



Office of the
**Integrity
Commissioner
of Ontario**

ANNUAL REPORT

2022–2023

ENCOURAGING A CULTURE OF INTEGRITY

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Office of the Integrity Commissioner
J. David Wake, K.C., Commissioner

Bureau du commissaire à l'intégrité
J. David Wake, c.r., Commissaire

June 2023

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, 2022, to March 31, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "J. David Wake".

J. David Wake, K.C.
Integrity Commissioner

TABLE OF CONTENTS

/// COMMISSIONER'S MESSAGE	3
The Integrity Commissioner's review of the year	
/// OUTREACH	14
Outreach, training and speaking events	
/// MEMBERS' INTEGRITY	16
Advising MPPs on conflict of interest matters and ethical behaviour	
/// MINISTERS' STAFF ETHICAL CONDUCT	26
Advising and directing ministers' staff on conflicts of interest, political activity and post-employment obligations	
/// PUBLIC SECTOR ETHICS	32
Advising and directing senior public servants on the Conflict of Interest Rules and political activity restrictions	
/// EXPENSES REVIEW	38
Two mandates to ensure accountability and encourage prudence in travel expense spending	
/// DISCLOSURE OF WRONGDOING	42
Ensuring a meaningful response when public servants make allegations of wrongdoing	
/// LOBBYISTS REGISTRATION	48
Providing transparency about who is talking to whom in government and about what	
/// FINANCIAL STATEMENT	60

/// YEAR IN REVIEW

290

MPP INQUIRIES

2,895

EXPENSE CLAIMS REVIEWED

12

LOBBYING INVESTIGATIONS
CONCLUDED

3,404

ACTIVE LOBBYISTS

22

DISCLOSURES OF
WRONGDOING SUBMITTED

55

ADVISORY OPINIONS
TO LOBBYISTS

4

DISCLOSURES OF
WRONGDOING INVESTIGATED
AND CONCLUDED

204

PUBLIC SECTOR ETHICS
MATTERS ADDRESSED

74

MEDIA INQUIRIES

25

OUTREACH, TRAINING
AND SPEAKING EVENTS

147

MINISTERS' STAFF INQUIRIES

20

ETHICS EXECUTIVES
TRAINED



J. David Wake, K.C.
Integrity Commissioner

/// COMMISSIONER'S MESSAGE

This is my eighth annual report as Integrity Commissioner, which coincides with the 35th anniversary of the establishment of the Office under its foundational mandate — Members' Integrity. The full mandate reports follow this message, but I will highlight each of the mandates briefly. Rather than feature one mandate for more thorough comment, as I have in the past two years, I will instead outline considerations for legislative amendments that my staff and I have compiled to date for each mandate. These suggestions will be inserted in the highlights for each mandate set out below.

Of the five pieces of legislation that provide the framework for my Office's work, the *Lobbyists Registration Act, 1998* and the *Public Sector Expenses Review Act, 2009* were the last to be updated through amendments, which occurred in 2016 and 2014 respectively. The *Public Service of Ontario Act, 2006*, from which three of my mandates derive, has not been amended since it passed in 2006. While the *Members' Integrity Act, 1994* has had some small additions in recent years, it has not undergone a full review since 2010. The required 2021 review of the *Lobbyists Registration Act, 1998* has been delayed. I believe that regular and thoughtful review of legislation is key for Ontario's ethics and accountability legislation to remain current and effective.

MEMBERS' INTEGRITY

This was an election year. Our Election Readiness Project, on which I reported last year, was a success. Our Office provided guidance to MPPs regarding constituency office operations during the writ period, as well as to other mandates (Lobbyists Registration, Ministers' Staff, and Public Sector Ethics) affected by possible political activity restrictions leading up to and after the election. Shortly after the election, I was pleased to have been invited again by the Clerk of the Legislative Assembly to make a presentation to the 36 newly-elected members at an orientation session in the Assembly, followed by an opportunity to meet with the members individually and informally.

I provided advice to newly-elected members and newly-appointed cabinet ministers as to their obligations under the *Members' Integrity Act, 1994* (MIA) and Ontario parliamentary convention, including approving management trusts set up by some of the latter group to avoid potential conflicts of interest. In addition, I also advised departing cabinet ministers as to the restrictions on them, such as lobbying the government or accepting employment with a person or entity that had received a contract from the minister's ministry in the preceding 12 months.

I was pleased that in the past year both official parties asked me to provide constituency office training for their staff. I was able to provide three of these sessions and have another one scheduled. These sessions are important since these staff are on the front line dealing with constituents' issues or concerns. Their efforts reflect their members, so we encourage staff to reach out to us for advice on such matters as advocacy letters or letters of reference, which constituents are asking their member to provide. Sometimes these requests can be accommodated, but sometimes to do so would be inappropriate.

Possible Legislative Amendments

// Appearance of conflict

Some time ago, in a report issued on an alleged conflict of interest matter, I asked the legislature to clarify the application of the MIA to apparent or perceived conflicts of interest. The first Integrity Commissioner, the Honourable Gregory T. Evans, had interpreted the MIA as applying only to actual conflicts. Appearances of a conflict of interest are often the result of misinformation, but, unless addressed, they can lead to a lack of public faith in our institutions. The question has arisen again, but, to date, the legislature has not taken any steps to review this aspect of the MIA.

// Gifts

I receive a substantial number of requests for advice from members on the topic of gifts. My Office even embarked on a gift project in 2016 to address some of the situations involving gifts to members and how, in general, they should be handled. The resulting guidance for MPPs is published on the Office's website. Nevertheless, there continues to be a number of questions on this topic. The \$200 reporting threshold is mistaken, on occasion, as a limit for a gift to be acceptable. Many gifts over that amount can still be acceptable (e.g., attending a charity dinner in the MPP's riding where the member has a speaking role), while many gifts below that amount are unacceptable (e.g., a lobbyist meeting with a member for dinner and picking up the tab of \$150 for the member).

Currently, there is an exemption for riding associations providing gifts to members, including cash to supplement their income. Should this be continued? Should gifts provided to extended family members

and friends be included in the gift rule? Currently, they are not. Should sponsored travel continue to be governed under the gift rule or should it be set up as a specific category under the MIA, much like the Conflict of Interest Code for Members of the House of Commons? I suggest it is time to address these questions.

// Commissioner's own initiative to launch a section 31 inquiry

Currently, under section 31 of the MIA, the Integrity Commissioner can only launch an inquiry into a member's conduct if another member makes a request under section 30. In some jurisdictions, commissioners can act on their own initiative based on information provided to them from other sources, including members of the public. This is an option that should be considered by the legislature.

// Restrictions on former cabinet ministers

Currently, a departing minister cannot accept employment with a person or entity that has received a contract or benefit from the minister's ministry at any time in the 12 months before the minister left office. The intent is to prevent a minister from providing a benefit to a prospective employer. However, government contracts are frequently awarded for consulting and legal services by ministry officials without the minister's knowledge, particularly if they are limited in scope. It seems unfair to penalize a former minister in this way. I suggest that the Integrity Commissioner be given some discretion to approve an exception in those circumstances.

MINISTERS' STAFF

The number of inquiries from ministers' staff was slightly lower than last year, with post-employment making up the largest category, which is to be expected during an election year when there is a higher turnover in staff.

I continue to provide ministers' staff training for newly hired staff. The organization of these sessions, which are conducted remotely, is coordinated with the Premier's Office, although I have accepted invitations to provide training to an individual minister's staff at their offices. I enjoy the in-person sessions because there is a greater opportunity for immediate feedback and questions.

Possible Legislative Amendments

- Consideration should be given to expand and standardize the definition of family members in the Conflict of Interest Rules;
- The definition of lobbying in the *Public Service of Ontario Act, 2006* should be aligned with that in the *Lobbyists Registration Act, 1998*; and
- A timeline should be established for ministers' staff to notify their Ethics Executive (the Integrity Commissioner) of a conflict of interest or the acceptance of a gift.

LOBBYISTS REGISTRATION

The number of active lobbyists listed on the registry was similar to last year, although the number of active registrations was up by more than 100, with most of the increase comprising registrations by consultant lobbyists. This is a much lower increase than the one following the 2018 election, which saw an increase of more than 600 registrations. Compliance numbers are mixed. While the number of compliance reviews is slightly lower than last year, a larger proportion of the reviews were referred for investigation assessment, and more than double the number of investigations was opened.

Possible Legislative Amendments

In the last two annual reports, I have dealt with the need and legislative requirement for a review of the *Lobbyists Registration Act, 1998* (LRA). I am hopeful that this will be the year in which it will be done. I have outlined suggestions for amendments in the past two reports, but I will do so again below:

- Reduce the 50-hour threshold for the registration of in-house lobbyists. This is an important transparency gap in the LRA that should be reviewed and addressed. To emphasize this, I point to the number of cases, identified later in this report, where I have been required to cease the investigation because entities that have spent many hours lobbying do not meet the 50-hour threshold and are not required to register their lobbying activity.
- Clarify the definition of conflict of interest in the LRA. Expand the prohibition on placing a public office holder in a conflict of interest to individuals who are lobbying but do not meet the definition of a consultant or in-house lobbyist.
- Require lobbyists and senior officers to report any volunteer or unpaid lobbying activity in their registrations.
- Define a reasonable cooling-off period for lobbyists engaged in a range of political activities.

PUBLIC SECTOR ETHICS

The inquiries under this mandate were substantially higher this year due to the increase in financial declarations filed with my Office. Under the Conflict of Interest Rules, when a public servant begins work on a matter that might involve the private sector, they must file a financial declaration with me, disclosing certain matters respecting their financial interests and those of their spouse, including shares, business interests, and real estate. This is done so that I can determine if there is a possibility of a conflict of interest between their financial interests and their work with the private sector and advise their Ethics Executive accordingly.

As in past years, I made presentations to public bodies on political activity and the Conflict of Interest Rules. I also presented at a deputy minister onboarding session. The Office held an Ethics Executive orientation session in November for 27 attendees. Another session is planned for the start of the new fiscal year in April.

Possible Legislative Amendments

- Expand and standardize the definition of family members in the Conflict of Interest Rules;
- Align the definition of lobbying with the *Lobbyists Registration Act, 1998*; and
- Review the requirements and process of financial declarations.



EXPENSES REVIEW

With the gradual removal of travel restrictions related to the pandemic, travel expense claim submissions have begun to increase in number.

Before the pandemic, I had hoped to increase the number of agencies subject to review and “graduate” them if they demonstrated sufficient compliance with the Travel, Meal and Hospitality Expenses Directive and Allowable Expense Rules. Unfortunately, with the pandemic, there was an insufficient number of claims being reviewed to make that type of determination. We graduated only one agency and replaced it with another. Now that there are more claims to review, I am hopeful that we will be able to review more agencies in the coming year.

Possible Legislative Amendments

We will continue to review both the Directive and Allowable Expense Rules and make suggestions, based on our experience, to the Treasury Board, whose responsibility it is to administer and update them.

DISCLOSURE OF WRONGDOING

There has been a modest increase in the number of disclosures this year over last year, with most of them being received in the second half of the year, indicating that the dip in the number of disclosures noted during the pandemic may be reversing.

I continue to ensure that the Disclosure of Wrongdoing (DOW) framework is part of our training sessions with Ethics Executives.

The DOW process in Ontario is complicated in that public servants can go to their own Ethics Executive or they can come to my Office. If I have jurisdiction, I must then refer it to the public servant's Ethics Executive (or another designated official, but usually the Ethics Executive). Although seemingly circular, this process does ensure that the investigation is subject to my supervision, as opposed to a disclosure that goes directly to the Ethics Executive from the public servant. In some cases, I can suggest to the Ethics Executive that the matter be referred back to me for investigation, which, again, is an awkward two-step. The DOW framework regime should be reviewed to streamline the process.

Possible Legislative Amendments

- The Integrity Commissioner should have discretion to open an investigation without first having to refer the matter to the discloser's Ethics Executive or other senior official and suggest that they refer it back.
- Government contractors should be allowed to make disclosures. Currently, only public servants can make disclosures.
- The Integrity Commissioner should have the ability to conduct a preliminary inquiry as part of the initial assessment to determine jurisdiction before it can be referred for investigation. In some cases, this might reduce the need to make the referral.
- The Ontario public service should be required to gather and make public statistics and anonymized summaries about disclosures made internally. This is a requirement in the federal public service.

CONCLUSION

Over the last three years I have remarked on the challenges our Office has faced providing services to the public and, particularly, our stakeholders during the pandemic. The principal challenge arose due to our office space either being shut down or maintained by a minimum number of staff while everyone else worked remotely. Under the leadership of Deputy Commissioner Cathryn Motherwell and following consultation with staff, a business continuity plan was developed. I am grateful to all staff who demonstrated remarkable resiliency during this period, adapting to multiple Teams/Zoom meetings each week until we were gradually able to return to the office.

During the last year, staff have started attending the office a minimum of three days a week, and some attend four days a week. I have found this development to be a positive one for in-person collaboration,





mentoring, and quick gatherings to address the urgent problems of the day. I was pleased that MPPs have returned to in-person meetings with me. Similarly, investigation interviews have resumed in person. I find these to be more effective than those done remotely, particularly when there are multiple documents being presented to a witness.

I was also pleased that some of my staff and I were able to attend the annual meetings of three Canadian jurisdictional networks, as well as the Council on Governmental Ethics Laws conference. These meetings had been held virtually for the previous two years, so it was enjoyable to be able to meet with colleagues in person once again.

Having said that, we are retaining some lessons learned from the pandemic experience, particularly in our training and outreach work. An example is the Ethics Executive orientation sessions. Prior to the pandemic, Ethics Executives and staff from all over the province would have to come to Toronto for a half-day session. The pandemic forced us to design a session to be presented remotely. This has proved to be less costly and time-consuming for attendees, but also has seemed to be at least as effective as the in-person sessions we used to provide. Similarly, the training sessions for ministers' staff will continue in a virtual format with some exceptions. Constituency office staff previously received limited training, usually one office at a time. Now we are able to accommodate all offices using a remote platform.

I understand that there continues to be work done in the Ontario Public Service (OPS) on the future of work. I am proud that our Office has been, and will continue to be, responsive to the changing circumstances. Although my Office is independent from the OPS, we have and will take its position on this subject into consideration and continue to provide our services effectively.

IN MEMORIAM

Coulter A. Osborne, OOnt., K.C., LL.D. (Hon.), OLY

I would like to make special mention of the contribution of former Integrity Commissioner, Coulter A. Osborne, K.C., who passed away on April 19, 2023.

Mr. Osborne served as Integrity Commissioner from 2001 to 2007, overseeing the addition of three mandates to the Office with the enacting of the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002* and the *Public Service of Ontario Act, 2006* (Ministers' Staff Ethical Conduct and Disclosure of Wrongdoing). During his tenure, he released 14 reports under the *Members' Integrity Act, 1994* and responded to more than 2,000 requests for advice from MPPs.

Prior to his appointment as Integrity Commissioner, he served as Associate Chief Justice of the Ontario Court of Appeal.

His commitment to the work of the Office is best reflected in his own words: "Ethics and integrity remain at the heart of public confidence in government. I hope that in some small way the work of this office has enhanced public confidence in the manifestly important work of the Legislative Assembly" (Commissioner's Message, Annual Report 2006–2007).



YEAR IN REVIEW

This year the Office held or participated in 25 outreach, training and speaking events. Mandate-specific training activities are described in the relevant sections of this report.

The Office continued to adjust to the lifting of pandemic-related restrictions and, as a result, some outreach activities, training sessions and appearances were attended remotely, while a few returned to an in-person format.

The Office responded to 74 media inquiries.

This year the Integrity Commissioner participated in a Society of Ontario Adjudicators and Regulators panel on the political activity rules for public servants. He also presented at an event held as part of the Ontario Lottery and Gaming Corporation's Corporate Compliance and Ethics Week.

The Commissioner addressed students studying public policy and government relations in various ethics courses at Carleton University, Seneca@York and York University. He also spoke to interns from the 2022–2023 Ontario Legislature Internship Programme.

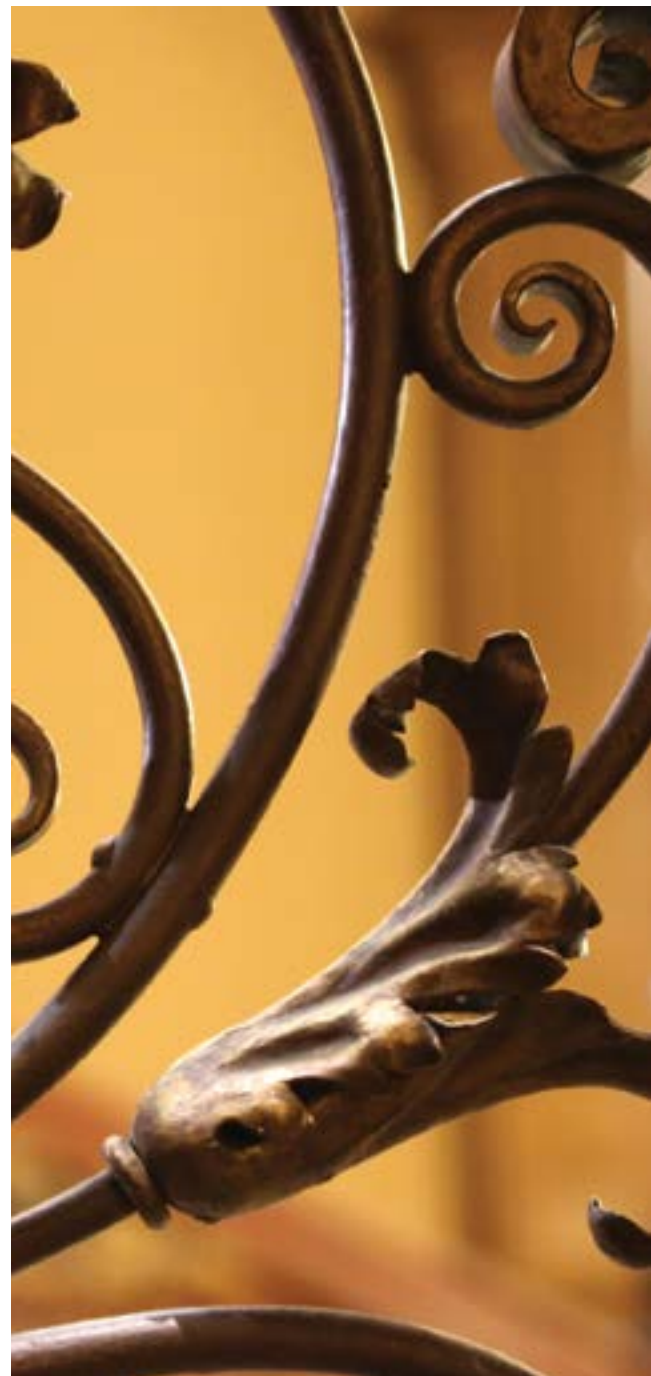


The Commissioner and staff also participated in the annual meetings of the following Canadian jurisdictional networks, which were held in person this year:

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

Office staff attended the 2022 Council on Governmental Ethics and Law (COGEL) conference in Montreal, with some staff participating as panelists and moderators. The Deputy Commissioner continues to serve on the COGEL program committee, which brings together public sector ethics organizations from across North America and beyond to share jurisdictional updates and to discuss emerging trends and issues.

As a member of the *Réseau francophone d'éthique et de déontologie parlementaires*, the Commissioner and staff attended the organization's annual general meeting in November 2022. This network promotes exchange and dialogue between French-speaking parliaments and entities interested in ethics rules and frameworks for elected officials. During the meeting, the Commissioner provided an overview of a report he issued under the *Members' Integrity Act, 1994*.



YEAR IN REVIEW

The Integrity Commissioner responded to 290 requests for advice from MPPs about their obligations under the *Members' Integrity Act, 1994*, which is a slight increase from 277 requests in the previous year. There was a notable increase in requests for advice about gifts, as in-person events resumed and MPPs received invitations to functions in their ridings and beyond. The Commissioner responded to 74 inquiries about gifts this year, compared with only 28 inquiries the year before.



The second-most common inquiry was about the appropriateness of writing a letter of support or reference. The provincial and municipal elections held in 2022 gave rise to many inquiries about what MPPs could and could not do when engaging in political activity or while campaigning during the writ period.

What We Do

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

290 MPP INQUIRIES

// TYPES OF INQUIRIES

74

GIFTS

23

ADVOCACY

70

LETTERS OF SUPPORT

18

CHARITABLE SUPPORT

34

CONFLICT OF INTEREST

9

CONSTITUENCY
OFFICE USE

24

POLITICAL AND WRIT
PERIOD ACTIVITY

38

OTHER



// BEHIND THE NUMBERS

These numbers reflect the various subjects about which MPPs request the Commissioner's opinion. Many of the decisions MPPs make in fulfilling their duties could cause a conflict with their obligations under the Act.

For example, MPPs and their staff regularly receive requests to advocate or support a constituent or organization, as well as invitations to events. They also have questions about upcoming votes in the legislature. An MPP can determine the best course of action for the situation by requesting and following the Commissioner's advice.



MPP Financial Disclosures

Following the June 2022 provincial election, MPPs had 60 days to submit detailed disclosures of their personal finances to the Commissioner. Office staff worked with MPPs to assist them in completing this requirement of the Act, particularly as 36 MPPs were newly-elected and submitting for the first time. The financial disclosures of assets and liabilities for MPPs, their spouses and any minor children are carefully reviewed by Office staff to ensure they comply with the requirements of the Act. Newly appointed members of cabinet received guidance to assist them in complying with their specific obligations under the Act, including the restriction on holding or trading securities, stocks and commodities. Six cabinet ministers have their assets in blind trusts. Under the Act, the Commissioner is required to approve the selection of each trustee.

The Commissioner met with each MPP individually to review their submission, provide advice based on the MPP's responsibilities in the legislature and familiarize new MPPs with the work of the Office. During these meetings, the Commissioner raised items such as the appropriate use of constituency

office resources, the rules around the acceptance of gifts and the guidance the Office provides to MPPs about posting on social media.

The public financial statements were filed with the Clerk of the Legislative Assembly and published on the Office website on February 14, 2023. The public statements provide a summary of each MPP's sources of income and their assets, liabilities and any permissible gifts received with a value exceeding \$200.

Training and Outreach

Shortly after the June election, the Commissioner was invited to speak to newly-elected MPPs at Queen's Park. This provided an opportunity to introduce new MPPs to their requirements under the Act, including financial disclosures, and to explain the role of the Commissioner.

The Commissioner and Office staff also conducted three training sessions for more than 300 employees working for MPPs at Queen's Park and in constituency offices. The training included relevant scenarios that these staff encounter and provided best practices on how to ensure they and their MPP are complying with the Act.

Meeting With Other Jurisdictions

The Canadian Conflict of Interest Network met in Yellowknife, Northwest Territories, for its annual meeting in September 2022. This was the first in-person meeting since 2019, allowing for a longer meeting and a more detailed agenda. Topics covered included the use of legislative or government resources for partisan purposes and developments around financial declarations and trusts. These meetings continue to provide a forum to exchange views and share best practices among offices tasked with ensuring ethical conduct among provincially and federally elected officials.

WHAT'S THE DIFFERENCE BETWEEN ADVICE AND INVESTIGATION?

The *Members' Integrity Act, 1994* provides two ways to ensure MPPs comply with its requirements. The first is found under section 28 of the Act, which allows MPPs to seek advice from the Commissioner about any matter or situation where the obligations of the Act may come into play. These are reported as "inquiries" and can cover a wide range of topics. Generally, these requests are made before an MPP takes an action such as accepting an invitation to an event, providing a letter of support, or participating in a vote on a matter in which the MPP has a private interest or connection. The MPP will provide information about the matter to the Commissioner, who considers if the facts of the situation will intersect with the obligations of the Act. The Commissioner will also determine if any Ontario parliamentary conventions exist that would determine the course of action, such as the convention that a constituency office should not be used to host charitable or partisan events. The Commissioner can ask for additional information from the MPP in order to understand the situation. The advice provided is confidential to the MPP.

The second way is through a section 30 request under the Act, which can lead to an investigation. In these circumstances, an MPP will ask the Commissioner to provide an opinion on whether another MPP has contravened a section or sections of the Act or Ontario parliamentary convention. The request must be related to a specific action by the MPP in question, and the requesting MPP must provide reasonable and probable grounds that a contravention has occurred. If the Commissioner determines that there are grounds for an inquiry, the Act provides that the Commissioner can request documents and interview witnesses and the responding MPP. Following the investigation, the Commissioner will determine whether the MPP has contravened the Act or parliamentary convention. A report containing a summary of the investigation and the findings is filed with the Speaker of the Legislative Assembly and is made public. These reports can be found on the Office website under the heading "Commissioner's Reports."

COMMISSIONER'S REPORTS UNDER SECTION 31 OF THE ACT

This year the Commissioner issued four reports under section 31 of the Act. They are summarized below.

// Use of Constituents' Personal Information for Partisan Purposes

**Re: Randy Hillier, MPP for Lanark–Frontenac–
Kingston (MPP Hillier No. 1)**

The Commissioner received a request from Ian Arthur, MPP for Kingston and the Islands, on whether Randy Hillier, MPP for Lanark–Frontenac–Kingston, breached Ontario parliamentary convention and section 3 of the Act by using constituents' personal information, obtained through his office's case work,

for partisan purposes by sending emails to them on behalf of or related to No More Lockdowns Canada and the People's Party of Canada (PPC).

In his report published on April 13, 2022, the Commissioner found that Mr. Hillier had breached the parliamentary convention against using constituency office resources for partisan purposes by using a constituency contact database to send out partisan messages. During the Commissioner's inquiry, the evidence disclosed two additional breaches of the same parliamentary convention. The first related

to Mr. Hillier's use of his constituency office for a partisan purpose by permitting his daughter to film the announcement of her candidacy for the PPC in the 2021 federal election from that office. The second related to the use of devices provided by the Legislative Assembly, as well as staff time, to send and film partisan messages with respect to the PPC.

The Commissioner found that Mr. Hillier had not breached section 3 of the Act since no private or pecuniary interest had been engaged. He recommended that Mr. Hillier be reprimanded by the Assembly for the three breaches of parliamentary convention.

// Social Media Posts about COVID-19 Vaccine Harm

Re: Randy Hillier, MPP for Lanark–Frontenac–Kingston (MPP Hillier No. 2)

The Commissioner received a request from Peggy Sattler, MPP for London West, on whether Randy Hillier, MPP for Lanark–Frontenac–Kingston, breached parliamentary convention when he made social media posts that contained the names and photos of individuals who had recently become seriously ill or passed away and included a claim that COVID-19 vaccines were involved in these cases.

Following the inquiry, the Commissioner issued a report on April 13, 2022. While there was no precedent of Mr. Hillier's conduct for a finding that there had been a breach of parliamentary convention, the Commissioner found that Mr. Hillier's posting on social media of the names and faces of individuals and claiming, without foundation, the COVID-19 vaccine was involved in their illnesses and deaths amounted to a breach of parliamentary convention that might readily be presumed.

Having considered the Legislative Assembly's swift and categorical censure of Mr. Hillier's conduct in this matter and that Mr. Hillier issued

a public apology to the families involved, the Commissioner recommended that the Assembly reprimand Mr. Hillier.

// Use of Legislative Resources for Partisan Purposes

Re: Andrea Horwath, Leader of the Official Opposition and MPP for Hamilton Centre

The Commissioner received a request from Mike Harris, MPP for Kitchener–Conestoga, on whether Andrea Horwath, MPP for Hamilton Centre, breached the parliamentary convention of not using legislative resources to promote partisan activity when a staff member attended a partisan event from an office at the Legislative Assembly.

In his report published on April 27, 2022, the Commissioner established that the staff member in question acknowledged and accepted that his participation in the event was from his legislative office and included the use of his Assembly-issued laptop. The individual recognized that this was contrary to parliamentary convention and apologized to Ms. Horwath and to the Commissioner.

The Commissioner found that the staff member's inadvertent lapse in judgment should not be attributed to Ms. Horwath, as she did not know that he was attending the partisan event from his legislative office. The Commissioner concluded that the evidence did not establish that Ms. Horwath breached parliamentary convention.

// Conflict of Interest – Participating in a Decision

Re: The Honourable Doug Ford, Premier of Ontario and MPP for Etobicoke North, and the Honourable Steve Clark, Minister of Municipal Affairs and Housing and MPP for Leeds–Grenville–Thousand Islands and Rideau Lakes

The Commissioner received a request for an opinion

from Mike Schreiner, MPP for Guelph, on whether Premier Doug Ford, MPP for Etobicoke North, and Minister Steve Clark, MPP for Leeds–Grenville–Thousand Islands and Rideau Lakes, breached Ontario parliamentary convention and sections 2 (conflict of interest) and 3 (insider information) of the Act by approving the decision to open parts of the Greenbelt for housing development. Mr. Schreiner provided media articles relating to the government’s decision to amend the Greenbelt plan to support his claim and expressed concern that Premier Ford and Minister Clark were unduly influenced.

In his report published on January 18, 2023, the Commissioner determined that there were insufficient grounds to conduct an inquiry regarding Premier Ford and Minister Clark in this matter because, based on the documents provided, there was no direct evidence to support Mr. Schreiner’s allegations.

The Commissioner found that there was no evidence to suggest Premier Ford and Minister Clark’s private interests were furthered, and the use of media articles as evidence did not amount to reasonable and probable grounds for the commencement of an investigation.

Requests Under Section 30

In addition to the requests that led to the reports issued under section 31, the Commissioner received three requests for opinions under section 30, which remained open at fiscal year-end.

A request for an opinion received on December 8, 2022, from Marit Stiles, Leader of the Official Opposition and MPP for Davenport, on whether Steve Clark, Minister of Municipal Affairs and Housing and MPP for Leeds–Grenville–Thousand Islands

and Rideau Lakes, breached sections 2 and 3 of the Act with respect to the decision to allow development on lands in the Greenbelt and Duffins Rouge Agricultural Preserve. The Commissioner announced on January 18, 2023, that he was commencing an inquiry into this matter.

A request for an opinion received on January 18, 2023, from Lorne Coe, MPP for Whitby, on whether Lise Vaugeois, MPP for Thunder Bay–Superior North, breached the Ontario parliamentary convention of using legislative resources for a partisan purpose when she produced and published a newsletter that included partisan content. The Commissioner determined that the request met the Act’s requirement of reasonable and probable grounds in order for him to conduct an inquiry.

A request for an opinion received on February 23, 2023, from Marit Stiles, Leader of the Official Opposition and MPP for Davenport, on whether the Honourable Doug Ford, Premier of Ontario and MPP for Etobicoke North, contravened sections 2, 4, and 6(1) of the Act, sections of its preamble or any Ontario parliamentary convention. The request was in relation to specific attendees to two family wedding events. The Commissioner issued an interim report on March 16, 2023, indicating certain issues with the request from Ms. Stiles meeting the high bar of reasonable and probable grounds as required by the Act. However, due to the overlap with the request and the issue being determined in the inquiry commenced as a result of Ms. Stiles’s December 8 request, he decided to put this request in abeyance until completion of the open inquiry.

Once they are complete, the reports for these requests will be filed with the Speaker of the Legislative Assembly and made available on the Office website.

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, the identities of those involved are anonymized and gender has been randomized. The cases are provided to highlight specific requirements of the Act and how they play out in real situations. 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.

// Inquiries from Ministers

Division of Constituency and Ministerial Staff Duties

A minister was invited to an event in his capacity as an elected official that did not clearly relate to his ministerial portfolio or his riding. He asked whether his ministerial or his constituency office staff could assist him at the event.

The Commissioner confirmed that it is Ontario parliamentary convention that MPPs are not to use resources of the executive branch inappropriately to support their work in other capacities. For example, ministers' staff should not conduct constituent case work. However, he acknowledged that in practice, it is not always clear which resources should be employed and as such, this assessment should be made on a case-by-case basis. In this instance, it was the Commissioner's opinion that it was acceptable for constituency office staff to accompany the MPP to the event since it was not partisan in nature, and MPP activities can extend beyond riding borders.

Ministerial Staff Duties

A minister inquired whether it was permissible for his ministerial staff to assist with activities in the Legislative Assembly that fall outside of the scope

of his responsibilities as minister, such as his "maiden speech" or introducing riding visitors before Question Period.

The Commissioner advised that there are practical considerations in such instances since ministers do not have staff based at the Legislative Assembly dedicated to assist with these types of activities. Since constituency staff are not located at Queen's Park and ministers' staff have a familiarity with legislative procedure, it was the Commissioner's opinion that it is generally acceptable for ministers' staff to assist ministers with their legislative activities. He also noted that ministers' staff may be required to coordinate with constituency office staff with respect to issuing invitations to constituents who will be guests at Queen's Park.

Investments

A minister asked whether it was permissible to invest in guaranteed investment certificates.

The Commissioner advised that while cabinet ministers are not permitted to hold or trade in securities, stocks, futures or commodities, they are permitted to purchase and hold broadly based funds and fixed value securities, such as GICs.



// Letters of Support

Grant Applications

An MPP asked for guidance in providing support letters for organizations that wish to apply for provincial government grants. Since the MPP was to meet with the organization seeking the grant, she asked if it was permissible to specifically discuss the application.

It was the Commissioner's opinion that the MPP was free to discuss the application with the organization. However, it was to be made clear that funding decisions rest with the ministry or agency administering the grant. The Commissioner advised that, generally, MPPs who are not members of cabinet are permitted to provide letters supporting local organizations' grant applications to provincial ministries and agencies if they wish to do so. However, he cautioned that MPPs should not use their positions to improperly influence government decision makers. As such, it was recommended that the MPP may wish to confine the content of the letter to describing the good work of the organization. The Commissioner noted that it was a prudent course of action for the MPP to meet with the organization in this case, so that she could determine whether she was comfortable supporting its application.

The Commissioner also provided his guidelines for such letters:

1. The MPP knows the individual involved and/or has an awareness of the organization.
2. The MPP maintains as much control over the letter as possible. The letter should be specifically addressed to the intended recipient. Never prepare a letter addressed "To whom it may concern."
3. The MPP determines if personal, MPP or ministerial letterhead is appropriate given the subject of the letter.
4. The MPP's letter should not be generic, but rather as specific as possible to the matter at hand. It should directly discuss the individual, organization or cause and should address the reason(s) for which the letter is being proffered.

Grant Application to Federal Government

A local organization asked an MPP, who was also a minister, for a letter to support its application for a grant administered by a federal government department. Could the letter be provided?

It was the Commissioner's opinion that the support letter could be provided since the grant was administered by the federal government and, therefore, there was no concern with respect to improper influence. The minister was reminded that the letter should be specifically addressed to the applicable federal department to ensure control over the letter's use. The Commissioner also advised that MPP (not ministerial) letterhead should be used in this instance since the organization that requested the letter was located in the riding and did not involve ministry business.

// Charitable Support

Promoting a Fundraiser on Social Media

A charitable organization partnered with a for-profit business for fundraising purposes. A portion of the sales was to be donated to the charitable organization. The organization asked the local MPP to promote the fundraiser on social media. Could the MPP fulfill this request?

It was the Commissioner's opinion that the MPP should not promote the fundraiser on her social media accounts. An MPP should avoid fundraising on behalf of any organization, as encouraging public participation in a charitable initiative could be seen as an improper use of a member's influence. In addition, parliamentary convention dictates that it is not the role of an elected official to solicit funds for a charity.

In this case, there was a further concern that the fundraising campaign would also benefit the for-profit business and, by promoting the campaign, it may be perceived that the MPP was using her position to further the private interest of the business. However, as an alternative, the Commissioner advised that the MPP could post messaging about the charitable organization's good work on social media.

// Gifts

Invitation from a Lobbyist

An MPP was invited to a gala awards dinner by an in-house lobbyist of an organization that was registered to lobby the provincial government. While the MPP was listed on the organization's registration as a target of the lobbying activity, the MPP also knew the lobbyist in his personal capacity. Gala tickets were valued at \$300. Could the MPP accept the invitation?

The Commissioner advised that the MPP should decline the invitation. Although the MPP knew the lobbyist outside of his government role, the MPP was a lobbying target. The Commissioner concluded that accepting the invitation would likely give rise to a reasonable presumption that it was extended to influence the MPP in the performance of his duties of office.

Ticket from a Friend

A minister was invited by a friend to attend a major annual sporting event. The minister and the friend did not interact in a professional capacity and the friend did not have dealings with or lobby the provincial government. Could the minister accept the invitation?

Since the individual who extended the invitation did not have any dealings with the provincial government and the minister was invited in her personal capacity, the Commissioner concluded that the gift provisions contained in the Act did not apply. As such, the invitation from the friend could be accepted.

// Advocacy

Assisting with a Matter before a Provincial Tribunal

A constituent asked an MPP to contact a provincial tribunal to request that a hearing date be expedited. The constituent had retained a paralegal to assist with the case. Could the MPP advocate on the constituent's behalf?

The Commissioner advised that the MPP or his staff could contact the tribunal to inquire about the approximate wait times for hearing dates. However, it would be inappropriate for the MPP to ask that a hearing date be expedited. The MPP must be careful not to seek or to suggest that he is seeking preferential treatment given his MPP status.

Secondly, since the constituent had legal representation to assist with the case, it was the Commissioner's opinion that asking the MPP to become involved in the same matter was akin to asking the MPP to use his influence in a manner that would be inappropriate. When a constituent has legal representation, it is the lawyer's or paralegal's job to assist the client.

Assisting with a Police Matter

A constituent asked an MPP to contact the police regarding concerns about lack of progress in a police investigation. Could the MPP speak to the police service on the constituent's behalf?

The Commissioner advised that the MPP should not contact the police to question the effectiveness of the investigation. The day-to-day operations of the police must be independent and free from government interference. MPPs should not become involved in such matters, as the police should be able to conduct investigations without influence.

Participating in an Ad

An MPP was asked by a business to participate in an online video advertisement. The video was to feature the MPP and the business's products, and the MPP was not to be paid for her role. Could she participate?

It was the Commissioner's opinion that the MPP's participation in the video would be considered an endorsement of the business and its products, and it would not be appropriate. The Commissioner advised that it is not an MPP's role to support a specific business, whether it be appearing in a video or promoting it in another way. While an MPP can welcome a business to the community and celebrate its achievements, an outright endorsement could be seen to be using the MPP's influence to further the business's private interest.

// Constituency Office Operations

Hosting an ID Clinic

A local organization asked an MPP to host a clinic at the constituency office to assist constituents in obtaining birth certificates. Could the MPP host the clinic?

It was the Commissioner's opinion that the MPP could host the ID clinic at his constituency office since birth certificates fall under the jurisdiction of the provincial government and such activity would be considered one in which MPPs normally engage on behalf of constituents in accordance with Ontario parliamentary convention.

Hosting a Charitable Fundraiser

A local charitable organization asked an MPP to host a fundraiser on its behalf at the constituency office. Could the MPP host the event?

It was the Commissioner's opinion that the MPP should not host the fundraiser. Using the constituency office for charitable initiatives runs contrary to parliamentary convention, which has established that taxpayer-funded offices should not be used to promote any given charity or cause. The Commissioner confirmed that the role of the constituency office is to assist constituents to navigate government programs and services.

Partisan Inquiries

An MPP's constituency office received numerous emails relating to the provincial election and campaign. Could these emails be forwarded to the MPP's campaign team?

The Commissioner advised that constituents should be redirected to riding associations or campaign offices when making inquiries at constituency offices that are partisan in nature. In responding to these emails, the Commissioner recommended that the contact information of the MPP's campaign office be provided and to simply advise that constituency offices cannot be used to conduct any partisan or campaign activities.

/// MINISTERS' STAFF ETHICAL CONDUCT

YEAR IN REVIEW

The Integrity Commissioner and Office staff received and responded to 147 inquiries from public servants employed in ministers' offices, down slightly from 150 received the previous year. The most common type of inquiry focused on the assessment and application of the post-employment rules.

While the number of post-employment matters was slightly lower than the 82 handled in the previous year, this category remains an important component of the work in this mandate.

Ministers' staff continued to ask for determinations regarding outside activity and potential conflict of interest, and the Commissioner provided direction on each unique situation to ensure compliance with the requirements of the *Public Service of Ontario Act, 2006* and the Conflict of Interest Rules found in Ontario Regulation 382/07 of the Act.

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, and post-employment requirements
- Provide training to ministers' offices to assist staff in understanding their obligations



147 MINISTERS' STAFF INQUIRIES

// TYPES OF INQUIRIES

63

POST-EMPLOYMENT

18

PRE-EMPLOYMENT

37

OUTSIDE ACTIVITY

12

OTHER

17

CONFLICT OF INTEREST



// BEHIND THE NUMBERS

These numbers reflect the various subjects about which ministers' staff will seek the direction or advice of the Commissioner regarding their ethical obligations under the Act.

Inquiries under the "Outside activity" category include questions about political activity. Inquiries under the "Pre-employment" category include questions from successful candidates to ministers' staff positions or requests for direction from a chief of staff regarding a new hire.

Training and Outreach

Following the provincial election and the swearing in of the new cabinet, the Commissioner sent letters to chiefs of staff in all ministers' offices with helpful resources for them to circulate to staff about the Conflict of Interest Rules. Office staff regularly contact chiefs of staff individually to confirm information about the files that ministers' staff are working on in order for the Commissioner to determine the appropriate direction to provide on a given matter. These contacts help to reinforce the importance of adhering to the requirements of the Act and lead to chiefs referring other ministers' staff to the Office for advice and direction on their ethical conduct.

In September, the Commissioner and staff delivered a remote presentation about the Conflict of Interest Rules and political activity restrictions to 65 new ministers' staff employees, which resulted in a small flurry of inquiries about outside activities and potential conflict of interest for ministers' staff. The Commissioner also delivered a requested training session to a minister's office. Presenting to a smaller group often leads to more in-depth discussion and helps the Office learn about how the public duties

of ministers' staff intersect with their personal lives, resulting in the development of relevant training tools and resources.

Post-employment

When ministers' staff are considering leaving Queen's Park for a new career opportunity, they are encouraged to meet with the Office to learn how the Conflict of Interest Rules will apply to their future employment. Office staff will ask about the responsibilities and files they carried in the minister's office, as well as the new employment they are considering. All ministers' staff are bound by the Rules after they leave government.

When providing post-employment direction, the Commissioner reviews this information to determine whether conflict of interest mitigation steps must be taken. An example of this would be to instruct the former ministers' staff that they cannot have contact with certain public servants in their professional capacity for a certain period of time. The Rules also give the Commissioner the authority to prevent a minister's staff from taking a job if a conflict of interest is unavoidable.

POST-EMPLOYMENT RULES

When leaving their position in a minister's office, public servants must comply with the following rules:

1. **Seeking preferential treatment** — Former ministers' staff must not seek preferential treatment from current public servants.
 2. **Disclosing confidential information** — Former ministers' staff are not allowed to disclose confidential information without authorization or to use confidential information for personal benefit.
 3. **Switching sides** — Former ministers' staff who advised on a proceeding, negotiation or other transaction cannot provide advice or otherwise assist other entities or individuals on that matter after they cease to be public servants.
 4. **Lobbying and employment restrictions** — Former ministers' staff are restricted from lobbying the ministry in which they worked for 12 months after they cease to be public servants. They may also be restricted from accepting employment with certain entities.
-

INQUIRIES

The following sample inquiries 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 as Ethics Executive are provided to raise awareness and should not be considered a substitute for contacting the Office to obtain the Commissioner's direction on a particular matter.

// Pre-employment

Conflict of Interest with Former Employer

Prior to joining the minister's office, a prospective new hire asked if an ethical screen was needed with respect to her former employer.

Upon review of the Ontario lobbyists registry, the Commissioner noted that the individual's former employer was registered to lobby her minister's office. Under the Rules, ministers' staff have an obligation not to provide preferential treatment to any person or entity, and the obligation not to create the appearance of preferential treatment. Accordingly, the Commissioner directed that an ethical screen be implemented to separate the minister's staff from matters involving her former employer. A copy of the screen was provided to the Office.

// Research Project Related to Work

In his personal capacity, a newly hired minister's staff was leading a research study, the subject of which related to the ministry for which he worked. He wanted to know what steps to take in order to avoid a conflict of interest.

The Commissioner directed that an ethical screen be implemented in the minister's office separating the minister's staff from any matters related to the study. The minister's staff was also directed to inform his minister of his work on the research study and seek their approval. When working on the study, the ministers' staff was required to recuse himself from any discussions about provincial government funding, to not represent himself as a member of a minister's staff and to not use any government resources for this undertaking.

WHAT IS AN ETHICAL SCREEN?

An ethical screen is a written procedure that separates an individual from a matter or file by preventing that individual from working on or learning anything about that matter. It is used to manage both real and potential conflict of interest situations.

A screen will include a description of the matter and the stakeholders involved, as well as instructions on how to ensure the individual who is screened is not provided with information or documents about the matter. In most matters, the minister, deputy minister and senior members of staff are made aware of the screen and are responsible for putting it into practice.

// Conflict of Interest

Attending a Round-table Discussion Hosted by Firms That Lobby

A minister's staff was invited to attend a round-table discussion in his professional capacity. The firms that organized the discussion had active registrations on the Ontario lobbyists registry, which listed the minister's office and ministry as lobbying targets. The minister's staff asked if he was permitted to attend.



The Commissioner determined that the Rules did not prevent the minister's staff from accepting this invitation and attending in his capacity as ministers' staff, provided that he informed his minister and she approved his involvement. Additionally, the Commissioner reminded the minister's staff of his confidentiality obligations when participating in the round-table discussion. The Commissioner also reminded the minister's staff of his preferential treatment obligations under the Rules and the importance of abiding by these obligations in the event that any of the firms hosting this discussion lobbied him in the near future.

// Gifts

Ticket to a Speaking Event

A stakeholder invited a minister's staff to an event that featured her minister. The stakeholder was registered to lobby the minister's office. The staff member 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 minister's staff. The minister's staff was advised that there would be no issue attending the event if she purchased her own ticket.

// Outside Activity

Outside Employment Considered Full-Time

A minister's staff wished to resume full-time work with her former employer while also remaining employed full-time as ministers' staff. Was this permissible?

Under the Rules, ministers' staff cannot engage in an undertaking that constitutes full-time employment.

Accordingly, given that the employment of the minister's staff with the Crown and the position with her former employer were both considered full-time work, the Commissioner determined that it would not be possible under the Rules for her to hold both positions. In the event that she became employed in the minister's office on a part-time basis, the Commissioner noted that this prohibition would not be applicable. The staff member was instructed to contact the Office in the event that her status in either role changed. She was also advised that if she were to work part-time at one of the two jobs, she would still require her minister's approval.

Sitting on a Board

A minister's staff asked if she could join the board of directors of a nonprofit organization. It was a part-time volunteer position, and the organization did not have any dealings with the provincial government.

The Commissioner determined that the Rules did not prevent the minister's staff from holding this part-time volunteer position, provided that she followed these directions:

- Seek her minister's approval;
- Do not identify herself as a minister's staff while volunteering;
- Recuse herself from any discussions that arise in the course of her volunteer work that could conflict with her work with the Crown; and
- Do not use any government resources, including time, for her volunteer activities.

In the event that any discussions arose in the course of her provincial government work that directly related to this organization, the minister's staff was directed to recuse herself and contact the Commissioner for further direction.

// Post-employment

Accepting Employment with a Government Relations Firm

A minister's staff wanted to accept a job with a government relations firm. He advised that he did not have any dealings with the firm or its clients while he was employed in the minister's office. He also confirmed this by reviewing a list of the firm's clients on the Ontario lobbyists registry. Could he accept the position?

The Commissioner determined that it was permissible for the minister's staff to accept the job offer because he did not have any involvement with the firm while he was employed in the minister's office. The Commissioner further determined that the minister's staff was prohibited from lobbying his former minister, the minister's office and public servants employed in his former ministry for a period of 12 months after his last day on the job.

PUBLIC SECTOR ETHICS

YEAR IN REVIEW

This year, the Integrity Commissioner and staff handled 204 matters related to the conflict of interest and political activity provisions in the *Public Service of Ontario Act, 2006* and its regulations. This was a noted increase from the 165 matters addressed in the previous year. The higher number was largely attributed to Ontario Public Service financial declaration submissions.

Many Ethics Executives in public bodies sought determinations from the Commissioner regarding their own obligations under the Conflict of Interest Rules found in Ontario Regulation 381/07 of the Act. They also sought advice and guidance for matters and inquiries regarding the obligations of other public servants, including board appointees.

What We Do

- Provide advice and determinations to Ethics Executives (chairs of public bodies, the Secretary of the Cabinet 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*
- Provide post-service determinations to former appointees and employees of public bodies
- Review financial declarations submitted by public servants working on matters that involve the private sector
- Provide conflict of interest advice, upon request, to the Premier's Office regarding appointments to public bodies and other entities
- Approve new or revised conflict of interest rules for public bodies and ethics plans of administrative tribunals



204 MATTERS ADDRESSED UNDER THE ACT

// TYPES OF INQUIRIES

35	ADVICE	55	INFORMATION
22	DETERMINATIONS	1	RULES APPROVAL
12	APPOINTMENT ADVICE	79	FINANCIAL DECLARATIONS

// BEHIND THE NUMBERS

Advice: The Commissioner provides advice to Ethics Executives to assist them in making conflict of interest or political activity determinations for the employees or board appointees in their public bodies or ministries.

Determinations: These are formal directions by the Commissioner to an Ethics Executive related to their own conflict of interest or political activity matters. Ethics Executives may also refer a matter to the Commissioner about public servants in their public bodies or ministries in order for the Commissioner to make the determination. This includes political activity authorizations.

Appointment Advice: The Premier’s Office may request the Commissioner’s conflict of interest advice on prospective appointments to public

bodies. The Commissioner will assess declared conflicts and provide advice on a candidate’s circumstances related to the proposed role. While the Commissioner regularly suggests strategies to mitigate conflicts of interest, he does not assess or provide any comment on an individual’s suitability for the role.

Rules Approval: The Act allows public bodies to develop their own conflict of interest rules, but these must meet the standards in the Conflict of Interest Rules and be approved by the Commissioner. This year the Commissioner approved rules for iGaming Ontario.

Financial Declarations

Under the Conflict of Interest Rules, the Public Service Commission develops and maintains a list of positions in which public servants working in a ministry routinely work on a matter that might involve the private sector. These identified public servants are required to complete a financial declaration form that is submitted to and reviewed by the Commissioner to ensure that each public servant's financial holdings do not conflict with the matters on which they work, or about which they have confidential information. This year the Commissioner reviewed financial declarations for 79 public servants.

Training and Outreach

In November, the Office held an online Ethics Executive orientation session for public body chairs and designated Ethics Executives, as well as the employees who support them. The orientation provided information about the Conflict of Interest Rules and political activity restrictions, as well as

information on how an Ethics Executive might seek assistance from the Office. The session included an explanation of the disclosure of wrongdoing framework and the obligations of public bodies under the Expenses Review mandate. Participants were presented with different hypothetical scenarios that were based on recent matters received by the Commissioner, and they discussed how they would apply the Act and the Rules to address the situations.

Additionally, the Commissioner and staff provided three public body boards with presentations focusing on the Conflict of Interest Rules, political activity restrictions and the disclosure of wrongdoing framework. As in past years, the Commissioner also spoke to newly appointed deputy ministers about Ontario's ethical framework. In total, the Office provided training to 20 Ethics Executives.

As part of these outreach activities, the Commissioner sends introductory letters to all newly named Ethics Executives in public bodies to explain the roles of the Office and offer assistance in fulfilling their duties under the Act. This ensures Ethics Executives know when, and how, to contact the Office.



BEST PRACTICES FOR HANDLING A CONFLICT OF INTEREST DETERMINATION

An Ethics Executive providing a conflict of interest determination for a public servant should keep the following best practices in mind:

1. Gather detailed and relevant information about the situation. This can include:
 - the public servant's specific duties and responsibilities;
 - the other individuals or entities involved;
 - the nature of the relationship these individuals or entities have with the public servant and the ministry or public body;
 - what decisions need to be made now or in future and the public servant's role in those decisions; and
 - who stands to derive benefit and what benefit is to be gained.
2. Apply the information gathered to the relevant sections of the Conflict of Interest Rules. The main sections are 3 through 9, and more than one section can apply. For section 6, consider whether the matter raises the possibility of giving the appearance of preferential treatment, which should be avoided.
3. If the matter does or could lead to an issue under the Rules, consider the options available to mitigate the conflict of interest. This could include:
 - a recusal, where the public servant does not participate in a decision or vote;
 - an ethical screen that separates the public servant from a particular file; or

- following an approved and formalized process or policy that demonstrates the matter is being handled appropriately.
4. Provide a written determination to the public servant that outlines the information taken into consideration, the Rules that were applied and what steps are to be taken by the public servant and the organization as whole. Ensure the appropriate individuals are aware of the determination.
 5. Take steps to document the actions that will mitigate the conflict of interest. For example, recusals should be noted in meeting minutes, ethical screens should include written procedures on how the public servant will be shielded from the file, and steps taken to avoid the appearance of preferential treatment should be well documented.

If an Ethics Executive has difficulty determining whether a specific Rule applies, it may be that more information is needed. Ethics Executives at public bodies can also seek the advice of the Commissioner on a matter and proposed course of action. In certain instances, an Ethics Executive can refer the matter to the Commissioner who will issue the determination.

Ethics Executives should encourage public servants at their ministries or public bodies to seek a determination for any matter that could raise an issue under the Rules. A process to seek a determination that is clear and timely can help to normalize this activity and ensure that public servants know when to contact their Ethics Executive.

INQUIRIES

The following are examples of the advice and determinations the Commissioner provided to public body Ethics Executives this year. These summaries are abbreviated, the identities 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.



// Seeking Authorization to Engage in Political Activity

A part-time appointee of an adjudicative tribunal asked if she could seek a federal party nomination. The appointee was a specially restricted public servant.

Under section 89(1) of the Act, a specially restricted public servant is only permitted to vote, donate money to a party or candidate, be a member of a political party and attend an all-candidates meeting. If a specially restricted public servant who is a part-time government appointee wishes to engage in other forms of political activity, they must seek the Integrity Commissioner's authorization under section 92 of the Act.

Having considered the appointee's role and responsibilities,

the Commissioner granted authorization for her to seek the nomination while remaining in her role as a public servant. However, in order to ensure that the nomination effort did not interfere with the performance of her duties as a tribunal appointee, the Commissioner directed that she should refrain from the following:

- engaging in any political activity in the workplace;
- using government resources when engaging in political activity;
- soliciting funds from any public servants;
- soliciting funds from any individuals or groups that are parties before her adjudicative tribunal;



- associating as a public body appointee when undertaking any campaign activities related to the nomination unless done to the extent necessary to identify her work experience; and
- seeking preferential treatment from provincial public office holders.

The appointee was also instructed to advise her chair if she became involved in any board matters involving members of the public with whom she interacted as part of her nomination campaign.

// Multiple Appointments with the Crown

A chair of a public body sought the Commissioner's determination about the possibility of remaining in his role while also serving part-time on the board of another public body.

First, the Commissioner noted that there is no prohibition in the Act or the Rules on an individual being appointed to multiple positions. However, the Commissioner was also of the opinion that it was necessary to consider whether there were any conflicts between the two roles.

Upon review of the information provided, primarily that the two public bodies fell under the jurisdiction of different ministries and that there were no direct intersections, the Commissioner determined that there were no conflict of interest concerns. However, in order to avoid any potential conflicts, the Commissioner directed the chair to recuse himself if any intersections arose in the future.

EXPENSES REVIEW

YEAR IN REVIEW

As COVID-19 health restrictions eased, the Office experienced an increase in the number of travel expense claims submitted for review. Ministers and public servants working in public bodies began to travel more as part of their duties, resulting in a 22% increase in expense claims from the previous year. Despite this increase, claims have still not returned to pre-pandemic levels. The Office reviewed 2,895 claims this year, compared with 4,238 in the 2019–2020 fiscal year.

Office staff worked with their contacts in ministers' offices and the Opposition Leader's office, as well as agencies under review, to explain the expenses rules and requirements and provide training on the expense review process, as required.

The comprehensive review process begins with the submission of expense claims for a specific review period. Office staff then review the claims to make sure they are complete and comply with the requirements of the Travel, Meal and Hospitality Expenses Directive or the Allowable Expense Rules, depending on the claimant. Staff may request additional information or supporting documents to clarify a claim and complete the review. If the Integrity Commissioner determines that an expense does not comply with the requirements, he has the discretion to ask for repayment. The Commissioner may also provide feedback or suggestions for future expense claims.

Once the review is completed, and depending on who made the submission, the Office provides the results of the review to the expense officers of the agencies under review, the President of the Treasury Board for ministers and their staff, and the Speaker of the Legislative Assembly for Opposition leaders and their staff.



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 Travel, Meal and Hospitality Expenses Directive and Allowable Expense Rules
- Determine whether repayment is required if an expense does not comply with the Directive or Rules

STATISTICS

1,129

MINISTER AND
OPPOSITION LEADER
EXPENSE CLAIMS
REVIEWED

1,766

AGENCY EXPENSE
CLAIMS REVIEWED

19

AGENCIES REVIEWED



// BEHIND THE NUMBERS

One claim may contain several types of expenses. For example, a claim for a trip could contain expenses for air travel, taxis, accommodation and meals.

The number of agencies reviewed includes agencies that were added or released from review during the fiscal year.

Cabinet Ministers' and Opposition Leader's Expenses Review

This year the Office reviewed 1,129 claims from ministers, parliamentary assistants, the Opposition Leader and their respective staff. This number compares with 979 claims reviewed last year.

The Commissioner submits an annual report reflecting the fiscal year's expense claims 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. Expenses reviewed during this fiscal year were deemed to be compliant with the Allowable Expense Rules and passed review.

Office staff conducted eight online training sessions with various ministers' offices to explain the expenses submission process and review the Allowable Expense Rules. Meeting with the office managers who process the expense claims is beneficial because it ensures that the submitted claims have the appropriate documentation, such as receipts and other information required for review.

Agency Expenses Review

The Office reviewed 1,766 expense claims from designated senior management employees, appointees and the top five employee expense claimants¹ of the 19 agencies, boards and commissions under review. This is compared with 1,384 claims reviewed last year.

The Commissioner may review the expenses of any public body listed in Ontario Regulation 146/10 under the *Public Service of Ontario Act, 2006*, as well



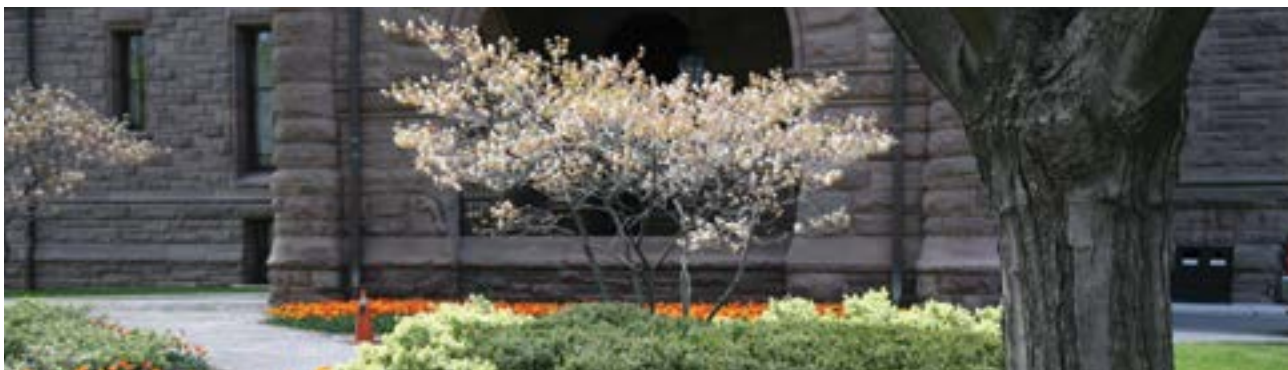
as Ontario Power Generation and the Independent Electricity System Operator.

When an agency is found to be fully compliant with the Directive on a consistent basis, the Commissioner may release the agency from the requirement to submit expenses for review. This year the Commissioner released the **Postsecondary Education Quality Assessment Board**. Releasing public bodies reinforces the effectiveness of the expenses review process and outreach efforts as agencies strive to attain full compliance.

The Commissioner selected **Centralized Supply Chain Ontario (Supply Ontario)** for review this year. Agencies that are selected for review receive comprehensive onboarding training from Office staff to become familiar with expenses submission and review processes.

The list of agencies under review, as well as the list of those previously under review, is available on the Office website. The Commissioner has reviewed the expenses of 43 public bodies since the *Public Sector Expenses Review Act* came into force in 2009.

¹ The top five employee expense claimants are those with the highest cumulative expenses in a six-month period, as compared with the expense claims submitted by all other employees of the organization.



ON THE ROAD AGAIN

As public servants resume travel post-pandemic, it is important to keep in mind some key guidelines under the Travel, Meal and Hospitality Expenses Directive and the Allowable Expense Rules.

Keeping Track

When travelling for work, public servants should ensure they obtain the correct approvals in advance. Expense claims should also be complete. Take pictures of receipts, note meal rates and keep track of explanatory documents to support each claim. Section 3.0 of the Directive states good record-keeping is required for verification and auditing purposes.

Use of a Travel Card

Ministers and parliamentary assistants and their respective staff should use a corporate card to pay for expenses incurred while carrying out official duties and functions.

Section 2.2 of the Directive ("Best Practices") states corporate travel cards are to be used for authorized business travel and work-related expenses. As such, all public servants should use these cards wherever possible.

Meals

The Directive allows public servants to claim a set meal rate when travelling. For a meal to be claimed, public servants must purchase the meal during the corresponding time of travel. Claiming a meal expense when the meal has been provided free of charge (e.g., at a conference or a complimentary breakfast at a hotel) is not permitted.

Type of Transport

For travel, the Directive stipulates that public servants should choose the lowest available fare, whether it be by air, rail or road. Business class travel is permitted only in limited circumstances and must have prior approval. Public servants can also use their personal vehicles only if that is more economical than a rental or government vehicle. When renting a vehicle, a corporate travel card should be used whenever possible, as this allows renters to decline the collision damage waiver offered by the rental company. The benefits of the corporate travel card include collision insurance. Note: Public servants working in public bodies should check the coverage details of their travel cards.

DISCLOSURE OF WRONGDOING

YEAR IN REVIEW

This year saw more Ontario public servants returning to offices in ministries and public bodies, which may account for the slight increase in disclosures being submitted to the Integrity Commissioner. It had been speculated that remote work may explain the decrease in disclosures since 2020. While fewer public servants contacted

the Office about the disclosure of wrongdoing framework – 29 this year compared with 34 in the previous year – a larger proportion of the contacts resulted in a disclosure being submitted. The Office received 22 disclosures compared with 18 in the previous year.

Following the review of each of the disclosures submitted, which often required Office staff to request additional information or clarification from the public servants who made the disclosures, the Commissioner determined that he had the jurisdiction to accept nine of them.

When the Commissioner accepts jurisdiction over a matter, he is required by the *Public Service of Ontario Act, 2006* to refer it to the Ethics Executive of the ministry or public body where the alleged wrongdoing has occurred. The Ethics Executive is required to investigate the matter and report back to the Commissioner about the findings and any proposed corrective action. The Commissioner then reviews these findings to ensure that the matter has been addressed in an appropriate and meaningful way.

If satisfied with the investigation, the Commissioner may make recommendations. Alternatively, the Commissioner may commence an independent investigation. If the Commissioner conducts an independent investigation, a report will be sent to a senior official within the Ontario government and the responsible minister.



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 investigation reports to determine if the Commissioner is satisfied with the work and response
- Conduct investigations initiated by the Commissioner

STATISTICS

29

CONTACTS FROM
PUBLIC SERVANTS

22

DISCLOSURES FROM
PUBLIC SERVANTS

9

DISCLOSURES ACCEPTED
AND REFERRED FOR
INVESTIGATION

4

MATTERS INVESTIGATED
AND CONCLUDED



// BEHIND THE NUMBERS

Disclosures accepted and referred for investigation:

The Commissioner can accept jurisdiction over a disclosure from a public servant if the allegations meet the definition of wrongdoing under the Act. However, the Act requires that the Commissioner decline jurisdiction in certain instances, such as when there is a more appropriate way for an allegation to be addressed or if the matter is already being addressed elsewhere.

Matters investigated and concluded: These are the disclosures that have been investigated by an Ethics Executive and the Commissioner is satisfied with the results of the investigation. It can also include matters that the Commissioner has investigated and for which he sent a report to a senior official within the Ontario government and the responsible minister.

Training

The focus of training under this mandate continues to be on Ethics Executives to ensure they understand their role with regard to receiving, assessing and investigating disclosures of wrongdoing from public servants. Under the Act, Ethics Executives can receive a disclosure directly from a current or former public servant or have a disclosure referred to them by the Commissioner.

During the Ethics Executive orientation session held in November, Office staff provided information about the disclosure of wrongdoing framework, including examples of cases and allegations that had been investigated in the past. The session also included guidance on how to ensure an effective investigation into a matter.

When speaking to public body boards or addressing newly appointed deputy ministers, the Commissioner highlights the importance of meaningfully addressing disclosures as it can be an opportunity to find out about and address issues within a ministry or public body.

Meeting With Other Jurisdictions

The annual Public Interest Disclosure Conference was held in Whitehorse, Yukon in September 2022. The first in-person meeting since 2019 for Canadian jurisdictions that have public interest disclosure frameworks allowed attendees to provide updates on their respective activities, as well as share best practices related to investigation processes and report writing.



WHO IS AN ETHICS EXECUTIVE?

Under the *Public Service of Ontario Act, 2006*, every Ontario public servant has an Ethics Executive who is responsible for providing direction about the application of conflict of interest rules and political activity restrictions. Ethics Executives also have the role of receiving and addressing disclosures of wrongdoing, either directly from public servants or when referred by the Commissioner.

For public servants working in a ministry, the deputy minister is their Ethics Executive. For appointees to a public body, the Ethics Executive is the chair of the public body's board. For public servants working at a public body, the Ethics Executive is the chair of the public body or the person listed in Ontario Regulation 147/10 of the Act.

Disclosure Activity

	2021–2022	2022–2023
Total contacts from public servants	34	29
Requests for information	16	7
Disclosures of wrongdoing submitted	18	22

	2021–2022	2022–2023
Disclosures under assessment for jurisdiction (including matters carried over from the previous fiscal year)	21 ¹	23 ²
Disclosures referred by the Commissioner to appropriate senior official for investigation	5	9
Matters not received as a disclosure of wrongdoing because the allegations could not possibly reveal a “wrongdoing” as that term is defined in the Act	3	5
Matters received as a disclosure of wrongdoing, but the circumstances were outside the Office’s jurisdiction	9	5
Files 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)	3	1
Disclosures remaining under review at fiscal year-end	1	3

1 This includes 18 disclosures received in 2021–2022, plus three matters remaining under review at year-end 2020–2021.

2 This includes 22 disclosures received in 2022–2023, plus one matter remaining under review at year-end 2021–2022.

CASE SUMMARIES

The following are anonymized summaries of the disclosure of wrongdoing matters referred to the public service for investigation and concluded by the Office this year. A matter may include more than one discloser. This year the Office closed four matters, with wrongdoing substantiated in three of these.

// Alleged conflict of interest in hiring (referral)

A discloser alleged that public servants in a ministry breached the Conflict of Interest Rules by hiring family members and friends and that one of them engaged in gross mismanagement by failing to address complaints about these possible conflicts in hiring. A second discloser came forward with allegations of wrongdoing about the same public servants, as well as allegations that these and other public servants were creating a culture of nepotism through the hiring and promoting of friends and family members. If true, these allegations could rise to the level of gross mismanagement. The second discloser also alleged that one of the public servants breached the Rules by participating on the hiring panel for a family member.

The Commissioner referred the matter to the deputy minister for investigation, who found that two of the public servants had engaged in gross mismanagement by being complicit in the culture of nepotism through the hiring of friends and family. The investigation also found that one public servant had breached section 6(2) of the Conflict of Interest Rules by failing to endeavour to avoid the appearance of preferential treatment. With respect to the other named public servants, the investigation found the allegations against them were either not substantiated or the evidence was inconclusive. The deputy minister further found that certain hiring strategies may have created favourable

circumstances to promote a culture or the perception of a culture of nepotism and identified corrective actions to address these issues. The Commissioner was satisfied with the investigation and the proposed corrective actions and closed the file.

// Alleged misuse of public funds (referral)

A discloser alleged that a public servant in a ministry engaged in wrongdoing by misusing public funds for a personal expense, directing an assistant to use the assistant's OPS purchasing card for a personal expense and then approving the purchase. The Commissioner referred the matter to the deputy minister. The investigation found that the public servant did not engage in wrongdoing, as the public servant had received prior approvals from assistant deputy ministers to expense the purchases in question. However, guidelines regarding documentation and usage of purchasing cards were not followed and the deputy minister identified corrective actions to address the issue. The Commissioner was satisfied with the investigation and the proposed corrective actions and closed the file.

// Alleged preferential treatment, mismanagement and creation of a grave danger (referral)

A discloser alleged that several public servants in a ministry engaged in gross mismanagement by failing to investigate complaints and for creating the appearance of or giving preferential treatment to employees with whom they had a personal relationship, contrary to the Conflict of Interest Rules. The discloser also alleged that other public servants created grave danger and contravened an Act. Two other disclosers also came forward with

the allegation of preferential treatment by one of the public servants already named by the first discloser.

The Commissioner referred the matter to the deputy minister for investigation, who found that one of the public servants breached section 6 of the Conflict of Interest Rules by creating the appearance of or giving preferential treatment to one employee. With respect to the other named public servants, the allegations were unsubstantiated. However, the deputy minister found some of the public servants contravened various policies and procedures related to the disclosures. The deputy minister identified corrective actions to address the wrongdoing and improve the processes in place at the ministry. The Commissioner was satisfied with the investigation and the proposed corrective actions and closed the file.

// Alleged misuse of government vehicle (referral)

A discloser alleged that a public servant engaged in gross mismanagement and breached section 3(1) of the Conflict of Interest Rules by using government vehicles and OPS fuel purchasing cards for personal use. The Commissioner referred the matter to the deputy minister, whose investigation found that the public servant breached section 3(1) of the Conflict of Interest Rules when he misused one government vehicle by using it on limited occasions for no apparent business reason and not providing operational reasons for its use. The deputy minister found that the public servant did not intend to garner significant financial benefit and concluded that the allegation did not amount to gross mismanagement. The deputy minister identified corrective actions that were satisfactory to the Commissioner, and the file was closed.

WHAT FACTORS DOES THE COMMISSIONER CONSIDER WHEN ASSESSING INVESTIGATIONS?

When reviewing a report from an Ethics Executive of an investigation of alleged wrongdoing, the Commissioner considers whether the allegations have been addressed and whether appropriate steps have been taken to address any wrongdoing.

Some of the factors relevant to the Commissioner's review of investigations include the following:

1. The report contains mandatory components set out in section 120 of the Act:
 - A summary of the subject matter of the disclosure;
 - A description of the steps taken in the investigation;
 - A summary of the evidence obtained during the investigation;

- A statement of the findings resulting from the investigation; and
- A description of any corrective action taken or proposed.

2. A neutral investigator was selected.
3. The investigation was thorough.
4. The findings are supported by the evidence.

The Commissioner may make recommendations on actions to address the wrongdoing or to prevent the possibility of future wrongdoing.

/// LOBBYISTS REGISTRATION

YEAR IN REVIEW

The Ontario Lobbyists Registry saw an increase in the number of active registrations, with 3,348 registrations as of March 31, 2023, compared with 3,234 registrations in the previous year, representing a 3.5% increase. This could be attributed to increased lobbying activity following a provincial election, though it is much lower than the 14% increase of active registrations recorded in the period following the 2018 provincial election.

The number of registered lobbyists remained steady, increasing to 3,404 from 3,401 in the previous year.

Office staff continued to provide support for lobbyist registrations by responding to questions about registration requirements, providing technical assistance and carefully reviewing hundreds of new, renewed or updated registrations each month.

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



STATISTICS

3,404

ACTIVE REGISTERED
LOBBYISTS

14

INVESTIGATIONS OPENED

55

ADVISORY OPINIONS

12

INVESTIGATIONS
CONCLUDED

172

COMPLIANCE REVIEWS

Outreach

Following the provincial election and appointment of cabinet in June, Office staff communicated with lobbyists about the requirement to update their lobbying targets in active registrations. Elections result in MPPs taking on different roles at Queen's Park, such as membership on legislative committees. When cabinet members are appointed or re-appointed, their portfolios may be adjusted and, subsequently, ministerial titles and ministry names can change. The Office updates the lobbying target lists in the registration system, but lobbyists are required to adjust their selected targets to ensure accuracy in their registrations. To assist lobbyists in keeping registrations up to date, the Office created a webpage that lists the previous and the new lobbying target names.

The Office published six issues of its newsletter *ON Lobbying*. The newsletter provides subscribers with information on available resources and highlights specific features to promote compliance with the Act. Lobbyists and senior officers can subscribe to the newsletter and read past issues on the Office website. As of March 31, 2023, the newsletter had close to 800 subscribers.

As it was an election year, several newsletter issues focused on providing political activity guidance and reiterating registration obligations under the Act, including the requirement to update lobbying targets as described above. The Office also emphasized the importance of asking for advisory opinions in cases where lobbyists were involved with election campaigns.

Meetings With Other Jurisdictions

The Lobbyist Registrars and Commissioners Network held its annual meeting in Quebec City in October to discuss best practices and emerging issues for lobbyist registration requirements.

The Quebec Commissioner of Lobbying hosted this year's meeting, with the federal Commissioner of Lobbying and the registrars from six provinces and

two municipalities attending. The three-day event covered topics that included the impact of COVID-19 on lobbying, grassroots lobbying and disclosure of funding sources, and accountabilities of public office holders with respect to lobbying. A virtual teleconference meeting was also held in March.



THE REVIEW PROCESS

Registrations are reviewed by Office staff before being published on the registry to ensure the information is clear and accurate. A main goal of the Act is transparency about who is lobbying whom in government and about what. A member of the public should be able to review a registration and understand what a business or organization is trying to accomplish through lobbying.

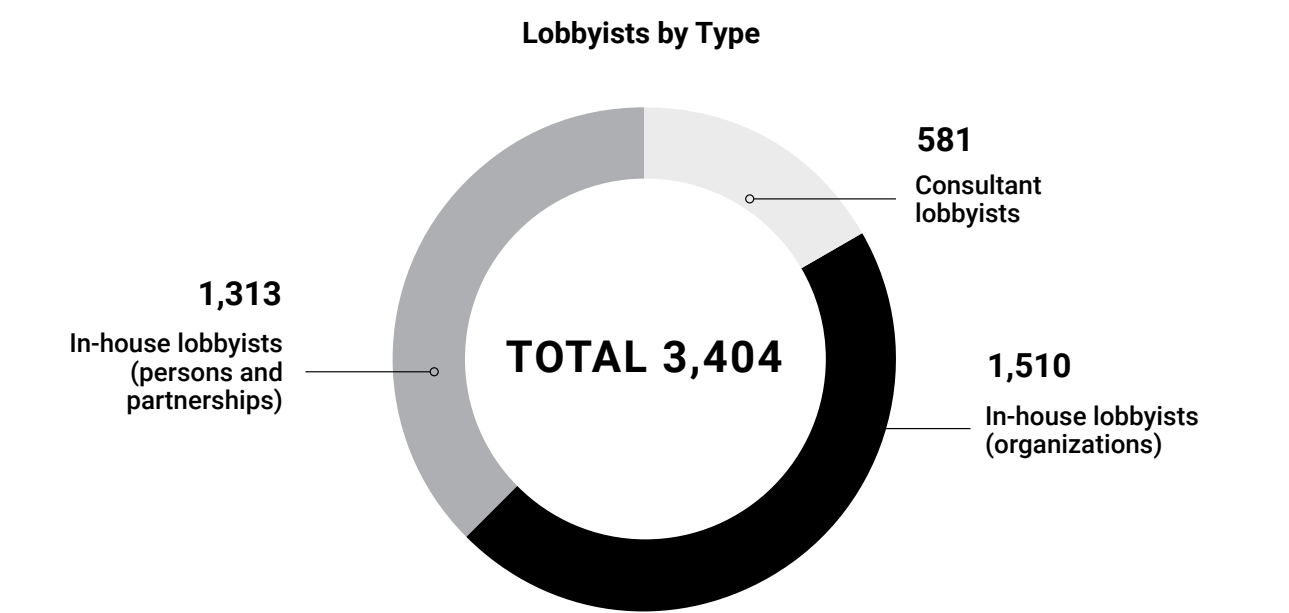
Office staff review every new registration, registration renewal and registration change before each is published. If the registration is incomplete or the information it contains is incorrect or vague, Office staff will contact the lobbyist or senior officer responsible for the registration to request amendments, which must be completed within a certain time frame.

REGISTRY ACTIVITY

Ontario had 3,404 registered lobbyists on March 31, 2023.

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 (not-for-profit entity) or person and

partnership (for-profit entity) and will list the names of all employees, paid officers and paid directors who lobby in one registration. Full lobbying statistics are available in real time on the Office website.



	March 31, 2022	March 31, 2023
Total active registrations	3,234	3,348
Registrations by type		
Consultant	2,671	2,778
In-House (Organizations)	335	336
In-House (Persons and Partnerships)	228	234

LOBBYING SUBJECTS AND TARGETS

The figures listed here indicate the number of times the subject matter or lobbying target was selected in active registrations as of March 31, 2023.

Registrations must include the subject matter of the lobbying activity, as well as the MPPs, ministers' offices, ministries and agencies that are being lobbied.

Top Three Subjects

- Economic development and trade: **1,457**
- Health: **1,154**
- Environment: **982**

TOP LISTED LOBBYING TARGETS

Members of Provincial Parliament

	2021–2022	2022–2023
1. Office of the Member for Etobicoke North	875	896
2. Office of the Member for Nipissing	871	892
3. Office of the Member for Elgin–Middlesex–London	862	890
Office of the Member for Mississauga–Streetsville	879	890
Office of the Member for York–Simcoe	851	890
4. Office of the Member for Ottawa South	879	888
5. Office of the Member for Oakville	862	887

Ministers' Offices

	2021–2022	2022–2023
1. Office of the Premier and Cabinet Office	2,462	2,503
2. Office of the Minister of Finance	1,897	1,902
3. Office of the Minister of Economic Development, Job Creation and Trade	1,651	1,698
4. Office of the President of the Treasury Board	1,479	1,514
5. Office of the Minister of Health	1,188	1,194

Ministries

	2021–2022	2022–2023
1. Ministry of Finance	1,610	1,627
2. Ministry of Economic Development, Job Creation and Trade	1,420	1,433
3. Treasury Board Secretariat	1,134	1,176
4. Ministry of Health	1,065	1,097
5. Ministry of Municipal Affairs and Housing	842	976

Agencies

	2021–2022	2022–2023
1. Ontario Health	183	276
2. Independent Electricity System Operator	212	231
3. Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)	215	219
4. Metrolinx	202	211
5. Ontario Energy Board	183	179

ADVISORY OPINIONS

An Advisory Opinion is a written opinion by the Integrity Commissioner as Lobbyist Registrar. Individuals who have questions about the Act and how it applies to their lobbying activities can request an Advisory Opinion from the Commissioner.

The non-binding guidance is specific to the individual and considers the precise facts of the situation as they relate to the requirements of the Act. The Commissioner takes care to ensure Advisory Opinions are accurate; however, they are not a substitute for legal advice.

The Commissioner provided 55 Advisory Opinions this year. The most common topics were:

- Conflict of interest (includes questions about political activity, gifts and events)
- Whether registration is required
- What information to include in a registration

COMPLIANCE ACTIVITY

Individuals who lobby provincial public office holders are required to comply with the Act. The Office assists lobbyists by providing resources and implementing measures to promote awareness of the Act as well as to explain registration requirements. However, the responsibilities to meet the obligations of the Act lie with consultant lobbyists, in-house lobbyists and senior officers of firms, companies and organizations that lobby.

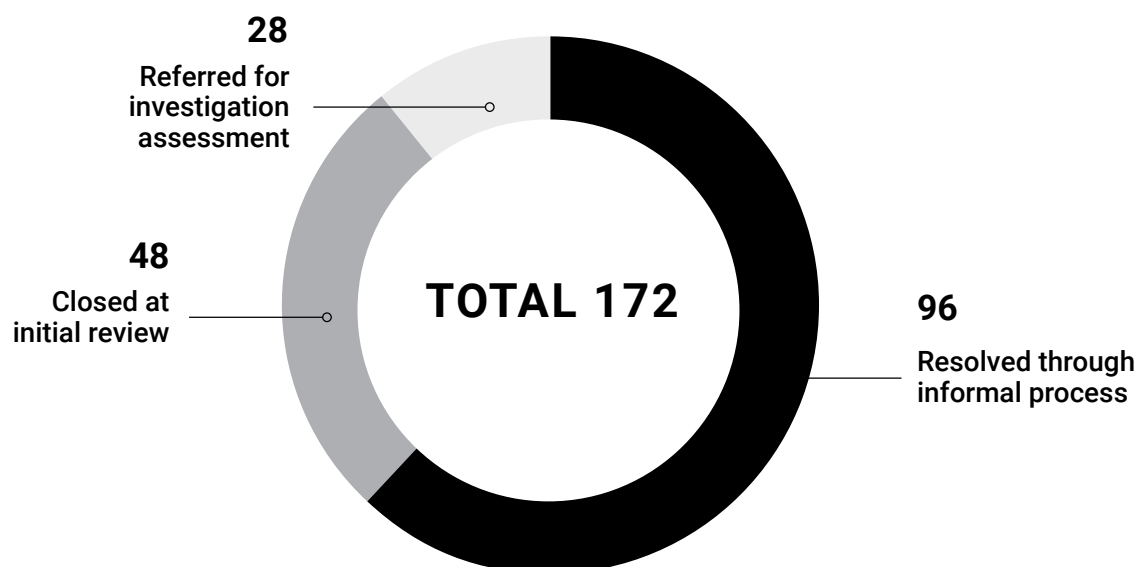
As part of its mandate, the Office works to ensure compliance with the Act through compliance reviews and an informal resolution process for minor non-compliance cases. When reviewing registrations, the Office verifies that lobbyists are complying with the registration timelines outlined in the Act. For example, the Office may review whether lobbyists have updated their registrations within 30 calendar days after a change has been made to the information it contains, such as a new senior officer being named.

If it appears that a lobbyist or senior officer may have missed the required deadline, the Office

will assess the matter through an informal resolution process. If a deadline was missed by a short period and there have not been previous issues with non-compliance, the matter may be resolved with a letter from the Commissioner reminding the lobbyist or senior officer of their responsibilities under the Act. The Commissioner may also request an explanation for the non-compliance to further mitigate future missed deadlines. If the deadline was missed by a significant time period or there is a history of non-compliance, the matter will be referred for an investigation assessment.

This year 172 instances of potential non-compliance were identified. Of these, 48 matters were closed at initial review because it was deemed that the deadline was not missed and 96 were resolved through a compliance letter from the Commissioner. Following a compliance review, 28 matters were referred for investigation assessment.

Compliance Reviews in 2022–2023



Investigation Activity

	2021–2022	2022–2023
Open investigations carried from previous year	3	4
Investigations commenced	6	14
Investigations concluded	6	12
Investigations resumed	0	0
Matters refused for investigation ¹	12	15
Matters referred to another person or body	0	0
Matters remaining under assessment at fiscal year-end	4	3

¹ Generally, matters that the Commissioner decides not to investigate will be dealt with through the informal resolution process in order to ensure future compliance with the Act.

INVESTIGATION SUMMARIES

This year the Commissioner concluded 12 investigations. Completed investigations are summarized below. Summaries may reflect more than one investigation.

// Consultant Lobbyists

Issue: Failure to register

The Commissioner investigated to determine if an individual was acting as a consultant lobbyist on behalf of a client and had failed to register their lobbying activity within the timeline set out in the Act.

During the investigation, the individual provided evidence to demonstrate that while he was a partner of a government relations and public affairs firm, he was hired by the client to provide strategic advice and did not lobby on the client's behalf. The Commissioner determined that the individual was not a consultant lobbyist in this instance and ceased the investigation.

Issue: Late to register and failure to provide information

The Commissioner investigated to determine if a consultant lobbyist had contravened the Act by not registering her lobbying activity on behalf of three clients within the 10-day time frame and by failing to provide information requested by the Registrar within 30 days. The

Office had sent two email queries to confirm commencement dates for the lobbying activity and did not receive a response from the consultant lobbyist.

When informed of the investigation, the consultant lobbyist responded in writing to explain that the late filing of the registrations was due to an error in administrative processes and apologized for her lack of due diligence regarding the non-compliance, including the lack of responsiveness to emails from the Office. She assured the Office that a system was now in place and that she understood the accuracy of the information on the lobbyists registry was her responsibility.

Upon review of this information and consideration that the longest delay in registering for the three clients was 60 days, the Commissioner decided to cease the investigation and sent a compliance letter to the consultant lobbyist. The Commissioner reminded the lobbyist of her responsibilities to comply with all requirements of the Act and that any further contraventions may result in a new investigation and potentially a penalty.

Issue: Placing a public office holder 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 position of real or potential conflict of interest in the course of lobbying them. The consultant lobbyist played a significant role in the public office holder's election campaign, and the public office holder was named as a lobbying target in one of her registrations. The consultant lobbyist advised she did not, in fact, lobby the public office holder and the addition of the public office holder's office as a lobbying target was an error and an oversight. The Commissioner ceased the investigation and sent a guidance letter to the consultant lobbyist regarding her lobbying activities and restrictions with respect to the public office holder.

Issue: Failure to register

The Commissioner investigated to determine if an individual failed to register her lobbying activity, which included possible grassroots lobbying, on behalf of a client. The investigation was connected to an investigation into potential non-compliance by an in-house lobbyist. The Commissioner determined the individual was primarily a communications consultant; she did not manage the grassroots campaign and largely worked in an advisory and supportive capacity for her client. There was evidence that the individual occasionally communicated with public office holders and may have, on two occasions, communicated with public office holders in a way that could be considered lobbying. Since the individual had never registered before, and was inexperienced with lobbying registration requirements, the Commissioner ceased the investigation and sent a compliance letter asking her to ensure she is meeting all her obligations under the Act.

// In-House Lobbyists

Issue: Failure to register

The Commissioner investigated to determine if the senior officer of an in-house organization failed to register when publicly available information indicated that the organization had been lobbying. The Commissioner determined that the organization did not spend more than 50 hours lobbying in a 12-month period, which meant the senior officer was not required to register. The senior officer indicated she was planning to voluntarily register, to which the Commissioner advised that the senior officer is responsible for meeting all the requirements that flow from a mandatory registration despite the registration being voluntary.

Issue: Failure to renew a registration

The Commissioner investigated to determine if a former senior officer of an in-house organization failed to renew the entity's registration. The organization had been previously registered, but the former senior officer did not take steps to renew the registration and thus, the registration was terminated. Publicly available information indicated that the organization had been lobbying during the time the organization was not registered.

The Commissioner determined that the organization did not spend more than 50 hours lobbying within any 12-month period during the time the former senior officer was the head of the organization. As the senior officer was not required to register, the investigation was ceased. The investigation also revealed that after one lobby day event, the organization provided a gift to various public office holders that attended the event. The Commissioner advised the organization to be cautious about offering gifts to public office holders and recommended that lobbyists request an advisory opinion before offering gifts to public office holders.

Issue: Failure to update registration

The Commissioner investigated to determine if the senior officer of an organization failed to update the registration within 30 days of any change of information as required by the Act. Specifically at issue was whether the senior officer failed to add herself as an in-house lobbyist within 30 days. While in-house lobbyist registrations are in the name of the senior officer, that individual must also be listed as an in-house lobbyist if they are contributing to the lobbying activity. The Commissioner determined that the in-house organization did not spend 50 hours in a 12-month period, but the organization was registered voluntarily. The senior officer was new to the organization and was relatively inexperienced with the registration requirements. As the non-compliance was relatively minor, the Commissioner ceased the investigation and sent a guidance letter to the senior officer advising she should continue to follow the timelines as required by the Act, even when maintaining a voluntary registration.



Issue: Placing a public office holder in a conflict of interest

The Commissioner investigated to determine if a lobbyist failed to comply with the Act by placing public office holders in a real or potential conflict of interest by engaging in a significant amount of political fundraising and other political activity related to their election campaigns while also lobbying them. One of the issues in the investigation was whether the individual was paid, by an employer, to lobby for a not-for-profit industry organization, where the individual held an unpaid officer role.

The Commissioner determined there was evidence to support a belief that the individual was an in-house

lobbyist for the organization, on the basis that he was paid by his employer to lobby for the organization as an unpaid officer. However, the Commissioner had not previously provided guidance or an interpretation about how individuals may fall within the definition of in-house lobbyist in this way and, therefore, be subject to the conflict of interest prohibition. For this reason, and as the lobbyist fully cooperated with the investigation, provided a significant amount of documentary evidence, appeared for multiple interviews and confirmed he had ceased his political activities upon receipt of the notice of investigation, the Commissioner ceased the investigation. He advised the lobbyist to either cease his lobbying activity or continue to refrain from fundraising, significant political activity and other activities that

may cause a public office holder to prefer his own interests over the public interest in the course of their lobbying.

Issue: Failure to renew a registration

The Commissioner investigated to determine if a senior officer of a company failed to renew its lobbyist registration. The investigation was later expanded to investigate if the senior officer failed to file a registration for another company whose resources were also being used in his lobbying activities.

The Commissioner decided to cease the investigation as the evidence supported the senior officer's belief that the time spent lobbying by all employees and paid officers and directors was less than 50 hours in a 12-month period. Further, the senior officer had previously filed a registration but failed to renew or terminate this registration during a time when businesses and organizations were grappling with the emergence of the COVID-19 pandemic. During the investigation, the senior officer filed a registration for one of the companies. The Commissioner advised the senior officer to consider adding information in the registration about the other unregistered company if it contributed \$750 or more to lobbying activities, which is a requirement of the Act. Additionally, the Commissioner advised the senior officer to track the time spent by employees and paid officers and directors of the unregistered company or, alternatively, consider registering that entity to avoid the possibility of future investigations.

Issue: Failure to register

The Commissioner investigated to determine if the senior officer of an organization failed to file a registration when publicly available information indicated that the organization was engaged in attempts to influence public office holders with respect to the passage of legislation. During the investigation, the senior officer was uncooperative, and the Commissioner commenced legal proceedings to enforce a summons for the senior officer to appear for an interview. The senior officer eventually complied with the summons.

After reviewing the evidence of the senior officer, other witnesses and documents, the Commissioner determined that the senior officer was not compensated and thus, his voluntary lobbying activities were not regulated by the Act. Further, the Commissioner found that the organization did not spend more than 50 hours lobbying in a 12-month period. The Commissioner ceased the investigation and advised the senior officer of his responsibility to track the time spent on all lobbying activities by employees, officers and directors who receive any form of payment or compensation.

FINANCIAL STATEMENT

	2022–2023
Salaries and Benefits	\$2,682,487
Transportation and Communication	\$56,066
Services	\$669,381
Supplies and Equipment	\$28,946
TOTAL	\$3,436,880

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 <https://www.oico.on.ca/en/expense-disclosure>.

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

Photos, Legislative Assembly of Ontario.

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

The Office of the Integrity Commissioner of Ontario was established in 1988 to maintain high standards of ethical conduct in the Ontario Public Service. Independent of government, the Office strives to encourage and sustain a culture of integrity and accountability. The Office has seven mandates under five pieces of legislation.

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