and Madam Commissioner.

Mr. Thériault from the Bloc Québécois, you have six minutes.

Luc Thériault (Montcalm, BQ): Thank you, Mr. Chair.

Thank you to both commissioners for being with us today.

Commissioner Mignolet, ethics analyzes what is based on what should be. In that sense, people always say that ethics are more demanding than the law. Based on your opening remarks, values and principles can be very useful insofar as just because the act doesn't contain specific provisions, that doesn't mean the conduct shouldn't be questioned or the immorality of the action shouldn't be taken up.

I wanted to come back to the issue of balance, which you were talking about earlier. You were saying that there are crucial expectations and that a balance must be struck between those expectations, privacy considerations and compliance with the code of ethics. How do you strike that balance?

Ariane Mignolet: I think there are measures in the code I enforce that foster that balance right out of the gate. I talked about the fact that the code explicitly refers to ethical values and principles. That's really the first thing in the code. I think a certain balance is struck, particularly in the information requested from our clientele. I expect the utmost transparency, and I can access that transparency. The provisions of the code allow me to obtain all the information I need to play my role as an adviser, first of all. As for my investigator role, that's another matter, given the powers of commissions of inquiry.

In my role as an adviser, I can go and get all the information. There are provisions for self-identification, for example. I think transparency has to be very important and comprehensive so I'm able to do my job properly. However, a balance must be struck. For example, if I find that the information in the declaration of personal interest is not complete enough, I have no problem going and asking for more information. It's not made public. Only a summary of the declaration of personal interest is made public. I think that strikes a balance.

Ultimately, I think it's a matter of trust. Any code or rule of this kind is intended to maintain and strengthen public trust. To that end, our role as commissioner is to facilitate that trust. People need to have confidence in us. We have all the necessary tools at our disposal to do our work as adviser, investigator and guide.

• (1130)

Luc Thériault: Thank you. That's a complete answer.

You spoke earlier about this moral obligation, that is to say, being able to go beyond perceived integrity. You said that perceived

integrity is crucial. The Ethics Commissioner here is asking us to extend what's covered by the act not only to conflicts of interest, but also to perceived conflicts of interest. It therefore proposes a definition that tells elected officials not only that they mustn't put themselves in a conflict of interest, but also that they mustn't put themselves in a situation where there could be a perceived conflict of interest.

How do you see that concept? Do you think it's important for us to be able to codify it, to regulate it?

Ariane Mignolet: I think the notion of perceived conflict is important. We have always learned in law that perceived justice is just as important as justice itself. The Quebec code does not define the concept of a conflict of interest. I'm telling you this because we don't have a definition of actual, potential or perceived conflict of interest. I think the concept of conflict of interest has to be understood as an actual, potential or perceived conflict of interest. If it's worthy of mention in the legislation, I think it's important to mention it. Quebec approaches it differently, because it doesn't name it, but it's included in some of our provisions. We can therefore enforce it.

Luc Thériault: When you conduct an investigation, it's because, at the outset, there is a perceived conflict of interest. Before you can say that there is in fact a conflict of interest, you have to confirm it, and that's often the purpose of the investigation you conduct. Sometimes, it's quite obvious, and people may want to know the circumstances, and so on. Therefore, you have the power to investigate regardless of the fact that no complaint has been filed. Is that correct?

Ariane Mignolet: Yes, absolutely. I have the power to investigate on my own initiative, which is obviously based on reasonable grounds to believe that a breach may have occurred.

Luc Thériault: In your opinion, the concept of perceived conflict of interest is included in attitudes, in the training you will give and in the measures that must be taken by the elected official to meet your expectations. That's how you exercise the provisions of your act. The perceived conflict of interest and the conflict of interest are implied. Why aren't they named in the act?

Ariane Mignolet: It was a legislative choice made at the beginning, 15 years ago. The code was based on everything that existed in Canada and elsewhere, to some extent. That was the approach taken, not to explicitly identify what a conflict of interest is but to determine what actions are prohibited.

Luc Thériault: Doesn't that allow for what I was saying at the outset, that ethics are more demanding than the law, and just because it's legal doesn't mean it's moral? In that sense, the Code of Ethics and Conduct of the Members of the National Assembly does exactly that.

Ariane Mignolet: It provides a great deal of flexibility, particularly when it comes to prevention. That's very important to us. The rules prescribe something, and then we tell people that even if there's nothing explicitly prohibiting that conduct, suggesting they engage in it is another matter. We might tell them to think about it.

The Chair: Thank you, Commissioner, and thank you, Mr. Thériault.

We will now begin the second round of questions with Mr. Cooper from the Conservative Party.

[English]

Mr. Cooper, go ahead, please, for five minutes.

Michael Cooper (St. Albert—Sturgeon River, CPC): Thank you, Mr. Chair.

Thank you to the witnesses.

Commissioner Motherwell, I want to ask you about your use of ethics screens in the province of Ontario.

First of all, is there a specific statutory mechanism or legislative scheme with respect to setting up such screens, or are they part of your general powers as commissioner?

Cathryn Motherwell: They're part of the general powers.

Michael Cooper: Okay.

Who administers ethics screens in Ontario?

Cathryn Motherwell: It depends on the type of screen. For example, as I said, we tend to use screens across the spectrum. We would advise a screen for an MPP. We would advise a screen for a minister. We would advise a screen for minister's staff—that is for exempt staff, political staff. We could advise screens even for deputy ministers. Therefore, within the realm of each of those groups, the administration will differ.

• (1135)

Michael Cooper: Can you give some examples of who would administer screens?

Cathryn Motherwell: Certainly.

Let's deal with a screen that has been recommended for a member of cabinet. In that case, generally these situations arise because they come out of a request for advice from me to the minister with regard to a certain situation.

As I said, most of the time when we deploy screens, they're related to a family member who may, for example, have a business that's a stakeholder of government. It may be about a relative, or it's about a friend. They tend to be deployed for relationships; therefore, I would make the recommendation that an ethics screen be implemented at cabinet. That recommendation then goes to the minister, who shares it with cabinet office, and cabinet office assists in the preparation of the screen and also oversees the implementation.

There is one thing I have asked routinely of ministers. I mentioned at the outset that I meet with every member. When ministers come in for their annual meeting, I will ask them about the screens and what happens when they're at cabinet. They're tapped on the shoulder essentially and advised to leave the room.

Some ministers have many screens and some have none, but in those who have several, they tell me that they turn the page of their virtual binder, and it is blank. Someone does tap them on the shoulder and advises them, "You are to leave the room." They have no idea why. They leave the room while the matter is handled, and then they are advised when they can return.

Michael Cooper: When the screen is triggered, are there any mechanisms in place to provide a level of transparency to provide the assurance that the screen is, in fact, being used as it was intended to be? As part of that question, to what extent is your office involved in seeing that the screen is working?

Cathryn Motherwell: We're not involved in that aspect at all, although it is, as I say, something that I will ask of ministers. When I have the opportunity to speak with cabinet office officials, they can advise me that a screen has been put in place and has been implemented.

If the question is about whether I know when it has been triggered, when a matter is before cabinet where a minister may have been asked to leave the room, I am not informed.

Michael Cooper: There are no other transparency measures in place. It is left to those who have been tasked with administering the screen and the public office holder to see that it is working.

Is that the case?

Cathryn Motherwell: Yes, it is. As I said, it is tasked with career public servants who are working within cabinet office to oversee that.

Michael Cooper: What about political appointees? Are they involved in administering the screens?

Cathryn Motherwell: When you say political appointees, do you mean for example individuals who would be appointed as chairs of public bodies, that kind of thing?

Michael Cooper: I would be referencing, for example, political staff.

Cathryn Motherwell: With political staff, it would be deployed at a different level obviously, because they're not at the cabinet table. Therefore, it would be deployed within the ministry.

Michael Cooper: Sorry, just to clarify, I mean political staff within a minister's office.

Cathryn Motherwell: Yes. They would generally have done this in consultation with the deputy minister. Again, they're able to tap into the resources of the cabinet office for the drafting of that screen.

Michael Cooper: I mean, would they be involved in administering it for their ministers, for example?

Cathryn Motherwell: To the best of my knowledge, no.

Michael Cooper: Okay. Thank you.

The Chair: Thank you, Mr. Cooper.

[Translation]

Mr. Sari from the Liberal Party, you have the floor for five minutes.

Abdelhaq Sari (Bourassa, Lib.): Thank you very much, Mr. Chair.

[English]

Thank you so much, Madam Motherwell.

[Translation]

Thank you very much, Commissioner Mignolet. I'll start with you.

I'm going to begin with an introduction. Two things are of great concern to me: the issue of social networks, and the issue of digital media in general or digital communications. They come up very often in your research and comments, which I find really fascinating. In that sense, I'm talking about one of the most important objectives, in my opinion: preserving, and sometimes even strengthening public trust in institutions in general, and much more specifically in governments and the House of Commons.

You're well aware that digital media and social networks rely heavily on algorithms that, to a large extent, fuel polarization, unfortunately. We see comments on social media from a few public figures, particularly elected officials. What they say can undermine public trust and, unfortunately, fuel that polarization. To that end, your work makes the case for a better set of rules. Could you quickly explain what those rules would consist of and what meaningful action we should take? What exactly could we do to better regulate comments like that?

• (1140)

Ariane Mignolet: I will say right away that this is definitely something that concerns us, so we've looked at it.

First of all, it's important to know that Quebec's Code of Ethics and Conduct of the Members of the National Assembly applies to the conduct of elected officials, regardless of the context, whether it be with constituents, in connection with a minister's executive power, in the National Assembly or on social media. Social media isn't specifically included in the rules, but it's not excluded either. That's the first piece of information I wanted to pass on.

Second, it's definitely very much a matter of self-regulation. I especially wanted to raise awareness among our clientele, elected officials and their political staff, about the use of social media, particularly to set some guidelines when they use them for partisan purposes or for government goods and services. In short, there are challenges in this area.

Finally, I tried to convey a message about respect, values and principles: the rigour, the serious danger of disinformation, which I put a lot of emphasis on, and the need to be careful and confirm posted, reposted and liked content.

I wanted it to be a wake-up call. That said, I don't know exactly to what extent comments posted online could be regulated. I can easily take action on some challenges, while it's more difficult for me to do so on others. In short, I tried to emphasize that elected officials and their staff have a duty to set an example.

Abdelhaq Sari: Thank you very much, Commissioner Mignolet.

My next question will be for both commissioners, since they come from two different but equally important provinces.

Since I was elected, I've been trying to meet with the commissioners who oversee ethics to find out what I'm getting into. What would you suggest in terms of training, exercises, reports and meetings with elected officials? Which exercises would you recommend

to us the most? Which ones are most effective, meaning that they produce the results that elected officials, particularly newly elected officials, are expecting?

I'll give you a concrete example. A huge number of new members were elected in the last federal election. They entered politics without necessarily having the information they needed to better fulfill their role as elected officials. What elements would be most effective?

Ariane Mignolet: I'll start, if I may, Commissioner Motherwell.

To start with, yes, I think it's crucial that elected officials meet and have contact with the commissioners' offices, especially given that there's no mandatory training in Quebec. Contact is always initiated with new elected officials, there's no doubt about it. My office is receptive at the declaration of personal interest stage. We'll ask more questions. For us, that declaration is the foundation, a starting point to properly support elected officials.

That said, I would put a huge amount of emphasis on something I recommended, and I think it's essential: advising candidates. I've seen a lot of people come into the office and be amazed at the obligations they have to contend with, which sometimes have an impact on their family members. That's why Quebec worked with the Chief Electoral Officer to get information out to candidates.

That said, I contact the political parties upstream and tell them that if they have potential candidates, they shouldn't hesitate to contact us. We're there, we talk to them informally to see to what extent they are aware, and I think that's crucial.

• (1145)

The Chair: Thank you, Commissioner Mignolet. I think I'll give Commissioner Motherwell a chance to answer that question as well, because we have a bit of time.

[English]

Commissioner Motherwell, perhaps you'd like to respond to that question. Mr. Sari is over time, but I'd like to hear your response to that question, please, if you don't mind.

Cathryn Motherwell: Thank you.

We do quite a lot in this regard.

It starts, as Commissioner Mignolet said, with a section on our website that will address things you need to know if you're going to be a candidate and what is involved within the Ontario ethics regime.

After an election, I am invited by the assembly to give a presentation to all new members. This is a great opportunity. I have about 45 minutes. I can talk to them about all the different ways in which they will be able to interact with the office, what the rules are and how this will apply.

Afterwards, we go to what is effectively a service fair. I'm given a private room where individuals can come to collect information, because, at this point, the election also triggers the financial disclosure process. They have a lot of questions related to their assets. They have a lot of questions related to how the disclosure process goes. There is a two-step element to this. It's important. Of course, as she referenced, there are many people who are shocked. When someone is running for office, they don't realize what it's going to look like at the other end. Once they come through that, it's surprising to them to learn that they're going to have to provide, essentially, all of their information to the commissioner.

Afterwards, I will meet with them individually. It takes about one hour for each individual and we go through it all over again.

The Chair: Thank you for that, Commissioner.

[*Translation*]

Mr. Thériault, you have the floor for five minutes.

Luc Thériault: Thank you, Mr. Chair.

Commissioner Mignolet, let's continue our conversation. Earlier, in response to a question about blind trusts, you said that there was an option other than the trust and you talked about the management agreement. Could you explain the difference between the two, and why those two options exist? What are they for?

Ariane Mignolet: To be honest, I couldn't tell you why those two options exist. I continue to wonder why the legislator chose to do that. This is the only time in Quebec's legislation "blind management agreement" comes up. Whatever the case may be, we offer two options.

With the trust, the assets are removed from the person's property, whereas they remain with the blind management agreement. I imagine that the legislator must have thought that the most important thing was keeping the person from seeing the assets. In both cases, we ensure that the person selected to administer the trust or agreement doesn't give any information to the person creating the trust or agreement. There are rules in both cases.

Luc Thériault: You indicated that there were a number of ministers with a blind trust or management agreement. That's my understanding.

How many ministers in Quebec have conflict of interest screens to accompany this blind trust or management agreement? When you suggest—I assume it's a suggestion—a conflict of interest screen, why do you do it? What situation leads you to suggest it? What makes you feel the need to set up a conflict of interest screen?

Ariane Mignolet: As I mentioned earlier, I don't have conflict of interest screens as described in the Conflict of Interest Act. I have the opportunity to put other measures in place. I can tell someone that they should put in place certain measures or recuse themselves from certain decisions, but currently I don't have any conflict of interest screens in place.

Luc Thériault: You ruled on the fact that a screen of this kind should be administered by the person targeted by this measure.

I have a concern about that, and it's something we are discussing. When a commissioner requires or suggests that a conflict of interest

screen be set up, I don't think it's right for that screen to be enforced by a subordinate, whether it be a deputy minister, a Clerk of the Privy Council or a chief of staff. If we have to go through those people for operational reasons, for the sake of transparency, we should check whether the screen is truly or effectively being enforced, and designate a person to whom the person should be accountable for its enforcement.

The Conflict of Interest and Ethics Commissioner told me that he didn't want to be that person because that would make him the judge and jury. To avoid that, we could designate a person who would be responsible for accountability.

I'll start with you, Commissioner Mignolet. Then you can answer, Commissioner Motherwell.

• (1150)

Ariane Mignolet: The way in which the conflict of interest filter is administered is up to the person concerned or those around them. I am not sure that it is the role of a commissioner or a member of their office to be present during all major decisions for the state or during meetings of the council of ministers. However, as Ms. Motherwell mentioned, even without a conflict of interest filter, some ministers will comply with rules of engagement by declaring that they will not discuss certain matters while notifying the Secretary General and clerk of the executive council, who ensures that these rules are followed.

It is clear that we will tell them to put clear processes in place if any post-hoc checks are carried out, if there is a request for an investigation, or if there are reasonable grounds to suspect a breach. I must be able to assess whether or not the conflict of interest filter has been applied, but there is no daily or continuous monitoring to be done. Using ex post facto verification measures or processes when necessary is in the interest of those who apply such a filter. If there were reasonable grounds to suspect a problem, I would conduct an investigation, but I would not exercise daily monitoring.

[*English*]

The Chair: Commissioner Motherwell, you were asked the same question. If you could answer it in a minute or less, I would appreciate that.

Thank you.

Cathryn Motherwell: I will do my best.

I think the question is whether there's a belief that staff can do this work in the sense of administering and overseeing a screen. I believe that they can. I believe that they have taken the oath. They understand the need for the trust. They understand the screen. Let's face it; it's their job. It's their job to make sure that they're doing everything in alliance with the direction of the screen itself.

I do understand that there can be many screens. They can be applied to many different circumstances. I also believe that this can be done fairly straightforwardly by establishing a list, by implementing the [*Technical difficulty —Editor*] the rigour of day-to-day work. Once you establish those processes and implement them as part of your regular pattern, I think it can be achieved.

The Chair: Thank you, Commissioner.

[*Translation*]

Mr. Hardy, from the Conservative Party, you have the floor for five minutes.

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you, Mr. Chair.

Good morning, commissioners.

The first thing we regularly say here is that public confidence in our institutions is based on ethics. All witnesses talk to us about transparency as the foundation on which we can truly rebuild that confidence.

Do you think the public is experiencing a crisis of confidence in our institutions, both in Ontario and Quebec?

Ariane Mignolet: There is a lot of talk about crises of confidence. Codes of conduct, almost everywhere, are generally the result of crises of confidence. Often, rules are established or certain issues are addressed after scandals, for example. We must always work on trust. I don't know exactly what defines an ongoing crisis of confidence, but the primary objective of all codes of conduct for elected officials or senior civil servants is to ensure their integrity, which is essential to maintaining and strengthening public confidence. As for whether or not we are succeeding in this, I leave that to your judgment.

• (1155)

[*English*]

The Chair: Commissioner Motherwell, I think the question was addressed to you as well.

Cathryn Motherwell: Thank you.

Obviously, trust in government is essential to our democracy. I have had this discussion with members. As I mentioned earlier, like you, we had an election earlier this year. This triggered the disclosure process, which meant I had to meet with all members between the date of the election and all the way into June.

We spent a lot of time talking about transparency. We spent a lot of time talking about integrity. We also spent a lot of time talking about what's going on in the world around us. Members really care about these structures. Members value them. It was really quite heartening and encouraging to hear the extent to which they were not only wanting to accept the system, which could be quite intrusive especially in the beginning of financial disclosure, but also understanding the value of it and understanding what makes us distinct as jurisdictions.

As I said, there are common elements across the country among the provinces, the territories and, of course, federally, but on the underlying principles of integrity in government and what steps need to be taken in order to present that picture, to tell that story to the public, I was quite heartened and encouraged by this because I could see that it was being embraced and accepted, and then, of course, promoted.

Also, whose job is it? It's the job of all of us. It's the education that I provide. It's the members managing their affairs in such a way that it fulfills the public expectation. As well, there's the transparency of answering questions frankly whenever possible about

how a system works or what measures are in place in order to assist people to comply with the legislation in their particular jurisdiction.

[*Translation*]

Gabriel Hardy: I'm glad to see that this is something that's happening everywhere. It's definitely a hot topic right now. Most people tell us that they have a little less confidence in our institutions. They wonder why the rules aren't clearer, or at least they want the people in office to understand the importance of being transparent. To achieve this goal, I believe that people like you two need to have access to as much information as possible so that you can identify potential problems.

Earlier, Ms. Mignolet, you said that information does not necessarily have to be shared with everyone and that the general public does not need to know, for example, what is in a blind trust. However, wouldn't it be normal for the Ethics Commissioner, someone who is completely independent of the people involved in this trust, to have all the information in order to be able to judge whether the decisions being made could pose a problem?

Ariane Mignolet: It seems to me that this is the very principle of the trusts or mandates without right of inspection that we administer. We know what is in them and, for our part, in Quebec, we receive the relevant information from the person who manages the mandate or trust to ensure that the rules are being followed. Every year, we receive information, which is obviously not passed on to the trustee or mandatary, to check whether there are any problems and, if so, to raise them. As Ms. Motherwell said, there is also no direct contact between the trustee or mandatary and the person who created the trust or mandate.

Gabriel Hardy: The notion that the people who manage the trust without the elected official's oversight, that those who are responsible for warning him when he is about to make a decision that could cause problems, are his direct employees therefore makes no sense, because these people would then have no interest in bringing such situations to light, especially if their boss disagrees. They would risk losing their jobs. There should therefore be a completely independent person who has the right to look into this and report conflicts.

• (1200)

Ariane Mignolet: What I understand is that if there are any issues with the trust when it is created, there is a list. For my part, if I saw that there were risks, I would recommend putting measures in place. Even if it is not a public conflict of interest filter, I would recommend that measures be put in place and that there be, for example, people responsible for telling you that you must recuse yourself. It is therefore up to the person in charge, the clerk of the executive council, to tell the person.

As Ms. Motherwell said, if you are a member of cabinet, you need to have a blank page in front of you because you can't discuss a given topic and you can't even know what it's about. I don't think someone from the commissioner's office should be called upon every time.

The Chair: Thank you, Commissioner.

[English]

I'm literally all over the place on time today. We've had some great questions asked, with even greater responses, so that's why I've allowed it to go on.

Mr. Saini, you have five minutes, maybe more, maybe less. It depends on where we go. Away you go.

Gurbux Saini (Fleetwood—Port Kells, Lib.): Thank you.

Thank you, commissioners.

My question is for Ariane Mignolet.

You mentioned that trusts and screens are essential tools for the politicians to do their job. Do they apply to your cabinet ministers and the premier, and how do they work?

[Translation]

Ariane Mignolet: If I understand your question correctly, in Quebec, ministers, including the premier, must place certain interests, such as interests in publicly traded companies or similar entities, in a blind trust or mandate. However, not all interests must be placed in the trust. Certain interests in companies that are not publicly traded may be retained, but not if they are companies that have contracts with the government. In this context, a blind trust or mandate is not even possible, and the minister must divest himself of these interests.

[English]

Gurbux Saini: Madam Motherwell, I have a question for you.

One thing that came up quite a few times was that the Prime Minister's chief of staff, or the person who is responsible for the Privy Council, should not be managing the screen or the blind trust. Can you give your opinion on that? You mentioned that you don't see any problem, but this is a constant question that comes up here, so I would like to hear your professional viewpoint on that matter.

Cathryn Motherwell: Certainly. What I'm able to do is provide you with a description of what happens in Ontario, which is that it's not administered by...and to understand here that we're talking about two different things, as I understand it, within the federal environment. We have a trust, and then there are companion ethics screens that are implemented. The question is about the implementation of those screens.

In Ontario, as I indicated, there are eight ministers with trusts. They do not have companion screens. Screens, for us, are generally employed for personal matters that would be separate from the trust.

The trust itself deals with the conflict that is identified through the Members' Integrity Act on what are restricted assets. If a minister has those restricted assets, they go into the trust, and that effectively deals with the conflict. It takes it away by restricting the individual's access to and knowledge about what is contained in that trust.

As I understand it, within the federal context, the question is who should be effectively managing the screens that are in place. As I said, within the Ontario context, the management of that is up to career public servants who are working in the cabinet office.

Gurbux Saini: Who appoints career public servants?

• (1205)

Cathryn Motherwell: The government does, but they are the most senior officials in the cabinet office who are overseeing the screens.

Gurbux Saini: It will be the premier, you say, the most senior guys, who will be appointing those people.

Cathryn Motherwell: No, it's within the public service. It's the secretary of the cabinet and people who serve her.

Gurbux Saini: Thank you.

Ms. Motherwell, you also mentioned that the screens in Ontario—and I could be wrong; I just want clarity—could be managed by the friends and family members.

Cathryn Motherwell: No, they could be about a friend or family member.

For example, if you have a close family member who runs a business and that business is a significant stakeholder of the government, a screen could be put in place so that the individual member has absolutely no role and no knowledge of any government business that takes place with that business of the family member.

Gurbux Saini: We have heard from witnesses in the past that the Canadian ethics laws are one of the gold standards in the world, but there's always need for improvement.

Can you suggest anything we could take from Ontario legislation that would help to improve them? I'll ask Ms. Mignolet from Quebec the same question.

The Chair: The time is at five minutes and 30 seconds right now, so if you can each give me a 30-second response, that would take us to another minute, which would give us almost seven minutes.

[Translation]

Ms. Mignolet, can you please respond in 30 seconds?

Ariane Mignolet: I'm not sure I understand the whole question.

I think the last part of the question concerns what might be applicable in Ontario or Quebec legislation. I believe I already answered that earlier. I will leave it to Ms. Motherwell to talk about the values and ethical principles that I find very important in our country.

[English]

The Chair: Commissioner Motherwell, you have 30 seconds for a response to that.

Cathryn Motherwell: Start your stopwatch.

Quite simply, one of the strong features of the Ontario regime is the fact that every member must meet with the commissioner. These are one-hour, in-person meetings. They're great because they establish a relationship. You have an opportunity to get to know each other. Therefore, you end up with trust developed. It means that they will ask questions when they see a situation, and they're also alert to when to ask the question.

The Chair: That's wonderful. Thank you. It was 29 seconds. Good job.

Mr. Cooper, go ahead for five minutes.

Michael Cooper: Thank you, Mr. Chair.

I want to ask some questions about sanctions, so I'll begin with Ms. Mignolet.

You referenced that you have the power to recommend eight potential sanctions. What are they? Can you elaborate on the range of sanctions that you can recommend, having regard for the gravity of the breach?

[Translation]

Ariane Mignolet: The sanctions I can recommend are as follows: a reprimand; a penalty; a return to donors or the state or reimbursement of a donation, hospitality or benefit received; the repayment of illicit profits; the repayment of allowances, benefits or other sums received as a member of Parliament or member of the executive council for the duration of the breach; suspension of the right to sit in the National Assembly, accompanied by the suspension of any indemnity or allowance until the person concerned complies with a condition imposed by the commissioner; loss of the member's seat; or loss of membership in the executive council.

These eight sanctions that I can recommend are listed in the Code of Ethics and Professional Conduct for Members of the National Assembly. Obviously, my goal is not always to recommend a sanction, and it all depends on the situation. I have recommended reprimands on a few occasions, which have sometimes been adopted and sometimes not. I have imposed one penalty. It really depends on each case. We also have to consider whether this is a first offence or if there have been several previous offences, and take that into account. All kinds of considerations come into play. In ethics, the purpose of the sanction is obviously not to punish.

Have I answered your question?

• (1210)

[English]

Michael Cooper: [Technical difficulty—Editor] that you have a fairly robust range of sanctions that you can recommend. I would note that this is in contrast to our Conflict of Interest Act.

With respect to financial penalties, what sorts of penalties could you recommend? What would be the range?

[Translation]

Ariane Mignolet: I may have a fairly significant power of recommendation regarding breaches of the code, but I do not have the power to impose penalties, particularly for minor breaches relating to the non-production of—

[English]

Michael Cooper: I understand that. I understand that you can make only recommendations and then it's up to the assembly, but what would be the range of penalties, on a monetary basis, that you could recommend?

[Translation]

Ariane Mignolet: As I don't have a scale, it would be whatever I deem appropriate at the time. I can't comment on a scale, as it's very hypothetical. It really depends on each individual case.

[English]

Michael Cooper: Are we dealing with a few hundred dollars, thousands of dollars, tens of thousands of dollars? I'm trying to get an understanding. In our Conflict of Interest Act, the penalties are very minor on a monetary basis.

[Translation]

Ariane Mignolet: Yes, but as I understand it, the penalties provided for in the Conflict of Interest Act are really administrative penalties for failure to produce documents or delay in producing documents, which is not the case at all in the code. I would not see myself imposing penalties for a delay in production. There is no equivalent volume: in Quebec, there are 125 elected officials and also chief of staffs, but that is very few. So I don't have a problem with non-production of declarations or delays in producing these declarations.

[English]

Michael Cooper: Okay. Thank you.

Commissioner Motherwell, what sort of sanctions may you impose under the Members' Integrity Act?

Cathryn Motherwell: I think it's first important to understand what circumstances would lead to the ability to make a recommendation on penalty. It must come as the result of an inquiry I would have conducted, where I would have received a request from one member who believes that another member may have breached the Members' Integrity Act or parliamentary convention.

After conducting that inquiry—which is, incidentally, filed with the Speaker of the Legislative Assembly and also published on the website—if I conclude that there should be a penalty, I have four options. I can recommend that no penalty be imposed. I can recommend that the member be reprimanded. I can recommend that the member's right to sit and vote in the assembly be suspended for a certain period of time, or until such time as certain conditions are met, which I would set, or I could recommend that a member's seat be declared vacant. There are no monetary penalties provided within the legislation. Of course, as you yourself noted, it is then either to be accepted and voted on by the assembly or rejected, as it sees fit.

The Chair: Thank you, Mr. Cooper and commissioners.

Ms. Church, you have five minutes. Go ahead, please.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you, Mr. Chair.

Commissioner Motherwell, I have a couple of questions, probably pretty short.

Coming back to the notion of a blind trust, you mentioned that once a blind trust is established, it takes away the conflict. I think that was your testimony. Who can be a trustee? If someone is setting up a blind trust in the Ontario model, who can step in and provide that role of trustee?

• (1215)

Cathryn Motherwell: The first element is that the trustee must be at arm's length from the member. Then I must interview the trustee. The member may propose an individual. We've certainly had circumstances where they've proposed a relative. The relative may be professionally qualified to undertake that, but we have declined and said, "That doesn't meet the arm's length test, obviously. Please go back and find somebody else." They will then come back with another individual.

They can be from all different walks of life. Generally, some of them are professional corporations that undertake trustee business as a natural part of their business—banks and that kind of thing—or it could be an individual. It could be a CPA or someone with that kind of background.

Leslie Church: What sort of guidance does your office provide to the entity or to the individual who is stepping in as trustee?

Cathryn Motherwell: We provide extensive guidance to them. We've developed a small portfolio of resources that we provide to them, and we make it very clear what the expectations are. Then, of course, there's the development of the trust agreement first.

Generally, we find that ministers will engage legal counsel. We have some templates we provide to them so that they get an idea of what the structure of this needs to look like. We receive that and push it through our own legal counsel, and there's a bit of discussion back and forth.

Once we determine the agreement is satisfactory, we will then have those parallel conversations with the trustee because, essentially, they can have an input into the agreement itself. However, it's their responsibility to fulfill all the obligations, the requirements of the trust.

There are different reporting structures. There's the understanding of exactly how these communications will work. As I indicated, they're not permitted to speak with the minister. All communications must run through me.

For example, a very simple thing is that the trustee must develop some documents in order for the minister to be able to submit their taxes once a year. For any information that is provided to the minister on something simple like the kind of information needed to complete their taxes, I must approve it.

I can tell you that many times I have received documents from trustees and have determined that there is far too much information in the document, so back it goes, and we ask for information to be redacted. The document is revised, and when it meets our standards, we will provide it to the minister. If the minister has any questions, they come back through us.

Leslie Church: I would assume there are clear restrictions, either in the agreement or in the advice that you provide to a prospective trustee, that restricts them from communicating with the office-

holder, in this case, about the nature of the assets or about any development of the assets in the trust.

Cathryn Motherwell: That's stated very clearly, yes.

Leslie Church: Likewise, are there restrictions on the public office holder in terms of directions that the individual may give to the trust at its creation?

Cathryn Motherwell: At its creation....

Leslie Church: In other words, the public office holder can't direct the trust. You can't direct the trustee on how to hold, sell or handle the assets.

Cathryn Motherwell: No. As I said, it's any communication after the trust has been implemented at that point, any communication related to this. They understand this going in. They understand that they're not going to be receiving their investment statements. They're just not going to see that information. I'll give you an example.

Sometimes there are situations where they're sending a kid off to school, and they'd like to be able to tap those assets and perhaps pull a little money out. Again, that kind of request comes to this office first. We relay the request to the trustee, and the trustee does whatever they need to do in order to release those funds.

Leslie Church: In Ontario, do you do what we do federally, which is to have a disclosure of the assets prior to the trust being created?

Cathryn Motherwell: Yes, there's full disclosure to me, to the commissioner.

Leslie Church: This question is for both of you.

How would you characterize the use of trusts in recent years? Is this being used more or less? Are we seeing more use of this as a tool for managing ethics and integrity?

Cathryn Motherwell: It's entirely dependent on the assets that the minister has when they come into office. It will depend on who the people are, what their backgrounds are and what they hold. As a result, it's not an environmental piece, or it's not as a result of seeing more trusts now because more people are investing in the market. It really just depends on the nature of the individual's assets when they come in and what their background was.

• (1220)

The Chair: We're over time. I know you asked Madam Mignolet the question as well.

[Translation]

Can you answer the question in 30 seconds, Ms. Mignolet?

Ariane Mignolet: Yes.

As Commissioner Motherwell said, it's on a case-by-case basis, and it depends on the minister's assets. The code is very specific and very clear about what must go into trust and what must not, and it depends on what the minister owns.

The Chair: Very well. Thank you, Ms. Mignolet.

Mr. Thériault, you have the floor for five minutes.

Luc Thériault: Thank you, Mr. Chair.

Commissioner Mignolet, I will continue our discussion. You said earlier that, with regard to conflict of interest filters, you did not see the point of conducting a daily review. I completely agree with you, but between a daily review and nothing at all, or waiting for a complaint, it seems to me that there is a happy medium to be found.

You will agree with me that the supreme authority around the cabinet table is the Prime Minister. As long as the Prime Minister exercises his authority over a minister, with the help of a chief of staff or the Clerk of the Privy Council, that is fine. However, when it comes to the Prime Minister himself and his ability to recuse himself, and when conflict of interest filters are applied to a prime minister, the management of this should be verified or reviewed, if not on a daily basis, then at least in exchanges.

Mr. Duff Conacher of Democracy Watch drew our attention to the definition of “private interest” in section 2 of the Conflict of Interest Act. According to the act, a private interest is not covered in a decision or matter of general application. Mr. Conacher argues that it is all well and good to say that one has the power to recuse someone, but the act will not apply to 99% of the decisions and actions taken by the most powerful people in government.

In this sense, do you not consider that the highest office implies the highest level of exemplary behaviour and transparency, and that, as such, a way must be found to apply these conflict of interest filters differently from the code or the act, depending on whether it is the Prime Minister, a minister, a member of Parliament or a public servant? There must therefore be a differentiated approach, and to achieve this, a mechanism must be found to ensure a minimum level of accountability without waiting for a complaint.

You will agree with me that a chief of staff is a subordinate and may indeed have an interest in ensuring that his or her prime minister is protected, but that does not mean that, in decisions of general scope, his or her prime minister is immune from the appearance of a conflict of interest. Do you agree with me that the position of prime minister involves higher standards and greater oversight?

Ariane Mignolet: There are many aspects to your question.

First, with regard to differentiated application, I would say that we have different rules for MPs and ministers. Should there be different rules for the Prime Minister? I’m not sure. Ministers and the Prime Minister have executive functions. I do not think it is necessarily more difficult for members to apply the rules, whether they are the chief of staff or the secretary general, among others, even if they report to the government, as you mentioned. Everyone around the table has rules to follow. The chief of staff has rules that apply to him and that I myself am responsible for enforcing. In particular, he must act in a manner that does not favour any particular interests and he must maintain his independence of judgment. The other ministers around the table, who would be present when a prime minister recuses himself, also have an obligation not to favour any particular interests.

I start from the principle that everyone must comply with all the rules set out in the code. I cannot start from the premise that people are acting in bad faith, but rather from the premise that everyone is acting in good faith in applying the rules. However, I do not have to wait for a complaint to be filed. As I said earlier, I have the power to take the initiative. So, if I have information from any source that

leads me to believe that there may be a problem with compliance with the measures that are in place, I have the power to act. For me, the powers given to me by the code allow me to ensure that the interests that are favoured in this decision-making framework are public interests.

• (1225)

Luc Thériault: What do you think about the fact that a public office holder is empowered to participate in decisions of general scope that may actually have a positive effect on his or her assets or on the assets of one of his or her former companies? Shouldn’t there be a higher degree of oversight? Earlier, you said you weren’t sure whether the rules should be different for the Prime Minister. Personally, I’m sure they should. So I’d like to be convinced that it’s not necessary. You’re hesitant, but I hope you’ll think about it some more and that we can discuss it again.

Ariane Mignolet: I find it difficult to differentiate between the two. If I may comment on what you said, you refer to a large majority of persons of public interest. Here in Quebec, the wording is slightly different. I think what is important for us is to ensure that personal interest does not compromise independent judgment. In my opinion, that is what matters. The question is not whether a law or measure applies to a broad category of people, but rather whether the independent judgment of the person adopting it can be influenced. That is important. I think that ties in somewhat with your concerns.

Luc Thériault: Absolutely.

The Chair: Thank you, Commissioner.

I don’t think we have any further questions.

[English]

Members of the committee, I have a couple of questions, and I hope you don’t mind.

I’m going to start with you, Commissioner Motherwell.

Some witnesses have come to committee and have said effectively that blind trusts aren’t really blind. As long as the designated public officer knows what’s in those trusts, then obviously some of the decision-making can affect, especially on major policy announcements, the holdings within that blind trust. Some other witnesses have come before committee and have said that the only way to avoid a conflict or the perception of a conflict is complete divestment of the assets in advance of assuming office.

For the two commissioners, I’m curious about what your opinion is or would be of complete divestment as a means to gain public trust and public confidence that what is happening in some cases in the highest office of the land is not a conflict of interest based on those holdings. I’m curious about divestment, in your opinion.

Cathryn Motherwell: As I indicated, we have [*Technical difficulty—Editor*] assets for ministers. One of the things that is not restricted for ministers is broad-based mutual funds. We have had circumstances where a minister has come in and said that they don't want to go through all the trouble, the hassle, the expense of a trust, that they don't want to put that on the public purse. What the individual has done is gone off and actually divested themselves and then put everything into broad-based mutual funds, which are then not a reportable asset.

Please correct me if I misunderstood the question. I think what you're asking about is whether it should be a requirement that someone who goes into elected office should have to sell their holdings in order to gain the public trust. Is that it?

The Chair: Just to clarify, some of the witnesses have said that complete divestment of the assets while they're in public office, or before they enter public office, and then the assets can then be administered within what some people have said is a truly blind trust where they don't know where that money is actually being invested.... I hope I clarified that. I don't think I did, but I hope you have a better understanding of what I'm saying here.

• (1230)

Cathryn Motherwell: I do, thank you. It's an interesting policy point and certainly one that would require a great deal of discussion, because I think you want to make this evidence based. What you need also is to be making that decision based not on just supposition or suspicion that things are happening that people don't know about, but with actual evidence that things have taken place, that the trusts don't work. I have not seen evidence within my experience thus far that indicates that a trust does not work.

I can tell you that, yes, the individual knows what's in the trust, and we're talking about trusts that are invested in investments as opposed to those that would involve a private business, for example. Obviously if you have a car dealership that goes into a trust, you know you always have the car dealership even though you are then separated from actually running those operations. If we're talking about those who have investments, they know what went in, but they don't know what happens. I see what happens and I can tell you that trustees and the investment advisers do buy and sell, they trade, so they will make changes to the holdings which the individual minister has no knowledge of.

I would look for evidence. In order to follow that policy option, I would look for obvious examples of where it is proven that the trust model, that trust framework, does not work.

The Chair: I guess the rationale is that, as a public office holder divests, it is made liquid. It would then be up to the trustee at that

point to determine where those investments go without the knowledge of the designated public officer. That's what we've been hearing from different witnesses.

Commissioner Mignolet, I'm curious about your opinion on the issue of divestment.

[*Translation*]

Ariane Mignolet: Like Commissioner Motherwell, I believe we need to exercise some caution with regard to this proposal. I think these are considerations that could be taken into account. In Quebec, we can choose to sell everything instead of placing everything in a blind trust or mandate. I also have no information that would lead me to believe that blind trusts or mandates do not work. For me, this is a starting point. A blind trust or mandate is one of the measures that can be put in place to ensure that there will be no conflicts of interest or favouritism and that a function will be performed with complete independence of judgment. There are therefore many other measures that can be implemented in parallel. The Code of Ethics and Professional Conduct allows me, in addition to the trust, to implement or suggest other approaches, or to say that we must comply with such and such a request.

In Quebec, in my experience, I have not observed anything that would lead me to believe that this proposal is absolutely necessary. However, it is a discussion that could definitely take place. I don't think it would be very simple, and I'm not sure what the consequences might be, but it would be good to think about it. So far, in Quebec, I haven't seen any problems in this regard.

The Chair: Thank you, Commissioner.

[*English*]

I understand that we don't have any further questions from the members of Parliament.

I want to thank you both for being here today. You provided the committee with valuable information for its deliberation on this issue. Thank you both for taking more than enough time with the committee. We really appreciate and value the work you're doing in Quebec and Ontario.

Not having any other business, I am going to adjourn the meeting.

[*Translation*]

Thank you, everyone.

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