Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

Trudeau III Report

2021

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Conflict of Interest and
Ethics Commissioner

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Trudeau III Report
made under the *CONFLICT OF INTEREST ACT*

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PREFACE

This report is submitted pursuant to the *Conflict of Interest Act* (Act) S.C. 2006, c.9, s.2.

The Conflict of Interest and Ethics Commissioner may conduct an examination under the Act at the request of a member of the Senate or House of Commons, as is the case with this examination, or on his own initiative.

When an examination is conducted at the request of a parliamentarian, the Commissioner is required to provide a report to the Prime Minister setting out the relevant facts of the case as well as the Commissioner's analysis and conclusions in relation to the examination. At the same time that the report is provided to the Prime Minister, a copy of the report is also provided to the public office holder or former public office holder who is the subject of the report and the report is made available to the public.

EXECUTIVE SUMMARY

This report presents the findings of my examination under the *Conflict of Interest Act* (Act) of the conduct of the Right Honourable Justin Trudeau, Prime Minister of Canada, in relation to his participation in two decisions involving WE's private interests. The first related to WE's administration of the Canada Student Service Grant (CSSG), a government program which encouraged youth to participate in national service. The second related to WE's proposed Social Entrepreneurship program, a digital program providing entrepreneurship expertise and mentorship opportunities. I was asked to investigate because of the involvement of Mr. Trudeau and his relatives with WE, an international development charity and youth empowerment movement founded by Messrs. Marc and Craig Kielburger. Mr. Trudeau participated in eight WE Day events starting in 2007. His spouse was an honorary ambassador for WE, hosted her own WE-related podcast and attended eight WE Day events. Mr. Trudeau's mother and brother participated in paid activities for WE.

In early April 2020, the Minister of Finance, the Honourable Bill Morneau, told Mr. Trudeau his department was examining options to help post-secondary students facing the loss of summer jobs because of the COVID-19 pandemic, including the idea of having youth volunteer through the Government's Canada Service Corps.

At Mr. Morneau's direction, Department of Finance Canada officials began having discussions with Employment and Social Development Canada (ESDC) officials on options for a new youth national service program. On April 21, Department of Finance officials presented to Mr. Morneau a draft memorandum relating to proposed student support measures, which included four funding annexes for the Minister of Finance's approval and supporting materials for information purposes only.

One of the annexes involved expanding the Canada Service Corps' micro-grants program and creating a web-based volunteer matching platform. Another sought funding for the creation of a new program, the CSSG. The Department of Finance advised that the CSSG should be administered by a third party partnered with an organization like WE, and recommended setting aside funds for the program while further work was done on the proposal. WE's Social Entrepreneurship proposal formed part of the supportive materials.

Mr. Morneau then approved funding for the Canada Service Corps and the CSSG. Without Mr. Morneau's knowledge, his staff directed Department of Finance officials to include funding for WE's Social Entrepreneurship proposal. These decisions were shared with the Privy Council Office.

On April 22, Mr. Trudeau announced the creation of the CSSG and the volunteer matching platform among proposed measures to help post-secondary students and recent graduates.

At the request of Mr. Morneau's staff, WE had reworked a component of its Social Entrepreneurship proposal into a new Youth Summer Service proposal that would allow 20,000 young people to participate in service projects over three months and earn a stipend.

On April 23, the Department of Finance asked ESDC for a proposed design and delivery plan for the CSSG, with a mid-May 2020 launch. ESDC determined a third party was needed to administer the program and identified WE as a potential administrator, noting its Youth Summer Service Proposal could potentially be used as the basis for the program. On April 24, ESDC asked WE to submit a full proposal to administer the CSSG.

On April 28, ESDC submitted a proposed design and implementation plan for the CSSG. They recommended WE as the administrator of the program. Approved in principle by the Cabinet Committee on the federal response to the coronavirus disease (COVID-19) on May 5, the proposal was to be presented to the full Cabinet for ratification on May 8.

Ahead of the Cabinet meeting, Mr. Trudeau was briefed on ESDC's proposed design and implementation of the CSSG. It was at this time that he learned of WE's potential participation as the administrator of the program. Given his relatives' ties to WE, he and his Chief of Staff decided to remove the presentation of the CSSG proposal from the May 8 Cabinet agenda and asked that the public service conduct further analysis.

On May 15, Mr. Trudeau approved the Minister of Finance's decisions relating to the funding of the student support measures but declined to fund WE's Social Entrepreneurship proposal. On May 21, after ESDC officials confirmed that only WE could administer the program in the specified timeframe, Mr. Trudeau permitted the CSSG proposal to be presented to Cabinet. On May 22, Cabinet ratified the CSSG proposal.

Staff in the Prime Minister's Office reviewed the WE contribution agreement and recommended its approval. On June 22, Mr. Trudeau approved the contribution agreement with WE.

I sought to determine whether Mr. Trudeau contravened subsection 6(1), section 7 and section 21 of the Act.

Section 7 of the Act prohibits public office holders from giving preferential treatment to a person or organization based on the identity of a representative for the person or organization. For a contravention of section 7 to occur, the treatment a public office holder gives to a person or organization must be more favourable than the treatment they might give to a similarly situated person or organization, and there must be a prior relationship between the public office holder and the representative.

Mr. Trudeau's decision to approve the CSSG proposal with WE as the administrator of the program was not, in my view, motivated by the identity of any third-party representative, given the absence of a personal relationship between Mr. Trudeau and Messrs. Marc and Craig Kielburger. The evidence also shows that Mr. Trudeau had no involvement in ESDC's recommendation that WE administer the CSSG. I am satisfied that Mr. Trudeau did not give preferential treatment to WE.

Subsection 6(1) of the Act prohibits public office holders from making or participating in the making of a decision that would place them in a conflict of interest. Section 4 states that a public office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further their private interests or those of their relatives or friends or to improperly further another person's private interests.

I am satisfied that there was no opportunity to further Mr. Trudeau's own interests or those of his relatives from WE's role as administrator of the CSSG or from its Social Entrepreneurship proposal.

I determined that Mr. Trudeau had the opportunity to further WE's private interests regarding its Social Entrepreneurship proposal and its selection as the administrator of the CSSG. However, for there to be a contravention of subsection 6(1), WE's private interests would have to have been furthered improperly. In my view, there is no evidence of impropriety in relation to Mr. Trudeau's decision making in relation to WE's Social Entrepreneurship proposal or WE's administration of the CSSG.

Given my determination that Mr. Trudeau did not further his relatives' private interests nor did he provide preferential treatment to WE, I considered whether Mr. Trudeau's relatives' relationship with WE, which created an appearance of a conflict of interest, was captured by the definition of conflict of interest under section 4 of the Act. In this regard, I determined that without an actual conflict of interest or a clear legislative prohibition against apparent conflicts of interest, I could not conclude that a contravention occurred.

Section 21 of the Act requires public office holders to recuse themselves from any discussion, decision, debate or vote on any matter in respect of which they would be in a conflict of interest.

Although Mr. Trudeau has acknowledged publicly that he should have recused himself because of the appearance of a conflict of interest, there is no requirement to do so under the Act in such circumstances. Section 21 provides that recusal is required only in instances where the public office holder would be in a potential conflict of interest.

I therefore found that Mr. Trudeau did not contravene subsection 6(1), section 7 or section 21 of the Act.

CONCERNS AND PROCESS

[1] On June 28, 2020, I received a letter from Mr. Michael Barrett, Member of Parliament for Leeds–Grenville–Thousand Islands and Rideau Lakes. I received a second letter dated July 3, 2020, from Mr. Charlie Angus, Member of Parliament for Timmins–James Bay. Both raised concerns that the Right Honourable Justin Trudeau, Prime Minister of Canada, had contravened the *Conflict of Interest Act* (Act) through his involvement in the creation of the Canada Student Service Grant (CSSG) and the selection of its administrator, WE.[1]

[2] In his letter, Mr. Barrett alleged that given Mr. Trudeau's close ties to WE and his spouse's involvement with the organization, Mr. Trudeau had contravened subsection 6(1) of the Act when he announced the decision that WE would be administering the CSSG. This provision prohibits public office holders from making any decision or participating in the making of a decision when they know or reasonably should know that such a decision would further their private interests, those of their relatives or friends, or improperly further the private interests of another person.

[3] In their letters, both Messrs. Barrett and Angus alleged that Mr. Trudeau had contravened section 7 of the Act by giving preferential treatment to WE to administer the CSSG instead of the public service and despite the existence of other similarly situated national volunteer organizations.

[4] In a June 12, 2020 recorded videoconference between WE co-founder Mr. Marc Kielburger and several other participants from various Canadian youth organizations, Mr. Kielburger stated to attendees that a government representative in the Prime Minister's Office had contacted WE the day after Mr. Trudeau had publicly announced a forthcoming program targeting students. This government representative, according to Mr. Kielburger's statement in the video, inquired whether WE would be interested in assisting with its implementation. Although Mr. Kielburger revised his statement on June 30, 2020, it left me with concerns that a potential contravention of section 7 of the Act had occurred.

[5] Mr. Barrett's letter raised further allegations of contraventions of sections 5 and 9 of the Act. However, Mr. Barrett did not provide sufficient information to set out any reasonable grounds in support of either allegation. As a result, I did not pursue an examination of these provisions. Mr. Barrett also asked that I investigate whether Mr. Trudeau's spouse, Ms. Sophie Grégoire Trudeau, had accepted a gift or other benefit (in the form of travel) from WE, contrary to section 11 of the Act. Because the Office had previously provided advice on this issue to Mr. Trudeau via his ministerial staff, and since there were no new material facts that caused me to believe a contravention had occurred, I did not look further into the matter.

[1] For the purposes of the report, we refer to "WE Charity," "ME to WE Social Enterprise," or any other of their affiliates, collectively, as "WE."

[6] On July 3, 2020, I wrote to Mr. Trudeau to inform him that the two requests satisfied the requirements set out in subsection 44(2) of the Act and that I would be commencing an examination under subsection 44(3) of the Act. Specifically, I informed Mr. Trudeau that I would be examining possible contraventions of subsection 6(1) and sections 7 and 21 of the Act.

[7] I received Mr. Trudeau’s response, as well as unredacted copies of all requested documentation in three instalments between August 14 and 31, 2020. I understood from this production of documents that all information pertaining to the subject matter under examination, some of which constituted a confidence of the Queen’s Privy Council, had been produced.

[8] On November 25, 2020, I wrote to Mr. Trudeau to request that he provide me with additional information on his involvement in the Department of Finance Canada’s recommendation to award $12 million in federal funding towards WE’s Social Entrepreneurship proposal. I received Mr. Trudeau’s response on December 14, 2020.

[9] On February 11, 2021, I asked Mr. Trudeau, in lieu of an interview, to provide me with responses to my questions by way of sworn statement. I received Mr. Trudeau’s sworn statement on February 25, 2021.

[10] In keeping with the Office’s practice, I provided Mr. Trudeau with a copy of the relevant documentary evidence gathered during this examination, as well as a draft copy of the factual portion of the examination report (Concerns and Process, Facts and Mr. Trudeau's Position) before it was finalized.

[11] On July 16, 2020, at the request of several parliamentarians, I initiated an examination relating to the same subject matter of the conduct of the then Minister of Finance, the Honourable Bill Morneau. The documentary evidence gathered was used for both examination reports.

[12] The Office received over 40,000 pages of documents from Mr. Trudeau, Mr. Morneau and 13 witnesses, which included a copy of the documentation that had been submitted to the House of Commons Standing Committee on Finance (FINA). Because all parliamentary proceedings are protected by parliamentary privilege, I was unable to use witness testimony before the committee as a source of information despite my formal request to FINA to allow me to do so. Accordingly, I had to interview certain witnesses who had previously appeared before FINA in order to obtain their testimony anew.

[13] I am mindful of the studies undertaken by FINA and two other parliamentary committees on the various aspects of government spending during the COVID-19 pandemic, including the CSSG. None of their work impeded my own. It is important to note that this examination dealt solely with the conduct of Mr. Trudeau in respect of his obligations under the Act.

FACTS

Background

WE organization

[14] WE is an international development charity and youth empowerment movement founded in 1995 by Messrs. Marc and Craig Kielburger. WE is made up of WE Charity, ME to WE Social Enterprise,[2] and several other affiliates. Formerly known as Free the Children, the organization implements development programs in Asia, Africa and Latin America, focusing on education, access to clean water, healthcare, food security and economic opportunity.

[15] WE also runs domestic programming for young people in Canada, the U.S. and the U.K., promoting service learning and active citizenship. Since 2007, WE has organized a series of large-scale events, known as "WE Days," held in various cities throughout the school year. WE Day events have hosted tens of thousands of students and celebrated the impact the students have made on local and global issues. Students earn their tickets by participating in the WE Schools program, a year-long service-learning program run by WE. Each event features a lineup of speakers such as social activists, elected officials from various levels of government and musical performances.

[16] The organization held its last WE Day event on March 4, 2020, in London, England. WE announced in July 2020 that it was cancelling its WE Day activities for the foreseeable future to prioritize its international work.

WE's interactions with the government

[17] Public records show that between 2006 and 2015 WE received about $1.1 million from the Harper government. Between 2015 and 2019, WE received at least $5.5 million in funding from various departments including Employment and Social Development Canada (ESDC) and Canadian Heritage. In an internal briefing produced by staff in the Minister of Finance's office, WE was described as a key stakeholder and a "like-minded external partner."

[18] In 2017, WE was one of the many organizations selected to lead a project to mark the 150th anniversary of Canadian Confederation, based on proposals submitted to the Department of Canadian Heritage. WE received over $1 million to organize and host a WE Day event as part of the Canada Day weekend festivities in Ottawa. Mr. Trudeau also appeared in a promotional video linked to the Canada 150 celebrations and produced by WE.

The Trudeau family's interactions with WE

[19] According to Mr. Trudeau, he first met the Kielburgers in the mid-2000s. At that time, the three were involved separately in youth activism and engagement initiatives.

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[2] According to information posted on WE's website, the Kielburgers both derive a salary from ME to WE Social Enterprise.

[20] Mr. Trudeau provided a video to be played at the first ever WE Day event in October 2007 and, after becoming a Member of Parliament, participated in person in seven more such events. As a newly elected Member in 2008, Mr. Trudeau spoke at the second WE Day, which was held in Toronto. In 2012, he participated in two WE Day events: one in Montreal (hosted by Mr. Trudeau's spouse, Ms. Sophie Grégoire Trudeau) and one in Toronto. In 2015, shortly after the federal election, Mr. Trudeau and his spouse participated in a WE Day event in Ottawa, marking his first public speech since becoming Prime Minister of Canada. In his capacity as Prime Minister and Minister of Intergovernmental Affairs and Youth, a second portfolio he held until July 2018, Mr. Trudeau continued to participate in WE Day events. Mr. Trudeau last appeared at a WE event in September 2017.

[21] Mr. Trudeau attested to never having been paid a fee to attend a WE event. Mr. Trudeau added he was never reimbursed for expenses incurred in attending a WE event, nor did he seek reimbursement. To the best of his recollection, he has never made a donation to WE.

[22] Mr. Trudeau also attested that, to the best of his knowledge, he and his spouse never socialized with the Kielburgers in a personal context, such as sharing a meal. Messrs. Craig and Marc Kielburger also confirmed that they have never socialized with Mr. Trudeau, Ms. Grégoire Trudeau or their family, and that all of their interactions have been in their professional capacity.

[23] Neither Mr. Trudeau nor the Kielburgers consider each other personal friends.

[24] Ms. Grégoire Trudeau has been involved in WE Day events since 2008. In the fall of 2018, Ms. Grégoire Trudeau became the honorary ambassador and ally of WE Well-being, a program bringing awareness to mental health issues, and spoke at a WE Day event in Vancouver. In May 2020, she launched a podcast on a WE-related platform discussing mental health issues.

[25] According to the Kielburgers, Ms. Grégoire Trudeau participated in 10 events related to WE. Documentation made public by WE shows that between February 2012 and March 2020, Ms. Grégoire Trudeau attended a total of eight WE Day events and received an honorarium of $1,500 for her 2012 engagement only. She was reimbursed for the hospitality expenses she incurred for the eight events she attended, which included hotels, car service and flights. Ms. Grégoire Trudeau also received a low-value amount of WE-related merchandise, such as books and hats.

[26] Mr. Trudeau's mother, Ms. Margaret Trudeau, and brother, Mr. Alexandre "Sacha" Trudeau, have also participated in remunerated activities on behalf of WE. On October 15, 2020, their counsel reached out to this Office to voluntarily offer any assistance with this examination. On November 12, 2020, I obtained a detailed production brief including all speaking engagements and other benefits received from WE since 2015.

[27] Ms. Margaret Trudeau was engaged by WE through a speakers' bureau 28 times between October 2016 and March 2020. According to documentation made public by WE, on each occasion she attended three to five events per engagement. Ms. Trudeau was paid for 27 of the 28 speaking engagements and was reimbursed for her hospitality expenses, which included meals, hotels, car services and flights. She also received a low-value amount of WE-related merchandise.

[28] On nine occasions between 2017 and 2018, Mr. Alexandre Trudeau was also engaged by WE through a speakers' bureau and attended three to five events per engagement. According to information made public by WE, he was paid for nine speaking engagements and was reimbursed for his hospitality expenses, which included meals, hotels, car services and flights. He was also provided with a low-value amount of WE merchandise during this time.

[29] In their written submission, Ms. Margaret Trudeau and Mr. Alexandre Trudeau both confirmed that they have not had any discussions with Mr. Trudeau about WE. Mr. Trudeau affirmed that he had no such discussions with his spouse, his mother or his brother prior to the Government of Canada's (Government) May 2020 decision regarding the CSSG.

Government Response to the COVID-19 Pandemic

[30] On March 11, 2020, the World Health Organization declared COVID-19 a pandemic. In the following days and weeks, provinces and territories declared states of emergency to respond to the public health crisis. On March 13, 2020, the Government began announcing a series of measures to provide aid to provinces and territories, various sectors of industry, families and workers.

Early April: Mr. Morneau identifies need for student support measures

[31] According to Mr. Morneau, it was in early April that he identified the need for a policy to assist post-secondary students who had lost summer job offers or whose job search was upended as a result of the pandemic, and who would be ineligible for other government emergency support. Mr. Morneau added that the student support initiatives represented a small portion of the overall government support programs, noting that he had been given more than 100 decision notes, covering a broad range of policy issues, for consideration during that period. Each note required a formal analysis by the Department of Finance, and each required multiple decisions to be made.

[32] Mr. Amitpal Singh, Policy Advisor to the Minister of Finance, testified that he devised a program to encourage national projects through micro-grants and to enable young people to gain experience simultaneously. He believed the program could be implemented and perhaps even delivered through the Canada Service Corps. He discussed the early stages of his idea with his colleagues in the Minister's office, the Department of Finance and the Prime Minister's Office. According to Mr. Singh, Mr. Morneau planned to raise Mr. Singh's general idea with Mr. Trudeau during their upcoming discussion on April 5.

[33] The Canada Service Corps is a government initiative that offers community service opportunities for young people aged 15 to 30. The program falls within the portfolio of the Honourable Bardish Chagger, Minister of Diversity and Inclusion and Youth, with the support of the Honourable Carla Qualtrough, Minister of Employment, Workforce Development and Disability Inclusion.

[34] Service placements, within one of the 12 Canada Service Corps partner organizations, can vary in intensity and duration to accommodate youth's participation. Full-service placements involve at least 30 hours of service per week for a minimum of three months, while flexible service placements involve a minimum of 120 hours of service within a year.

[35] Youth may also access Canada Service Corps micro-grants to fund small-scale, youth-led projects and innovative service ideas to address community needs. They allow youth to design, develop and implement a service project by taking ownership of an issue, proposing a solution, recruiting their peers and implementing it at the local level. Micro-grant projects typically last three months.

April 5: Mr. Morneau and Mr. Trudeau have a discussion

[36] Mr. Trudeau and Mr. Morneau briefly discussed a potential student support package of programs and benefits during an April 5 telephone call.

[37] According to Mr. Trudeau, he was told the Department of Finance was examining options to support students given the likely loss of summer employment. One of the options was the idea of the Canada Service Corps playing a role in enabling young people to assist in essential service response.

[38] Mr. Trudeau added that the Minister of Finance's office and the public service took the lead in developing the details of the student aid package. While members of the Prime Minister's Office were engaged as the programs were developed, they were not leading the effort. This was consistent with the documentation submitted to this Office.

[39] Mr. Morneau stated that on April 6, he asked his ministerial team and the Deputy Minister of Finance, Mr. Paul Rochon, to engage with officials across the Government and develop different options to support students. Documentary evidence shows that Mr. Morneau's ministerial staff engaged with the Prime Minister's Office and Ms. Chagger's office. Department of Finance officials began engaging with ESDC officials on the idea of expanding the Canada Service Corps.

[40] According to Ms. Michelle Kovacevic, Assistant Deputy Minister, Department of Finance, her department's role was to develop the policy parameters for a funding decision relating to student support measures. Ms. Kovacevic testified that while the Minister's office does not draft decisions, it does assist the Department in ensuring it has accurately captured what the Minister has instructed to be included in a policy.

April 7 to April 10: WE's Social Entrepreneurship proposal

[41] According to the documentation provided, WE had been developing a proposal for a Social Entrepreneurship program prior to the pandemic. On April 7, Mr. Craig Kielburger spoke with the Honourable Mary Ng, Minister of Small Business, Export Promotion and International Trade, to introduce WE's Social Entrepreneurship program proposal. Following their call, Mr. Kielburger submitted the proposal to Ms. Ng's office on April 9.

[42] The proposal, which had been tailored to meet the new reality of the COVID-19 pandemic, sought to serve 8,000 young Canadians over a 12-month period. It included three components: a 10-week digital program providing entrepreneurship expertise and support in the era of COVID-19; a mentorship program linking entrepreneurs with several hundred experts from established companies; and a base payment to all participants, which also included access to additional incentive funds and long-term mentorship opportunities. The proposal offered three cost levels: $6 million, $11 million and $14 million.

[43] In an email reply to Mr. Kielburger, Ms. Ng's staff indicated to him that they would review the proposal and get back to him.

[44] WE's Social Entrepreneurship proposal was also shared with the Minister of Finance's office. As part of a broader outreach to organizations outside government, Mr. Singh spoke with Ms. Sofia Marquez, then Director of Government and Stakeholder Relations with WE, on April 8. During the call, Ms. Marquez indicated that WE had moved much of its work online and spoke of a social entrepreneurship summer program the organization was developing. Ms. Marquez explained that WE had the ability to track hours, manage different participants and make payments, and would be using these tools when implementing the proposal.

[45] Mr. Singh informed Ms. Kovacevic of his conversation with Ms. Marquez and of WE's ability to track volunteer hours. Mr. Singh testified that he believed, at the time, that the Government could use WE's ability to track hours to fill a void in their service delivery.

[46] On April 9, Ms. Marquez emailed the Social Entrepreneurship proposal to Mr. Singh, who informed Ms. Marquez that they should continue to engage with Ms. Ng's office and keep him informed of any progress.

[47] On April 10, Mr. Kielburger emailed Mr. Morneau and Ms. Chagger, separately, to inform them of his discussion with Ms. Ng and included a copy of the proposal he had shared with Ms. Ng.

[48] According to Mr. Morneau, he read Mr. Kielburger's email but did not read the attached proposal as it was not his practice to read documents sent to him from outside organizations. I found no evidence indicating Mr. Morneau responded to Mr. Kielburger's email or took any action at this time. According to Ms. Chagger, she did not speak to Mr. Morneau or to any other Cabinet colleague about WE's Social Entrepreneurship proposal. I did not find any evidence to the contrary.

April 14 and 15: Mr. Morneau and Mr. Trudeau receive updates

[49] On April 14, Mr. Morneau received a briefing by Department of Finance officials on student support measures. On April 15, Mr. Trudeau received, at his request, the same briefing from Mr. Morneau's staff and Department of Finance officials.

[50] Mr. Trudeau was given further details on the Department of Finance's idea of incenting as many youths as possible to national service. He was told that this new measure would be positioned as a stream of the Canada Service Corps.

[51] Ms. Kovacevic testified that, during the April 15 briefing, she recalled Mr. Trudeau was generally in agreement with the way the Department of Finance had positioned the youth volunteering policy.

Mid-April: ESDC and Department of Finance officials begin discussing a national service initiative and volunteer matching platform

[52] Following Mr. Trudeau's briefing, officials with the Department of Finance and ESDC began having discussions on implementation options for a new youth national service program, as developing the model for the program fell within the latter's responsibility. Ms. Chagger's office was also engaged as needed.

[53] In mid-March, at the request of Ms. Chagger's office, ESDC officials had drafted a proposal to expand the micro-grants program of the Canada Service Corps. The proposal was shared with Ms. Kovacevic on April 15.

[54] In an April 15 email from Ms. Kovacevic to two ESDC officials, including Ms. Rachel Wernick, Senior Assistant Deputy Minister, Ms. Kovacevic wrote that the Department of Finance had already earmarked funds to expand the Canada Service Corps' micro-grants, and that ESDC officials needed to think of something bigger in order to reach as many youth as possible. Ms. Kovacevic suggested leveraging the service stream of the Canada Service Corps and the Volunteer Canada platform to receive more submissions for volunteer matching, adding that Mr. Trudeau had been supportive of the idea. Ms. Kovacevic also raised the possibility of providing youth with bursaries in recognition of their service. Ms. Kovacevic informed Ms. Wernick that, in a matter of days, Mr. Trudeau would likely make an announcement relating to student support measures and that they needed to determine what could be done.

[55] Ms. Wernick replied that she understood Ms. Kovacevic's reference to the Volunteer Canada platform to mean that the interest was in offering youth short, one-off volunteering activities that could assist in the COVID-19 pandemic. Ms. Wernick explained to Ms. Kovacevic that the Canada Service Corps provided micro-grants for project proposals undertaken by youth with other youths, and that service activities under the Canada Service Corps were more intense than ad hoc service opportunities with a short duration.

[56] Ms. Wernick also informed Ms. Kovacevic that they needed to be realistic on how much more they could expand the micro-grants of the Canada Service Corps given the limitations of the third party responsible for disbursing the micro-grants to recipients, and the fact that many of the not-for-profits were closed because of the pandemic. The documentary evidence shows that ESDC officials had contacted the third party in early April to inquire about its capacity to expand and had been told the organization could provide a total of 7,200 micro-grants and that they would take three months to put into place.

[57] In the same email conversation, Ms. Wernick advised Ms. Kovacevic against using Volunteer Canada's online platform as it had limitations. Instead, Ms. Wernick suggested a web-based matching service using the Government's Job Bank platform with promotional assistance from an organization, like WE, that could leverage its social media following to direct youth to the government site where they could sign up to volunteer. Ms. Wernick wrote that officials would reach out to WE.

[58] Ms. Wernick testified that it was her previous experience with WE that led her to suggest the organization. In the context of the design phase of the Canada Service Corps in 2018, ESDC's Skills and Employment Branch entered into a contribution agreement with WE, which was asked to explore incentive models to encourage youth to participate in service that included a particular emphasis on digital supports and innovative ways of reaching youth.

[59] Ms. Wernick also testified that ESDC officials had learned through their experience with Volunteer Canada's Pan-Canadian Volunteer Matching Platform that although a youth-based program could be developed, it did not mean that there would be uptake. According to Ms. Wernick, from 2017 to 2019, Volunteer Canada had received funding from the Government to develop a platform that would serve as a one-stop shop for youth to access volunteer opportunities across Canada. The organization built a database with 80,000 opportunities, however, there was very limited uptake by

youth, due in part to a lack of social media integration. This was the reason for her suggestion of using an organization such as WE which, according to Ms. Wernick, had a proven track record of successfully engaging with youth.

[60] Ms. Kovacevic replied to Ms. Wernick that if there was something with WE that could be done, ESDC officials should propose it. Ms. Kovacevic testified that she understood the purpose of contacting WE at that time would be to see about tapping into their youth network to drive youth to the Government's volunteer matching platform. Ms. Kovacevic also testified that given the very tight timelines and the amount of program development left to do, if involving WE or any other organization could assist the Government in realizing their ambitious program, she wanted officials to propose it.

[61] Following her discussions of April 15 and 16 with Ms. Kovacevic, Ms. Wernick and ESDC officials began exploring various options and evaluating the Government's infrastructure for a volunteer matching platform. They sought to determine the Government's ability to quickly build a function to track volunteer hours; the capacity of the third party responsible for administering the Canada Service Corps micro-grants program to expand, and the capacity of various not-for-profit groups to track service hours and disburse the bursaries.

[62] Ms. Wernick testified that ESDC officials tried to respond very quickly to the Government's desired options as they had been expressed to them by Department of Finance officials.

April 17: Ms. Chagger speaks with WE

[63] According to documentary evidence, after meeting Ms. Chagger during a December 2019 WE Day event in Ottawa, Mr. Craig Kielburger contacted her in early February 2020 and requested a meeting in order to discuss WE's work and its desire for further collaboration with the Government. As a result of the request, a meeting was scheduled for April 17.

[64] In preparation for the meeting, ESDC officials provided Ms. Chagger with a briefing note. The note indicated that ESDC had recently received the Social Entrepreneurship proposal from WE which proposed to create an online educational learning platform focused on service and volunteerism. Documentary evidence shows that the Director General of the Canada Service Corps spoke with Ms. Marquez in order to receive further information on WE's proposal. According to the briefing note, WE's proposal offered several areas for future collaboration, some of which could be tailored to address immediate needs of youth because of the pandemic. As a speaking point, it was suggested that Ms. Chagger indicate to Mr. Kielburger that she would ask her officials to reach out to learn more about the proposal, which could address immediate needs of youth as a result of the pandemic.

[65] Ms. Chagger and Mr. Kielburger spoke on April 17, at which time Mr. Kielburger and Ms. Marquez presented WE's Social Entrepreneurship proposal. Following their meeting, Ms. Chagger asked her staff if WE's Social Entrepreneurship proposal was being considered. Her staff contacted staff in Ms. Ng's office to inquire about Ms. Ng's thoughts on the proposal. Ms. Ng's staff advised that WE's proposal was under evaluation and that neither Ms. Ng nor her staff had yet spoken to Mr. Kielburger about the proposal.

April 18: Mr. Morneau is briefed on the student aid package

[66] On April 18, Department of Finance officials updated Mr. Morneau on the current development of the new national service program. According to Mr. Morneau, officials raised the prospect of a partnership with the private sector or not-for-profit sector in order to disburse the bursaries and mentioned WE, among other organizations, as an example of a group already doing similar work. In an April 17 draft memorandum from the Department of Finance to Mr. Morneau, no third-party partner was proposed.

[67] Ms. Kovacevic testified that during the briefing, Mr. Morneau requested that youth receive a grant rather than a bursary for their service and suggested the use of a private corporation to disburse the grants.

[68] Following her briefing with Mr. Morneau, Ms. Kovacevic testified that ESDC officials informed her that disbursing grants instead of bursaries would require an organization to issue the grants because the Government had reached its capacity with the disbursement of the Canada Emergency Response Benefit and Employment Insurance. Ms. Wernick testified that the involvement of a private corporation was less than ideal. Rather, an organization with experience with youth would be preferable to ensure the success of the program. According to documentary evidence, at that time ESDC officials were exploring the possibility of having university groups disburse the bursaries or grants given that the purpose of the new national service program was to assist youth in paying for post-secondary education.

April 19: ESDC official contacts WE

[69] As ESDC officials continued to evaluate the Government's infrastructure and capacity to run and populate a volunteer service matching platform, Ms. Wernick sent an email to Mr. Kielburger indicating that the Government was working on something that might be of interest to WE. Ms. Wernick wrote that there was a small window of opportunity to influence thinking and that she would greatly benefit from Mr. Kielburger's insights. They spoke shortly thereafter.

[70] Ms. Wernick testified that the purpose of her call with Mr. Kielburger was to share the broad terms of the Government's goal of a summer youth service program and to get his reaction as an expert in the area of youth service. They also discussed the current challenges of not-for-profit organizations during the COVID-19 pandemic. According to Ms. Wernick, Mr. Kielburger indicated that because of the pandemic, volunteering opportunities, which were traditionally done in person, would now have to be completed online. Small not-for-profits with little digital capacity would require support.

[71] It was at this time, according to Ms. Wernick's testimony, that Mr. Kielburger mentioned WE's Social Entrepreneurship proposal. According to her notes of the call, Mr. Kielburger said that their Social Entrepreneurship proposal could be merged with a national service initiative and expanded.

[72] In a June 12 recorded videoconference between Mr. Marc Kielburger and several other participants from various Canadian youth organizations, Mr. Kielburger stated to attendees that the Prime Minister's Office had contacted WE the day after Mr. Trudeau's announcement on student support measures. According to Mr. Kielburger's statement in the video, they inquired whether the organization would be interested in assisting with the implementation of the new CSSG. Mr. Kielburger

later stated that he had incorrectly referred to the Prime Minister's Office and that the outreach had come from ESDC officials. In his affidavit, Mr. Kielburger confirmed that he had incorrectly identified the timing of that call as the week of April 26. Rather, the call in question was Mr. Craig Kielburger's April 19 call with Ms. Wernick. This is consistent with both the documentary evidence and Ms. Wernick's testimony.

[73] Mr. Rick Theis, Director of Policy and Cabinet Affairs in the Prime Minister's Office, confirmed that he did not have contact with WE representatives, nor was he aware of anyone else in the Prime Minister's Office having had contact with them at that time. There is no documentary evidence to suggest otherwise.

[74] Following her call with Mr. Kielburger, Ms. Wernick debriefed her departmental officials and Ms. Kovacevic on her call with Mr. Kielburger. In an email to staff in Mr. Morneau's office, Ms. Kovacevic indicated that ESDC officials believed that the Government might be able to use WE as the volunteer-matching third party and use the Government's online infrastructure as the payment mechanism.

[75] After being briefed by Ms. Kovacevic, Mr. Singh emailed Mr. Morneau to inform him that officials with ESDC and the Department of Finance had decided to bring WE "into the fold" as the third party to administer the grants and lead the volunteer matching platform. He wrote that he was strongly supportive and had been engaging with WE. However, Ms. Kovacevic testified that no decision about WE was made at this time.

April 19: ESDC's initial proposal for a national service program is shared

[76] Following Ms. Wernick's April 19 call with Mr. Kielburger, and after completing an analysis of the Government's infrastructure and capacity to run and populate a volunteer matching platform, ESDC officials drafted a proposal for a modest expansion of the Canada Service Corps, with up to 15,000 micro-grants. It included the proposed development of the *I Want to Help* website, a web-based volunteer matching platform and a program rewarding hours volunteered.

[77] As a consideration, it was noted in ESDC's proposal that to enhance the reach of more youth, ESDC would explore the potential for youth-serving organizations to direct more youth to the platform, including through its social media channels. WE served as an example of an organization that had a large social media following.

[78] The proposal suggested that large numbers of not-for-profits were closing their doors and that many were operating with limited resources. As a result, supporting the integration of volunteers would require time and resources that were already stretched. Furthermore, post-secondary aged youth would likely be more interested in—and gain more meaningful experience from—structured volunteering opportunities rather than opportunities that involved unskilled manual labour. However, those types of opportunities would require more support from the volunteer organization.

[79] As a result, ESDC officials suggested using WE's Social Entrepreneurship proposal of 8,000 placements to populate the volunteer matching platform as it would provide more meaningful learning experiences for students and would draw on medium and large businesses rather than taxing not-for-profit organizations.

[80] Ms. Wernick testified that given the sense of urgency to develop a suitable program, ESDC officials believed that some of the structure of WE's Social Entrepreneurship proposal could be adapted and used towards the expansion of the Canada Service Corps' micro-grants program. Ms. Wernick also testified that ESDC officials believed that WE could assist both youth and not-for-profits in delivering digital service opportunities.

[81] On April 19, Ms. Wernick shared ESDC's proposal, along with WE's Social Entrepreneurship proposal, with another ESDC official and with Ms. Kovacevic, who then forwarded Ms. Wernick's email to Mr. Singh.

April 20: WE contacts the public service following its call with Ms. Chagger

[82] On April 20, Ms. Marquez emailed the Director General of the Canada Service Corps, who had contacted her in preparation for Ms. Chagger's April 17 call with WE, to provide an update of the call.

[83] In her email, Ms. Marquez wrote that Mr. Kielburger had provided Ms. Chagger an overview of WE's current COVID-19 digital programming for service learning and mental well-being. According to Ms. Marquez, Ms. Chagger expressed an interest in exploring ways to adapt the Social Entrepreneurship proposal to include a service component. Ms. Chagger also suggested that WE consider opening a service stream for youth who were not well supported through virtual mentorship at that time and who were looking for micro-grants to advance their projects. According to Ms. Marquez, as a next step, Ms. Chagger expressed her willingness to connect WE with her staff and identify tangible ways to move the opportunity forward. Ms. Marquez wrote that she had shared WE's proposal with several officials, including Ms. Wernick, and that she had yet to hear back from anyone.

[84] The Director General forwarded Ms. Marquez's email to Ms. Wernick and asked if they should follow up. In her reply, Ms. Wernick instructed the official to inform Ms. Marquez that things were still evolving. Ms. Wernick further wrote that the matter was in the hands of Department of Finance officials who needed to indicate whether there was interest prior to involving WE.

April 19 to April 21: WE contacts Mr. Morneau's ministerial staff

[85] On April 19, following Mr. Kielburger's discussion with Ms. Wernick, Ms. Marquez emailed Mr. Singh and another staff member from Mr. Morneau's office to indicate that they had been approached by a senior ESDC official regarding a potential youth funding announcement, likely under the Canada Service Corps. Ms. Marquez also noted that the program seemed rushed and uncoordinated, but that nonetheless she believed WE could help.

[86] In his reply, Mr. Singh apologized for any confusion the conversation with Ms. Wernick may have caused. He also raised WE's Social Entrepreneurship proposal, indicating that he had heard from Ms. Wernick that WE could increase the 8,000 placements as well as the number of participants. Mr. Singh asked how much it would cost to increase the 10-week digital program to 20,000 placements and asked that Ms. Marquez relay to him the specifics.

[87] In an April 20 email to Ms. Kovacevic, Mr. Singh informed her that he had spoken with the team at WE and that they were happy to rework their original Social Entrepreneurship proposal into a summer program, offering 20,000 service positions for $12 million, to fully meet the objective of a national service initiative. He wrote that he had spoken to WE at a high level on the need for a third party to administer a monetary incentive, should the Government decide to provide one.

[88] Ms. Kovacevic testified that she understood Mr. Singh's email to mean that he believed the opportunities offered through WE's Social Entrepreneurship proposal could be used to populate the *I Want to Help* volunteer matching platform. However, Mr. Singh testified that he asked WE to rework its proposal as a concept exercise allowing the Government to understand how a national service program could be administered, particularly the tracking of completed volunteer hours. In his email, Mr. Singh also noted that WE would provide a new proposal shortly and that as soon as policy approvals were received, ESDC should reach out and bring the organization "into the fold." Ms. Kovacevic thanked Mr. Singh for keeping the relationship with WE "strong." When asked what she meant by her comment, Ms. Kovacevic testified that, to the best of her recollection, she believes it may have been due to a worry of having limited options and wanting to ensure that the Government nurtured that relationship.

[89] In an early morning email on April 21, Ms. Marquez submitted to Mr. Singh WE's new Youth Summer Service proposal. In her email, Ms. Marquez stated that the proposal offered to turn the 10-week digital program from their original Social Entrepreneurship proposal into a national digital service program which would enable 20,000 young Canadians to engage in summer service placements and projects during the COVID-19 crisis, at a cost of $12 million. Mr. Singh testified that he did not assess or analyze the new proposal nor did he speak with Mr. Morneau about the proposal.

[90] Mr. Singh then forwarded WE's Youth Summer Service proposal to staff in the Prime Minister's Office. Mr. Singh also testified that he did not speak to staff in the Prime Minister's Office about WE's new proposal.

April 21: Mr. Morneau is briefed on the Canada Student Service Grant

[91] On April 19, Department of Finance officials provided Mr. Morneau with a draft memorandum relating to the proposed student support measures, which included four funding notes (annexes 1 to 4) for the Minister of Finance's approval and supporting materials for information purposes only (annexes 5 to 9). On April 20, the memorandum and related annexes were shared with officials in the Privy Council Office and staff in the Prime Minister's Office.

[92] On April 21, Mr. Morneau received a briefing from Department of Finance officials on the draft April 19 memorandum and the nine annexes.

Annex 1: Expansion of youth employment and job skills programming

[93] The note related to a broader expansion of existing federal programs, such as the Canada Service Corps, by increasing youth volunteer activities and the number of micro-grants available through the Canada Service Corps, and creating the *I Want to Help* volunteer matching platform to support broader efforts to help young people pursue national service opportunities.

[94] As a consideration, it was noted that to enhance the volunteer matching platform's reach to more youth, ESDC would explore the potential help of youth-serving organizations, including through their social media channels. WE was offered as an example of an organization with a large social media following.

[95] It was recommended that Mr. Morneau approve $112 million to expand the Canada Service Corps, which included $2 million to support the *I Want to Help* volunteer matching platform.

Annex 4: The Canada Student Service Grant

[96] This note related to the new CSSG, a proposal to incentivize youth and students to volunteer and contribute to the COVID-19 response and to address areas of need in their communities. According to the document, the call-to-action would be accompanied by the launch of the new *I Want to Help* volunteer matching platform, which would support broader efforts to help young Canadians pursue national service positions, as outlined in Annex 1 relating to the Canada Service Corps.

[97] The note also outlined the potential benefits and drawbacks of launching the program during the summer. It noted that a late summer launch would provide more time to make decisions about the delivery mechanism and related options. However, given the limited alternatives and the interest in quickly rolling out the CSSG, a third party to administer the grants was deemed the best option. Officials stated that the delivery agent should be partnered with an organization knowledgeable about the volunteer sector, such as WE.

[98] Department of Finance officials noted that further work on Annex 4 was required because of significant concerns with the target beneficiaries, the potential cost, and how the program compared to other proposed youth measures.

[99] Department of Finance officials recommended that if there was an interest in a near-term announcement, only basic information about the grant should be given. They also recommended setting aside $900 million for the initiative based on preliminary estimates and an additional $100 million for the implementation and the associated costs of a broader portal and public awareness campaign. Officials noted that should Mr. Morneau agree with the recommendation, they would work to scope the delivery mechanism and seek a funding decision on outstanding elements, including how a third party would be selected and the approximate cost to administer the grant.

[100] On April 21, Mr. Morneau signed the decision page approving Annex 1, and verbally approved the recommendation to set aside funds for the program as set out in the decision page relating to Annex 4.

Annex 9: WE's Social Entrepreneurship proposal

[101] As part of the supporting information to the memorandum, Department of Finance officials included WE's original Social Entrepreneurship proposal that had been submitted to Ms. Ng on April 9. The Department of Finance advised that given the interest in encouraging youth to contribute to the COVID-19 response, it was assessing the proposal in the context of the CSSG option outlined in Annex 4 as well as the Canada Service Corps' proposed volunteer matching platform outlined in Annex 1. It was the Department of Finance's view that there might be merit in a phased approach to the implementation of a broader service initiative, given public health constraints. The note indicated that a more fulsome briefing could follow should Mr. Morneau be interested in further analysis of the proposal.

[102] According to Mr. Morneau, to the best of his knowledge, this was the first time WE was identified in his briefing materials related to student support measures. Ms. Kovacevic's testimony corroborated Mr. Morneau's version of events.

[103] Ms. Kovacevic testified that given time constraints, WE's Social Entrepreneurship proposal had not been analyzed or assessed at that time. According to Ms. Kovacevic, Mr. Morneau was not given any details about the proposal during his briefing. He was simply informed that they had received the proposal.

[104] Mr. Morneau stated that he did not make any decision in relation to the Social Entrepreneurship proposal. Nothing in the documentary evidence indicates that Mr. Morneau approved or provided direction on this initiative. Ms. Kovacevic further testified that Mr. Morneau did not give any instructions regarding WE during the briefing, he did not request a further briefing on the Social Entrepreneurship proposal, nor did he ever mention the proposal to her.

[105] Ms. Kovacevic said that it was following her briefing to the Minister that she realized they had failed to ask Mr. Morneau his intentions for the Social Entrepreneurship proposal. In an email to Mr. Singh seeking confirmation of Mr. Morneau's decisions, Ms. Kovacevic also inquired whether the Department of Finance should set aside funding for the proposal. Mr. Singh replied that he was still waiting for confirmation from the Prime Minister's Office, but that they should put in a $12 million placeholder, and forwarded to Ms. Kovacevic WE's new Youth Summer Service proposal, which Ms. Marquez had forwarded to him earlier that day.

[106] Mr. Singh testified that he did not receive any confirmation from Mr. Morneau or the Prime Minister's Office on WE's Social Entrepreneurship proposal and that he himself made the decision to have Ms. Kovacevic include a statement in the Annex 4 that the proposal had been approved for funding by Mr. Morneau.

[107] When asked if WE's Youth Summer Service proposal had been presented to Mr. Morneau during the briefing, Ms. Kovacevic stated that at that time she had not read either of WE's proposals and as such would not have given the Minister any details. Having not analyzed or assessed WE's original Social Entrepreneurship proposal or read its new Youth Summer Service proposal, it would appear that Department of Finance officials were not aware at that time that they were two distinct proposals.

[108] According to the Privy Council Office, shortly after Mr. Morneau's April 21 briefing, a senior official with the Department of Finance communicated to Privy Council Office officials the understanding that Mr. Morneau had approved funding for WE's Social Entrepreneurship proposal. The Privy Council Office was unable to provide a record of this communication.

[109] On the evening of April 21, Ms. Kovacevic forwarded to Mr. Singh the Decision page for Annex 4, which included the Minister's approval to set aside $900 million for the CSSG and a provisional line for $12 million for WE's Social Entrepreneurship proposal. Ms. Kovacevic testified that the recommendation to fund the proposal was included in the Annex 4 with the understanding that it could be taken out if Mr. Morneau was not in agreement.

[110] A notional line for $12 million for WE was also included in the budget breakdown of the CSSG and communication products that were drafted in support of Mr. Trudeau's upcoming announcement relating to student support measures.

[111] Mr. Singh admitted that the provisional line of $12 million for the Social Entrepreneurship proposal should not have been included and, given that he had not received confirmation to include it from either the Prime Minister's Office or from Mr. Morneau, he should have ensured that it had been removed prior to the annex being shared with the Privy Council Office. Mr. Singh testified that they were moving at a very fast pace and that it was a mistake for which he took responsibility.

[112] According to Mr. Morneau, he never saw the version of Annex 4 with the statement that WE's Social Entrepreneurship proposal be funded. This is consistent with Ms. Kovacevic's testimony as well as documentary evidence which shows that Mr. Singh requested to his colleagues in the Minister's office that Annex 4 be held and that it not be sent to Mr. Morneau as it required additional work.

[113] Ms. Kovacevic admitted that given the speed at which they were moving, mistakes were made. According to Ms. Kovacevic, in a normal process, a minister would have signed off on any funding decision prior to an announcement rather than simply give verbal approval, meaning there would have been written confirmation of the decision.

April 21: Mr. Trudeau is briefed on the student support measures

[114] On April 21, Mr. Trudeau was briefed by his staff on the April 19 draft memorandum and supporting annexes relating to the student support measures prepared by the Department of Finance for Mr. Morneau.

[115] According to Mr. Trudeau, there was still no mention of WE playing a role, as far as he was aware. Mr. Trudeau's impression remained that the Canada Service Corps would likely be expanded to help deliver the program. Mr. Trudeau hoped that the Canada Service Corps' development could be accelerated if it was made responsible for the CSSG.

[116] Mr. Trudeau did not recall reading Annex 9 relating to the Social Entrepreneurship proposal, or otherwise being made aware of it during the April 21 briefing.

[117] Mr. Theis, who participated in the briefing, testified that Mr. Trudeau was given the broad concept of the national service program: that a student who did not qualify for the Government's new Emergency Relief Benefit could apply for and receive a stipend for completing a pandemic-related volunteering activity. Mr. Theis said that the program concept had not yet been developed.

[118] Mr. Theis said that WE's potential participation was not mentioned during the briefing, nor was WE's Social Entrepreneurship proposal. Mr. Theis further testified that neither Mr. Trudeau nor his Chief of Staff, Ms. Katie Telford, gave any instructions relating to WE's involvement in the new national service program.

[119] On April 21, Ms. Chagger's staff received their first briefings from ESDC officials, Mr. Morneau's office and the Prime Minister's Office on the student support measures that would be announced the following day. ESDC officials gave details on the *I Want to Help* volunteer matching platform and the expansion of the Canada Service Corps. Staff from Mr. Morneau's office and the Prime Minister's Office both provided Ms. Chagger's staff with an overview of the overall support measures relating to youth, and the new monetary incentives that would be offered for completed national service. According to documentary evidence, staff then briefed Ms. Chagger.

April 22: Mr. Trudeau announces student support measures

[120] On April 22, 2020, Mr. Trudeau announced a series of proposed measures to provide financial assistance to post-secondary students and recent graduates in response to the COVID-19 pandemic. Among them was the new CSSG, which would provide up to $5,000 to eligible students who volunteered during the summer in support of the COVID-19 response. He also announced a new *I Want to Help* web-based volunteer matching platform by ESDC, which would allow students to find volunteer opportunities to contribute to the COVID-19 response in their community.

[121] According to Mr. Morneau, although his office was not primarily responsible for developing the CSSG, his staff remained involved in the file following Mr. Trudeau's announcement because of his office's responsibility to track appropriate allocation of funding. Documentary evidence shows that Mr. Singh continued to engage across the Government and with WE representatives on the CSSG project.

April 22: Mr. Craig Kielburger submits WE's new Youth Summer Service proposal

[122] Following the Prime Minister's announcement, Mr. Craig Kielburger sent WE's Youth Summer Service proposal, which Ms. Marquez had originally sent to Mr. Singh on April 21, to several government officials, including Ms. Wernick and the Privy Council Office, as well as several ministers such as Mr. Morneau, Ms. Ng and Ms. Chagger, the Office of the Deputy Prime Minister, and the Office of the Minister of Innovation, Science and Industry. Staff in the Prime Minister's Office also received the proposal from the Privy Council Office. The Prime Minister's Office had previously been forwarded a copy by Mr. Singh on April 21.

[123] In his email, Mr. Kielburger wrote that WE's new Youth Summer Service proposal included a three-month summer opportunity to engage 20,000 young people to participate in service projects, while allowing them to earn a stipend to fund their post-secondary studies or personal needs. Mr. Kielburger also included WE's original Social Entrepreneurship proposal which, according to Mr. Kielburger, could be implemented alongside the Youth Summer Service proposal or as a second stream.

[124] On the same day, Ms. Marquez resubmitted WE's two proposals to Mr. Singh. Ms. Marquez indicated that Mr. Kielburger had shared them with several ministers that morning. Mr. Singh forwarded Ms. Marquez's email to Ms. Kovacevic and provided introductions. In his email, Mr. Singh informed Ms. Kovacevic that he and Ms. Marquez had spoken earlier that day about the 20,000 positions proposed in WE's new Youth Summer Service proposal that could help launch the CSSG. Mr. Singh further wrote that he hoped Ms. Kovacevic would quickly touch base with Ms. Marquez.

April 23: ESDC begins discussions with WE

[125] Ms. Wernick testified that it was following Mr. Trudeau's announcement, on April 23, that ESDC officials learned about the new CSSG program in greater detail from Ms. Kovacevic and other Department of Finance officials. According to Ms. Wernick, the proposed program was very ambitious and much bigger than what ESDC officials had initially proposed with the Canada Service Corps expansion. Ms. Kovacevic asked ESDC officials to put forward a proposed design and delivery plan for the CSSG, with a mid-May 2020 launch.

[126] Ms. Wernick testified that because the CSSG was to be a summer program launching in mid-May, officials with ESDC and the Department of Finance determined that the involvement of a third party to administer the entire program was necessary. Ms. Wernick added that in order to provide service opportunities to as many youth as possible, it would not be feasible for the Government to deliver this program in a timely manner.

[127] Ms. Wernick also testified that it was at this time that WE was identified as a potential administrator for the CSSG as the organization had the capacity to pay the grants, and the organization had submitted its Youth Summer Service proposal which could potentially be used as the basis for the CSSG.

[128] Following their discussion of April 23, Ms. Kovacevic informed Ms. Wernick that the Minister of Finance's office confirmed that ESDC officials should be "courting" WE. However, they should not announce any confirmation of funding for their Youth Summer Service proposal as the Prime Minister had not yet signed off on the matter. Ms. Wernick testified that she took Ms. Kovacevic's email as a green light to begin discussions with WE on their possible administration of the CSSG. Ms. Kovacevic testified that given Mr. Morneau had only approved the $900 million set aside for the CSSG, and that no other specifics had been approved, Ms. Wernick should not make any commitments while speaking with WE.

[129] On April 24, Ms. Wernick and Ms. Kovacevic spoke with Mr. Kielburger and Ms. Marquez. The government officials gave details about the new CSSG and asked that WE submit a full proposal to administer the program, which would include additional details such as an implementation plan, a budget and timelines.

[130] Documentary evidence shows that ESDC officials began working closely with WE to develop a large-scale proposal pursuant to which WE would be tasked with the sole administration of the CSSG, subject to the approval of Ms. Chagger.

April 26: Mr. Morneau has a discussion with Mr. Craig Kielburger

[131] According to Mr. Morneau, as part of outreach efforts to not-for-profit organizations and businesses to discuss the impact of the pandemic on their sectors, he contacted Mr. Craig Kielburger on April 26. Mr. Morneau indicated that he and Mr. Kielburger did not discuss the CSSG or WE's Social Entrepreneurship proposal.

[132] Mr. Kielburger stated that he and Mr. Morneau mostly spoke of the effects of the pandemic on the not-for-profit sector and discussed the pandemic itself. Mr. Kielburger noted that he raised in passing his discussion with Ms. Ng about the Social Entrepreneurship proposal.

[133] Following their call, Mr. Kielburger emailed Mr. Morneau, thanking him for the call, and sent him two documents relating to the pandemic that Mr. Kielburger had referenced during their conversation. Mr. Kielburger did not raise the Social Entrepreneurship proposal in the email.

[134] Mr. Kielburger confirmed that he did not have any further discussions or communications relating to the Social Entrepreneurship proposal with Mr. Morneau following their April 26 call.

[135] On April 27, Ms. Kovacevic wrote to Ms. Wernick: “I know that my min has been speaking with WE. Lots of convo going on. There is huge interest from my end.” Ms. Kovacevic testified that her reference to “my min” was a reference to the many discussions between Mr. Singh and Ms. Marquez taking place during that time. However, she testified that she did not believe Mr. Singh was attempting to engineer WE as the administrator of the CSSG. Ms. Kovacevic further testified that at no time during their briefings did Mr. Morneau speak about WE. According to Ms. Kovacevic, Mr. Morneau’s priority was about the pandemic and about quickly putting measures into place that would support youth.

April 28: ESDC develops the CSSG proposal

[136] On April 28, ESDC officials provided Ms. Chagger’s office with a proposed design and delivery plan of the expansion of the micro-grants program of the Canada Service Corps and the CSSG.

[137] With respect to the CSSG, the proposal recommended three elements: a service grant for youth who volunteered; the creation of the *I Want to Help* portal to help youth find service placements and volunteer opportunities and track the hours volunteered; and a third party to disburse the grants.

[138] With respect to the *I Want to Help* portal, the proposal outlined that ESDC did not have, at that time, the capacity to collect and translate the volunteer opportunities and verify their quality prior to the release of the online platform. As such, it was recommended that identification and validation of volunteer opportunities be undertaken by a third party. Leveraging networks across the country, the third party would rapidly compile volunteer opportunities and turn them into a database that it could also monitor for quality control purposes.

[139] The proposal also noted that distribution of funds created significant challenges for ESDC as there was no mechanism in place at that time to deliver this type of a grant directly to a large number of youths. According to the proposal, there would also be legal and authority issues associated with direct payment of grants directly by ESDC. As a result, for speed and simplicity of delivery, it was recommended that a third-party organization administer and disburse the grants.

[140] The proposal outlined the three areas where a third party was required to ensure a mid-May launch: grant administration, creating additional service placements, and supporting the platform by seeking and vetting new opportunities. The proposal noted that while various third-party options were being considered, there were few organizations who were able to perform all three functions or had the necessary expertise to work with youth.

[141] ESDC officials noted that WE had put forward a proposal that aligned with the CSSG model. Specifically, WE was in a position to help provide 20,000 placement opportunities, assist in populating the portal by working with its network to seek new opportunities, perform a clearinghouse function and vet opportunities based on the criteria provided, and administer the grants to each recipient.

April 30: The CSSG proposal is discussed at a “four corners” meeting

[142] On April 30, Privy Council Office officials organized a “four corners” meeting to discuss the CSSG. Mr. Theis testified that he requested the meeting in order to receive a briefing from officials on their plan for the implementation of the CSSG. Participants included officials from the Department of Finance, ESDC and the Privy Council Office, as well as ministerial staff from the Prime Minister’s Office and Ms. Chagger’s office.

[143] In preparation for the discussion, ESDC officials provided the CSSG proposal and a document of key issues for discussion in relation to the CSSG. The document outlined the eligible individuals and service opportunities, the *I Want to Help* volunteer matching platform and the grant amounts and payments.

[144] According to the notes taken by Privy Council Office officials and the minutes of the meeting, attendees asked questions relating to the eligibility of participants, equity concerns, and the various grant levels depending on hours of service completed. No questions relating to WE's administration of the CSSG were raised during the meeting.

April 29 to May 1: Mr. Morneau's staff advocate for WE's Social Entrepreneurship proposal

[145] Documentary evidence shows that while Mr. Kielburger and Ms. Marquez worked with ESDC officials to develop a proposal for the administration of the CSSG, they continued to seek funding for their original Social Entrepreneurship proposal. Records also show that Mr. Singh assisted Ms. Marquez in accessing ministerial offices by introducing her to staff members and giving the contact information of ministerial staff, such as staff in Ms. Chagger's office and the Prime Minister's Office.

[146] On April 29, Ms. Marquez emailed a staff member in Ms. Chagger's office requesting a meeting to discuss the possibility of receiving funding for their original Social Entrepreneurship proposal, indicating that Mr. Singh had provided her with the contact information. Ms. Chagger's staff forwarded Ms. Marquez's email to Mr. Singh and asked him about the purpose of the referral. In his reply, Mr. Singh spoke of WE's Social Entrepreneurship proposal and suggested it could be incorporated into current endeavours relating to the Canada Service Corps and the CSSG.

[147] Ms. Chagger's staff replied to Mr. Singh that they did not see a role for the Social Entrepreneurship proposal. According to Ms. Chagger, the subject of the proposal fell outside her ministerial portfolio and no further action was taken by her office. There is no documentary evidence to suggest otherwise.

[148] In a May 1 email to Mr. Singh, a staff member in Ms. Ng's office wrote that they had spoken with Mr. Kielburger the previous day and that Mr. Kielburger indicated that the Finance Minister's office was supportive of the Social Entrepreneurship proposal. Ms. Ng's staff asked Mr. Singh for some context.

[149] In his reply, Mr. Singh confirmed that WE's original Social Entrepreneurship proposal had the support of the Minister of Finance's office. He also wrote that the proposal would be useful for the next phase of the pandemic response and asked whether there was an existing policy or program to help house the proposal in Ms. Ng's department or if a new framework would need to be developed. Ms. Ng's staff informed Mr. Singh that officials had conducted an analysis of the proposal and felt that it was more geared towards ESDC. Ms. Ng's staff further wrote that they would take Mr. Singh's feedback on the proposal and discuss it with their colleagues. It does not appear that Ms. Ng's office took any further steps with respect to WE's Social Entrepreneurship proposal.

[150] Mr. Singh testified that he was speaking on behalf of the Finance Minister's office when he told Ms. Ng's staff that the proposal had its support. According to Mr. Singh, while Mr. Morneau had not given his support of WE's proposal, nor had he given Mr. Singh any direction with respect to the

proposal, he had raised with Mr. Singh the importance of having as many youth as possible involved and gaining work experience. Mr. Singh believed WE's proposal offered a good program which could have a meaningful impact for young people and, as a result, raised it with other ministerial offices.

[151] According to Messrs. Marc and Craig Kielburger, at no time did they, or anyone else with WE, receive any assurances that their Social Entrepreneurship proposal would be funded by the Government.

May 1: WE provides an updated proposal

[152] On May 1, Mr. Craig Kielburger provided ESDC officials with an updated proposal which outlined how WE would administer the CSSG. The proposal was also shared with Ms. Chagger's staff. The proposal outlined the budget for the delivery of funds to three cohorts of 20,000 students. The cost of delivery for the first cohort of students was projected to be $19.5 million; the following two cohorts were forecast to cost $13.77 million each.

[153] In the proposal, Mr. Trudeau's spouse and mother were listed as two of WE's Canadian celebrity ambassadors.

[154] At this point in time, the inclusion of Mr. Trudeau's spouse and mother as celebrity ambassadors in WE's proposal did not appear to raise any concerns with respect to a potential conflict of interest for Mr. Trudeau.

May 1: The Privy Council Office's memorandum to the Prime Minister on student support measures

[155] On May 1, Privy Council Office officials provided a memorandum for the Prime Minister with respect to the Minister of Finance's April 21 decisions relating to student support measures. The memorandum sought confirmation of the Prime Minister's decision on policy and funding authority to implement supports for Canadian youth and students, which Mr. Trudeau had announced on April 22.

[156] With respect to the Canada Service Corps and the CSSG, Privy Council Office officials supported the Minister of Finance's decision.

[157] With the understanding that Mr. Morneau had approved the funding of $12 million for WE's Social Entrepreneurship proposal, the memorandum included a recommendation relating to that proposal. According to the note, which was approved by Mr. Ian Shugart, Clerk of the Privy Council and Secretary to the Cabinet, officials recommended against funding WE's Social Entrepreneurship proposal because in their view the proposal would not support the broad range of students impacted by the pandemic, notably students from vulnerable populations. Officials recommended that should there be a desire to fund such a proposal as part of broader supports to students, further analysis and work would be required with a view to a more inclusive initiative.

[158] It would appear that Privy Council Office officials were unaware that the $12 million related to WE's new Youth Summer Service proposal rather than the original Social Entrepreneurship proposal.

[159] According to the Privy Council Office, interactions on the Social Entrepreneurship proposal were limited to Department of Finance officials. There were no discussions between the Privy Council Office and Mr. Morneau or his staff regarding this proposal, nor any other minister or their staff.

[160] Officials with the Privy Council Office prepared a written memorandum for the Prime Minister but had also verbally advised staff in the Prime Minister's Office on the overall student aid package. The Privy Council Office recommended against funding the Social Entrepreneurship proposal. According to Mr. Shugart, there were no further discussions with the Prime Minister on the proposal.

[161] Mr. Theis testified that he recalled Privy Council Office officials raising the same concern that they had expressed in the memorandum.

[162] According to Mr. Morneau, he was unaware of the existence of the May 1 memorandum, as neither he nor Department of Finance officials were privy to memoranda to the Prime Minister. Mr. Morneau was surprised to learn that the statement relating to WE's Social Entrepreneurship proposal had been included in the memorandum. Mr. Morneau confirmed that he would not have provided any such confirmation to the Privy Council Office, nor was he aware as to how or why this statement was made as he had never approved such funding.

May 5: ESDC's implementation proposal for the CSSG is presented at the Cabinet COVID Committee

[163] On May 3, an Order in Council was approved providing Ms. Chagger with the authorities over the CSSG. On May 5, Ms. Chagger approved ESDC's proposal for the implementation of the CSSG.

[164] During the pandemic, the normal work of Cabinet committees was suspended in favour of a single Cabinet committee focused on responding to the pandemic: the Cabinet Committee on the federal response to the coronavirus disease (COVID-19) (Cabinet COVID Committee). Members included ministers Qualtrough and Morneau; the Honourable Navdeep Bains, Minister of Innovation, Science and Industry; the Honourable Patricia Hajdu, Minister of Health; the Honourable Mélanie Joly, Minister of Economic Development and Official Languages; the Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness; the Honourable Chrystia Freeland, Deputy Prime Minister of Canada; and the Honourable Jean-Yves Duclos, President of the Treasury Board.

[165] On May 5, Ms. Chagger and Ms. Qualtrough went before the Cabinet COVID Committee to present the CSSG proposal developed by ESDC officials. They were asked to jointly present the proposal as post-secondary education matters fell within Ms. Qualtrough's portfolio while the Canada Service Corps fell within Ms. Chagger's portfolio.

[166] The proposal outlined that the successful implementation of the CSSG required the support of a third-party organization, given the short timeframe to implement the program, as well as a large number of diverse volunteering opportunities already available to youth at launch. For this reason, ESDC recommended funding WE. According to Ms. Chagger, because the federal public service was recommending WE for the administration of the program, she did not believe the matter raised conflict of interest concerns.

[167] According to the minutes of the meeting, committee members expressed support for the proposed program. At the same time, they sought clarification on program design parameters and noted implementation challenges relating to WE. Observations of possible challenges included the ability of WE to implement a national program in a short timeframe, the organization's capacity to address the anticipated volume and to ensure the integrity of grant administration and payment to post-secondary students. In particular, one of the ministers in attendance raised concerns with WE's reach in Quebec and concerns about the cost of the program.

[168] The Cabinet COVID Committee members approved the proposal in principle.

[169] According to Mr. Morneau, he was not in attendance for the May 5 meeting and did not discuss the proposal with officials or Cabinet colleagues prior to it being presented. He was briefed on the outcome of the meeting on May 7.

May 5: The Prime Minister's Office speaks with WE representatives

[170] On May 5, Mr. Theis and WE representatives had a telephone discussion after Mr. Singh provided Ms. Marquez with introductions to staff in the Prime Minister's Office.

[171] According to Mr. Marc Kielburger, during the call, he, his brother and Ms. Marquez discussed WE's proposal for the administration of the CSSG. They requested further information from Mr. Theis on the policy framework and structure that the Government wished to implement, to ensure that the program could be implemented successfully.

[172] Mr. Theis testified that, at the end of their discussion, Messrs. Kielburger and Ms. Marquez raised the Social Entrepreneurship proposal. According to Mr. Theis, he suggested that they discuss their proposal with the appropriate department.

[173] Following their discussion, Mr. Craig Kielburger emailed Mr. Theis WE's proposal for the administration of the CSSG and included their Social Entrepreneurship proposal. Mr. Kielburger asked that Mr. Theis provide him with names of individuals with whom to discuss their Social Entrepreneurship proposal to ensure that it was included in future economic recovery efforts. Mr. Theis testified that he did not provide Mr. Kielburger with any names.

[174] Both Mr. Theis and Messrs. Kielburger confirmed that they had no further discussions. Messrs. Kielburger also confirmed that there were no further discussions with any other staff in the Prime Minister's Office, nor did they ever have any discussions with Mr. Trudeau, regarding the Social Entrepreneurship proposal or the CSSG. Mr. Trudeau confirmed he did not personally communicate with any WE representative to discuss the CSSG or the Social Entrepreneurship proposal. I did not find any evidence to the contrary.

May 7: Mr. Morneau receives an update on the CSSG

[175] In a May 7 email to Mr. Morneau, Mr. Singh indicated that the CSSG proposal was heading to Cabinet the following day, as directed by the Prime Minister's Office. Mr. Singh also wrote that in large measure, the proposal was right where the Department of Finance and the Prime Minister's Office had framed the item to be, and that WE, who was noted as the desired third party, had been endorsed by the Prime Minister's Office. According to Mr. Singh, the Prime Minister's Office had endorsed WE by allowing the proposal to be presented at Cabinet.

[176] Mr. Theis testified that he and other staff in the Prime Minister's Office made the decision to have the proposal go to full Cabinet in order for the proposal to be ratified, something the Cabinet COVID Committee could not do. Mr. Theis also stated that items of prominence discussed at the Cabinet COVID Committee were also to be raised in full Cabinet to allow all ministers the opportunity to have a line of sight on important matters.

[177] In a May 7 email to Ms. Wernick, Ms. Kovacevic wrote that WE was connecting with Mr. Morneau's office. Ms. Kovacevic used the term "besties" to categorize the relationship between the organization and her minister. She further wrote that she did not want Mr. Morneau's office to get ahead of Ms. Wernick and had informed Mr. Morneau's staff that they should tell WE that Ms. Wernick was the point of contact. When asked to explain why she used the term "besties," Ms. Kovacevic testified that she did not use the term to describe a special relationship, but rather to indicate that there had been ongoing interactions. Ms. Wernick testified that she took the term to mean that there had been interactions between Mr. Morneau's office and WE. Ms. Wernick said that, in her experience of working in the federal public service, ministers' offices were often in communication with stakeholders and she viewed these types of interactions as appropriate and acceptable.

May 8: Mr. Trudeau is briefed on the CSSG

[178] On May 8, Ms. Chagger was scheduled to present the CSSG proposal before Cabinet.

[179] According to Mr. Trudeau, it was during a pre-Cabinet briefing from his staff that he was first told that the proposal involved a contribution agreement with WE as the third-party organization proposed to deliver the program. Until that time, Mr. Trudeau had not discussed WE in the context of the CSSG and still anticipated that a "supercharged" version of the Canada Service Corps would likely deliver the program.

[180] Mr. Trudeau wrote that he and Ms. Telford questioned why the Canada Service Corps, or another government organization, was not being recommended to deliver the program. Mr. Trudeau and his staff also knew that WE was known to be connected to people within the Government. These people included Mr. Trudeau himself, as he had spoken at WE events in the past. Given the scrutiny that this decision would attract, it was, according to Mr. Trudeau, particularly important to make sure that the process and the resulting decision were the best possible in the circumstances.

[181] According to Mr. Trudeau, both he and Ms. Telford felt that more time was required to study the proposal before it was presented to Cabinet. They wanted an opportunity to consider and understand the reasons underlying the public service's recommendation that WE deliver the program. Consequently, Mr. Trudeau directed that the item be removed from the Cabinet agenda and that the discussion about it be deferred pending further study.

[182] Mr. Theis testified that he recalled Ms. Telford raising a concern relating to Mr. Trudeau's family's relationship with WE, and that both Mr. Trudeau and Ms. Telford made the decision to pull the proposal from the Cabinet agenda because of a lack of understanding of the recommendation that only WE could administer the CSSG and why the Canada Service Corps organizations had not been considered. Mr. Theis testified that as a result, Mr. Trudeau directed his staff to go and gain an understanding of the public service's recommendation.

[183] According to Mr. Morneau, he was not involved in any discussions to put the presentation to Cabinet on hold, nor did he discuss the matter with the Prime Minister or any colleagues.

[184] In an email to Ms. Chagger's staff in response to the CSSG not being presented that day, Ms. Wernick shared her concern about the unrealistic expectations of how quickly public servants could launch the CSSG given that another week was lost because the matter was not being presented at Cabinet.

May 13 to May 15: The Prime Minister's Office requests a further review

[185] On May 13, Ms. Chagger's staff relayed to ESDC officials the direction received from Mr. Theis relating to the Canada Service Corps and the CSSG, as directed by Mr. Trudeau. ESDC officials were asked to determine whether there was merit in engaging the 12 Canada Service Corps organizations to take on the administration of the CSSG alongside WE.

[186] In a text exchange with Ms. Chagger's Chief of Staff, Mr. Jamie Kippen, Mr. Theis indicated that it was an exercise in determining the best policy and shared the concern with the cost and the view that only WE could administer the program.

[187] In response, ESDC officials outlined to Ms. Chagger's staff the difficulties Canada Service Corps organizations were currently facing in delivering their existing programs. They also explained that the Canada Service Corps did not have the capacity to take on additional placements and that its programming was not focused on volunteering to help respond to community needs arising from the COVID-19 pandemic, which was the intent of the CSSG.

[188] On May 15, staff in Ms. Chagger's office provided Mr. Theis with an evaluation of the Prime Minister's Office's idea of inviting the Canada Service Corps' national partners to administer the CSSG alongside WE. In an email to Mr. Theis, Mr. Kippen wrote that as the CSSG was outside the scope of the mandated activities of the Canada Service Corps and their participants, ESDC officials strongly recommended against having the Canada Service Corps organizations administer the program. Furthermore, officials stated that having one organization responsible for the disbursement of the grants was necessary to manage financial and legal risks.

[189] Mr. Theis testified that Ms. Chagger's staff conveyed to him ESDC's position that WE was required for the successful administration of the CSSG. When asked if she maintained the public service's position that WE was the only organization that could administer the CSSG, Ms. Wernick testified that given the scope and scale of the program and the speed at which it needed to be developed and operational, she did maintain the position. She testified that had there been additional time for implementation, ESDC officials would have provided different options.

May 15: Mr. Trudeau approves funding for student support measures

[190] On May 15, staff in the Prime Minister's Office provided Mr. Trudeau with a briefing note seeking his approval on the Minister of Finance's funding decisions for the student support measures, part of which included the conditional funding of $900 million for the CSSG.

[191] The briefing note also outlined the recommendation from the May 1 briefing note from the Privy Council Office, relating to what had been mistakenly believed to be the Minister of Finance's decision to fund $12 million for WE's Social Entrepreneurship proposal. In the briefing note, staff in the Prime Minister's Office advised Mr. Trudeau that they agreed with Privy Council Office officials' recommendation not to approve funding for the proposal.

[192] Mr. Trudeau concurred with the recommendations of the Privy Council Office to approve the funding of the comprehensive student funding package and to decline the $12 million in funding for WE's Social Entrepreneurship proposal.

[193] According to Mr. Trudeau, he was not aware of WE's Social Entrepreneurship proposal until he received the May 15 briefing note.

May 21: Mr. Trudeau is briefed on the results of the review of the CSSG

[194] On May 21, Mr. Trudeau was briefed on the results of the review of the implementation of the CSSG ahead of the scheduled Cabinet meeting on May 22. According to Mr. Theis, he informed Mr. Trudeau that public service officials had advised him that they had done the due diligence requested and expressed confidence in their recommendation that WE was the one organization positioned to be able to deliver the specified program in the specified timeframe.

[195] According to Mr. Trudeau, given this due diligence exercise and the assurances provided by the public service, he and his staff were comfortable moving the proposal forward to Cabinet.

May 22: The CSSG proposal is ratified by Cabinet

[196] On May 22, the CSSG proposal was brought to Cabinet in the same form as when it had gone before the Cabinet COVID Committee on May 5.

[197] Ms. Chagger sought authority from Cabinet to provide cash awards through grants of up to $5,000 for eligible students who participated in pandemic-related national service activities, and funding for WE to support the creation and delivery of service opportunities across Canada.

[198] Cabinet ratified the CSSG proposal subject to final funding approval by the Minister of Finance and the Prime Minister.

[199] According to Mr. Morneau, he supported the final CSSG proposal. On May 29, Mr. Morneau received a formal letter from Ms. Chagger requesting funding for the CSSG and on June 3, he approved in writing Annex 4: Delivery of the CSSG.

May 25 to June 21: The Prime Minister's Office reviews the contribution agreement

[200] Following Cabinet's decision to ratify the CSSG proposal, staff in the Prime Minister's Office requested to review the contribution agreement with WE. Mr. Theis testified that staff in the Prime Minister's Office sought to ensure they had a good understanding of how WE was planning to administer the program.

[201] On May 29, staff in the Prime Minister's Office met with Privy Council Office officials to discuss the contribution agreement with WE. Staff in the Prime Minister's Office noted areas they wanted to see addressed in the agreement with WE, such as including enhanced reporting requirements and regular results reporting on the diversity of students accessing the program.

[202] In a briefing note to Ms. Telford dated June 11, staff in the Prime Minister's Office provided an update on the final draft contribution agreement. In the note, staff outlined the changes to the agreement that had been requested to ensure that the program met the Government's objectives. Staff recommended that the agreement proceed and asked Ms. Telford for her approval to advance the recommendation to Mr. Trudeau. On June 21, Ms. Telford gave her approval.

[203] According to Mr. Trudeau, he did not receive a copy of the contribution agreement and did not have any input in the process of negotiating the agreement. Mr. Theis' testimony corroborated Mr. Trudeau's version of events.

June 22: Mr. Trudeau approves the contribution agreement with WE

[204] According to Mr. Trudeau, on June 15, he received a briefing on the status of the CSSG proposal from Mr. Theis.

[205] Mr. Trudeau was provided with a briefing note on the final policy and off-cycle funding decisions for the CSSG. In the note, staff recommended that Mr. Trudeau provide additional direction regarding oversight of the disbursement of the approved funding to WE for the administration of up to 100,000 volunteer placements with the respect to the three tranches that had been determined and the funding proposed for each tranche. Staff recommended that Mr. Trudeau direct the Minister of Diversity and Inclusion and Youth to write to the President of the Treasury Board to provide an update on the CSSG, prior to drawing down additional funding for the next tranche of placements. On June 22, Mr. Trudeau signed the briefing note provided by his staff, approving the CSSG proposal and the funding of the contribution agreement with WE.

[206] Ms. Chagger signed the contribution agreement with WE on June 23, which included $19.5 million for the first tranche of 20,000 placements, $13.53 million for the second tranche of 20,000 placements, and $10.5 million for a third tranche of up-to an additional 60,000 placements, for a total of $43.53 million.

[207] On June 25, Mr. Trudeau publicly announced the launch of the CSSG and that the program was to be administered by WE.

[208] On July 3, Ms. Chagger announced that the federal government and WE had agreed to part ways.

MR. TRUDEAU'S POSITION

[209] Mr. Trudeau submitted that he was not in a conflict of interest with respect to the Government's decision to engage with WE as the administrator of the CSSG. That decision, according to Mr. Trudeau, did not provide an opportunity to further his own private interests, to further the private interests of any of his relatives, or to improperly further the private interests of another person, namely WE. Mr. Trudeau argued he was not involved in the selection of WE as the administrator of the CSSG. Mr. Trudeau instead followed the recommendation from the federal public service, which had offered no viable alternative.

[210] According to Mr. Trudeau, he does not have close ties with WE, as he is neither a friend of the Kielburgers, nor is he closely tied to any other member of the organization. Mr. Trudeau added that he has never socialized with the Kielburgers in a personal context and has never received financial benefits from his appearances with WE.

[211] Mr. Trudeau also argued that his mother and brother have established independent careers, involving numerous endeavours with a broad range of partners and organizations. Mr. Trudeau added that he was aware, at the time, that his brother and mother had both participated in WE events, though he was unaware of their financial arrangements with the organization. Mr. Trudeau added there was no connection between what WE was tasked to do under the CSSG and the work that Mr. Trudeau's relatives had done with the organization. That relationship, according to Mr. Trudeau, would not have caused their private interests to be furthered as a result of the decision to have WE administer the CSSG.

[212] With respect to Ms. Grégoire Trudeau's involvement with WE, Mr. Trudeau noted that I had not taken issue with her unpaid affiliation with the organization, including the reimbursement of travel and accommodation expenses, in September 2018. Mr. Trudeau referred to the advice this Office prepared, which stated that her role with WE was acquired by virtue of her own qualifications and career.

[213] Mr. Trudeau submitted that in all three cases, there was no connection between the work that WE was to undertake for the CSSG and the engagements of his relatives. In other words, there was no reason to believe that because WE was selected to administer the CSSG, Mr. Trudeau's relatives would obtain more work or better-paying work from WE in the future. Accordingly, Mr. Trudeau was of the view that because his decision to approve the creation of the CSSG did not present an opportunity to further their private interests, it did not create a conflict of interest.

[214] Lastly, Mr. Trudeau argued that the appearance of a conflict of interest is insufficient to constitute a contravention of the Act. Rather, Mr. Trudeau suggested, an actual conflict of interest is required. Further, the Act only requires a recusal in instances where the public office holder knows or reasonably should know that they would be in an actual conflict of interest. According to Mr. Trudeau, the requirement under section 21 should therefore be read harmoniously with subsection 6(1).

ANALYSIS AND CONCLUSION

Analysis

[215] In this examination, I must determine whether Mr. Trudeau, in his capacity as Prime Minister of Canada, contravened subsection 6(1) and sections 7 and 21 of the Act when he participated in the decision whether to award funding for WE's Social Entrepreneurship proposal and to select WE as the administrator of the CSSG.

Preferential treatment

[216] Beginning with the alleged contravention of section 7 of the Act, I must determine whether Mr. Trudeau, in the exercise of his official powers, duties or functions, gave preferential treatment to WE based on the identity of a person who represented WE.

[217] Section 7 reads as follows:

> **7.** No public office holder shall, in the exercise of an official power, duty or function, give preferential treatment to any person or organization based on the identity of the person or organization that represents the first-mentioned person or organization.

[218] An alleged contravention of section 7 of the Act was also the focus of Commissioner Dawson's examination in the *Paradis Report* (March 2012). Because "preferential treatment" is not defined in the Act, she set out her understanding of the term based on the definition used in the 1984 Report of the Task Force on Conflict of Interest, co-chaired by the Honourable Michael Starr and the Honourable Mitchell Sharp, entitled *Ethical Conduct in the Public Sector.* In that report, "preferential treatment" is defined as "treatment more favourable than might be accorded to anyone else in similar circumstances."

[219] Commissioner Dawson concluded there was a "strong indication" that Mr. Paradis, then minister of Public Works and Government Services Canada, had provided preferential treatment to a company (Green Power Generation). He had done so by arranging meetings between departmental officials and the company's founder, Mr. Rahim Jaffer, despite having minimal knowledge of the proposal. Commissioner Dawson also found that Mr. Paradis was motivated "to help a former caucus colleague." The preferential treatment was therefore based on the identity of the representative of the organization.

[220] In the *Finley Report*, Commissioner Dawson also examined the application of section 7 in the context of a federal funding initiative. She concluded that Ms. Diane Finley, then Minister of Human Resources and Skills Development, had provided favourable treatment to a proponent by allowing them to provide additional information to supplement its original proposal and by seeking an external evaluation, a process that no other proponent was permitted to undergo. Ms. Finley also selected the winning proposal despite being aware that it had certain deficiencies. However, Commissioner Dawson found no evidence to establish that the preferential treatment was based on the identity of the

proponent's representative. Although Ms. Finley was found not to have contravened section 7 of the Act, the decision to award funding to the proponent was determined to have been improper within the meaning of subsection 6(1) because of the preferential treatment.

[221] As the *Finley Report* illustrates, section 7 does not capture situations where the interested party benefits from preferential treatment provided directly by a public office holder. The prohibition under section 7 covers instances where a person or organization receives preferential treatment *by virtue of the identity of its representative*.

[222] It is worth reiterating that the reasonable grounds to examine a possible contravention of section 7 consisted primarily of Mr. Marc Kielburger's recorded statement that a member of the Prime Minister's Office had reached out to him the day after Mr. Trudeau's public announcement on April 22 of a forthcoming student aid package. Mr. Kielburger provided me with a sworn statement that he had misspoken. This is supported by Mr. Trudeau's and Mr. Theis' version of the events and by the documentary evidence, which shows that the Prime Minister's Office was not involved in the discussions relating to the selection of the CSSG's administrator at that time.

[223] Following my review of the evidence gathered, I am satisfied that Mr. Trudeau did not give WE preferential treatment and that the decisions he made in the matter were not influenced by the identity of any of its representatives.

[224] Mr. Trudeau was briefed on the development of the student aid package on April 15 and 21, 2020. He believed, at that time, that the federal public service would be administering the program through the Canada Service Corps, even though a third party would be used to help disburse the funds. Based on my review of the documentary evidence, I accept Mr. Trudeau's position that he was not made aware of WE's involvement in the CSSG until the matter was to be tabled at Cabinet on May 8. At that time, Mr. Trudeau requested that the public service conduct an additional analysis to confirm that only WE could administer the CSSG, which delayed the approval process by two weeks.

[225] On May 15, 2020, Mr. Trudeau concurred with the Privy Council Office's recommendation to fund the CSSG and not award funding for WE's Social Entrepreneurship proposal. The latter decision, the only one Mr. Trudeau made in respect of WE's Social Entrepreneurship proposal, cannot be viewed as favourable to WE in any way. With respect to the CSSG, Mr. Trudeau's concurrence given on May 15, followed by his participation on May 22 in Cabinet's ratification of WE as the program's administrator, were indeed favourable to WE. However, these decisions did not constitute treatment that was more favourable than that which would have been given to another similarly recommended third party.

[226] I could find no evidence that Mr. Trudeau provided specific instruction to Cabinet or to his ministerial staff on how to proceed in respect of the student aid package. Mr. Trudeau was not personally involved in any discussion involving WE and his ministerial staff only began communicating with WE after they had been approached by ESDC to administer the CSSG.

[227] Furthermore, in all of these instances, Mr. Trudeau was not, in my view, motivated by the identity of any person representing WE, including the Kielburgers or any of his relatives.

[228] I saw no evidence that WE attempted to communicate with Mr. Trudeau directly in respect of either the Social Entrepreneurship proposal or the CSSG.

[229] Ms. Margaret Trudeau and Mr. Alexandre Trudeau also confirmed neither had communicated with Mr. Trudeau on any official matter, including the CSSG. Mr. Trudeau also confirmed not having spoken to his spouse on this initiative.

[230] The evidence shows that interactions involving WE in the matter under examination occurred primarily with members of Mr. Morneau's ministerial staff and with public servants. These individuals were responsible for shaping and developing the national service component of the student support measures. For this reason, I also examined whether Mr. Trudeau or a member of his ministerial staff intervened indirectly, through the public service, to provide WE with preferential treatment.

[231] Both Ms. Wernick and Ms. Kovacevic, the public servants responsible for the development of the CSSG, testified they were unaware of Mr. Trudeau's and his family's association with WE. They also both testified not having received instruction or direction from Mr. Trudeau or his office and nothing in the documentary evidence suggests otherwise.

[232] I believe that in the frenzy to distribute funds as expeditiously as possible to those affected by the COVID-19 pandemic, there were some departures from the ordinary process of policy development. Ms. Kovacevic noted that a draft copy of a briefing note, which had not been updated to reflect the progress of discussions between ESDC and WE, was circulated and used to brief Mr. Trudeau. The Social Entrepreneurship proposal remained annexed to the briefing note to the Prime Minister and earmarked funding remained in communications tools despite not having been approved by Mr. Morneau. For her part, Ms. Wernick testified that she would have presented more options had she been given time to conduct a proper and thorough analysis. These departures were caused by the extraordinary conditions at the time, not by Mr. Trudeau's involvement personally or through his ministerial office.

Mr. Trudeau's decision making in respect of the Social Entrepreneurship proposal and the CSSG

[233] Subsection 6(1) of the Act prohibits public office holders from making or participating in the making of a decision that would place them in a conflict of interest. It reads as follows:

> **6. (1)** No public office holder shall make a decision or participate in making a decision related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.

[234] Section 4 of the Act describes the circumstances under which a public office holder would be in a conflict of interest for the purposes of subsection 6(1) of the Act. Section 4 reads as follows:

> **4.** For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

[235] Section 21 of the Act requires public office holders to recuse themselves from certain situations. It reads as follows:

> **21.** A public office holder shall recuse himself or herself from any discussion, decision, debate or vote on any matter in respect of which he or she would be in a conflict of interest.

[236] With respect to the alleged contravention of subsection 6(1), I examined whether Mr. Trudeau, in his capacity as Prime Minister, participated in the making of a decision that provided an opportunity to further his own interests, or those of his relatives or friends, or to improperly further the private interests of another person.

[237] I am satisfied that there was no opportunity to further Mr. Trudeau's own interests. I examined Mr. Trudeau's participation in several WE Day events, for which he received no remuneration or advantage. I also examined his involvement in WE's prior requests for federal funding. In that regard, I note that Mr. Trudeau was also the Minister of Intergovernmental Affairs and Youth from his re-election in 2015 until July 2018. It would not have been unusual for him to have been kept apprised of WE's initiatives and for his office to be involved in those discussions at an official level. I found nothing that gave rise to concerns that Mr. Trudeau's interests were furthered by discussions surrounding the CSSG or any other file involving WE.

[238] In my view, there was no real connection between WE's role under the CSSG and the remunerated work of Mr. Trudeau's relatives. Nor was there evidence to suggest that any of them stood to benefit, even indirectly, from WE's Social Entrepreneurship proposal or the CSSG. The purpose of the CSSG was to assist students and youth who had been adversely affected by disruptions caused by the COVID-19 pandemic. Even if WE stood to gain financially from administering the CSSG, the argument that Mr. Trudeau's relatives, who were remunerated through WE for their speaking engagements, could ultimately benefit from the funds received by WE (to administer the CSSG) is too remote and speculative to merit further consideration.

[239] Mr. Trudeau's many appearances at WE Day events and the Kielburgers' many requests for federal funding led me to examine the possible existence of a personal relationship between the two parties. In the *Watson Report*, Commissioner Dawson examined a similar relationship between a public office holder and a proponent for federal funding in the context of a possible contravention of subsection 6(1) and section 21 of the Act. The examination concerned alleged decisions made by Mr. Colin Watson, a member of the Toronto Port Authority Board of Directors in relation to a proposal to acquire a new ferry. It was alleged that the proponent, Mr. Robert Deluce, was a friend of the Board member.

[240] Commissioner Dawson noted that the term "friend" is not defined in the Act. She added that the word could be applied to a "range of relationships from the closest of lifelong companions to neighbours, colleagues, acquaintances or business associates that one sees only occasionally and where there is little emotional attachment." In her view, the prohibition relating to decision making under subsection 6(1) was intended to apply to individuals "who have a close bond of friendship, a feeling of affection or a special kinship."

[241] I am also of the view that Mr. Trudeau and the Kielburgers are not friends within the meaning of the Act. Mr. Trudeau did not socialize with the Kielburgers outside of his public duties and his participation in WE Day events. This was also confirmed by the Kielburgers. There was no evidence that caused me to question Mr. Trudeau's position in that regard.

[242] To complete my analysis, I must therefore determine whether Mr. Trudeau exercised an official power, duty or function that provided an opportunity to improperly further the private interests of WE, as is required under section 4 of the Act.

[243] I examined two opportunities to further WE's private interests. The first centred around WE's Social Entrepreneurship proposal, which had been distributed to several ministers, their staff and departmental officials. The proposal was then reviewed by the Department of Finance and sent to the Privy Council Office for approval. Although the Privy Council Office ultimately recommended against funding the initiative, it nonetheless provided Mr. Trudeau with an opportunity to further WE's private interests because the final decision rested with him. The second opportunity related to the ratification by Cabinet of the CSSG and the selection of WE as the program's administrator.

[244] There is no doubt that WE's interests would have been furthered had the Government moved forward with the Social Entrepreneurship proposal or had WE administered the CSSG. In both cases, WE would have acquired a significant financial interest for its role. The acquisition of any financial interest by an individual or organization, regardless of whether it ultimately leads to an increase in the person's assets, is considered to be a private interest under the Act. As my predecessor stated in the *Trudeau Report* with respect to a federal grant awarded to the not-for-profit Global Centre for Pluralism, "[a]lthough government funding decisions are generally understood to be made to serve a public interest, this does not negate the fact that any government grant also specifically furthers the private interests of the recipient."

[245] For there to be a contravention of subsection 6(1), those private interests must have been furthered improperly. In the *Trudeau II Report*, I provided examples of improprieties from past examination reports. I explained that an impropriety under the Act occurs when a public office holder exercises an official power, duty or function that goes against the public interest, either by acting outside the scope of their jurisdiction or by acting contrary to a rule, a convention or an established process.

[246] Although I found no indication of preferential treatment of WE by Mr. Trudeau in my analysis of the matter under section 7 of the Act, it must be pointed out that preferential treatment, in the general sense, could also be viewed as an impropriety under subsection 6(1). Such was the case in the *Finley Report*.

[247] In my view, the creation and eventual ratification of the CSSG was not done improperly. The evidence laid bare the extraordinary working conditions that led to the development of this program. The public service was tasked, in early April 2020, to design a program that would distribute millions in federal funds to thousands of recipients in a matter of weeks. When a program of this magnitude is rolled out in such a short timeframe, as I indicated above, there are bound to be departures from normal practices. None of these departures was the result of Mr. Trudeau's instruction or direction on the matter.

[248] Nevertheless, the evidence gathered in this examination shows that Mr. Trudeau and members of his family had been closely involved in WE's affairs for several years. His mother and brother had both been paid to speak at WE-related events, while his spouse was an official ambassador and ally since 2018 and hosted her own WE-themed podcast. As recently as March 2020, Mr. Trudeau's spouse

and mother had participated in WE Day events and had been reimbursed for their travel and accommodation expenses. Photographs of Mr. Trudeau's spouse and mother were even used in an updated version of WE's proposal for the CSSG. All this in addition to the numerous occasions where Mr. Trudeau himself participated in WE's public gatherings and benefited from publicity and promotional materials generated, directly and indirectly, by WE.

[249] An isolated interaction, whether by Mr. Trudeau or by a single relative, would likely have been insufficient to call into question the exercise of his official powers, duties and functions in respect of WE. Simply participating in a WE-sponsored event, as so many Members of Parliament and public office holders have done, does not automatically require a recusal from decisions, discussions, debates or votes in respect of that organization.

[250] When viewed together, however, the many elements identified in the preceding paragraphs give rise to a strong appearance of conflict between the Trudeau family's relationship with WE and Mr. Trudeau's duty to make decisions that best serve the public interest. This appearance of conflict of interest is what prompted my examination of a possible contravention of subsection 6(1).

[251] Mr. Trudeau does not dispute the fact that his and his family's proximity to the WE organization created the appearance of conflict. However, Mr. Trudeau submits that an apparent conflict does not necessarily lead to a contravention of a substantive conflict of interest rule under the Act.

[252] The crux of the matter, therefore, is whether the appearance of a conflict is captured by the definition of conflict of interest under section 4 of the Act and, if so, whether it constitutes an impropriety under the Act.

[253] It is generally understood that conflicts of interest are divided into three categories: real, potential or apparent. In the *Commission of Inquiry into the Facts of Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens*, Commissioner Parker was tasked with determining whether there was a "real or apparent conflict of interest defined by the Conflict of Interest and Post Employment Code for Public Office Holders." Without a proper definition of conflict of interest in the Code or in any other policy instrument that governed the conduct of public office holders, Commissioner Parker developed definitions of each term that have subsequently been adopted by trial and appellate courts in conflict-of-interest cases.

[254] According to Commissioner Parker, a real (or actual) conflict has three prerequisites:

- the existence of a private interest;
- that is known to the public office holder; and
- that has a connection or nexus with their public duties or responsibilities that is sufficient to influence the exercise of those duties or responsibilities.

[255] Commissioner Parker observed that a potential conflict of interest arises between the moment a public office holder realizes that they have a private interest in some matter and the moment they exercise an official power, duty or function that would place them in a real conflict of interest. It is the "momentary oasis of sober reflection that allows the public office holder an opportunity to respond to and resolve the problem in a manner that enhances public confidence in the integrity of government."

[256] A potential conflict exists as soon as a real conflict is foreseeable by the public office holder. They must take "all appropriate steps" to remove themselves from the potential conflict. Once the public office holder discharges their official duties or responsibilities without first removing the private interest, "the line is crossed and a situation of real conflict ensues."

[257] In attempting to elaborate a definition of "apparent conflict of interest," Commissioner Parker turned to the common law and the concept of reasonable apprehension of bias. That legal principle states that "justice must not only be done, but must also be seen to be done."[3] Relying on more recent jurisprudence, Commissioner Parker observed:

> It is enough that an informed person viewing the matter realistically and practically and having thought the matter through concludes that there is an appearance of conflict. That is what appearance means. […] "An apparent conflict of interest exists when there is a reasonable apprehension, which reasonably well-informed persons could have, that a conflict of interest exists."[4]

[258] The Post-Employment Code, which governed the conduct of public office holders during the period examined by the Parker Commission, stated that "Ministers must also take care to avoid placing, <u>or appearing to place</u>, themselves under an obligation to any person or organization which might profit from special consideration or favour on their part" [emphasis added]. In that regard, Commissioner Parker acknowledged it was not necessary for a real conflict to occur for an apparent conflict to be found.

[259] The *Conflict of Interest Code for Members of the House of Commons*, to which Mr. Trudeau and all other Members of Parliament must adhere in the exercise of their parliamentary duties, expressly provides for the types of conflicts to avoid. As one of its guiding principles, Members are expected to "fulfill their public duties with honesty and uphold the highest standards so as to avoid real or apparent conflicts of interests." Another principle requires Members to "perform their official duties and functions and arrange their private affairs in a manner that bears the closest public scrutiny, an obligation that may not be fully discharged by simply acting within the law."

[260] The Code of Values and Ethics, the policy instrument that governs the proper conduct of all federal public servants, is replete with references to apparent conflicts of interest. Public servants, like public office holders, hold a public trust. They must make decisions in the public interest, and must be seen to be fair and impartial and to act with integrity. The Supreme Court of Canada recognized the importance of "actual and apparent impartiality" of the public service in a leading judgment on the duty of loyalty by public servants.[5] In a separate decision, the Supreme Court of Canada also stressed the importance of preserving not only the integrity of government, but also the appearance of integrity.[6] In other words, public trust may be harmed just as easily by the appearance of impropriety as with the actual impropriety itself.

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[3] *Sussex Justice Case*, [1924] 1 K.B. 256.

[4] Canada, Minister of Supply and Services, "Commission of Inquiry into the Facts of Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens," (1987), at pp. 34-35.

[5] See: *<u>Fraser v. Public Service Staff Relations Board</u>*, [1985] 2 S.C.R. 455.

[6] See, for example: *<u>R. v. Hinchey</u>*, [1996] 3 S.C.R. 1128.

[261] Contrary to the instruments referenced above, subsection 6(1) of the Act does not expressly refer to apparent conflicts of interest. The reference to “conflict of interest” in this provision must be read together with section 4, which sets out an objective test to determine when a public office holder has placed themselves in a real conflict of interest. In my view, it does not leave room for a subjective determination of an appearance of conflict.

[262] Support for this conclusion is found in several sources. In 2006, in the context of the adoption of the *Federal Accountability Act*, proposed amendments to include the appearance standard in the *Conflict of Interest Act* were rejected by both Houses of Parliament. The reason provided for this rejection was that the standard would undermine the ability of public office holders to discharge their duties and substitute the Conflict of Interest and Ethics Commissioner for Parliament or the public as the final arbiter of an appearance of conflict by expanding the definition of “conflict of interest” under the *Conflict of Interest Act* to include “potential” and “apparent” conflicts of interest.[7]

[263] In the report produced following the Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney, chaired by the Honourable Jeffrey J. Oliphant (hereinafter, the “Oliphant Commission”), an entire section was devoted to the appearance of conflict in the context of recommendations made to the Government of Canada. Commissioner Oliphant noted specifically that section 6 of the Act is dependent on the definition of a conflict of interest under section 4. The definition, as Commissioner Oliphant observed, only encompasses real conflicts—“that is, the actual existence of an opportunity to further a private interest. It does not reach apparent conflicts—that is, circumstances where a reasonable observer would perceive a conflict situation to exist, *even if it does not*” [emphasis in original].

[264] Commissioner Oliphant recommended that section 4 of the Act be amended to include apparent conflicts of interest. An apparent conflict of interest, according to Commissioner Oliphant, is “understood to exist if there is a reasonable perception, which a reasonably well-informed person could properly have, that a public office holder’s ability to exercise an official power or perform an official duty or function will be, or must have been, affected by his or her private interest or that of a relative or friend.”

[265] In 2013, the question of apparent conflicts arose again in the context of the statutory five-year review of the Act. Following the recommendation made in the Oliphant Commission to include the appearance standard in the Act, the Standing Committee on Access to Information, Privacy and Ethics devoted particular attention to this question. Twenty-six witnesses appeared before the standing committee to testify on possible amendments to the Act, several of whom advocated for a clear legislative direction on the appearance of conflict.

[7] Canada, Parliament, *House of Commons Debates*, 39th Parl., 1st Sess., No. 082 (20 November 2006) at 1205 [Hon. John Baird].

[266] The Committee presented its report on the statutory review of the Act in 2014. It canvassed the observations made by several witnesses, including Commissioner Dawson, on the question of whether to broaden the scope of the Act to include apparent conflicts of interest. However, none of the 16 recommendations concerned the issue of apparent conflicts of interest.

[267] The British Columbia *Members' Conflicts of Interest Act* is the only Canadian piece of legislation that includes apparent conflicts expressly in its definition of a conflict of interest. Some of my provincial counterparts have expressed positions that apparent conflicts of interest do not fall under their bailiwick unless expressly provided by statute.[8] Most notably, in a report in respect of the conduct of former Premier of Ontario, the Honourable Michael Harris, the former Integrity Commissioner for Ontario, the Honourable Gregory T. Evans, Q.C., stated:

> Proof of a breach or complicity in a breach of the Member's Integrity Act must be based on facts rather than conjecture, suspicion, or affinity based on friendship, common interest or political affiliation. A person's reputation, irrespective of his station in life, is important and if it is to be impugned, there must be evidence to support that challenge.
>
> The perception standard of morality which some suggest should be the test applied to politicians would require that a legislator should not engage in conduct which would appear to be improper to a reasonable, non-partisan, fully informed person. The problem with such an "appearance standard" is that there are few, if any, reasonable, non-partisan, fully informed persons.
>
> One person's perception of another's conduct is a purely subjective assessment influenced by many factors including the interest of the individual making the assessment. It is not the proper criteria by which the conduct of a legislator should be measured.[9]

[268] Mr. Trudeau recognized the apparent conflict of interest, which in this case was based on his and his family's association with WE, before he participated in making the decisions to deny the organization's request to fund its Social Entrepreneurship program and to select WE to administer the CSSG. However, the appearance of conflict is not caught by the Act's substantive rules. Without an actual conflict of interest or a clear legislative prohibition against placing oneself in an apparent conflict, I cannot conclude that a contravention has occurred.

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[8] See, for example: *Select Special Conflicts of Interest Act Review Committee: Final Report*, Legislative Assembly of Alberta, May 2006, pp. 37-39. See also: Standing Committee on Access to Information, Privacy and Ethics, 41st Parl., 1st Sess., No. 69, Appearance by the Honourable Paul D.K. Fraser (March 6, 2013).

[9] *Report of the Honourable Gregory T. Evans Re: the Honourable Michael D. Harris, Premier of Ontario* (May 16, 2001).

[269] Mr. Trudeau has acknowledged publicly that he should have recused himself because of the appearance of conflict. While it is always advisable to recuse oneself and inform the Commissioner promptly when facing an apparent conflict of interest, there is no requirement to do so under the Act. Section 21 provides that recusal is required in instances where the public office holder is in a potential conflict of interest.

Conclusion

[270] In light of the evidence gathered in this examination and for the reasons outlined above, I find that Mr. Trudeau did not contravene subsection 6(1), section 7 or section 21 of the Act.

Mario Dion
Conflict of Interest and Ethics Commissioner

May 13, 2021

SCHEDULE: LIST OF WITNESSES

The names of all witnesses are listed below according to the organizations to which they belonged at the time of the events that are the subject of this examination.

Interviews

- Ms. Michelle Kovacevic, Assistant Deputy Minister, Federal-Provincial Relations and Social Policy Branch, Department of Finance Canada
- Mr. Amitpal Singh, Policy Advisor, Office of the Minister of Finance
- Mr. Rick Theis, Director of Policy and Cabinet Affairs, Prime Minister's Office
- Ms. Rachel Wernick, Senior Assistant Deputy Minister, Skills and Employment Branch, Employment and Social Development Canada

Written Submissions and Documents Requested

- The Right Honourable Justin Trudeau, Prime Minister of Canada
- The Honourable Bill Morneau, Minister of Finance
- The Honourable Bardish Chagger, Minister of Diversity and Inclusion and Youth
- Messrs. Marc and Craig Kielburger, WE

Information and Documents Requested

- The Honourable Carla Qualtrough, Minister of Employment, Workforce Development and Disability Inclusion
- Mr. Graham Flack, Deputy Minister, Employment and Social Development Canada
- Mr. Alexandre Trudeau and Ms. Margaret Trudeau
- Mr. Ian Shugart, Clerk of the Privy Council and Secretary to the Cabinet
- Ms. Gina Wilson, Senior Associate Deputy Minister of Diversity and Inclusion and Youth