



**GUIDELINE**  
**CONFLICT OF INTEREST ACT**

## **Serving your constituents when you are a minister or a parliamentary secretary**

Serving constituents is an important part of the role of elected officials. As stated in *House of Commons Procedure and Practice* (O'Brien and Bosc, second edition, 2009), Members "act as ombudsmen by providing information to constituents and resolving problems." MPs are frequently asked to assist constituents in their interactions with the federal government and may also be asked to provide letters of reference or recommendation.

Members are expected to continue to perform this constituency service role after they are appointed ministers or parliamentary secretaries and become subject to the *Conflict of Interest Act*.

While the legitimacy of constituent service is explicitly recognized in both the Act and the *Conflict of Interest Code for Members of the House of Commons*, these regimes also place limitations on it. The Act does not absolutely prohibit ministers or parliamentary secretaries from engaging in activities that they would normally carry out as a Member, but in doing so they must also comply with the Act.

This document seeks to provide ministers and parliamentary secretaries with some guidance on how they can serve their constituents while respecting their obligations under the Act. It also addresses actions taken by ministerial, Hill or constituency staff.

Generally speaking, ministers and parliamentary secretaries can offer some kinds of support, provided that they do not use their position to further the private interests of a relative or friend (whether a constituent or not), or to improperly further the private interests of a particular constituent or small group of constituents. All constituents should be treated equally so as not to provide preferential treatment to any person or organization.

### **Matters of Importance to the Constituency**

There may be decisions to be made by the government on matters that could have a general impact on the constituents in the riding of a minister or parliamentary secretary. That minister or parliamentary secretary may wish to speak on these matters or make representations to another minister in the interests of their constituency. Before doing so, ministers and parliamentary secretaries must always consider whether they or their relatives or friends have private interests, other than in matters of general application, that could be furthered by such interventions or whether the interventions might be reasonably construed as improperly furthering the private interests of any other person. Where such interests are involved, the minister or parliamentary secretary will generally be prohibited from intervening in the matter.

There may be some cases, however, where, although there is a private interest involved, ministers or parliamentary secretaries may be permitted to intervene in their role as a Member representing a constituency. These could include situations in which the matter is one of significant public interest or importance to their constituents. In those cases, the competing factors would have to be weighed and a decision taken as to whether an intervention would be permissible under the Act and the Members' Code. Ministers and parliamentary secretaries may wish to seek further advice from the Office of the Conflict of Interest and Ethics Commissioner in any such specific situation that may arise.

### **Requests for Assistance in Dealing with Federal Organizations**

Members are commonly asked by constituents to contact government officials about matters pertaining to their dealings with federal organizations that administer programs in such areas as immigration, employment insurance, passports and taxation.

The Act does not prohibit ministers and parliamentary secretaries, as Members, or their Hill and constituency staff from seeking factual information from federal organizations regarding matters such as the status of a case, the timing of a hearing or the information a constituent should submit. However, in no case should their status as a minister or parliamentary secretary be used to influence the outcome of any process, for example by seeking to obtain a favourable decision or to have the case resolved on a priority basis.

Ministers or their parliamentary secretaries, in their capacity as Members, may approach another department or organization, including the responsible minister, either verbally or in writing, but only to assist constituents with routine or administrative matters that would normally be handled by Hill or constituency staff. They may contact federal government institutions, including Crown corporations, on behalf of constituents, using regular channels to seek clarification of policy, legislation or regulations, or to obtain information on programs and the processing of applications, including the status of specific applications. However, they may not use anything other than regular channels open to any Member's staff.

Ministers should not seek to influence outcomes or obtain preferential treatment from a cabinet colleague, nor should they provide preferential treatment to a constituent of a cabinet colleague. The same applies to parliamentary secretaries. The term "preferential treatment" is not defined in the Act, but the Commissioner interprets it to mean "treatment more favourable than might be accorded to anyone else in similar circumstances." (from *Report of the Task Force on Conflict of Interest*, 1984)

Ministers and parliamentary secretaries should not personally approach their own department or an organization within their portfolio on behalf of their own constituents, nor should their ministerial staff. Hill and constituency staff may do so, in those cases, on routine or

administrative matters, but the minister's or parliamentary secretary's own constituents must not be treated more favourably than those in other constituencies.

Ministers, when representing their constituents, should not use their positions as ministers to provide greater assistance to their constituents than to other Canadians. The same holds true for parliamentary secretaries, who could be viewed by the department or agency as speaking on behalf of their ministers.

#### Support for Federal Funding Applications

Ministers and parliamentary secretaries may, in most cases, provide letters of support for projects in their riding for which federal funding is being requested. They may, in doing so, use their letterhead and title as a Member.

They may not provide letters of support, however, if the funding is being requested from their own department or from an organization within their portfolio. For parliamentary secretaries, this would include the departments and portfolios of the ministers whom they were appointed to assist.

#### Administrative Tribunals

Ministers and parliamentary secretaries, as well as their staff (ministerial, Hill or constituency), may not under any circumstances attempt to intervene in the decision-making process of an administrative tribunal on behalf of any constituent in any riding, or to expedite the processing of an application. Such contact may be considered an attempt to influence a decision, in breach of section 9 of the Act.

Section 9 states:

*9. No public office holder shall use his or her position as a public office holder to seek to influence a decision of another person so as to further the public office holder's private interests or those of the public office holder's relatives or friends or to improperly further another person's private interests.*

Staff may, however, assist constituents by explaining processes to them or providing them with relevant contact information for them to direct their inquiries elsewhere.

#### **References and Other Support**

A reference letter should not be a blanket endorsement ("To whom it may concern"), but must be addressed to a specific individual or organization for a specific matter in order to prevent the letter from being used for purposes other than that for which it has been provided.

When providing a reference based on a personal relationship (e.g. relative, friend, classmate, neighbour, member of a group to which one belongs), it is not appropriate to use official ministerial, parliamentary secretary or MP letterhead and titles, except any honorific that one is entitled to use (e.g. the Honourable John Smith).

In order to provide character and employment references, ministers and parliamentary secretaries must be personally acquainted with the individual on whose behalf the request was made. If a reference is for a former employee or volunteer, or for an acquaintance, made in the context of their role as a Member, minister or parliamentary secretary, it is appropriate for ministers and parliamentary secretaries to use official ministerial, parliamentary secretary or MP letterhead and titles, whichever is applicable.

In order to respect the merit principle, if a job applicant is seeking employment in a federal department or agency, ministers and parliamentary secretaries may not write to a departmental or agency official to support that applicant or regarding any other matter dealing with the staffing or appeal processes, or with a grievance process under the *Public Service Labour Relations Act*. They may, however, agree to have their name listed in the “personal reference” section of the individual’s *curriculum vitae* with a view to providing a reference upon request.

Appointments by ministers are excluded from the *Public Service Employment Act*. In the case of an appointment made by another minister, ministers and their parliamentary secretaries may therefore send a letter of recommendation to the responsible minister. Ministers and parliamentary secretaries may also provide recommendation letters for appointments made by the Governor in Council.

## **Section 64**

Section 64 of the Act cannot be used to permit ministers and parliamentary secretaries to provide support to constituents in any and all circumstances. This section does not supersede other provisions of the Act, and does not allow ministers and parliamentary secretaries to engage in any activities that would contravene their obligations under the Act or any other legislation.

Section 64 states:

*64. (1) Subject to subsection 6(2) and sections 21 and 30, nothing in this Act prohibits a member of the Senate or the House of Commons who is a public office holder or former public office holder from engaging in those activities that he or she would normally carry out as a member of the Senate or the House of Commons.*

The Commissioner has interpreted section 64 with reference to section 5 of the Members' Code and determined that the notion of propriety is implicit in section 64. Section 5 of the Members' Code states:

*5. A Member does not breach this Code if the Member's activity is one in which Members normally and properly engage on behalf of constituents.*

In determining whether an action is proper, the Commissioner takes into account actions that are accepted as normal and proper within the context of relevant laws, rules, practices and conventions, including the *Conflict of Interest Act* and other instruments that establish standards of conduct for public office holders such as *Accountable Government: A Guide for Ministers and Ministers of State 2011*.

### **If You Are Still in Doubt...**

Advisors in the Office of the Conflict of Interest and Ethics Commissioner are available to assist you if you have any doubts about how to respond in individual cases. For more information, please contact the Office by calling 613-995-0721 or emailing [ciec-ccie@parl.gc.ca](mailto:ciec-ccie@parl.gc.ca).

*Ce document est également disponible en français.*  
<http://ciec-ccie.gc.ca/>