

OFFICE OF THE SENATE ETHICS OFFICER



Annual Report 2017-2018

Annual Report of the Senate Ethics Officer 2017-2018

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June 20, 2018

The Honourable George Furey
Speaker of the Senate
280-F, Centre Block
Parliament Buildings
Ottawa, Ontario
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Dear Mr. Speaker:

It is my honour and pleasure to submit to you the thirteenth Annual Report of the Office of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, as amended. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2017 to March 31, 2018.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, sweeping loop followed by a horizontal line and a vertical stroke.

Me Pierre Legault

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I. MESSAGE FROM THE SENATE ETHICS OFFICER

I am deeply honoured and privileged to have been appointed Senate Ethics Officer. I initially served as Interim Senate Ethics Officer for a term of six months, commencing on July 10, 2017, and was later appointed Senate Ethics Officer on January 10, 2018, for a term of seven years.

Fiscal year 2017-18 was a year of transition for the Office of the Senate Ethics Officer, which saw the end of my predecessor's tenure, my interim appointment and my appointment. This is my first annual report and, in many respects, it will reflect this transition period.

I have built on activities initiated by my predecessor, Ms. Lyse Ricard, whom I would like to take this opportunity to thank for her leadership and work over the course of her five-year tenure, particularly with regard to preliminary reviews and inquiries. She oversaw many challenges with professionalism and integrity.

I and my predecessor have placed significant efforts this year on completing preliminary reviews and inquiries as timely and as efficiently as circumstances allowed, while ensuring due process in accordance with the *Ethics and Conflict of Interest Code for Senators* (the *Code*). On matters of public record, four preliminary reviews and two inquiries were completed or permanently suspended this year, while three inquiries are still ongoing.

Important work was also accomplished relating to the provision of opinions and advice, and the annual disclosure process. I have met a number of senators as part of an outreach initiative to discuss the *Code*, and underlined the advice and services provided by my office. At the time of the writing of this report, the 2017-18 annual disclosure process is almost completed for most senators, and their public disclosure summaries have been published on the Office of the Senate Ethics Officer website.

In the current evolving context, for my office to continue to excel, it must become agile and adaptable to meet the needs of senators. As such, I have launched an operational review of the office to identify opportunities for efficiency and modernization. Areas under review include personnel, administrative tools, and internal processes. I am grateful to the employees of my office for their support as we move through the transition.

The office continues to rely on the Senate Administration for the provision of security, finance, information technology and human resources services under a cost-recovery agreement.

As the institution of the Senate transforms, I am committed to serving and supporting the Senate and senators pursuant to the *Code*. I will do so in an independent, non-partisan and objective manner, while helping to maintain and enhance public confidence and trust in the integrity of senators and the Senate.

II. MANDATE OF THE SENATE ETHICS OFFICER

The Office of the Senate Ethics Officer (OSEO) was established under the *Parliament of Canada Act*. The Senate Ethics Officer (SEO) is responsible for the interpretation, administration and application of the *Ethics and Conflict of Interest Code for Senators* (the *Code*). The *Code* defines a set of values and standards which guide senators in the exercise of their functions. It also provides a means by which to maintain and enhance public confidence and trust in the integrity of senators and the Senate. The *Code* ensures that questions related to proper conduct may be addressed by an independent, non-partisan officer. It was adopted by the Senate in May 2005, and was revised in 2008, in 2012, and twice in 2014. The *Code* is a document that is distinct from, but of equal standing to, the *Rules of the Senate*.

It should be noted that the SEO may receive general directives from the Standing Committee on Ethics and Conflict of Interest for Senators (the Committee) on the interpretation, application, and administration of the *Code*, but not as it relates to the circumstances of a particular senator.

A. Three Major Functions

The mandate of the SEO includes three major functions: (i) providing opinions and advice to senators; (ii) administering the disclosure process; and (iii) conducting inquiries.

(i) Opinions and Advice

The SEO's primary function is to provide advice and guidance to senators with respect to the *Code*, in particular, assisting them in understanding their obligations under the *Code* and identifying ethics and conflicts of interest issues – real, potential and apparent – that could be relevant to their circumstances.

Subsection 42(4) of the *Code* provides that written opinions and advice are to be kept confidential but they may be made public by the senators to whom they relate, or by the SEO with the particular senator's written consent. However, some opinions related to contracts with the federal government must be made public under section 31 of the *Code*.

This advisory function is recognized by many Canadian ethics and conflict of interest commissioners to be essential to the success of an ethics and conflict of interest regime. It provides a means by which legislators can better understand how ethics and conflict of interest rules apply to their individual circumstances, especially when the application may not be so clear.

Senators are encouraged to seek advice before acting, and to avail themselves of the advisory services of the SEO in order to effectively prevent ethics and conflict of interest issues. This approach best serves the public interest because it avoids costly and time-consuming inquiries. It also ensures that the focus is not on addressing conflicts once they have arisen, but rather on preventing them from arising.

(ii) The Annual Disclosure Process

The SEO is also responsible for administering the annual disclosure process, which begins in the fall of each year. This is a process that is regarded as an essential feature of any ethics and conflict of interest regime. It ensures a measure of transparency and accountability which, in turn, inspires public confidence in the system.

Subsections 27(1) and (2) of the *Code* provide that senators are to file, on an annual basis, a confidential disclosure statement on a date that is established by the SEO with the approval of the Committee. Newly appointed senators must file their statements within 120 days after being summoned to the Senate [subsection 27(3)].

These disclosure statements include information concerning senators' activities outside their parliamentary duties and functions, their assets and liabilities over \$10,000, their sources of income over \$2,000, and any federal government contracts, as well as activities and financial interests of their spouses or common-law partners. Subsection 28(1) sets out the list of interests that senators are required to report confidentially to the SEO.

The SEO provides each senator with a letter, which draws attention to any relevant provisions of the *Code* and identifies any potential conflicts of interest that are relevant to his or her circumstances, while also providing advice on how these may be prevented. Where senators have specific questions about a particular situation, they should raise the matter with the SEO and provide the necessary information to assist the latter with formulating useful advice.

The Office of the SEO also prepares a public disclosure summary for each senator based on the information that was provided in the senator's confidential disclosure statement. Section 31 of the *Code* sets out the list of interests that must be publicly disclosed. Again, this list includes senators' activities outside their parliamentary duties and functions, as well as their income over \$2,000, and their assets and liabilities valued at over \$10,000.

Senators are then required to review their public disclosure summaries, sign and return them to the OSEO. These summaries are then placed in both a paper public registry located in the Office, as well as published in an online public registry, available on the Office's website. This registry contains all the information that is required to be made public under the *Code*.

In addition, senators are required to file annually, pursuant to subsection 45(1) of the *Code*, a statement of compliance confirming that they have read the *Code* within the last 30 days and that, to their knowledge and belief, they are in compliance with the *Code* as of the day the statement is filed.

The disclosure process is an ongoing process that continues throughout the year, even after completion of the annual confidential disclosure and public disclosure processes. Senators are required to ensure that their confidential disclosure statements are kept up-to-date throughout the year by filing material change forms with the Office of SEO within 30 days after any material changes occur in their circumstances [subsection 28(6)]. These forms

are included within each senator's public disclosure file, where the contents pertain to information set out in section 31 of the *Code*.

In addition, senators must file a statement of gifts or other benefits with the SEO for any gifts, benefits received as a normal expression of courtesy or protocol, or that is within the customary standards of hospitality that normally accompany the senator's position, if the value of the gift or benefit (or the cumulative value of all gifts or benefits received from one source in a 12-month period) exceeds \$500.00, in accordance with paragraph 31(1)(k). The statement of gifts or other benefits is placed in the senator's public disclosure file.

It should be noted that courtesy gifts are exceptions to the general prohibition [subsection 17(1)] concerning senators receiving gifts and other benefits that could reasonably be considered to relate to a senator's position [subsection 17(2)].

Similarly, sponsored travel that falls under subsection 18(1) must be reported in a statement which forms part of a senator's public disclosure file, if the travel costs exceed \$500.00 [paragraph 31(1)(k)].

Over the course of the year, senators must also publicly declare any private interests that may be affected by matters before the Senate, or a committee of the Senate of which they are members. These public declarations are also placed in their public disclosure files, under paragraph 31(1)(j) of the *Code*.

(iii) Inquiries

It is also the SEO's responsibility to conduct inquiries in order to determine whether a senator has complied with his or her obligations under the *Code*, where there are allegations of non-compliance.

First, the SEO must conduct a preliminary review under subsection 47(2) of the *Code* if he or she (a) has reasonable grounds to believe that a senator has not complied with his or her obligations under the *Code*; or (b) receives a request to conduct an inquiry from a senator who has reasonable grounds to believe that another senator has not complied with his or her obligations under the *Code*.

Second, subsection 48(2) of the *Code* provides that the SEO must conduct an inquiry in either of the following circumstances: (a) where the SEO determines that an inquiry is warranted after conducting a preliminary review; or (b) where the senator who was the subject of a preliminary review requests that an inquiry be conducted because the SEO has made a finding that an obligation under the *Code* may have been breached but has determined that an inquiry is not warranted.

A preliminary review is conducted confidentially under subsection 47(5) of the *Code* but where the SEO determines that an inquiry is not warranted, the preliminary determination letter is made public (unless the matter is not in the public domain) when the Chair of the Committee tables it in the Senate, pursuant to subsections 47(16) and (17). If the SEO

determines that an inquiry is warranted, the matter remains confidential until the inquiry report of the SEO is tabled in the Senate [subsections 48(17),(18) and (19)].

The *Code* does not provide a mechanism for the public to trigger a preliminary review. However, the SEO examines all information pertaining to a senator that is brought to his attention by members of the public, and may initiate a preliminary review under the *Code* as described above.

B. Other Rules and Laws

It is important to note that the SEO's jurisdiction is limited to the *Ethics and Conflict of Interest Code for Senators*. The *Code* however is not the only set of rules that governs the conduct of senators. Senators are subject to a number of other rules and laws, which are outside the purview of the SEO.

Senators are notably subject to the *Senate Administrative Rules* and other Senate policies and directives relating to the proper allocation and use of Senate resources. These rules, policies and directives are within the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

They are also subject to section 16 of the *Parliament of Canada Act* which prohibits senators from receiving or agreeing to receive outside compensation, whether directly or indirectly, for services rendered or to be rendered to any person, either by the senator or another person, in relation to any matter before the Senate or the House of Commons or any of their committees, or for the purpose of influencing or attempting to influence any member of either House.

In addition, sections 119, 121 and 122 of the *Criminal Code* are other examples of laws that apply to senators relating to the misuse of a public office. Section 119 deals with offences that relate to bribery. Section 121 concerns frauds on the government and is aimed in part at influence peddling. Section 122 creates offences relating to fraud and breach of trust.

C. Independence of the Senate Ethics Officer

The SEO is an independent, non-partisan Officer of the Senate. This independence is essential in order to ensure public confidence and credibility in the Senate ethics and conflict of interest regime. A number of provisions of the *Parliament of Canada Act* (the Act) and of the *Code* confer this status of independence and autonomy on the SEO, including the provisions in the Act concerning the appointment process, the security of tenure, financial autonomy, and the management of the OSEO.

For example, subsection 20.4(1) of the Act ensures that the SEO alone has “the control and management of the office”. Subsection 20.4(7) provides that the SEO is responsible for preparing the estimate of the budget for the office. This estimate is separate and apart from

the estimates of the Senate as a whole. Under subsection 20.4(8), the estimate of the SEO is provided to the Speaker of the Senate who, after considering it, transmits it to the President of the Treasury Board who, in turn, lays it before the House of Commons with the estimates of the Government for the fiscal year.

The independence of the SEO concerning opinions and advice given to individual senators is also clear and is expressly provided for in subsection 41(2) of the *Code*. This independence also applies to any inquiries conducted under subsection 48(2) of the *Code* and any inquiry reports prepared under subsection 48(12).

These, and other provisions, ensure that the SEO is able to carry out his functions in an impartial manner, free from any outside influence or coercion.

Provisions of the *Parliament of Canada Act* that secure the independence of the Senate Ethics Officer

- The Senate Ethics Officer is appointed by the Governor in Council, by Commission under the Great Seal, after consultation with the leader of every party in the Senate and after approval of the appointment by resolution of the Senate. This is to ensure that the appointment has the broadest support of the Senate irrespective of political party line. The Senate Ethics Officer has the same privileges and immunities as senators.
- The Senate Ethics Officer is appointed for a term of seven years as an Officer of the Senate and may be removed from his or her office only for cause, by the Governor in Council, on address of the Senate. These provisions again confer on the Officer a status of independence and autonomy rarely recognized to Government officials and they provide an effective shield against improper or inappropriate influence.
- The Senate Ethics Officer has the rank of a deputy head of a department of the Government of Canada and has the control and the management of the office, which he or she runs independently from the Senate and its Internal Economy Committee. The Officer hires his own staff.
- The Senate Ethics Officer has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the office. This estimate is separate from the estimates of the Senate. The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who lays it before the House of Commons with the estimates of the Government for the fiscal year. The Senate reviews the Senate Ethics Officer's proposed budget as a part of the annual review of the Main Estimates. This procedure ensures the independence of the Officer and places the responsibility for the estimate of the office on the Senate Ethics Officer. It also emphasizes the direct relationship that Parliament has established between the Senate Ethics Officer and the Senate itself, to which the Officer ultimately reports.
- The Senate Ethics Officer is required, within three months after the end of each fiscal year, to submit a report of his or her activities to the Speaker of the Senate, who must table the report in the Senate.

III. THE YEAR IN REVIEW: 2017-18

Overview

The Year in Numbers	
Statements of gifts or other benefits	1
Statements of sponsored travel	27
Declarations of private interests	2
Statements of material change	16
Preliminary reviews (completed and ongoing matters that are of public record)	4
Inquiries (completed and ongoing matters that are of public record)	5
Media requests	90
Public requests and comments	60

A. Outreach to Senators

The SEO launched an outreach initiative with senators shortly after being appointed as SEO in January 2018. The initiative has provided an opportunity for the SEO and senators to meet in person and discuss the *Code* in general. Some senators have taken the opportunity to raise concerns or provide feedback on a number of issues, including questions about their particular circumstances. These courtesy meetings have sometimes led to official requests for opinion and advice, and follow-up meetings for clarifications. Several senators have lauded the initiative, which in their view, helps to foster relations, and strengthen an understanding of the *Code*, as well as provide opportunities for the SEO to learn various ways in which senators may discharge their role. As of March 31, 2018, the SEO had met with 32 senators. The SEO is committed to meeting all senators by the end of 2018.

B. New Senators

The outreach initiative is of particular importance to new senators. This year, six (6) senators were appointed to the Upper Chamber. Upon their appointment, the SEO immediately briefed the new senators in person on their obligations under the *Code*, including their responsibilities to file an initial confidential disclosure statement within 120 days of their appointment, and annually thereafter. The SEO also provided advice on their particular circumstances and answered their questions. They also were informed of the need during the year to disclose to the SEO any changes to their confidential disclosure statement within the timeline prescribed by the *Code*. They were also made aware that the *Code* requires certain information be publicly released. The SEO has made himself available to all senators should they have questions or require assistance in filing their statements.

New senators were also provided with an information package, which includes a copy of the *Code*, general guidance on certain sections of the *Code*, some common questions and answers, as well as hard copies and links to the appropriate forms. Appendix A also provides additional guidance on Frequently Asked Questions (FAQ) related to the *Code*.

C. Retired Senators

While a number of new senators were appointed to the Upper Chamber, twelve (12) senators retired this year on or prior to their mandatory retirement age of 75.

In the case of senators who cease to be senators, the *Code* requires the SEO to retain all documents relating to them for a period of 12 months. These documents will be destroyed after this period, unless there is an investigation or inquiry in progress or charges have been laid against a senator, in which case they will be destroyed 12 months after the final disposition of all proceedings.

While public documents relating to senators who cease to be senators are forwarded to the Senate archives, confidential documents may be returned to senators at their request, rather than being destroyed. The SEO systematically sends a letter informing retired or former senators of these provisions of the *Code*, and asks them whether they wish their confidential disclosure statements be returned to them or destroyed.

D. Annual Disclosure Process

Every year in the fall, senators undergo a disclosure process, whereby they must notably disclose to the SEO by means of a confidential disclosure statement information relating to their particular circumstances, such as their activities outside of the Senate and those of their spouse's (*e.g.* employment and director or officer positions in for profit or not-for-profit organizations), as well as their and their spouse's assets. The SEO will review the information and provide senators with a written opinion and advice relating to their particular situations. Following this review, the SEO will prepare a Public Disclosure

Summary containing information related to a senator which is required to be published under the *Code*. Senators must examine the information, and sign the Public Disclosure Summary prior to the document being placed in the Public Registry. As part of this process, senators must also provide a statement of compliance confirming that they have read the *Code* within the last 30 days.

At any point during this disclosure process, should the SEO have questions related to the information in a senator's confidential statement, he may request clarifications from a senator. Senators have 30 days to respond to the SEO. Senators may in turn seek clarifications from the SEO either in writing or verbally over the telephone or in a meeting.

For fiscal year 2017-18, all senators have complied with their obligations to file a confidential disclosure statement and a statement of compliance. As of the date of publication of this report, the disclosure process for seventy nine senators (79) has been completed resulting in the publication of their Public Disclosure Summaries. Files for twelve (12) senators remain outstanding, awaiting the signed Public Disclosure Summary or other additional information from senators. These numbers do not include senators recently appointed who have up to 120 days to file their confidential disclosure statement and statement of compliance.

Over the course of the year, senators must also report to the SEO any sponsored travels or gifts they received, as well as changes to their confidential statements. In addition, they need to report any declarations of private interests in the Senate or in committees when they had reasonable grounds to believe that they or their family members had a private interest that might be affected by a matter that was before the Senate or a committee of the Senate in which they were members.

The graphs below provide the number of filings for these ongoing obligations in a given year over the last five years.

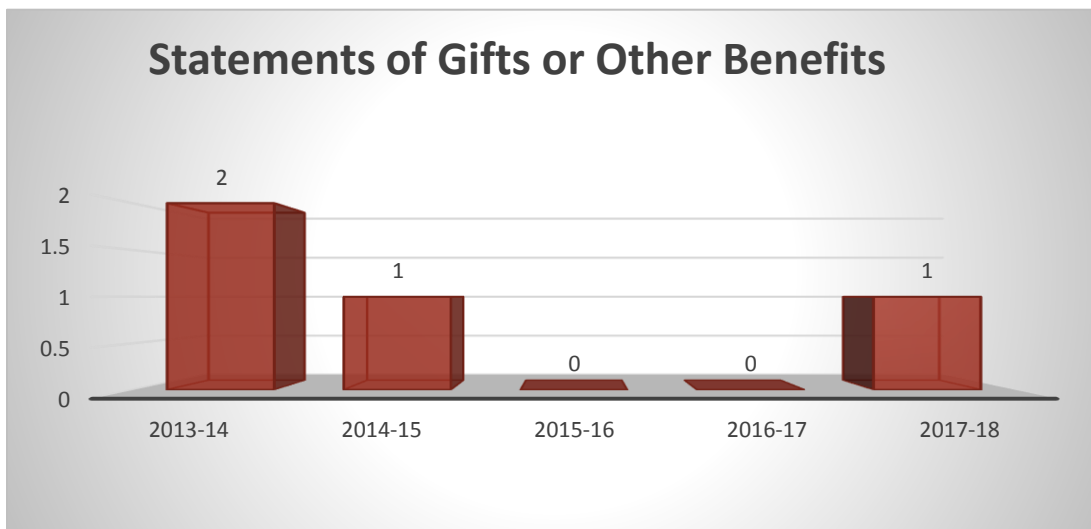


Figure 1

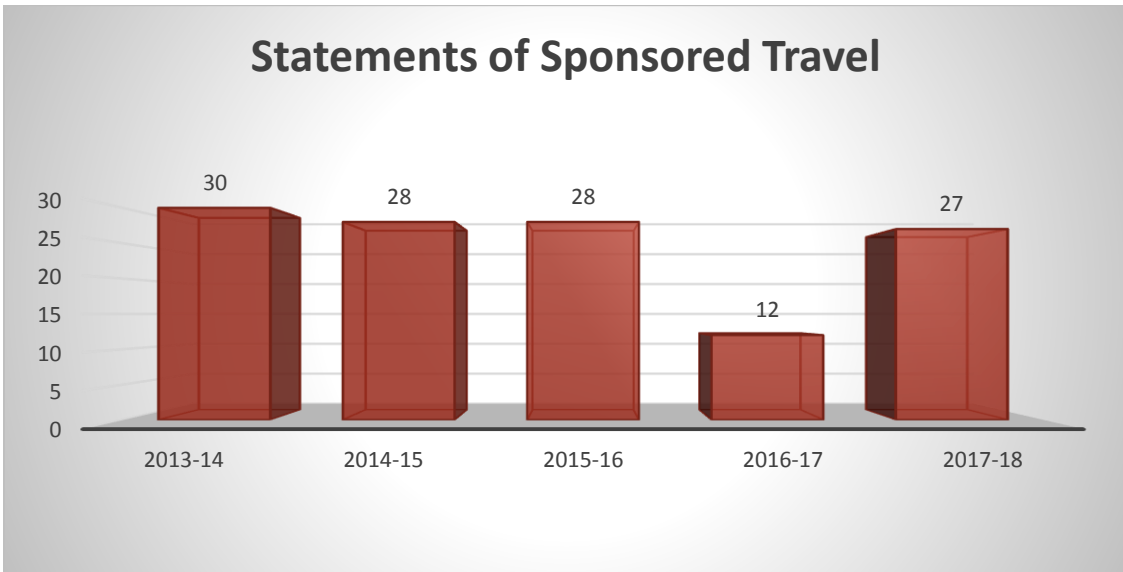


Figure 2

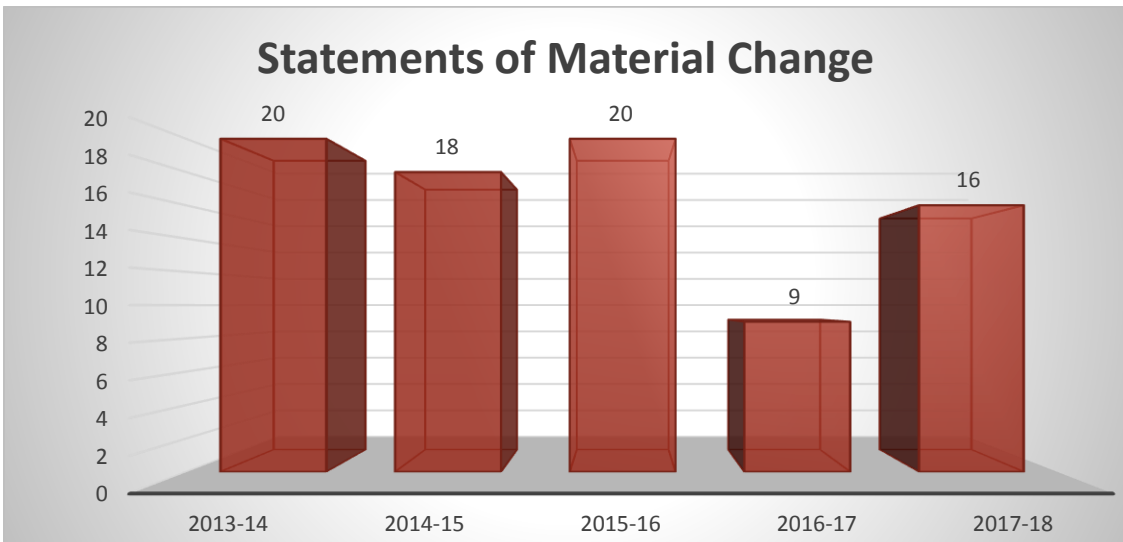


Figure 3

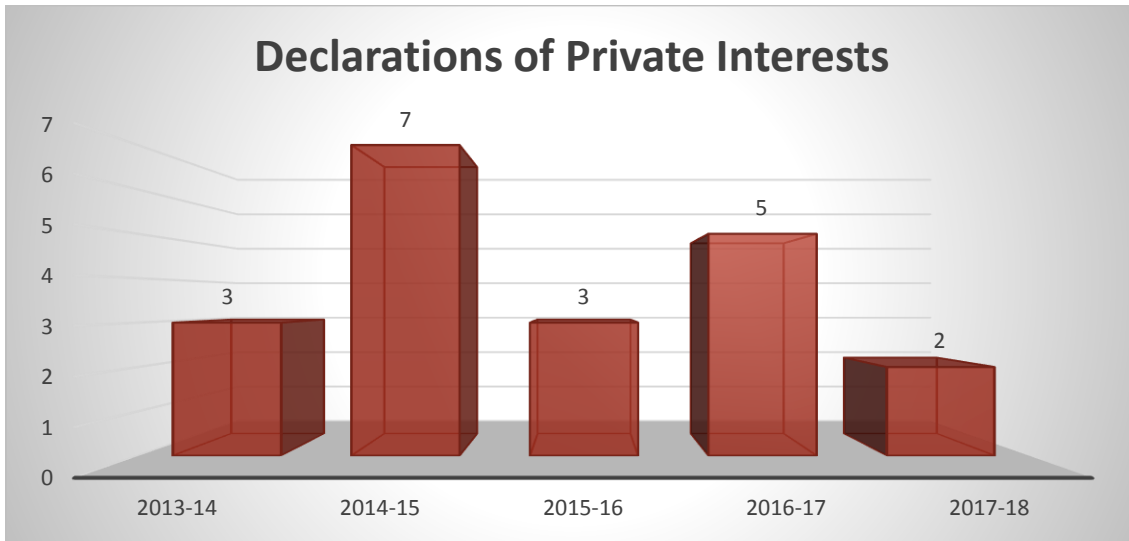


Figure 4

E. Opinions and Advice

As in previous years, senators are encouraged at any time to consult the SEO on any concerns or questions relating to their obligations under the *Code* in order to promote the continued compliance with the *Code*.

The SEO responds to these requests as promptly as their nature and complexity permit. Some requests may require more research and consideration than others. The resulting opinions and advice are kept confidential, unless the senator who made the request decides to release them to the public or provides his/her written consent for the SEO to release them.

Senators continue to reach out to the SEO and to the Assistant Senate Ethics Officer and General Counsel for advice and opinions, as well as questions and clarifications concerning their obligations under the *Code*. It should be noted that the outreach initiative with senators has resulted in many requests for opinions and advice regarding the application of the *Code*, and feedback on certain SEO processes. Exceptionally this year, the number of opinions and advice provided to senators were not tracked, as the process is currently being reviewed internally in order to ensure that it meets the evolving needs of senators.

F. Inquiries and Preliminary Reviews in the Public Domain

(i) Update on Preliminary Reviews as of March 31, 2018 (completed and ongoing)

The OSEO has completed its work on the following four (4) preliminary reviews:

- The first concerned Senator Colin Kenny and involved allegations that Senator Kenny used his Senate staff for matters unrelated to his office operations, but rather to his personal activities. The preliminary review started on March 9, 2017, and is now completed.
- The second concerned Senator Nicole Eaton, and involved allegations that she failed to disclose certain private interests of her own and of her spouse. The former SEO publicly released the [Preliminary Determination Letter Under the Ethics and Conflict of Interest Code for Senators concerning Senator Nicole Eaton](#) on June 30, 2017.
- The third concerned Senator Victor Oh, and involved certain allegations that Senator Oh breached the *Code* in relation to a trip he took to Beijing and Fujian Province, China in April 2017. The preliminary review was initiated by the SEO on January 11, 2018, and was completed on March 22, 2018.
- The fourth concerned Senator Lynn Beyak, and involved certain allegations that Senator Beyak breached the *Code* by posting certain materials on her Senate website. The preliminary review was initiated on January 18, 2018, and was completed on March 21, 2018.

(ii) Update on Inquiries as of March 31, 2018 (suspended and ongoing)

The office has also worked on the following five (5) inquiries. Two inquiries had been suspended, while three (3) were still ongoing as of March 31, 2018.

Suspended Inquiries (2):

- The first concerned an inquiry initiated by the former SEO on February 3, 2016 involving Senator Meredith, based on an article published in the *Ottawa Citizen* on August 21, 2015, entitled “Senator’s Partner Joined Delegation.” This inquiry was permanently suspended by the former SEO on May 10, 2017, date on which Senator Meredith resigned. The Committee decided that the inquiry should remain permanently suspended on June 21, 2017 in its [third report](#) and said: “The allegations relate more to then Senator Meredith’s fitness to sit as a Senator and to perform his parliamentary duties and functions. As he is no longer a Senator, the committee sees no compelling reasons to depart from the default rule that an inquiry be suspended when a Senator ceases to be a Senator.”

- The second inquiry concerned Senator Colin Kenny, and involved allegations that he used his staff for personal purposes unrelated to Senate business. The inquiry was permanently suspended by the SEO on February 2, 2018, date on which Senator Kenny resigned. The Committee decided that the inquiry should remain permanently suspended on March 1, 2018 in its [fourth report](#) and said: “Former Senator Kenny is no longer a member of the Senate. As such, the Senate can no longer impose sanctions upon him as a Senator. In the circumstances, the committee sees no compelling reasons to depart from the default rule that an inquiry be suspended when a Senator ceases to be a Senator.”

Ongoing Inquiries (3):

- The first inquiry involves a request that was made by Senator Housakos in July 2015, and concerns a workplace assessment report in relation to former Senator Meredith that was commissioned by the Steering Committee of the Standing Senate Committee on Internal Economy, Budgets and Administration. This inquiry was permanently suspended on May 10, 2017 upon the resignation of Senator Meredith. The Committee decided that this inquiry should resume on June 21, 2017 in its [third report](#). On December 1, 2017, the SEO suspended the inquiry at the request of another authority. As of March 31, 2018, the inquiry was still suspended.
- The second inquiry concerns Senator Lynn Beyak, and involves certain allegations that the Senator breached the *Code* by posting certain materials on her Senate website. The inquiry was initiated on March 21, 2018, and was still ongoing as of March 31, 2018.
- The third inquiry concerns Senator Victor Oh, and involves certain allegations that Senator Oh breached the *Code* in relation to a trip he took to Beijing and Fujian Province, China in April 2017. The inquiry was initiated on March 22, 2018, and was still ongoing as of March 31, 2018.

(iii) Outcome of Another Inquiry on Senator Meredith

- A request for an inquiry was made by Senator Leo Housakos on June 18, 2015 in relation to an alleged two year relationship Senator Don Meredith had with a teenager. The former SEO publicly released her [Inquiry Report under the Ethics and Conflict of Interest Code for Senators concerning Senator Don Meredith](#) on March 9, 2017. The former SEO concluded that no remedial measures under subsection 48(14) of the *Code* would satisfy the kind of breach that occurred in this case. The report was submitted to the Committee for review on the same date. The role of the Committee pursuant to section 49 of the *Code* is to recommend to the Senate the appropriate remedial measures or sanctions to be imposed on Senator Meredith based on the finding of the SEO that he breached his obligations under the *Code*. The Committee recommended in its [second report](#), on May 2, 2017 that Senator Meredith be expelled from the Senate and that his seat be declared vacant. The Committee also provided a [legal opinion](#) on the powers of

the Senate to expel a senator. Senator Meredith announced his resignation, before the vote on the Committee’s recommendation was scheduled to take place. Senator Meredith effectively resigned on May 10, 2017.

(iv) Application of Section 7.1

Adopted on June 16, 2014, section 7.1 establishes a broad obligation for senators to act with dignity and to avoid conduct that could reflect adversely on a senator or on the Senate as a whole. This obligation encompasses all conduct of a senator, including not only his/her professional conduct, but also his/her private conduct.

Section 7.1 states:

“7.1(1) A Senator’s conduct shall uphold the highest standards of dignity inherent to the position of Senator.

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.”

The Committee further clarified in its [Directive 2015-02](#) that “the rules of general conduct [of section 7.1] are applicable to all conduct of a Senator, whether *directly related to parliamentary duties and functions or not*, which would be contrary to the highest standards of dignity inherent to the position of Senator and/or would reflect adversely on the position of Senator or the institution of the Senate.” (Emphasis added).

The Committee highlighted the SEO’s findings in its second report on May 2, 2017:

- “The Senate Ethics Officer found that Senator Meredith’s conduct was substantially intermingled with his role as a senator. Senator Meredith brought the power and influence of his office into the relationship, even using Senate resources to foster that relationship. While engaged in this inappropriate sexual relationship and behavior with the teenager, Senator Meredith drew on the resources, weight and authority of his office to promote, assist and advance the interests of the teenager and to attempt to advance those of her family members.”
- “As a result, the Senate Ethics Officer found, in her Inquiry Report, that the conduct of Senator Meredith breached both subsections 7.1(1) and 7.1(2) of the *Code* because he failed to uphold the highest standards of dignity inherent in the position of senator and acted in a way that could reflect adversely on the position of senator and the institution of the Senate.”

G. Outreach and External Activities

(i) Media and Public Feedback

The office continues to respond to information requests from senators, their staff, the media and the general public as promptly as circumstances permit. The number of requests for information varies each year. The office responded to about 90 requests from the media this year, and received approximately 60 comments and requests from the public. Media requests this year focused mainly on inquiries. In addition, the public appeared to be particularly engaged, providing feedback and raising concerns regarding the behaviour and role of certain senators. Comments were generally directed at the use of Senate resources for activities deemed to be inappropriate for senators.

(ii) Website

The Office's website serves as an interface between the SEO and the general public. The website also provides a biography of the new SEO, information relating to the mandate and work of the SEO, as well as other documents (*e.g.* Annual Reports) which provide accountability for the Office. Importantly, it contains the online public registry where senators' Public Disclosure and Statements can be found. The website also includes a general contact for comments and feedback from the public. Of particular note, the SEO has commonly used the "Announcements" section this year to communicate the status of preliminary reviews and inquiries to the public.

Over the years, the office has received a fair number of visits to the website from individuals within Canada and abroad. The number of visits usually peaks following the release of information related to cases of high interest to the public. The number of visits peaked on March 10, 2017, following the publication and media coverage of the inquiry report on Senator Meredith. This year, traffic to the website significantly increased on March 22, 2018, following the announcement that the SEO had started an inquiry related to Senator Victor Oh's trip to Beijing and Fujian Province, China in April 2017.

It is noteworthy that traffic to the website was perceptively higher this year than over the same period last year, which supports the notion that the public appeared to be particularly engaged. The Office continues to welcome the opportunity to inform the public about the *Code*, the mandate of the SEO, and any new developments that involve matters of public interest.

As the Office continues to fulfill its mandate, it will look at opportunities to improve the interface and website contents which have not been reviewed since the office was created in 2005.

(iii) Conferences

The office participates in seminars, conferences and events in order to exchange information about ethics and conflict of interest with other experts in the field and to educate and inform about the work of the office and the rules that govern senators in this area.

The SEO addressed a group of foreign legislators and Canadian parliamentarians as part of the ParlAmericas Study Visit on Legislative Openness on October 17, 2017. The Study Visit was held by ParlAmericas, in collaboration with the Parliament of Canada, which convened parliamentary delegations of seven countries across Latin America and the Caribbean. The aim of the Visit was to discuss “current Canadian legislation, regulations and parliamentary practices to strengthen access to information, transparency and accountability, enforcement of conflict of interest standards and lobbying regulations, and inclusiveness in legislative decision-making process.” The SEO presented the enforcement mechanism as it relates to the Senate ethics and conflict of interest regime.

A representative of the Office of SEO attended the annual conference of the Canadian Conflict of Interest Network (CCOIN). This year, the conference was held in Charlottetown, Prince Edward Island, from September 6 to 8, 2017. CCOIN is a key organization in the area of ethics and conflict of interest related to members of legislative bodies. It is comprised of the various ethics and conflict of interest commissioners across the country at the federal, provincial and territorial levels of government – those who have jurisdiction over members of legislative bodies. It meets on an annual basis to discuss issues of common interest and to share perspectives and thoughts in this area. This important network not only provides a useful resource for sharing information and practices on an annual basis, but it is also a key resource throughout the year for ethics and conflict of interest commissioners to seek members’ views and information on related issues.

The SEO also attended the Council on Governmental Ethics Law (COGEL) international conference on December 4-6, 2017 in Toronto. COGEL members work in the fields of government ethics, freedom of information, elections, lobbying, and campaign finance. The conference provided an opportunity for the SEO to finesse his knowledge in and broaden his perspective on a variety of connected topics related to ethics and conflict of interest. He also met several of his counterparts in the federal and provincial jurisdictions, as well as from the United States.

H. Office Renewal

This year marked a transition year for the Office of the SEO, with many changes taking place internally. The office welcomed an interim SEO following the resignation of Ms. Lyse Ricard, the former SEO on June 30, 2017. The interim SEO was appointed on July 10, 2017, and became the incumbent SEO on January 10, 2018. The new SEO has placed much efforts on improving internal procedures and processes in order to meet changing needs of senators and align with emerging technologies.

The efforts focus notably on initiatives involving the modernization of administrative tools, review of the annual disclosure process to identify areas of improvement, and assessment of the effectiveness of internal procedures to establish standard level of service for senators. A new correspondence software has been purchased, and is being deployed. Some office procedures have been mapped, and steps clearly outlined in order to enhance consistency. The website will also be remodeled as part of the modernization efforts. The roles and responsibilities of personnel are also currently under review. These reviews and changes to the office are necessary steps towards the building of a strong and agile workforce and work environment.

I. Budget

For the year 2017-18, the Office's total authorities were \$1,232,127. The actual expenditures were \$1,006,732 which represented an increase from \$922,798 of the previous fiscal year 2016-17. This increase was mainly the result of costs incurred for the additional consulting services related to inquiries and salaries costs.

The office's financial statements for the year 2017-18 are audited by the firm KPMG. The financial statements will be posted on the Office's website once the audit is completed.

SUMMARY OF KEY OBLIGATIONS OF SENATORS IN THE CONTEXT OF THE ETHICS AND CONFLICT OF INTEREST CODE FOR SENATORS

- Senators are required to give **precedence to their parliamentary duties and functions** over any other duty or activity (subsection 2(1)).
- Senators are expected to arrange their private affairs so that **foreseeable real or apparent conflicts of interest may be prevented from arising**, and if such a conflict does arise, to resolve it in a way that protects the public interest (paragraph 2(2)(c)).
- Senators are required to **uphold the highest standards of dignity** inherent to the position of senator (subsection 7.1(1)).
- Senators must refrain from acting in a way that could **reflect adversely on the position of senator or the institution of the Senate** (subsection 7.1(2)).
- Senators must **perform** their parliamentary duties and functions **with dignity, honour and integrity** (section 7.2).
- Senators may not act in any way to further their **private interests**, or those of their family members, or to improperly further another person's or entity's private interests when performing parliamentary duties and functions (section 8).
- Senators may not use their position to **influence** a decision of another person in order to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 9).
- Senators may not use **information that is generally not available to the public** to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 10).
- Senators are required to make a **declaration**, orally or in writing, when they have reasonable grounds to believe that they or their family members have a private interest that might be affected by a matter that is before the Senate or a committee of the Senate in which they are members (subsection 12(1)). They may not participate in debate on that matter, nor are they permitted to vote, though they may abstain (subsections 13(1) and (2) and section 14). In the case of committees, senators must also withdraw from the proceedings (subsection 13(2)). With respect to senators who are only participating in committee proceedings, but are not formal members, they too must refrain from participating in debate on any matter in which they have reasonable grounds to believe they have a private interest and they too must withdraw from the proceedings in question (subsection 13(3)).

- Senators may not accept, nor may a family member accept, **any gift or other benefit** that could reasonably be considered to relate to their position, except as permitted under the *Code*. Gifts, benefits and sponsored travel that are acceptable under the *Code* must be declared to the Senate Ethics Officer if they exceed \$500 in value (sections 17 and 18) and these must be publicly declared pursuant to paragraph 31(1)(k).
- Senators may not be parties to, or have interests in corporations or partnerships that are parties to, **contracts with the Government of Canada** under which they receive a benefit, unless specifically authorized by the Senate Ethics Officer (sections 20-26).
- Senators must file a **confidential disclosure statement** with the Senate Ethics Officer on an annual basis disclosing their private interests, and those interests that are required to be publicly disclosed under the *Code* are then made public *via* the office website and also in paper format at the office of the Senate Ethics Officer (sections 27-34).
- Senators must file a **statement of compliance**, annually, confirming that they have read the *Code* within the last 30 days and that, to the best of their knowledge and belief, they are in compliance with the *Code* as of the day the statement is filed (subsection 45(1)).
- Senators must report to the Senate Ethics Officer any **material change** to the information in their confidential disclosure statements, within the prescribed time (subsection 28(6)).
- Senators must **cooperate** with the Senate Ethics Officer with respect to **any preliminary review and any inquiry** (subsections 47(6) and 48(7)).

APPENDIX A

Frequently Asked Questions

regarding the

Ethics and Conflict of Interest Code for Senators (the Code)

Frequently Asked Questions

1. Who are the key stakeholders and what are their roles with respect to the Code?

The Senate adopted on May 18, 2005, the *Conflict of Interest Code for Senators*, which was amended several times in later years, and renamed in 2014 as the *Ethics and Conflict of Interest Code for Senators*. Key stakeholders include senators, the Senate Ethics Officer, and the Standing Committee on Ethics and Conflict of Interest for Senators. Senators are required to comply with the provisions of the *Code* to the best of their knowledge. The Senate Ethics Officer is an independent and autonomous officer who is responsible for advising individual senators and assisting them in fulfilling their obligations under the *Code*. The Standing Committee on Ethics and Conflict of Interest for Senators has overall responsibility for the *Code* and gives “general direction” to the Senate Ethics Officer, but without giving specific direction in any particular case.

2. What is the relationship of the Senate Ethics Officer to the Senate?

The Senate Ethics Officer is an independent officer of the Senate under the *Parliament of Canada Act*. The officer is appointed by the Governor in Council, on address of the Senate. The Senate Ethics Officer has the control and management of his/her office, independently of the Senate and its Internal Economy Committee. The Senate reviews the Senate Ethics Officer’s proposed budget as part of the annual review of the Main Estimates. The Senate Ethics Officer’s role is prescribed by the Senate to which the Senate Ethics Officer ultimately reports.

3. Does the Senate’s ethics and conflict of interest regime provide senators with a single stop for ethical advice?

The Senate’s ethics and conflict of interest regime is one of several instruments that govern the conduct of senators. They are also subject to other rules and laws, such as the *Parliament of Canada Act*, the *Criminal Code*, the *Senate Administrative Rules*, and the *Rules of the Senate*. The Senate Ethics Officer does not have jurisdiction to interpret and apply these other rules and laws. Nothing in the *Code* displaces the jurisdiction of other authorities that are responsible for interpreting and applying them.

4. What is the Annual Disclosure Process?

The *Code* requires that senators file every year a Confidential Disclosure Statement providing their private interests and other information to the Senate Ethics Officer. In addition, they must complete a Statement of Compliance, asserting that they have read the *Code* and that to the best of their knowledge they are in compliance with the *Code*. After a review of a senator’s Confidential Disclosure Statement, the Senate Ethics Officer will prepare a Public Disclosure Summary based on the senator’s statement, and submit it to the senator for his/her review, before it is made public. Please note that at any time during the process, if senators have questions regarding their disclosure

obligations, they should consult with the Senate Ethics Officer. Similarly, the Senate Ethics Officer may request a meeting with senators to further discuss their obligations under the *Code*.

5. *What information related to a senator will be **publicly disclosed** under the Code?*

The following list provides information involving a senator which must be disclosed publicly:

- employment outside the Senate, profession, business;
- a senator's position in corporations, income trusts and trade unions;
- a senator's position in associations and not-for-profit organizations;
- the source and nature, but **not the amount**, of any income over \$2,000 that senators have received in the last 12 months, or are likely to receive in the next 12 months;
- the nature, **but not the value**, of any assets and liabilities over \$10,000;
- the source and nature, but **not the value**, of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body involving a senator or his/her family, directly or indirectly, through a subcontract or by virtue of a partnership or significant interest in a private corporation;
- a trust in which a senator could derive an income or other benefit;
- any declarations of private interest;
- any statements of gifts or other benefits and sponsored travel; and,
- any statements of material change.

6. *How will information related to senators that is required to be publicly available be disclosed to the public?*

Information is made available to the public on the website of the Senate Ethics Officer under the tab "Public Registry", or onsite at the Office of the Senate Ethics Officer, at 90 Sparks Street, Suite 526, Ottawa, Ontario.

7. *What information related to requests for inquiries does the Code authorize the Senate Ethics Officer to disclose publicly as a matter of public interest?*

If a matter is of public interest, the *Code* allows the Senate Ethics Officer to inform the public as to whether or not a matter is under preliminary review or inquiry or has already been reviewed, inquired into and reported on or tabled in the Senate or with the Clerk. The *Code* also authorizes the Senate Ethics Officer to inform the public about decisions of the office and the *Code*, provided the information does not concern particular circumstances of an individual senator. This information may be found on the office's website under the tab "Announcement".

8. *What happens with an inquiry in respect of a senator who ceases to be a senator?*

If a senator ceases to be a senator while there is an ongoing inquiry pertaining to that senator, subsection 48(21) of the *Code* provides that the inquiry is permanently suspended, unless the Standing Committee on Ethics and Conflict of Interest for Senators decides otherwise. In such a case, under subsection 48(22) of the *Code*, the Committee would have to consider any representations from the former Senator, from any senator who initiated the inquiry, and from the Senate Ethics Officer before making its decision in this respect.