



OFFICE OF THE

Integrity Commissioner of Ontario

Annual Report 2019-2020

ENCOURAGING A CULTURE OF INTEGRITY

Year in Review

29
lobbying
investigations
concluded

369
MPP
inquiries

28
disclosures of
wrongdoing
submitted

10
disclosures of wrongdoing
investigated and concluded

170
ministers' staff
inquiries

4,238
expense claims
reviewed

84
Advisory Opinions
to lobbyists

217
public sector ethics
matters addressed

3,044
active lobbyists

50
outreach, training
and speaking
events

5
agencies released from
expenses review

7
agencies added
to expenses
review

60
media inquiries

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Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Office of the Integrity Commissioner
The Honourable J. David Wake, Commissioner

Bureau du commissaire à l'intégrité
L'Honorable J. David Wake, Commissaire

June 2020

The Honourable Ted Arnott
Speaker of the Legislative Assembly of Ontario

Dear Mr. Speaker,

It is an honour to present the Annual Report of the Office of the Integrity Commissioner for the period April 1, 2019, to March 31, 2020.

Sincerely,

The Honourable J. David Wake
Integrity Commissioner

Commissioner's Message

This is my fifth annual report as Integrity Commissioner. I am preparing this report at a time when Ontario and the rest of the world are dealing with the health emergency brought about by the COVID-19 pandemic. Since the middle of March, my staff and I have been dealing with all seven of the Office's mandates by working remotely, and we will continue to do so for the foreseeable future. The volume of matters coming to the Office has remained steady, and our capacity to provide timely advice to all stakeholders and perform the necessary tasks of each mandate has not been appreciably diminished by this crisis. I am very proud of my staff, who have nimbly adapted to this new reality. They are working through conference calls and email while ensuring that the confidential nature of so much of our work is respected and maintained. I could not be more pleased with how they have risen to the challenge.

One area that may suffer some delay as a result of the health emergency is investigations. They are conducted in the Members' Integrity, Lobbyists Registration and Disclosure of Wrongdoing mandates. The delay is caused by the difficulty in collecting the documents needed for the investigations. Most employees in the

**The Honourable
J. David Wake
Integrity
Commissioner**





Ontario Public Service are now also working remotely and key staff are unable to assist with the collection of documents to be reviewed by our investigators and legal team. In addition, investigation interviews are usually conducted in person in our boardroom, but alternative methods may have to be employed. This can be difficult, especially when there are many documents involved, but we will continue to adapt and see that the work is done.

The full mandate reports will follow this message, but I would like to highlight certain developments in each mandate.


Members' Integrity

As anticipated, the number of requests for advice was down from last year's near-record level following the provincial election, which featured the arrival of 73 new MPPs. The 369 requests received this year was, however, still on par with past non-election years.

Under the *Members' Integrity Act, 1994* (MIA), all MPPs must submit their private financial disclosure statements (PDS) to my Office and meet with me to review those statements and to discuss their obligations under the MIA. This was accomplished in a timely manner this year. I was grateful for the assistance of the respective party caucuses in making this the smoothest "PDS season" my Office has experienced since I became the Integrity Commissioner. I appreciate their efforts of regularly reminding MPPs of the deadlines set for filing their statements and meeting with me.

Public Sector Ethics and Disclosure of Wrongdoing

On May 1, 2019, the responsibilities of the Office of the Conflict of Interest Commissioner (OCOIC) were transferred to the Office of the Integrity Commissioner pursuant to the *Restoring Trust, Transparency and Accountability Act, 2018*. This was a sensible merger of the two main offices dealing with public sector ethics in Ontario. As a result, the Office was reorganized to handle the new Public Sector Ethics mandate, which is based on the *Public Service of Ontario Act, 2006* (PSOA) and the Conflict of Interest Rules. This mandate is led by a director and counsel, Daman Thable, and the Deputy Commissioner, Cathryn Motherwell. The Disclosure of Wrongdoing mandate, which is also rooted in the PSOA, intersects well with the Public Sector Ethics mandate. An example of this can be seen in my work with the Secretary of the Cabinet, Steven Davidson. Under the PSOA, I am the Ethics Executive for the Secretary. I meet with Secretary Davidson on a regular basis both as his Ethics Executive and to discuss



other matters such as the disclosure of wrongdoing framework in Ontario. Under the PSOA, I must refer disclosures from public servants to the appropriate senior official in the public service for investigation and then review that investigation report to see if I am satisfied with it. In some cases, the official to whom I refer an investigation may refer it back to me to investigate. This two-step process is unique in Canada, and I have had discussions with the Secretary to see if the process can be streamlined. I look forward to continuing those discussions in the coming year.

Expenses Review

The Office is responsible for two expenses mandates. The first is the review of expenses for all cabinet ministers, parliamentary assistants, the Opposition Leader and their respective staff. A substantial increase in the number of claims was noted in the past year. All expenses reviewed were found to be compliant with the Allowable Expense Rules. The second expenses mandate is under the *Public Sector Expenses Review Act, 2009* (PSERA). This Act initially made the expenses of 22 of the largest public bodies in Ontario subject to review. This number was expanded to include most provincial public bodies — currently 164 — as a result of the 2014 amendments to the Act. My Office's practice has been to release, subject to recall, public bodies from the requirement to submit their expenses for review whenever they have demonstrated full compliance on a consistent basis. Several agencies have been released by this practice over the last four years, and we have selected new agencies from the larger pool to replace them. However, I came to appreciate that releasing merely two or three agencies to be replaced

by a corresponding number of new agencies each year was going to take an inordinate amount of time before all agencies have their expenses examined. For that reason, I asked my staff to begin taking on more agencies than simply replacing the number of larger agencies that had been released. Taking on more agencies has involved a great deal of staff effort to provide training for the newly selected agencies. The training introduces agencies to the submission and review process and guides them on how to ensure compliance with the Ontario Travel, Meal and Hospitality Expenses Directive.

This year seven new public bodies came under review and three were found fully compliant within a short period and released. Since PSERA was amended in 2014 to permit my Office to review the expenses of the expanded number of public bodies, we have now reviewed approximately 25% of the pool that are subject to review. My goal is to see that this percentage continues to grow at more than an incremental rate.

Ministers' Staff

As Ethics Executive for all ministers' staff, I took it upon myself following the provincial election and change in government to attend the offices of each cabinet minister to provide training sessions to their staff on their obligations under the PSOA and the Conflict of Interest Rules. This process began in January 2019 and was completed in August 2019, although additional sessions were arranged following cabinet shuffles and at the request of individual ministers. Training was also provided quarterly for new staff as they were hired. In addition, in November, I addressed more than 200 ministers' staff on the Conflict of Interest



Rules and their obligations under the PSOA at a two-day training session organized by the Premier's Office. One of the points I emphasize at these training sessions is the restriction on ministers' staff from engaging in certain employment after they leave a minister's office. I encourage them to contact my Office as soon as they are contemplating taking another position and to seek advice on what restrictions there may be. I am encouraged that several requests have been made to my Office on this subject as a result. In response, I have provided written advice and, in some cases, direction with respect to taking the new employment.

On occasion, ministers' staff wish to engage in lobbying activities in their new employment. The Conflict of Interest Rules restrict them from lobbying the minister, staff or the ministry where they worked. The duration of this restriction is for 12 months after they cease employment as ministers' staff. In some situations, the minister for whom they worked may have moved to another portfolio. Technically, they would not be in breach of the restriction on lobbying one's former minister, but, as Lobbyists Registrar, I caution ministers' staff in that situation that they may be at risk of not being in compliance with the *Lobbyists Registration Act, 1998* (LRA). Under that Act, lobbyists are prohibited from placing a public office holder in a position of real or potential conflict of interest. This can occur as a result of a personal or political relationship developed while employed as a minister's staff. More on this subject will follow under the Lobbyists Registration mandate, but it is also an important part of the advice I provide to ministers' staff when lobbying activities may form a part of their new employment.

Lobbyists Registration

There are now more than 3,000 active lobbyists registered on the Ontario lobbyists registry. This represents a 73% increase in the number of lobbyists over the last four years. Undoubtedly, the legislative amendments to the LRA, which came into effect on July 1, 2016, have contributed significantly to this increase, since the amendments provided me with investigative and enforcement powers previously absent in the LRA. The number of investigations has also risen sharply over the last four years. There was only one investigation concluded in the first year after the amendments came into effect. This year there were 29.

The amendments to the LRA also provided that a committee of the Legislative Assembly shall begin a comprehensive review of the Act before July 1, 2021, and make recommendations within one year after beginning that review concerning amendments to the legislation (section 18.1). My Office has taken preliminary steps to identify provisions in the LRA that might profit from this review based on our experience in administering the LRA and, particularly over the last four years, in dealing with the investigative and enforcement provisions that were added to the Act. Those steps have included meetings with the Secretary of the Cabinet, the Deputy Minister of Treasury Board Secretariat and ministry staff. I would welcome an opportunity to meet with the legislative committee tasked with the review, which must get underway soon, and provide any assistance they may request.

One of the areas that may be of interest to the legislative committee is the treatment



in the LRA of political activity by lobbyists. The LRA prohibits a lobbyist from knowingly placing a public office holder in a position of real or potential conflict of interest. The description of what constitutes a conflict of interest is provided by reference to another statute, the *Members' Integrity Act, 1994*. This can be a source of confusion for some lobbyists.

Whether a certain political activity places a public office holder in a real or potential conflict of interest is a matter of interpretation, which is left to me to decide. In the past, my Office has attempted to provide some guidance to lobbyists concerning the topic of political activity by taking the following initiatives:


- » On February 15, 2018, our Office held a joint session for lobbyists with the Lobbyist Registrar for the City of Toronto on political activity and lobbying.
- » On March 13, 2018, before the writ was dropped for the provincial election, the Office published a Guidance for Lobbyists on Political Activity on our website and emailed all active lobbyists and senior officers a link to it.
- » In last year's annual report, I encouraged lobbyists to request Advisory Opinions from me on topics including political activity to ensure that they could be compliant with the LRA. During the election year, I provided 16 Advisory Opinions about lobbyists and political activity and another four during the past year.

This year, my Office revised our seven existing Interpretation Bulletins and added three new ones on various topics of interest to lobbyists and their advisors. To date, I have declined to issue an Interpretation Bulletin on the subject of political activity

because each situation tends to be heavily case specific and does not lend itself easily to general interpretation. In my view, these individual cases are best handled by providing the lobbyist with an Advisory Opinion upon request, based on their individual circumstances. Having said that, some general principles have emerged from the reports I have concluded in lobbyist investigations. I am not in a position to disclose the full reports in light of the dispositions I have made in those matters. However, I think it is appropriate to provide an outline of some of the factors I have considered in those cases. These factors are consistent with the content of the Advisory Opinions I have provided to individual lobbyists on the topic of political activity.

I have held that, in the context of lobbying, political activities can create a potential for conflict of interest because public office holders may have a sense of obligation towards the people who supported them through political activity. This sense of obligation could cause them to favour the interests of the lobbyists or the lobbyists' clients improperly. Therefore, when a lobbyist undertakes political activities on behalf of a public office holder — and then lobbies the public office holder or their staff — the lobbyist's activities may create a conflict of interest. The public office holder may have divided loyalties. Such divided loyalties are at the heart of conflict of interest.

In considering whether a lobbyist who has worked on a political campaign or been engaged in political fundraising has breached the LRA by then lobbying a public office holder, the most relevant factors are those that demonstrate whether the political activities would create a sense of obligation



on the person benefiting from them. I have determined that the risk of real or potential conflict of interest increases if the lobbyist performed a more senior or strategic role in the public office holder's political activities, and had greater interaction with the public office holder both during the political work and in the period since it was finished.


The sense of obligation a public office holder may have toward a lobbyist who performed political activities generally decreases over time. Depending on the level of political activity, I advise that there must be a "cooling-off" period between the political activity and any lobbying of the public office holder in question. I have determined that this cooling-off period should be one year after the end of the political activity. I appreciate that other jurisdictions may impose lengthier cooling-off periods and some not at all. I have set one year to be consistent with Ontario legislation, which imposes a one-year cooling-off period on designated senior level public servants. During this cooling-off period, former public servants may not lobby the Ontario government or accept employment with certain entities. Similarly, there is a one-year restriction on Ontario cabinet ministers from lobbying after they cease to hold office.

Political activity is but one area that the legislative committee may wish to review. I reiterate that I would be pleased to provide whatever assistance I can to them in their task when they begin their review of the LRA.

Conclusion

As a result of the merger with the OCOIC, the size and responsibilities of the Office have expanded. Fortunately, the entire staff of the OCOIC joined the Office and have provided invaluable assistance by continuing the work of that office. Not surprisingly, my personal workload has increased significantly as a result of the merger. As part of the Office's outreach activities, I have been invited to meet with newly appointed deputy ministers and the boards of several agencies to review the Conflict of Interest Rules and how they apply to both deputy ministers as Ethics Executives and to appointees of agencies, boards and commissions. I have also been requested to provide advice on proposed appointments to agencies to determine whether prospective appointees might present conflict of interest concerns and whether those concerns can be addressed by mitigation strategies. In addition, I now spend a considerable amount of time providing post-employment advice on conflict issues to former public servants of agencies.

I do not regard these increased responsibilities as an unwanted burden. Rather, I see them as opportunities for building the Office as a Centre of Excellence in public sector ethics. This is what I stated publicly when the merger was announced. The idea of a Centre of Excellence was never intended to be merely a branding exercise. We have now had almost one year to deal with the practical aspects of the merger, such as enduring extensive renovations to our space and developing an organization chart for the assignment of duties within the new Office. It was also



decided, as a consequence of the merger, it would be an appropriate time for the Office to embark on a strategic planning exercise. Led by our Director, Operations, Outreach and Education, Derek Lett, the staff have participated in facilitated sessions over several months in a continuing process that should be completed in the coming year. With the assistance of our strategic planning exercise and a committed staff, I look forward this year to putting meat on the bones of the concept of a Centre of Excellence and establishing an effective model for the delivery of services in all seven of our mandates.

The health emergency has brought about great uncertainty as to what can be accomplished in the year ahead; however, I have every confidence that this Office is capable of meeting whatever challenges may arise.

Outreach

This year the Office conducted or participated in 50 outreach, training and speaking events. Each mandate carried out training and outreach activities, which are described in the relevant sections of this report.

The Integrity Commissioner spoke at several events. These included:

- » Appearing on a panel about conflicts of interest and the *Municipal Conflict of Interest Act, 1990* at the Collingwood Judicial Inquiry before Associate Chief Justice Frank Marrocco
- » Speaking on the panel “Ethics: A Foundation for Future Government” at the Institute of Public Administration of Canada’s 2020 National Leadership Conference
- » Presenting to students of the Seneca@York postgraduate certificate program in government relations
- » Presenting to students at York University’s School of Public Policy and Administration
- » Speaking to a delegation of officials from the Office of the Central Committee and the Office of the President of Vietnam
- » Meeting with and speaking to the 2019–2020 Ontario Legislature Interns

The Office responded to 60 media inquiries and released five media advisories.

The Commissioner and staff also attended the annual meetings of the following Canadian jurisdictional networks, which provided important opportunities to discuss ethical issues and share best practices:

- » Canadian Conflict of Interest Network
- » Lobbyists Registrars and Commissioners Network
- » Public Interest Disclosure Conference

Members of the Office attended and contributed to the 2019 Council on Governmental Ethics Laws (COGEL) Conference held in Chicago. The Deputy Commissioner served on the program committee for the conference, and staff shared the Office’s experiences in public sector ethics, lobbyists registration and investigations by participating as panellists, moderators and attendees.

Members' Integrity

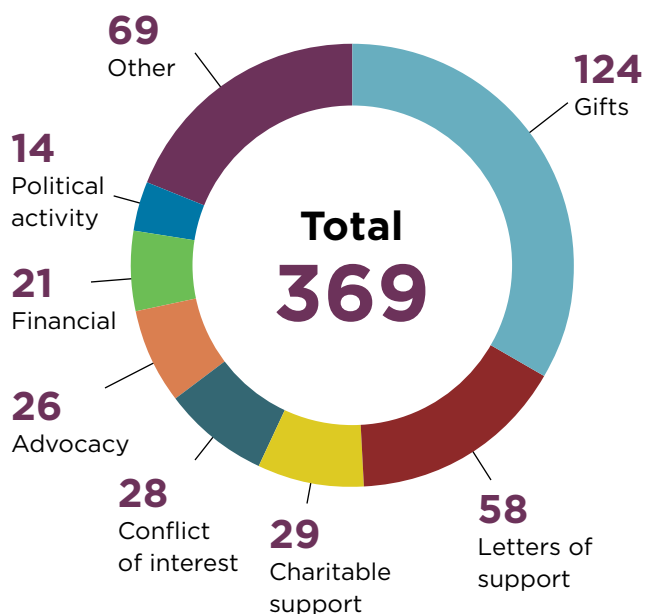
369
inquiries from
MPPs

Developments

The Integrity Commissioner provides Members of Provincial Parliament with confidential advice regarding ethical issues that arise in the performance of an MPP's duties of office.

The Office continues to be a key resource for MPPs and their staff. The Commissioner received and responded to 369 requests for advice this year under the *Members' Integrity Act, 1994*. This is a decline from the 533 requests received in the previous year, a significant volume largely because it was an election year with a record number of new MPPs.

Types of Inquiries



What We Do

- Provide advice to MPPs on specific ethical issues
- Meet annually with each MPP and oversee their annual private and public financial disclosure statements
- Conduct inquiries into alleged breaches of the *Members' Integrity Act, 1994* when requested by one MPP about another



The number of inquiries about the appropriateness of accepting a gift or benefit in connection to an MPP's duties was once again high, as were questions about providing letters of support. Both topics are covered in the inquiry examples below, along with inquiries about other popular subject matters.

The Office worked closely in the oversight of blind trusts and management trusts on behalf of ministers. At fiscal year-end, six cabinet ministers (some with their spouse or partner) had assets in trust. The Commissioner and staff also worked on several matters where a member was advised to implement an ethical screen to restrict the member's access to certain materials. Ethical screens are helpful in managing a conflict of interest, for example, when an MPP has a family member who works in a particular industry or when an issue relates to a former employer or close associate. In these cases, staff are instructed to ensure that no information about those individuals or matters is available to the MPP.

MPP Financial Disclosures

In the fall, MPPs submitted confidential disclosures of their personal finances to the Office, and staff worked closely with all involved to assist them in completing this important obligation. All submissions are carefully reviewed and analyzed against the requirements of the *Members' Integrity Act, 1994* and within the context of each MPP's responsibilities in the Legislature.

The Commissioner met with all MPPs to review their financial disclosures and discuss their obligations under the Act. These meetings and reviews frequently require MPPs to submit additional information to complete their disclosures, which can

take some time. All meetings concluded in December, and follow-ups took until early February. The public financial statements were filed with the Clerk of the Legislative Assembly and published on the Office website on February 11, 2020. These statements are a redacted version of the private financial declaration and provide a summary of each MPP's sources of income, their assets (as required by the Act), liabilities, and any gifts received with a value greater than \$200. The Act stipulates that the values of each individual's financial holdings and liabilities must be reported to the Commissioner, but the values are not reported to the public. The Commissioner determined that all members complied with the financial disclosure requirements under the Act.

Constituency Office Staff Training

The Office has developed a training program for constituency office staff to help them understand the Act and how the Office can help individual MPPs with their obligations. Constituency staff are employees of each MPP, and because they are the first point of contact for constituents, they often receive some of the more challenging questions and requests on behalf of the MPP. The training program is offered to each office through a webinar and provides a general overview of the Act and how it relates to MPP responsibilities. As it is presented to small groups, there is time for questions and issues that staff may have encountered. The training has been well received, and the plan is to continue with the program through the next fiscal year.



Commissioner's Reports Under Section 31 of the Act

Participating in a Decision Re: The Honourable Doug Ford, MPP for Etobicoke North

The Commissioner received a request for an opinion from Kevin Yarde, MPP for Brampton North, about the Honourable Doug Ford, MPP for Etobicoke North and Premier of Ontario. Mr. Yarde alleged that Premier Ford contravened section 2 and section 4 of the Act in approving a decision to have Brad Blair, a former deputy commissioner of the Ontario Provincial Police, dismissed from his position.

In his report published on May 7, 2019, the Commissioner found that there were insufficient grounds to conduct an inquiry into the matter. In reaching this finding, the Commissioner commented that when making requests for an inquiry, MPPs should clearly identify direct sources that make up the foundation for the request. The Commissioner underscored that when requesting an opinion under section 30(1) of the Act, members are required to have reasonable and probable grounds to believe that another member has contravened the Act or Ontario parliamentary convention.

Comments Made to a Stakeholder Group Re: The Honourable Lisa MacLeod, MPP for Nepean

The Commissioner received a request from Michael Coteau, MPP for Don Valley East, about the Honourable Lisa MacLeod, MPP for Nepean and then Minister of Children, Community and Social Services. The Commissioner was asked to

conduct an inquiry into whether Minister MacLeod breached the Act and Ontario parliamentary convention.

Section 4 of the Act prohibits a member of the Assembly from using his or her office to influence a decision made by another person to further the member's private interest. The private interest alleged in this case was favourable media coverage for the minister's policy change to the autism program. In his report published on May 23, 2019, the Commissioner determined that this was not a private interest and, therefore, that there could not be a breach of section 4 even if the allegation was proven to be true following an inquiry. The Commissioner found no indication that the circumstances of this case fell within any of the recognized categories of parliamentary convention. The Commissioner found that there were insufficient grounds to conduct an inquiry.

Proposal for Raising Social Media Profile Re: The Honourable Peter Bethlenfalvy, MPP for Pickering-Uxbridge

On February 5, 2020, the Commissioner received a request from Taras Natyshak, MPP for Essex, about the Honourable Peter Bethlenfalvy, MPP for Pickering-Uxbridge and President of the Treasury Board Secretariat. The Commissioner was asked to conduct an inquiry into whether Minister Bethlenfalvy breached the Act and Ontario parliamentary convention related to activities and plans for his social media profile. This matter was under review at fiscal year-end. Once it is completed, a report will be available on the Office website.



Meeting With Other Jurisdictions

The Commissioner and staff met with jurisdictional counterparts at the annual meeting of the Canadian Conflict of Interest Network in Regina, Saskatchewan. The meeting provided an opportunity to share highlights of the Office's work, including presentations on the Commissioner's inquiries under section 31 of the Act and on best practices in providing ethical advice to elected officials.

Inquiries

The following are samples of the inquiries received by the Commissioner this year. These summaries are published to help MPPs and their staff identify circumstances that could give rise to issues under the Act. The inquiries and the opinions are abbreviated, and the identities of those involved are anonymized and gender has been randomized. The cases are provided to raise awareness. It is important to remember that each opinion is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

Advocacy

Appearing in a Promotional Video

An MPP was invited to appear in a promotional video for a local business. Is this permitted?

The Commissioner advised that this would not be an appropriate activity for the MPP. While the MPP may wish to express his views about the industry in general, a specific endorsement could be considered a breach of section 4 of the Act, which covers influence. The Commissioner explained that it is not an MPP's role to support a specific business, whether it be appearing in an endorsement video or promoting it in another way. An MPP can welcome a business to the community and celebrate its achievements; however, an outright endorsement could be seen to be using the MPP's position improperly to further that entity's private interest.



Promoting a Local Business

An MPP was asked to provide a letter of support for a local business. This was to be used in social media to promote its products. The MPP was also asked to participate in other forms of support, including a podcast or video.

The Commissioner advised the MPP not to provide the letter or participate in the podcast or video. He indicated that it is not an MPP's role to support a specific business, whether it be in a letter of support or in another way. The Commissioner also noted that if the MPP provided a general letter of support, he would not have control over how the business might use the letter in the future. An MPP can speak generally about the needs of the community and celebrate a company's achievements; however, an outright endorsement could be seen as the MPP using his position improperly to further the company's private interest.

Assisting a Constituent

A constituent asked staff in an MPP's constituency office to assist with completing a form to be submitted to a provincial regulatory body. The MPP was also a minister. The constituent provided all the material and exhibits required for the form. Was it appropriate for the staff to assist?

The Commissioner advised that this was acceptable because the staff was simply facilitating the submission of the form and not engaging in any advocacy with respect to the matter. Staff explained to the constituent that they could assist only in completing the form, and they clearly identified in the materials that they had provided this assistance.

Fundraising for a Non-Profit Organization

An MPP asked whether there are restrictions on helping a non-profit organization fundraise. Could the MPP endorse the organization and solicit funds from corporations or donors on its behalf?

The Commissioner advised that the MPP avoid directly asking for donations on behalf of any organization. While it is permissible to attend fundraising events and speak publicly about the good work of a particular organization, soliciting donations or encouraging public participation in fundraisers can be seen as an improper use of the MPP's influence, contrary to section 4 of the Act. The MPP was advised that she could provide an endorsement for the organization, but that this should be confined to details about its programming and contribution to the community.



Referring Businesses to Sponsor an Event

A local organization was looking for corporate sponsors for an event it was holding and asked the MPP to refer businesses that might wish to be sponsors. Was this permissible?

The Commissioner advised that the MPP should not assist the organization because an MPP's responsibilities do not include helping organizations raise funds. While in this case the MPP was being asked to refer businesses as potential sponsors, it was the Commissioner's opinion that MPPs should not be directly or indirectly involved in the solicitation of funds.

Letters of Support

Letter to a Government Service Provider

Staff in an MPP's constituency office assisted a constituent in resolving a complaint with a private firm that provided services through an agreement with the government. The matter revealed some gaps in the services provided. Could the MPP write a letter to highlight these issues with the service provider?

The Commissioner advised that the MPP not send the letter, indicating that this could be interpreted as the MPP using his position improperly to influence the service provider. However, he said that the letter could be written by the constituent.

Letter of Support to a Ministry

A local organization asked its MPP, who is a minister, to provide a letter of support for an application for funding from the provincial government. The application was to be sent to a different ministry. Could the minister provide the letter?

The Commissioner advised that the minister should not write the letter. A cabinet minister should not appear as an advocate or supporter of a decision to be made about any ministry program that follows an established process. This conduct could give rise to an appearance of inappropriate influence, which is not permitted.



Letter of Support for Grant Program

A volunteer community organization wished to apply for a grant program run by a corporation. The selected recipients of the grants received equipment from the corporation. Could the MPP provide a letter of reference for the organization?

The Commissioner advised that the MPP could provide the letter, subject to his guidelines:

1. The MPP knows the individual or entity involved.
2. The MPP maintains as much control over the letter as possible, for example by addressing it to the intended recipient and not “To whom it may concern.”
3. The MPP uses the appropriate letterhead.
4. That the letter is as specific as possible to the matter at hand.

Forwarding a Résumé

An MPP, who is also a minister, asked if she could forward the résumé of a former campaign worker to a private company.

The Commissioner advised that the MPP should not forward the résumé, and the former campaign worker should apply for the company’s program through established channels. The Commissioner cited section 4 of the Act, saying that forwarding the résumé outside of established processes could be seen as using her position as MPP improperly to further the former campaign worker’s private interest. He did note that the MPP could provide a reference, if required.



Gifts and Benefits

Gift From Visiting Foreign Government Representative

A minister received a bottle of alcohol from the visiting representative of a foreign government. Was this appropriate?

The Commissioner reviewed the gift provisions in section 6 of the Act and advised that the minister could accept the gift as its receipt would be considered an incident of the protocol, customs or social obligations that normally accompany the responsibilities of office. The minister was not required to file a gift form because the value of the gift fell below the \$200 reporting threshold.

Invitation to a Special Event

A minister was invited to a special arts performance that was not in his riding. The organization, through a consultant lobbyist, offered tickets for the minister and some members of his staff. Could he accept?

The minister was advised not to accept the tickets. It was the Commissioner's opinion that the tickets were being offered in connection with the minister's duties of office. Following this determination, the Commissioner considered whether any of the exceptions provided by subsection 6(2) of the Act apply, and he concluded that they did not. Based on the fact that the consultant lobbyist and the organization were registered to lobby the provincial government, it was his opinion that accepting the tickets would likely give rise to a reasonable presumption that they were offered in order to influence the minister in the performance of his duties. The minister was also advised about the gift rules for ministers' staff.

Accepting a Meal at a Speaking Engagement

An MPP who is also a parliamentary assistant was invited to speak at a conference related to her parliamentary assistant files. The conference was organized by a stakeholder of her ministry. Could she accept refreshments or a meal at the event?

The Commissioner advised that since the parliamentary assistant had a speaking role at the conference, she was free to accept refreshments or a meal.



Gift From Corporation

A corporation invited an MPP to an event and provided a small plant with the invitation. Could the MPP accept the plant?

Given the nominal value of the gift, the Commissioner advised that the gift was not likely to give rise to a reasonable presumption that it was given to influence the MPP in the performance of his duties. He could keep the plant.

Sponsored Travel

MPPs may be invited to take part in information trips to different countries and regions. The invitations may come from a cultural or business organization, or sometimes from the foreign states themselves. When MPPs receive an invitation, they should seek the Commissioner's advice under section 6 of the Act. The Commissioner considers each inquiry case by case — it may be appropriate for one member to accept; however, another MPP may receive different advice because their own responsibilities of office vary from those of their colleague. When considering such a request, the Commissioner reviews each MPP's duties of office, and he considers the activities of the country or group that is extending the invitation.

An MPP who is being actively lobbied by the group may be advised not to attend, while another MPP whose work is on files unrelated to the group may be advised that they can accept the invitation. In many cases, MPPs are advised that even if they can accept the trip, they must be aware that they could find themselves in a future conflict of interest if the group then approaches them with a request, or if a matter involving the group is placed before the legislature. MPPs are also advised that if they accept such an invitation, they must submit a gift form within 30 days of their return to Ontario. The details of the trip will be reported on the MPP's public financial disclosure statement for that year.



Constituency Office Operations

Forwarding Information to Riding Association

A constituent wished to join the MPP's political riding association. Could a constituency assistant forward the contact information along to the membership secretary?

The Commissioner advised that the contact information should not be collected or forwarded. The constituency office is taxpayer funded and serves everyone in the riding regardless of their political views or support. It is a breach of Ontario parliamentary convention to conduct any partisan activities in the constituency office, and this activity would be considered partisan. That being said, the Commissioner advised that the constituency assistant could provide the constituent with the contact information for the riding association.

Contributing Funds to a Community Fundraiser

A community organization asked the MPP to contribute cash to its fundraiser. Could the MPP provide the funds?

The Commissioner advised that the MPP could purchase a ticket or contribute her own funds to the organization. However, she should not use the funds provided for the operation of her constituency office because they are provided for the purpose of serving constituents who seek assistance in navigating government services and programs.

Political Activity

Participating in a Party Leadership Contest

An MPP wished to participate in the Conservative Party of Canada's leadership contest. Could she volunteer, openly support a candidate and have that support indicated in materials produced for a candidate's campaign?

The MPP was advised that she was free to participate in the leadership campaign as described provided that no provincial government resources were used for these activities.



Wearing T-Shirts With Party Logo

An MPP and volunteers planned to participate in local parades. The riding association proposed to purchase T-shirts for participants. The T-shirts would have the party logo on the front and the name of the MPP on the back. Could the MPP and her team wear the shirts?

The Commissioner advised that while it would not be permissible for the T-shirts to be worn in the confines of the constituency office, it was his opinion that there is nothing in the Act that would preclude the MPP and volunteers from wearing the T-shirts in the parades.

Using MPP Photo in Federal Election Campaign

Is it permissible for a photo of an MPP holding an election sign of a federal candidate to be included in the candidate's campaign materials?

The Commissioner advised that this activity is not prohibited by the Act, and the photo could be used.

Outside Activities

Joining the Board of a Charitable Foundation

An MPP asked if it would be permissible to join the board of directors of a local charitable foundation.

The Commissioner determined that this would be acceptable. He advised the MPP that to avoid a conflict of interest, he should not be involved in any fundraising efforts; he should recuse himself if a matter involving the foundation came before the Legislative Assembly; no legislative resources should be used in the charitable work; and no information gathered in the course of the MPP's work should be shared with the foundation.

Part-Time Work

An MPP asked if he might be able to work in his former profession on a part-time basis.

The Commissioner advised that the MPP, unlike a cabinet minister, could undertake this work, but that if a matter involving his employer arose before the Legislative Assembly, he should recuse himself and seek further advice.

Ministers' Staff Ethical Conduct

170
ministers' staff
inquiries

Developments

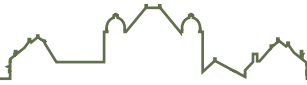
The Integrity Commissioner provides advice and direction to ministers' staff at all stages of their employment, including conflict of interest assessments before they join government, during their employment in ministers' offices and after they have moved on to positions elsewhere. Advice is provided under the *Public Service of Ontario Act, 2006* and the Conflict of Interest Rules. Inquiries continued at a steady pace this year, with the greatest number of matters coming from staff who had questions about their post-employment requirements, followed by those with inquiries about conflicts of interest.

Training

After the change of government in June 2018, the Commissioner initiated ethics training sessions with all ministers' offices. This was completed in August 2019, after which the Office continued with quarterly training sessions for new staff as they were hired. In addition, in November, the Commissioner addressed all ministers' staff at a two-day training session organized by the Premier's Office. Training sessions are also available on request. Approximately 250 ministers' staff received training this year.

What We Do

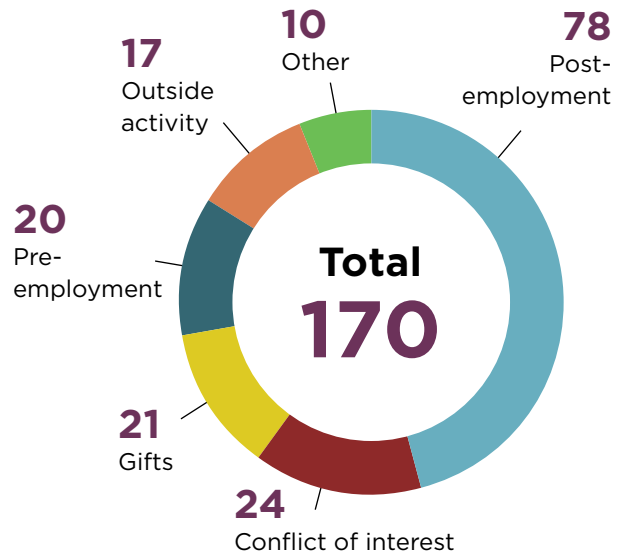
- Provide direction to ministers' staff to help them understand and follow the Conflict of Interest Rules
- Answer questions about a variety of topics under the *Public Service of Ontario Act, 2006* and the Conflict of Interest Rules, including gifts, political activity in the workplace, outside volunteer activity and employment, financial conflicts of interest, and post-employment requirements
- Provide training to ministers' offices to assist staff in understanding their obligations



Inquiries

The following are samples of the inquiries the Commissioner received and are intended to help ministers' staff identify conflict of interest issues. The inquiries are abbreviated, the identities of those involved are anonymized and gender has been randomized. The Commissioner's determinations on these inquiries are provided in order to raise awareness and should not be considered a substitute for calling or writing the Office to obtain the Commissioner's direction.

Types of Inquiries



Conflict of Interest With Former Employer

Involvement With Former Employer

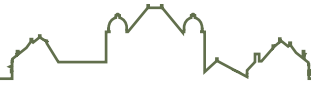
The former employer of a ministers' staff prepared a report and shared it with the government through regular processes. The report was provided to a different ministry; however, the ministers' staff found the information helpful for work in her office. Would it be a conflict for her to use the report?

The Commissioner determined that there was no issue with the ministers' staff citing or using the report as part of her government work. He advised that she should seek further direction in the event that any other matters arose involving the former employer.

Formerly Employed by Government Stakeholder

A ministers' staff wished to consult with a stakeholder regarding a particular file. However, he was formerly employed by that stakeholder before joining government. The stakeholder was also registered to lobby the minister's office. Could the ministers' staff be in contact with his former employer?

The Commissioner directed that the ministers' staff should not consult with his former employer. Under the Rules, ministers' staff have an obligation not to provide preferential treatment to any person or entity. They also have the obligation not to create the appearance of preferential treatment. The ministers' staff was advised to have someone else in the office deal with the stakeholder.



Post-employment

Joining a Provincial Agency

A ministers' staff wished to accept a new position with a provincial government agency. She had no professional involvement with the agency or its operations during her time in the minister's office. Could she accept the job?

The ministers' staff was permitted to accept the job, since she had no involvement with the agency in the last 12 months of her government employment. She met with Office staff to review her obligations under the Rules, including not seeking preferential treatment from anyone in government, abiding by the restriction to ensure all confidential information remained so, and abiding by a 12-month lobbying restriction against her former minister, staff in the minister's office and staff in the ministry.

Abiding by the Restriction on Lobbying

A former ministers' staff was working as a registered lobbyist and was abiding by the 12-month lobbying restriction against his former ministry. He asked if the office of an associate minister within that ministry was included in their lobbying restriction.

The Commissioner confirmed that the lobbying restriction applied to the office of the associate minister, since that office was established as part of the ministry against which the former ministers' staff had a lobbying restriction.

Post-employment Obligations for Ministers' Staff

The Conflict of Interest Rules set out certain obligations for both current and former ministers' staff. Staff are encouraged to contact the Office when they are considering new employment opportunities. This gives the Commissioner time to review the opportunity, advise the ministers' staff of their obligations once they leave government and provide the ministers' staff any special directions necessary to

avoid a conflict of interest and comply with the Rules.

Ministers' staff should contact the Office when considering any new opportunity, not just a position that might involve lobbying or government relations. While considering a new opportunity, ministers' staff may need to be screened from certain files related to the opportunity to avoid the appearance of preferential treatment to the prospective employer.



Gifts

Offer of a Gift From Another Government

A ministers' staff scheduled a meeting for their minister with representatives of another government. The ministers' staff was offered a gift valued at approximately \$40. Could she accept the gift?

The Commissioner directed that the gift should be declined. Section 4 of the Rules addresses the rules around gifts for ministers' staff, starting with a blanket prohibition on accepting any gifts from anyone dealing with the government. Exceptions can be made for gifts of nominal value that are given as an expression of courtesy or hospitality. The Commissioner determined that the exception did not apply in this matter.

Offer of a Gift for Family Celebration

A relative of a ministers' staff was retiring, and in recognition of her years of service, she was invited to bring the whole family to an event. Individual tickets to the event were \$400. The ministers' staff had no professional involvement with the entity offering the ticket. Could he attend?

The Commissioner determined that the ministers' staff could attend, concluding that it was unlikely that a reasonable person would conclude the ticket was offered to influence him in his government work. The Commissioner directed that the ministers' staff should seek further direction if a future matter arose involving the company.

Ticket to Speaking Event

A stakeholder who was registered to lobby a minister's office purchased a table at a speaking event that featured the minister. The stakeholder invited an employee of the minister's office as its guest. The employee was not required to support the minister at the event. The ticket had a value of \$100. Could she accept the ticket?

The Commissioner directed that the ticket be declined. He determined that since the stakeholder was a registered lobbyist, a reasonable person could conclude that the ticket was offered to influence the staff member. She was advised that there would be no issue attending the event if she purchased her own ticket.



Outside Activity

Joining a Board of Directors

A ministers' staff wished to join the board of directors of a community organization. The organization had received funding from the Ontario government, but this was not provided by the ministry where the ministers' staff was employed. Could she join the board?

The Commissioner determined that she could join the board, provided she followed the Rules. She was directed not to be involved in any requests for provincial government funding, not to identify herself as ministers' staff and not to use any government resources, including time, for the board activities.

Operating a Business

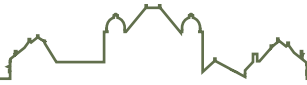
A ministers' staff wished to start a business in a sector that had no relation to his government work. Is this permissible under the Rules?

The Commissioner determined that the ministers' staff could run his business part-time. He was directed not to use any government resources, meaning he could not solicit business clients from anyone with whom he dealt in his role as ministers' staff. He was directed to seek further advice if any of his government files involved that particular business sector.

Financial Conflict

A ministers' staff owned shares in a company that was a stakeholder of their ministry. He proactively asked for direction under the Rules.

The Commissioner determined that it was not necessary for the ministers' staff to sell the shares since they were not of significant value. The Commissioner directed that the ministers' staff should not buy any more shares in the company.



Family/Friend Conflict of Interest

Spouse Employment

The spouse of a ministers' staff worked for an organization that received funding from an Ontario government agency. The agency did not fall under the ministry where the ministers' staff was employed. Was this a conflict?

The Commissioner determined that there was no conflict of interest between the work of the ministers' staff and the work of her spouse. However, the Commissioner directed that if a matter came up in the future, the ministers' staff should recuse herself from the matter and seek further direction.

Family Employment

The parent of a ministers' staff worked for a company that had some interactions with the minister's office. The minister's office had proactively established an ethical screen separating the ministers' staff from any matter relating to the larger project that included the company and asked if any further steps should be taken.

The project that included the company and the government had been largely concluded, so the Commissioner advised that the scope of the existing screen could be narrowed to relate directly to the company where the parent worked. A copy of the screen was provided to the Office.

Public Sector Ethics

217
matters addressed
under the Act

Developments

The focus this year was to successfully establish the Public Sector Ethics mandate in the Office following the merger with the Office of the Conflict of Interest Commissioner (OCOIC) on May 1, 2019. Significant work was done to ensure a smooth transition where Ethics Executives and other public servants could easily access the services and resources that existed prior to the merger. This included communicating with every chair and designated Ethics Executive of Ontario's public bodies to provide them with information about the Office's new role.

The website was revised to include information and resources, including the inventory of shared decision summaries. The searchable documents contain 150 decision summaries to assist Ethics Executives and other public servants in consistently interpreting and applying the conflict of interest and political activity rules. New decision summaries will be added annually.

What We Do

- **Provide advice or determinations to Ethics Executives (deputy ministers, chairs of public bodies and other designated individuals) on matters related to the Conflict of Interest Rules and the political activity restrictions in the *Public Service of Ontario Act, 2006***
- **Review financial declarations submitted by public servants working on matters that involve the private sector**
- **Educate and train Ethics Executives about the Conflict of Interest Rules, the political activity restrictions, as well as their responsibilities under the Act**
- **Provide conflict of interest advice, upon request, to the Premier's Office regarding appointments to public bodies and other public sector organizations**
- **Approve conflict of interest rules of public bodies and ethics plans of administrative tribunals**

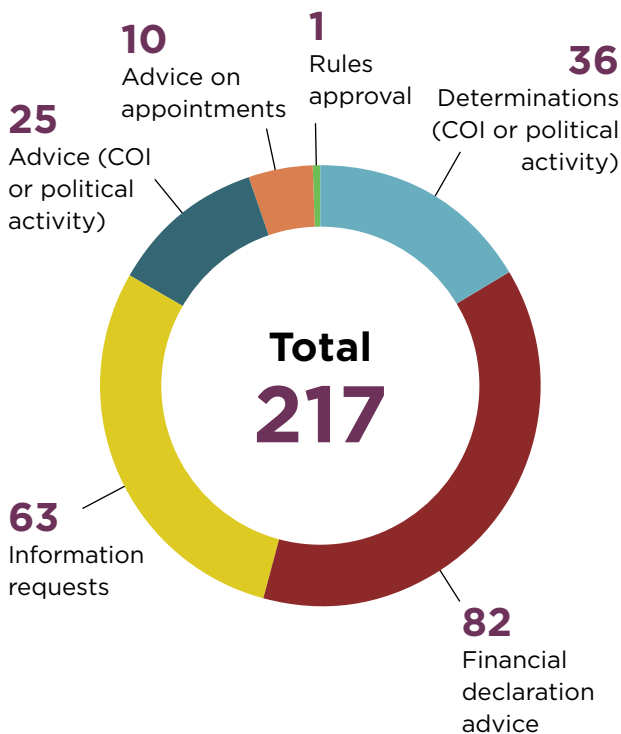


The core work and activities of the new mandate include:

- » providing conflict of interest and political activity advice and determinations;
- » receiving and reviewing financial declarations submitted by public servants working on matters that involve the private sector;
- » reviewing potential appointments to public bodies and other public sector organizations from a conflict of interest perspective when requested by the Premier's Office; and
- » responding to general inquiries about the Conflict of Interest Rules and political activity restrictions.

Types of Matters

This year the Office dealt with 217 matters.



Education and Outreach

Prior to the merger, the Office joined the OCOIC in half-day orientation sessions for Ethics Executives and other senior public servants in public bodies. The training continued this year with an orientation session held in the fall. The session now covers three mandates: Public Sector Ethics, Disclosure of Wrongdoing and Expenses Review. The training uses case studies to instruct the participants on the relevant legislation and rules and allows them to discuss issues and share best practices with their peers from other public bodies, as well as staff in the Office.

Additionally, the Office met with the Ministry of the Attorney General's Conflict of Interest Working Group, provided an ethics orientation to new deputy ministers, and delivered tailored ethics training to the boards of directors and staff of four public bodies. The continuing goal is to ensure that Ethics Executives and public servants receive comprehensive information regarding their ethical obligations.



The Role of the Ethics Executive

Ethics Executives are designated individuals responsible for promoting ethical conduct within their organizations. Ethics Executives are the first point of contact for employees and appointees requiring advice or determinations on the Conflict of Interest Rules and the political activity restrictions in the *Public Service of Ontario Act, 2006*.

In ministries, the Ethics Executive is the deputy minister. In public bodies, the Ethics Executive can be the chief executive officer and/or the chair of the public body.

The responsibilities of Ethics Executives include:

- » ensuring that public servants are familiar with the conflict of interest and political activity restrictions;
- » providing advice to public servants on the application of the conflict of interest and political activity restrictions;
- » making inquiries where public servants may have contravened a rule;

- » making determinations on conflict of interest and political activity issues and providing directions where an actual or potential conflict of interest is found;
- » authorizing requests to engage in certain political activities; and
- » making determinations on the need to terminate employment or appointment if public servants are elected to municipal office.

The Integrity Commissioner is the Ethics Executive for the following public servants:

- » Secretary of the Cabinet
- » chairs of public bodies
- » designated Ethics Executives of public bodies as set out in Ontario Regulation 147/10 of the Act
- » ministers' staff
- » former secretaries of the cabinet
- » former deputy ministers
- » former employees and appointees of public bodies

Decision Summaries

The following are examples of the advice and determinations the Commissioner provided to Ethics Executives of public bodies. These summaries are abbreviated, and the identities of those involved are anonymized and gender has been randomized. They are published to assist Ethics Executives and other public servants

in consistently interpreting and applying the Conflict of Interest Rules and political activity restrictions found in the Act.

Conflict of Interest – Volunteer Activity

The chair of a public body was involved in several organizations, one of which was a non-profit organization that advocated to the public body and represented its



members provincially and nationally. The chair sat on its board of directors and indicated that she would recuse herself from matters related to the public body and the organization.

The Commissioner determined that the chair was subject to the Conflict of Interest Rules under the Act, specifically to section 6 and section 8, which relate to preferential treatment and outside activities. The Commissioner's view was that the chair would be unable to meet her fiduciary duty to act in the best interests in either organization, and the chair's role could be seen to influence advice given by the public body to the organization.

The Commissioner further determined that the chair could not sit on the organization's board while also serving as the chair of the public body. The chair resigned from the organization.

Political Activity – Soliciting Funds for a Political Party

The Commissioner became aware that an Ethics Executive was engaging in fundraising for a political party. The Commissioner wrote to the Ethics Executive to explain the Rules and how the Ethics Executive was subject to the political activity restrictions governing most public servants.

The Commissioner determined that the Ethics Executive was prohibited from soliciting funds while he was the chair of the public body. This is because the Ethics Executive had a supervisory role over the other appointees to the board (as Ethics Executive). The direction to not solicit funds also prohibited the Ethics Executive from soliciting funds using his private email.

Political Activity – Spouse May Become a Candidate in a Future Provincial Election

The spouse of an Ethics Executive was potentially going to be a candidate in a provincial election. The Ethics Executive asked for the Commissioner's advice about the application of the political activity rules. The Ethics Executive was not a specially restricted public servant.

The Commissioner advised that even though the Ethics Executive was not specially restricted, the political activity rules still applied. He determined that supporting a spouse's candidacy could reasonably be seen as demonstrating support for a political party. The Commissioner directed that in supporting the spouse, the Ethics Executive could not engage in any political activity in the workplace or associate his position at the public body with political activities. Further, the Commissioner directed that the Ethics Executive could not use any government resources to support his spouse's candidacy, could not solicit campaign funds on behalf of his spouse (although he could contribute himself) and could not comment publicly on policy matters or proposals related to his duties with the public body. His public body title should not appear in any campaign materials. The Ethics Executive was not prohibited from visiting his spouse's campaign office or attending campaign-related events, but he was reminded to be sure that if he did so, that he fully complied with the Commissioner's directions.



Political Activity and Specially Restricted Public Servants

The political activity restrictions that apply to public servants vary based on their roles. Some restrictions apply to all public servants, some restrictions apply to most public servants and other restrictions apply only to specially restricted public servants. When it comes to political activity, specially restricted public servants can only:

- » vote
- » attend an all-candidates meeting
- » be a member of a political party*
- » donate money to a party or candidate*
- » be a municipal candidate**; or
- » campaign for a municipal candidate.**

The Integrity Commissioner may authorize part-time specially restricted public servants to participate in other activities.

Who are specially restricted public servants?

In ministries, they are:

- » directors
- » deputy directors of a legal services branch
- » crown attorneys
- » commissioned Ontario Provincial Police officers and commanders
- » assistant deputy ministers
- » associate deputy ministers
- » deputy ministers
- » Secretary of the Cabinet

In public bodies, only appointees to the tribunals listed in Ontario Regulation 377/07 are specially restricted public servants.

Resources about the political activity restrictions are available on the Office's website.

* This does not apply to deputy ministers and the Secretary of the Cabinet.

** Authorization must be given by Ethics Executive.

Expenses Review

1,507
minister &
Opposition leader
expense claims
reviewed

2,731
agency expense
claims reviewed

Developments

In addition to the extensive work done to review thousands of expense claims, training and outreach continued to be a major focus this year in both Expenses Review mandates. Due to staff turnover in ministers' offices, the Office held new and refresher training sessions. The Office offered the additional training to address the sharp rise in the number of information requests sent to claimants this year, which significantly increased the workload of expenses review officers.

The Office gave the seven agencies that were selected for review an overview of the submission and review process and guidance on how to ensure compliance. It also took outreach to new forums this year: training was provided to ministry staff

involved in liaison with agencies and agency staff involved in regulatory compliance, and it was given during the Ethics Executives orientation session.

The Office was consulted and provided input into the newly revised Allowable Expense Rules and the Travel, Meal and Hospitality Expenses Directive that came into effect on January 1, 2020. The revised wording in many sections makes the rules clearer for stakeholders to follow.

What We Do

- **Review the travel, meal and hospitality expenses of:**
 - cabinet ministers, parliamentary assistants, Opposition leaders and their respective staff; and
 - senior executives, appointees and the top five employee expense claimants at agencies, boards and commissions
- **Ensure that expenses comply with the Allowable Expense Rules and the Travel, Meal and Hospitality Expenses Directive**
- **Determine whether repayment is required if an expense does not comply with the Rules or the Directive**



Cabinet Ministers' and Opposition Leaders' Expenses Review

This year the Office reviewed 1,507 expense claims from 259 ministers, parliamentary assistants, Opposition leaders and their respective staff. The number of claims reviewed is 74% higher than last year.

As of January 2020, ministers' expense claims were submitted and reviewed in a digital format in an effort to be more efficient and environmentally friendly.

All expense claims examined during the fiscal year were deemed to be compliant with the Allowable Expense Rules and passed review. This is reflected in the written report that the Integrity Commissioner submits annually to the Speaker of the Legislative Assembly as required by the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*. When necessary, the Commissioner can name in the report any person who does not comply with an order to repay or a recommendation for other remedial action.

Public Sector Expenses Review

The Office reviewed 2,731 expense claims submitted for designated senior management employees, appointees, and the top five employee expense claimants of the 24 agencies, boards and commissions selected for review by the Commissioner. Several factors explain the 31% decline from the 3,951 claims reviewed in the previous fiscal year. First, the government-wide travel freeze from June 2018 to January 2019 resulted in fewer expenses being incurred by agencies. Second, three of the

larger agencies that the Office had been reviewing were deemed to be compliant and were released from review. These agencies tended to have more claims than the smaller agencies that were selected to replace them for review. Finally, the Office has noted that agencies continue to consolidate several expense claims into one expense report, which has cut down on the number of individual claims.

The following agencies came under review this year:

- » Algonquin Forestry Authority
- » Big Game Management Advisory Committee
- » Death Investigation Oversight Council
- » Education Quality and Accountability Office
- » Ontario Capital Growth Corporation
- » Ontario Securities Commission
- » Postsecondary Education Quality and Assessment Board

These agencies were selected from a pool of the 162 public entities that are subject to the *Public Sector Expenses Review Act, 2009* plus Ontario Power Generation and the Independent Electricity System Operator, which are also subject to review.





As entities are found to be fully compliant with the Directive on a consistent basis, they may be released from the requirement to submit expenses for review. This year the Commissioner released five bodies from the review process: Alcohol and Gaming Commission of Ontario, Big Game Management Advisory Committee, Ontario Infrastructure and Lands Corporation, Ontario Capital Growth Corporation, and the Ontario Heritage Trust. Three of the five agencies released were deemed fully compliant within a short period of being

chosen for review. Releasing these entities reinforces the value of the expenses review process and outreach efforts as agencies, boards and commissions strive to attain full compliance.

Forty agencies have been reviewed to date, which is almost one quarter of the pool of agencies available for review. More than 70% of the agencies currently under review are agencies chosen since the Act was amended to allow the Commissioner to select any agency.

What are the main changes to the Directive and Rules?

Travel, Meal and Hospitality Expenses Directive (for agencies)	Allowable Expenses Rules (for ministers and Opposition leaders)
Must select the lowest fare available for air and rail travel	Must select the lowest fare available for air and rail travel
Meal rates apply for centrally billed/catered meals	New rules for ride-hailing services (Uber, Lyft)
Hospitality can no longer be offered to persons covered by the Broader Public Sector Expenses Directive	Digital receipts accepted
Updated rules on special status and serving of alcohol	
New rules for ride-hailing services (Uber, Lyft)	
Digital receipts accepted	



Inquiries

The following are examples of questions the Office received from ministers' offices and agencies which sought advice and guidance to ensure compliance with the Allowable Expense Rules and the Travel,

Meal and Hospitality Expenses Directive. These inquiries are provided in order to raise awareness about allowable expenses. It is important to remember that each answer is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

Hospitality

An agency president and some appointees were holding a hospitality lunch event with the chief executive officer and a senior staff member from another agency. Were they required to provide a receipt with the claim?

Yes, a receipt is required for a hospitality event. However, in this case, the expense would not be considered hospitality as all attendees were engaged in work for the Ontario government and are covered by the Directive. This would be considered a working meal and the lunch rate of \$12.50 per person would apply. Each agency should claim its own expenses.

Meals

The Directive says an employee can claim a \$45 meal per diem when they are travelling. Are there any limits on this?

There are several factors to consider when submitting a claim for a meal.

- » Is the employee entitled to claim all three meals? The employee must have been travelling for the entire day; for example, to claim breakfast, they must have left home early in the morning.
- » Was a meal purchased? The Directive and Rules state that a meal must have been purchased in order for it to be claimed. An employee cannot skip lunch and still make a claim for that amount.
- » Was a complimentary meal provided at a hotel or conference? If a meal was provided, then the employee is not permitted to claim for an additional meal without reasonable justification.



Business Class Rail Travel

Business class rail travel between Ottawa and Toronto can be cheaper than airfare. Since this saves money, is it acceptable to book business class instead of regular rail fares?

This is not permitted. The Directive and Rules state that the traveller should choose the lowest available fare when purchasing a ticket. Even though taking business class rail is more economical than travelling by air, there are still more economical fares available. Business class rail travel is permitted only with prior approval and in limited circumstances, such as:

- » the need to work with a team (three or more people);
- » reducing meal or accommodation expenses by travelling at a certain time;
- » accommodation requirements; and
- » health and safety considerations.

Accommodation

The hotel that a traveller wishes to stay at is just around the corner from the event, but it is more than \$500 per night. Is this an appropriate expense?

The Office considers whether it was imperative that the employee stay there for operational requirements, or if the availability of hotel rooms in the area was extremely limited and this was the best and most economical option. The Directive asks that in order to lower the costs of accommodation, consideration should be given to accommodation outside of downtown areas. Often, it is more economical and may still be easily accessible by public transit and other cost-effective means of transportation.

Ride-hailing Services

Can Uber or Lyft be used instead of traditional taxis?

Uber, Lyft and other ride-hailing services are allowable in cities where they are regulated. Although these services may be more economical generally, it is important to take note of items such as surge fees, cancellation fees and the type of service chosen. Services such as Uber Black, Uber Select or Uber Lux are considered premium car services and would not be deemed appropriate.

Disclosure of Wrongdoing

Developments

As in past years, the work of receiving and reviewing disclosures of wrongdoing from current and former Ontario public servants was varied and complex. The Office continued to follow its well-developed processes in responding to questions, receiving disclosures, analyzing allegations to determine jurisdiction, reviewing investigation reports and conducting its own investigations led by the Integrity Commissioner.

While the 47 contacts from public servants is lower than the 62 received last year, there was not a corresponding decrease in the number of disclosures submitted by public servants, which was only three fewer than last year. The Office received 28 disclosures this year.

47

contacts from
public servants


28

disclosures
submitted

An important accomplishment was the creation of a new disclosure form. The Office considered the strengths and weaknesses of its existing form, as well as forms used in other jurisdictions, in order to develop a form with clearer instructions and questions. The results are a simplified process for disclosers and improved quality and usefulness of the information collected. The issues and allegations raised in a

What We Do

- **Receive disclosures of wrongdoing from current or former public servants who witness misconduct at work**
- **Determine whether the Integrity Commissioner has jurisdiction over a disclosure of wrongdoing**
- **Refer disclosures to the appropriate senior official in the Ontario Public Service for investigation**
- **Review investigations to determine if the Commissioner is satisfied with the work and response**
- **Conduct investigations initiated by the Commissioner**



disclosure are often complex, so the form allows public servants to include additional documentation as they wish. The Office continues to work confidentially with public servants to understand the issues they are raising in their disclosures and will seek additional information as needed.

When the Office receives a disclosure, it thoroughly reviews and analyzes the information to determine if the Commissioner has the authority to accept it under the Act. In some instances, the Commissioner may determine that he can refer some of the allegations contained in a disclosure for investigation, while he must decline others. This year, the Commissioner accepted jurisdiction over 12 disclosures.

Outreach

As a result of the 2019 merger with the Office of the Conflict of Interest Commissioner, the Office now delivers the half-day orientation sessions for Ethics Executives and other senior public servants in public bodies as one entity. The training continued this year with an orientation session in the fall. Educating participants about the disclosure of wrongdoing framework has remained a key component of this training.

The training session uses a fictitious disclosure scenario as a case study exercise to instruct the participants on how to meaningfully address a disclosure, which allows them to learn about the objectives and requirements of the disclosure framework and to share best practices with their peers from other public bodies. The Office continues to develop ways to provide useful training

and resources to Ethics Executives, the individuals who can receive and investigate disclosures of wrongdoing.

The Integrity Commissioner attended the Public Interest Disclosure Conference in Halifax in September. This annual conference of the provincial, territorial, and federal offices that have disclosure of wrongdoing mandates continues to be a beneficial forum to share best practices and discuss emerging issues. Highlights of this year's conference included discussions on providing guidance to ministries and agencies conducting internal investigations, effective collecting of statistics as well as significant legislative updates.



10
matters
investigated &
concluded

4
matters
investigated by
the Integrity
Commissioner



Activity

	2018-2019	2019-2020
Total contacts from public servants	62	47
Request for information	31	19
Disclosure of wrongdoing submitted	31	28

	2018-2019	2019-2020
Disclosure assessed for jurisdiction (including matters carried over from the previous fiscal year)	39¹	31²
Disclosure referred by the Commissioner to appropriate senior official for investigation	14	12
Matter not received as a disclosure of wrongdoing because the allegations could not possibly reveal a “wrongdoing” as that term is defined in the Act	9	3
Matter received as a disclosure of wrongdoing, but the circumstances were outside the Office’s jurisdiction (e.g., an employment or labour relations matter)	6	10
File closed for a miscellaneous reason (e.g., it proceeded as an internal disclosure or there was insufficient information for the Office to pursue the matter)	7	2
Matters remaining under review at fiscal year-end	3	4

1 This includes 31 matters received in 2018-2019, plus eight matters remaining under review at year-end 2017-2018.

2 This includes 28 matters received in 2019-2020, plus three matters remaining under review at year-end 2018-2019.



How is the identity of a discloser protected?

When a public servant makes a disclosure of wrongdoing to the Integrity Commissioner, protecting the public servant's identity is paramount. The Office has several measures in place to limit information about a discloser's identity in its internal documents and deliberations.

As the identity of a discloser is seldom needed to investigate a disclosure of wrongdoing, the standard procedure is not to provide the identity of or information about the discloser to anyone in the Ontario Public Service.

In limited situations, the interests of fairness require that a discloser's identity be disclosed; however, these situations

are rare. If this becomes necessary, the discloser is always notified beforehand and information about his or her identity is provided only to the individuals who are responsible for handling the disclosure. All those involved in the disclosure of wrongdoing framework are required by the *Public Service of Ontario Act, 2006* to carry out their duties in a manner that protects the discloser's identity.

As a result of following these careful practices and the legislative requirements, the identity of most public servants who submit a disclosure to the Commissioner is never known to anyone outside of the Office.

Case Summaries

The following are anonymized summaries of the disclosure of wrongdoing matters concluded by the Office this year. They include matters referred to the public service for investigation and matters investigated independently by the Commissioner. The summary of a matter may include more than one disclosure.

This year the Office closed 10 matters, of which four were investigations commenced by the Commissioner. Wrongdoing was identified in three matters.

Alleged mismanagement of government funding (Referral)

A discloser alleged that a ministry employee approved funding to a stakeholder who was not eligible to receive it and that an employee from the same ministry had approved funding for a stakeholder who had failed to comply with some of the application requirements. The deputy minister investigated the allegations and determined that they were unfounded. Regarding the first allegation, the deputy determined that the government funding was provided in accordance with internal policies and procedures. As for the second allegation, the evidence indicated that the manner in which funding was distributed did



not contravene any policies or procedures. The Commissioner was satisfied with the investigation and the conclusions reached and closed his file on the matter.

Alleged mismanagement of overtime claims (Investigation)

It was alleged that a public servant engaged in fraud by claiming excessive overtime, and that a supervisor engaged in gross mismanagement by approving the excessive overtime claims. The Commissioner referred the matter for investigation to the deputy minister, who found that there was no wrongdoing. The Commissioner was not satisfied with the thoroughness of the investigation and, accordingly, started investigating the matter himself. The Commissioner concluded that the evidence did not support the allegation that the overtime claims were fraudulent, and thus found that the allegations of wrongdoing against the public servants had not been substantiated.

Alleged preferential treatment in hiring (Referral)

It was alleged that an agency employee breached the Conflict of Interest Rules by hiring a friend, who was also a former colleague, without a job competition. The matter was referred to a senior public servant at the agency, who investigated the allegation and found that the hiring was permissible under the Conflict of Interest Rules and the agency's rules. Additionally, the relationship between the employee and the new hire was professional in nature, not personal, and the employee had been transparent with her manager about their work history. While no wrongdoing was

found, the senior official noted that some aspects of the hiring process could be improved, including formalizing a process for declaring conflicts of interests in the hiring process. The Commissioner was satisfied with the investigation and closed the file.

Alleged improper use of government resources for self-benefit (Referral)

A discloser alleged that a ministry employee was using their position as a public servant to benefit themselves by improperly using government premises, which is a breach of the Conflict of Interest Rules. The Commissioner referred the matter to the deputy minister to investigate. The investigation substantiated the allegation and revealed that, in fact, this was an ongoing practice by several public servants in that workplace. The deputy minister directed that this practice be discontinued. The Commissioner was satisfied with the investigation and the deputy minister's proposed course of action and closed the file.

Alleged preferential treatment of a stakeholder for self-benefit (Investigation)

A discloser alleged that a former public servant assisted in securing a grant for an organization where she subsequently became employed. This was a potential breach of the Conflict of Interest Rules and gross mismanagement in the work of the public service. The former public servant had worked in a minister's office. The Commissioner investigated the matter and determined that no wrongdoing occurred. He noted that the former public servant had



entered into employment discussions with the organization after the grant was secured. She was also not substantially involved in the process by which the grant was awarded. There was no evidence of a quid pro quo arrangement.

However, the former public servant had not sought advice from the Commissioner, as her Ethics Executive, when she left the public service. The Commissioner was concerned that she had little understanding of her ethical obligations as a public servant. In his report to the appropriate government officials, the Commissioner, therefore, emphasized the importance of ensuring that staff in ministers' offices are made aware of their ethical responsibilities.

Alleged breach of a regulation related to policy development (Investigation)

A discloser alleged that two ministry employees engaged in gross mismanagement, saying that they approved a new policy that breached a regulation. The discloser also alleged that they failed to consult as required before approving the policy. The Commissioner investigated the matter and determined that the ministry employees had not engaged in gross mismanagement. The investigation showed that the employees approved a policy that adopted a new interpretation of a regulation; however, the employees had consulted with legal and policy staff before doing so. They followed the ministry guidelines and approval process for developing policy. The Commissioner was satisfied that there was no wrongdoing and closed the file.

Alleged preferential treatment in hiring (Referral)

A discloser alleged that a ministry employee breached the Conflict of Interest Rules by giving preferential treatment in a job competition when he hired a colleague with whom he was in a romantic relationship. The deputy minister investigated the allegation and found that there was no romantic relationship and that there was no preferential treatment because a different employee was responsible for the hiring. Although the employee was not the hiring manager, the Commissioner found that the employee interfered in the job competition by pressuring the only other candidate to withdraw. The Commissioner determined that this interference did amount to preferential treatment given to the successful candidate. The Commissioner was satisfied with the steps taken by the deputy minister to address the matter and made recommendations about the importance of ensuring fairness in hiring processes.

Alleged use of employment for self-benefit (Referral)

A discloser alleged that a ministry employee breached the Conflict of Interest Rules by requiring other public servants to run personal errands and to hire a family member. The Commissioner referred the matter to the deputy minister to investigate. The investigation found no evidence of wrongdoing. The Commissioner was satisfied with the investigation and closed the file.



Alleged use of employment for self-benefit and holding outside employment (Referral)

A discloser alleged that an employee breached the Conflict of Interest Rules by accepting full-time employment outside of the public service while on a leave of absence. The Commissioner referred the matter to the chief executive officer of the agency to investigate. The investigation found that the employee had been casually employed outside of the public service; however, the terms of the leave of absence did not prevent her from working in the casual position. Though the allegation was unsubstantiated, the CEO directed that a conflict of interest declaration be placed in the employee's file. The Commissioner was satisfied with the investigation and the CEO's proposed course of action and closed the file.

Alleged hiring of a family member by a senior public servant (Investigation)

A discloser alleged that a senior public servant at an agency hired a family member. This was a potential breach of the Conflict of Interest Rules, which prohibit hiring family members and giving preferential treatment. The Commissioner commenced an investigation.

During the investigation, the Commissioner received a second disclosure of wrongdoing repeating the same allegation about the senior public servant and alleging that other public servants at the agency also gave preferential treatment to the family member. The discloser also alleged that public servants at the agency gave preferential treatment in other hiring processes, and


that agency executives breached a law by using personal email accounts for agency business in an attempt to conceal records of the public institution. The Commissioner commenced an investigation into these allegations.

The Commissioner received a third disclosure of wrongdoing about the agency. This disclosure contained similar and related allegations. It alleged that the senior public servant had retained a family member by way of a procurement contract. Since many of the allegations were related, the Commissioner proceeded with one investigation of the three disclosures.

The investigation revealed that the senior official's family member was hired by the agency. While the senior official was not directly involved in the hiring process, the Commissioner found that the senior official breached the Conflict of Interest Rules by failing to endeavour to avoid creating the appearance of preferential treatment when the agency hired the family member.

The Commissioner did not find other instances of wrongdoing by the public servants. However, the Commissioner was concerned because 1) there were deficiencies in the agency's record-keeping practices around hiring decisions, and 2) senior staff in the agency had used personal email accounts for agency business.

In particular, the lack of clarity surrounding the hiring of the family member, especially in light of the senior public servant's potential conflict of interest, was problematic and contributed to the perception that the senior public servant gave the family member preferential treatment.



The use of personal email accounts for agency business, which concerned sensitive and personal information about employees, was also troubling, and it exposed the agency and its employees to risk. However, the Commissioner did not find that the senior staff had intended to conceal public records or remove public records from the custody or control of the agency. For the most part, the senior staff sent email chains to or from an agency email address, or forwarded the emails to an agency email address, meaning that at least most of the emails exist in the agency's records.

The Commissioner made recommendations to the agency and the Secretary of the Cabinet regarding the finding of wrongdoing and his other concerns. The agency accepted the Commissioner's recommendations and agreed to report back to the Commissioner, in collaboration with the Secretary of the Cabinet, on the measures taken to implement the recommendations.

Lobbyists Registration

Developments

The Lobbyist Registry had a year of consistent increases in the number of both registrations and active lobbyists. While the increase in registrations following the 2018 provincial election was more dramatic — an increase of close to 30% over the previous year — the increase of 8% this year over last is more consistent with previous years.

This year the Office worked to expand compliance reviews. This has led to the opening of several investigations into types of potential non-compliance that have not been examined in previous years, including failure to update a registration with new information.

Inquiries officers continued to follow up with lobbyists with requests that more complete information be included in the registrations, or to correct inaccurate or out-of-date

29
investigations
concluded

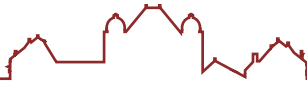
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Advisory Opinions

information. The most common issues include registrations that contain vague details about the lobbying activities or submitting minimal changes to information when renewing a registration. The latter can be problematic because it does not accurately reflect any specific activities that may have occurred within the renewal period.

The Office reviewed and updated its existing resources for lobbyists to directly address areas where compliance can be improved.

What We Do

- Administer and maintain an online public record of paid lobbyists and their lobbying activities
- Issue Advisory Opinions and Interpretation Bulletins
- Promote understanding about the *Lobbyists Registration Act, 1998*
- Investigate matters of potential non-compliance



Interpretation Bulletins

Interpretation Bulletins are an important resource for lobbyists and their advisors. Under the *Lobbyists Registration Act, 1998*, the Integrity Commissioner, as Lobbyists Registrar, can issue bulletins that interpret specific sections of the Act and explain how these sections apply to all, or a large segment, of lobbyists. The Office revised its bulletins in 2016 following the implementation of the major amendments to the Act. A new review occurred this year with the goal of using clear and consistent language for the existing seven Interpretation Bulletins. The Commissioner also issued three new bulletins, each of which answers a specific question about a requirement of the Act:

- » Am I lobbying?
- » Do I have to register if I only arrange a meeting? (consultant lobbyists only)
- » Do I have to do anything when I am done lobbying, or a lobbyist leaves my organization?

All Interpretation Bulletins are published on the Office website.

Advisory Opinions

While the Interpretation Bulletins cover broader applications of the Act, there are times when a lobbyist or senior officer has a specific question about their obligations regarding registration or other aspects of the legislation. In these situations, individuals can request an Advisory Opinion from the Commissioner.

An Advisory Opinion is provided directly to the lobbyist or senior officer who requests it, and the guidance is specific to that individual. The opinion considers the precise

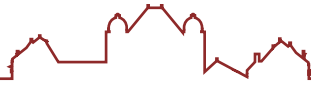
facts of the situation and how the Act applies under the circumstances.

The Commissioner issued 84 Advisory Opinions this year, and the Office continues to encourage lobbyists to request an opinion to ensure they are compliant with the Act. These opinions can be particularly helpful when a lobbyist wishes to invite a public office holder to an event, offer them a gift or participate in a form of political activity, such as fundraising. Seeking guidance on these topics helps lobbyists avoid placing a public office holder in a real or potential conflict of interest, which is prohibited by the Act.



Newsletter

The Office's newsletter, *ON Lobbying*, marked its first anniversary in October with six issues sent to subscribers this year. The newsletter allows the Office to convey important information about registration obligations, as well as available resources to assist with compliance. Topics range from tips for managing multiple registrations to what information to include when describing one's lobbying activity. Lobbyists and senior officers can subscribe and read past issues on the Office website. As of March 31, 2020, the newsletter had close to 500 subscribers.



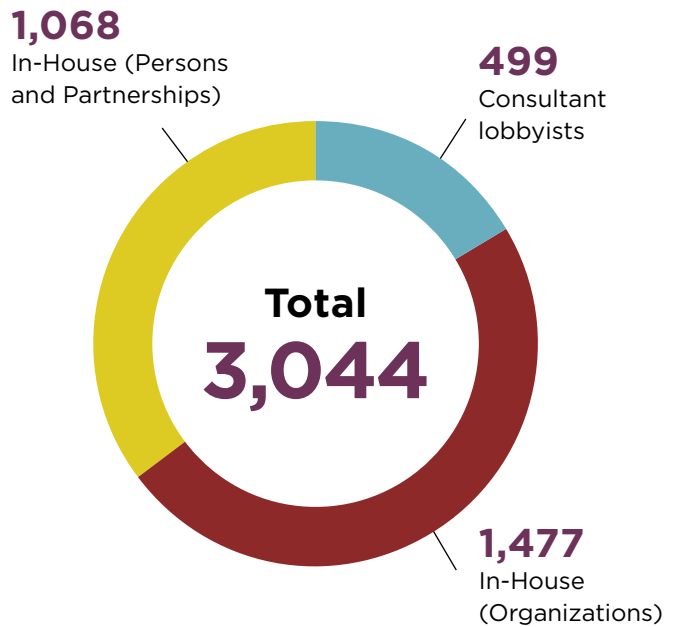
Lobbyists Registrars and Commissioners Network

Lobbyist registrars and commissioners from across Canada held their annual meeting in Ottawa in September to discuss best practices and emerging issues for lobbyist registration requirements.

This year's meeting was hosted by Canada's Commissioner of Lobbying, with registrars and commissioners from six provinces and two municipalities attending. The two-day meeting covered a wide range of topics including updates on legislative changes and registry systems and allowed for the sharing of best practices relating to compliance. The group also held a one-day teleconference meeting in February.

Registration Activity

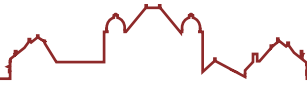
Ontario had 3,044 registered lobbyists on March 31, 2020.



Registrations by Type

Consultant lobbyists are required to have a registration for each client. In-house registrations are filed in the name of the senior officer of the organization or entity and will list the names of all employees who lobby in one registration.

	March 31, 2019	March 31, 2020
Total active registrations	2,752	2,981
Consultant	2,277	2,468
In-House (Organizations)	300	314
In-House (Persons and Partnerships)	175	199



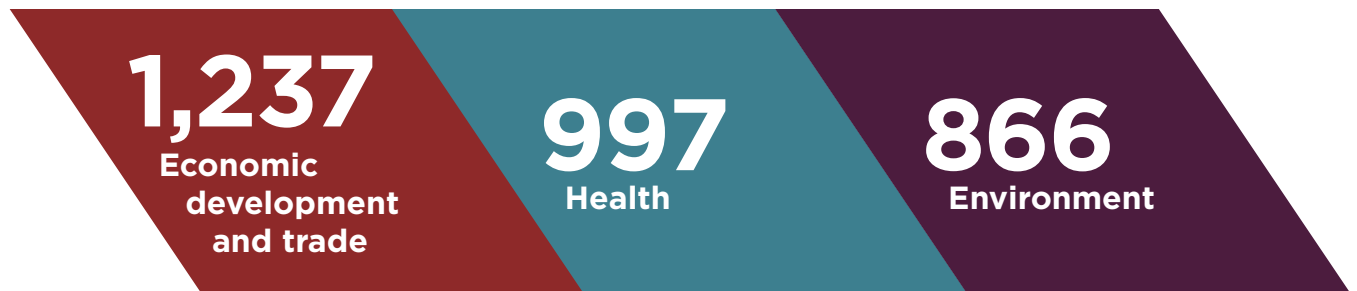
Lobbying Subjects and Targets

Every registration must include the subject matter of the lobbying activity, as well as the public office holders who are the targets of the activity.

The figures listed here indicate the number of times the subject matter or lobbying target is selected in active registrations as of March 31, 2020.

Full lobbying statistics are available in real time on the Office website.

Top Three Subjects



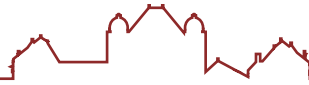
Top Listed Ministries

		2018-2019	2019-2020
1.	Ministry of Finance	1,465	1,531
2.	Ministry of Economic Development, Job Creation and Trade	944	1,195
3.	Treasury Board Secretariat	931	1,052
4.	Ministry of the Environment, Conservation and Parks	711	838
5.	Ministry of Health	878 ¹	829

Top Listed Ministers' Offices

		2018-2019	2019-2020
1.	Office of the Premier and Cabinet Office	1,890	2,165
2.	Office of the Minister of Finance	1,471	1,665
3.	Office of the Minister of Economic Development, Job Creation and Trade	1,051	1,386
4.	Office of the President of the Treasury Board	1,076	1,269
5.	Office of the Minister of the Environment, Conservation and Parks	741	896

¹ This number is for the former Ministry of Health and Long-Term Care.



Top Listed Agencies

		2018-2019	2019-2020
1.	Independent Electricity System Operator	259	252
2.	Ontario Energy Board	214	218
3.	Metrolinx	127	154
4.	Alcohol and Gaming Commission of Ontario	146	152
5.	Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)	128	125

Top Listed Members of Provincial Parliament

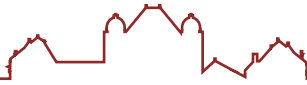
		2018-2019	2019-2020
1.	Office of the Member for Etobicoke North	841	967
2.	Office of the Member for Elgin-Middlesex-London	863	957
3.	Office of the Member for Oakville	835	955
4.	Office of the Member for Etobicoke Centre	832	953
5.	Office of the Member for Toronto-Danforth	832	951

Compliance and Investigations

Individuals, firms, companies and organizations participating in lobbying activity are required to comply with the Act. While the onus to meet these obligations is on consultant lobbyists, in-house lobbyists and senior officers of companies and organizations that lobby, the Office is committed to providing assistance and implementing measures that promote awareness of the Act and the registration requirements. Important components of this work are compliance reviews and the informal resolution process the Office has established for less serious non-compliance with the Act.

The Office reviews lobbyists' compliance with the timelines for registration that are set out in the Act. For example, the Office reviews whether lobbyists have updated their registrations within 30 days after information, like the names of government ministries, changes.

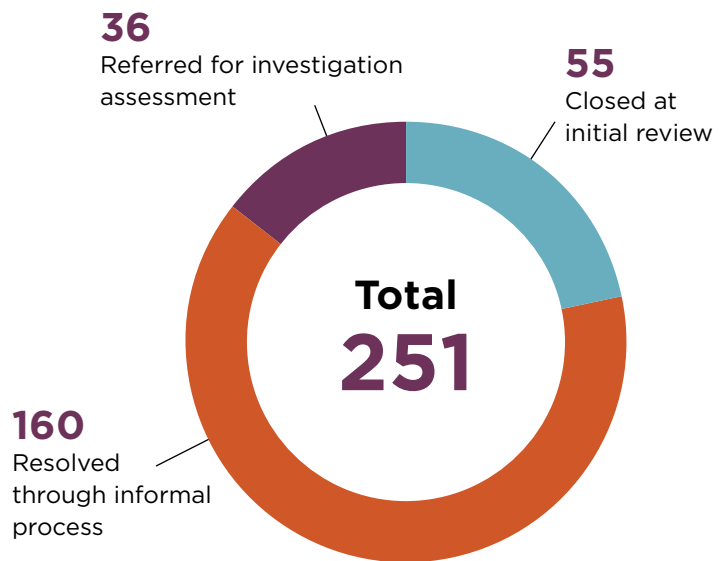
When it appears that a lobbyist has missed a deadline, the Office first assesses the matter through an informal resolution process. If a deadline was missed by a short period and the lobbyist has not had previous issues with non-compliance, the matter may be resolved with a letter from the Commissioner reminding the lobbyist of his or her responsibilities. The Commissioner may also request an explanation for the non-compliance.



The informal resolution process works to achieve compliance without using investigative resources that are better focused on more serious breaches of the Act.

This year, 251 instances of potential non-compliance were identified and 86% of these were resolved informally, with 36 matters referred for investigation assessment.

Compliance Reviews



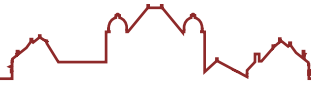
Identifying Potential Non-Compliance

Ensuring that lobbyists and senior officers meet the timelines required by the Act is an important component of the Office's compliance monitoring. Compliance checks on timelines are conducted with the information provided in registrations, but additional work to check for other types of non-compliance with the Act happens outside of the registry.

For example, the Office accepts information from individuals about potential non-registered lobbying or other non-compliance and has provided a form on its website to facilitate this. First, our investigators assess the information, then the Commissioner reviews it to determine whether to begin investigating. Individuals who submit information about alleged non-compliance do not receive updates or reports on the matter because the Act prevents the Office from disclosing

whether the Commissioner is conducting an investigation.

The Office has also slowly scaled up reviews of media reports and social media posts about lobbying activity, particularly at Queen's Park. These reviews allow the Office to cross-reference information lobbyists and senior officers provide in their registrations with publicly reported activities involving meeting with public office holders, including during lobby days. The primary goal of these compliance checks is to raise awareness through outreach and education activities for individuals who may not be familiar with the requirement to register their lobbying activity. However, this work can also reveal potential non-compliance situations for which the Commissioner may determine that an investigation is warranted.



Investigations

This year the Commissioner as Lobbyists Registrar concluded 29 investigations. Of these investigations, the Commissioner identified six cases of less serious non-compliance that were dealt with through the informal resolution process and made

nine findings of non-compliance. When the Commissioner makes a finding of non-compliance, he must then determine if a penalty is appropriate.

The Commissioner imposed a penalty on one lobbyist this year. Summaries of cases in which penalties have been imposed can be found on the Office website.

Investigation Activity

	2018-2019	2019-2020
Investigations carried from previous year	25	15
Investigations commenced	24	26
Investigations concluded	34	29
Investigations resumed	0	0
Matters refused for investigation ²	13	24
Matters referred to another person or body	0	0
Matters remaining under assessment at fiscal year-end	14	0

Investigation Case Summaries

Completed investigations are anonymized and summarized below. Certain summaries reflect more than one investigation.

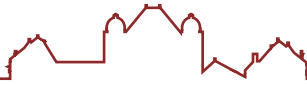
Consultant Lobbyists

Issue: Failure to register

The Commissioner investigated to determine if an individual who was lobbying public office holders on behalf of a client had failed to register. At the time that the Commissioner notified the individual of the

investigation, the registration was 395 days overdue. The investigation confirmed that the individual was a consultant lobbyist and was non-compliant with the Act. The Commissioner found that the non-compliance was significant and contrary to the public interest, but he also observed that the failure to register was inadvertent and that the lobbyist did not have a history of non-compliance. Considering these mitigating factors, the Commissioner confined the penalty to the publication of the lobbyist's name and a brief description of the non-compliance.

² Generally, matters that the Commissioner decides not to investigate will be dealt with through the informal resolution framework in order to ensure future compliance with the Act.



Issue: Failure to register

The Commissioner investigated to determine if a former consultant lobbyist failed to register lobbying activities for a client. The Commissioner found that the individual's communication with public office holders about the client did not fall within the definition of "lobby". The investigation was ceased.

Issue: Failure to register

The Commissioner investigated to determine if a consultant lobbyist failed to register his lobbying activities for a client. The Commissioner found that the consultant lobbyist had not complied with the requirements of the Act, as the lobbyist had terminated his registration for that client, yet he continued to lobby on the client's behalf. The Commissioner accepted, however, that the consultant lobbyist thought he was registered at the time of the lobbying. The Commissioner concluded the investigation and decided against imposing a penalty because he accepted that the non-compliance was unintentional and the consultant lobbyist acknowledged his compliance failures and the importance of transparency with respect to his lobbying activities.

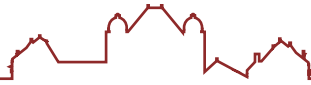
Issue: Late to register

The Commissioner investigated to determine if a consultant lobbyist was late to register. The Commissioner found that the lobbyist failed to comply with the Act because he had lobbied once on behalf of a client and then registered the lobbying activity 214 days late. The lobbyist's explanation for the delay was that the client's file belonged to his colleague, who was registered but on a

leave of absence from work; he indicated that he was simply assisting his colleague and had not intended to breach the Act. Although his colleague was registered for the client, this did not change the fact that he had lobbied on behalf of the client and was also required to register. The Commissioner concluded the investigation and decided against imposing a penalty because the lobbyist cooperated with the investigation, accepted responsibility for the non-compliance and indicated that the firm had made several changes to its internal processes to avoid future non-compliance.

Issue: Late to register

The Commissioner investigated to determine if a consultant lobbyist was late to register an undertaking on behalf of a client. The lobbyist provided information that suggested she began lobbying a number of years before she registered. The Commissioner found non-compliance with the prescribed timeline for registration; however, he accepted that the non-compliance was inadvertent because the lobbyist thought her client had registered her as an in-house lobbyist. When she discovered that she was not registered, the lobbyist sought an Advisory Opinion from the Commissioner. That opinion indicated that, in fact, she needed to register as a consultant lobbyist. The lobbyist addressed the non-compliance quickly by registering as required. She also fully cooperated with the investigation. The Commissioner reminded the lobbyist of the registration requirements under the Act and the investigation was ceased.



Issue: Placing public office holders in a conflict of interest

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act by knowingly placing a public office holder in a real or potential conflict of interest. The lobbyist worked on a political campaign for a candidate, publicly advertised her role on the campaign as having been at a senior level and then registered to lobby the candidate, who had become a public office holder. The Commissioner found that the lobbyist had not placed the public office holder in a position of conflict because the investigation revealed that, in fact, the lobbyist and the public office holder had no meaningful personal or professional relationship. The lobbyist did not hold a senior or strategic role on the campaign, as suggested by her title, which would have significantly increased the risk of a conflict. Additionally, her lobbying of the public office holder was very limited. The Commissioner determined that the consultant lobbyist had not failed to comply with the Act but warned of the risk created by publicly overstating the nature of her political activities on behalf of the public office holder.

Issue: Placing public office holders in a conflict of interest

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act by knowingly placing public office holders in a real or potential conflict of interest. The lobbyist worked on political campaigns for two candidates and registered to lobby them after they became public office holders. The Commissioner found that the lobbyist had not placed the public office holders in a position of conflict

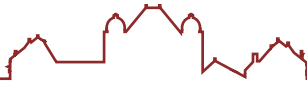
since an appropriate amount of time had elapsed between the political campaigns and the start of the lobbying activities. This reduced the risk of a conflict of interest because the sense of obligation a public office holder may feel towards a member of a campaign team diminishes over time. Additionally, the lobbyist had not maintained relationships with the public office holders following the campaigns. If he had, the Commissioner may have told him to refrain from lobbying them for a set period.

Issue: Failure to register

The Commissioner investigated to determine if a former consultant lobbyist failed to register his lobbying activity for a client. The Commissioner found that the former lobbyist had not complied with the Act because he lobbied on behalf of the client and failed to register. The Commissioner accepted, however, that the non-compliance was inadvertent and that the former lobbyist thought he was registered. Because he cooperated fully with the investigation, no longer worked as a lobbyist and the period of non-compliance was relatively brief, the Commissioner decided to cease the investigation. The Commissioner did, however, remind the former lobbyist of his responsibility to ensure compliance with the requirements of the Act if he returns to lobbying in future.

Issue: Failure to register

The Commissioner started a preliminary investigation to determine if two individuals failed to register as consultant lobbyists. There was insufficient evidence for the Commissioner to determine that the individuals were lobbying. The Commissioner ceased the investigation.



Issue: Placing public office holders in a conflict of interest

The Commissioner investigated cases concurrently to determine if three consultant lobbyists knowingly placed public office holders they were lobbying in a real or potential conflict of interest contrary to the Act. The consultant lobbyists helped sell tickets to a fundraising event for a political party, and they were registered to lobby public office holders, including the leader of the political party. The Commissioner found that the lobbyists had not placed any public office holder in a position of conflict of interest because they had no strategic or instrumental role in organizing the fundraiser. In addition, they did not interact with any public office holders concerning planning the fundraiser. Further, the fundraiser was not for an individual public office holder but for the political party as a whole. The Commissioner stated that when a lobbyist fundraises for a political party, and no individual public office holder has possession or control of the proceeds, it is less likely that an individual public office holder will have a sense of obligation to the lobbyist. The Commissioner determined that while the lobbyists had not failed to comply with the Act, one of the lobbyists made a misleading statement to prospective attendees that suggested the lobbyists played an instrumental role in organizing the fundraiser, which was factually incorrect. This statement increased the risk that people would wrongly perceive that the lobbyists placed a public office holder in a position of conflict of interest.

Issue: Failure to register

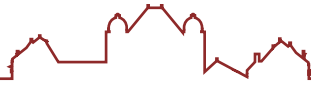
The Commissioner investigated to determine if an individual was acting as a consultant lobbyist on behalf of several clients and failed to register his lobbying activity within the timeline set out in the Act. During the investigation, the individual advised the Commissioner that he provides advisory services to public office holders. He also provides advisory services to clients; however, he does not lobby public office holders on behalf of his clients. The Commissioner found that the individual was not lobbying; that is, he was not communicating with public office holders on behalf of paying clients in an attempt to influence. Therefore, the Commissioner ceased the investigation. However, he cautioned the individual about the risk of non-compliance with the Act if his clients come up in conversation with public office holders. He reminded the individual to seek advice from the Commissioner if he has questions about his compliance with the Act.

Issue: Late to register

The Commissioner investigated to determine if an individual was late to register as a consultant lobbyist. The Commissioner determined that the individual had not engaged in lobbying activities. Accordingly, he concluded that there was no contravention of the Act and ceased the investigation.

Issue: Placing public office holders in a conflict of interest

The Commissioner investigated to determine if a consultant lobbyist knowingly placed a public office holder in a real or potential conflict of interest contrary to the Act. The



Commissioner found that the consultant lobbyist failed to comply with the Act. The lobbyist held senior and strategic roles on political campaigns for a candidate, and shortly afterwards, the candidate became a public office holder. The public office holder was a target of the lobbyist, who represented several clients. Additionally, the lobbyist and the public office holder had an ongoing personal relationship. For these reasons, the Commissioner found that the public office holder may have felt a sense of obligation towards the lobbyist, which could have caused the public office holder to further the private interests of the lobbyist and/or his clients improperly.

The Commissioner concluded that this was a serious breach of the Act. However, the lobbyist stopped lobbying the public office holder when he was notified of the investigation. He cooperated fully in the investigation and did not have a history of non-compliance. Therefore, the Commissioner decided not to impose a penalty.

Issue: Late to register

The Commissioner investigated to determine if a consultant lobbyist was late to register an undertaking on behalf of a client. The lobbyist provided information that suggested she began lobbying a number of years before she registered. The Commissioner found non-compliance with the prescribed timeline for registration; however, he accepted that the non-compliance was inadvertent because the lobbyist thought her client had registered her as an in-house lobbyist. When the lobbyist discovered that this was not the case, and that she should have been registered as a consultant lobbyist, she

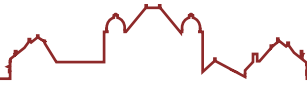
addressed the non-compliance quickly and cooperated with the investigation. The Commissioner reminded the lobbyist of the registration requirements under the Act and the investigation was ceased.

Issue: Failure to provide information in registration

The Commissioner investigated two cases concurrently to determine if two consultant lobbyists failed to provide information required by the Act in their individual registrations for the same client. The Commissioner determined that the lobbyists failed to provide complete and accurate information in their registrations but accepted that this was inadvertent. Since the lobbyists brought the non-compliance to the attention of the Commissioner, updated their registrations as required when the non-compliance was discovered and cooperated fully with the investigation, the Commissioner ceased the investigation and cautioned the lobbyists to take steps to ensure future compliance.

Issue: Failure to register and placing public office holders in a conflict of interest

The Commissioner was given information that a consultant lobbyist may have failed to register lobbying activity and knowingly placed public office holders he was lobbying in a real or potential conflict of interest contrary to the Act. The Commissioner started a preliminary investigation. The Commissioner was unable to find any evidence that the lobbyist had failed to register his lobbying activity or placed any public office holder in a position of conflict of interest. The Commissioner ceased the investigation.



In-House Lobbyists for an Organization or a Person and Partnership

Issue: Late to update registration

The Commissioner investigated to determine if the senior officer of an organization complied with the Act's 30-day requirement to notify the Commissioner of changes to the organization's registration. The Commissioner found that the senior officer was up to 300 days late in listing certain public office holders the organization had lobbied. The Commissioner found that the non-compliance was significant given the length of the delay. Ultimately, he decided not to impose a penalty because the organization had maintained an active registration through the relevant period and the senior officer took responsibility for the non-compliance and instituted internal policies to prevent future non-compliance. The Commissioner reminded the senior officer of his obligations under the Act and closed the file.

Issue: Failure to register (in-house and consultant)

The Commissioner investigated to determine 1) if the senior officer of an organization failed to register, and 2) if an individual failed to register as a consultant lobbyist on behalf of the organization, which was his client. On the first matter, the Commissioner found that the communications between the organization and public office holders did not fall within the Act's definition of "lobby." And on the second matter, he found that the individual had not lobbied on behalf of the organization and was therefore not required to register as a consultant lobbyist. Accordingly, the Commissioner ceased the investigation.

Issue: Late to register

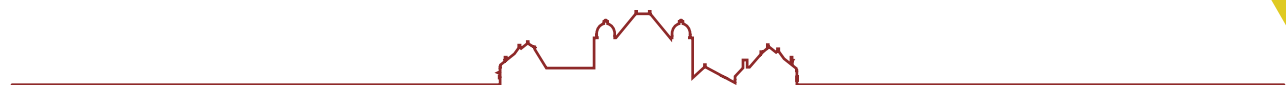
The Commissioner investigated to determine if the senior officer of an organization was late to register as an in-house lobbyist. The Commissioner found that the senior officer, who was the sole employee at the organization involved in lobbying activities, had not spent more than 50 hours lobbying public office holders in any single year. The Commissioner concluded that the Act did not require the senior officer to register. The investigation was ceased.

Issue: Placing public office holders in a conflict of interest

The Commissioner investigated to determine if an organization's in-house lobbyists placed public office holders they were lobbying in a real or potential conflict of interest by giving them free tickets to an event. The Commissioner found that an in-house lobbyist, who was also the senior officer, failed to comply with the Act because she gave tickets to public office holders she was lobbying, which put them in a position of a real or potential conflict of interest. However, the Commissioner ceased the investigation because the organization stopped offering free tickets to public office holders and the senior officer left the organization and was no longer a registered lobbyist. Additionally, the new senior officer met with the Commissioner and Office staff to discuss best practices for ensuring future compliance with the Act.

Issue: Late to update registration

The Commissioner investigated to determine if the senior officer of an organization complied with the timeline under the Act for notifying the Commissioner of changes to



the organization's in-house lobbyists. The Commissioner found that the senior officer had failed to notify him about the addition or removal of four in-house lobbyists within the required timeline. The Commissioner found that a fifth employee did not need to be registered as an in-house lobbyist because he had not engaged in lobbying activities as defined by the Act. The Commissioner determined that a penalty was not in the public interest given that the senior officer had cooperated fully with the investigation. Additionally, the period of non-compliance in the case of one in-house lobbyist was relatively short, and another was caused by extenuating circumstances. However, the Commissioner recommended to the senior officer that the organization provide better training for their employees to ensure compliance with the Act in future.

Issue: Late to update registration

The Commissioner investigated to determine if the senior officer of an organization complied with the Act's 30-day requirement to notify the Commissioner of all the public office holders the organization lobbied during a lobby day at Queen's Park. The Commissioner found that the organization's registration had properly reflected the lobbying that occurred during the event. The Commissioner ceased the investigation and closed the file.

Issue: Failure to register

The Commissioner investigated to determine if an organization's senior officer failed to register the organization's lobbying. The Commissioner found that the senior officer had not complied with the Act, as he had not filed a registration within two months of the organization employing an in-house

lobbyist. After receiving notice of the Commissioner's investigation, the senior officer filed a registration, which was more than 400 days late. This was a serious delay and contrary to the public interest. However, the senior officer cooperated fully during the investigation and instituted new practices within the organization to ensure future compliance. The Commissioner accepted that the senior officer's non-compliance was inadvertent. For these reasons, he decided that a penalty was not necessary and concluded the investigation.

Issue: Late to update registration

The Commissioner investigated to determine if a senior officer failed to amend the information in his organization's registration within the timeline required by the Act. The Commissioner found that the senior officer failed to comply with the Act. Following a lobby day at Queen's Park, the senior officer failed to amend the organization's registration to reflect all the public office holders the organization lobbied that day. The senior officer accepted responsibility for the non-compliance and explained that an oversight occurred because certain public office holders, who were not specifically invited, attended one of the lobby day meetings, and the senior officer then neglected to add those public office holders to his registration as lobbying targets. Since the senior officer cooperated fully with the investigation, acknowledged the error and was otherwise properly registered, the Commissioner decided not to impose a penalty.

Financial Statement

	2019-2020
Salaries and Benefits	\$ 2,894,121
Transportation and Communication	\$ 74,984
Services	\$ 824,543
Supplies and Equipment	\$ 63,852
Total	\$ 3,857,500

The Office of the Integrity Commissioner's fiscal year runs from April 1 to March 31.

Financial transactions are subject to audit by the Office of the Auditor General through the accounts of the Legislative Assembly.

You can find information about the Office's reporting under the *Public Sector Salary Disclosure Act, 1996* at www.ontario.ca/page/public-sector-salary-disclosure.

Proactive Disclosure

You can find expense claims for travel, meals and hospitality for the Office's senior management and for employees with claims exceeding \$5,000 at www.oico.on.ca.



This report is also available at www.oico.on.ca
Cette publication est aussi disponible en français.

ISSN 1205-6391 (Print)
ISSN 1918-0357 (Online)



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