

# Office of the Integrity Commissioner of Ontario

## A Report on a Consultation Into The Role of Ministers' Staff at Queen's Park

*Lynn Morrison*

*Integrity Commissioner*

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## A Report on a Consultation into the Role of Ministers' Staff at Queen's Park

In an era of hyper-partisanship, I have long been concerned about political life at Queen's Park. As part of my responsibilities, I meet annually with all of Ontario's Members of Provincial Parliament to review their financial affairs and discuss conflict of interest issues. Over my 25 years in this Office, I have met with hundreds of MPPs and have heard all types of concerns and complaints.

More recently the conversations turned to a decline of civility in the house, laments that the theatrics of Question Period outweigh the importance of seriously debated policy, and concern about just who is really in charge of government, its ministries and the delivery of services to people in the province. It seems to me that common sense has often been lost in the name of scoring political points.

Specific concerns have been raised about the role of staff who work in ministers' offices, especially in light of actions that became public during committee hearings into the decision to cancel the construction of gas plants in Oakville and Etobicoke. Questions were raised about the authority of ministers' staff, and their ability to direct government decisions.

I became concerned with what I read in the media. As their Ethics Executive, I realized that it was important for me to learn more about the job of ministers' staff so that, at a minimum, the directions and advice I provide to them are informed and relevant. In April, 2014, I shared these concerns in an opinion piece that was published in the Toronto Star and I then launched a consultation to learn about the role of ministers' staff. What should it be? How do they get their jobs? What training do they receive? How do they balance the unique demands and responsibilities of their positions, where they wield a high degree of influence over key decisions in the Ontario government? How do they balance their allegiance to their minister with the allegiance to the party, and to the people of Ontario?

In a broader context, I am concerned about public trust in the integrity of government and public service. This is eroding, as evidenced in the 2014 survey by the Ted Rogers School of Management at Ryerson University titled "Public Perceptions of the Ethics of Political Leadership."

The survey found that 50% of Canadians say they do not trust politicians to behave ethically in their roles, ranking elected officials below public servants, journalists, business CEOs and union leaders. Political staff did only moderately better – 40% of Canadians don't trust them.

In the course of my work it is also increasingly evident that the Canadian public demands more transparency and accountability from its institutions and the people who serve them. It's not enough anymore to meet the letter of the law – public expectations are that standards need to be even more stringent.

## WHAT I FOUND

*"You'd be hard-pressed to find anyone in public service who wasn't committed to doing the right thing. It's just much more fast-paced than that kind of approach sometimes allows. That's a dimension to government now, that there is no time to wait for decisions, and if you do wait, you are accused of being irresponsible and unaccountable."*

*Former Ministers' Staff*

Like legislatures throughout Canada, at Queen's Park myriad players each have a role in creating, passing and implementing legislation and policies with the goal of best serving the people of Ontario. It is a natural consequence that where there are so many moving parts, there can be tension and confusion about who should be doing what.

In this consultation I spoke with members of the Queen's Park community whose experience ranged over several decades. I learned that no matter the era or the political party, ministers' staff are essential to the smooth operation of government. Let's take that for a given. They are often young people inexperienced in government, brimming with enthusiasm, new ideas and the energy to work around the clock. They have usually been active in the party, having worked on election campaigns and promoted party policy. Their jobs demand loyalty, intelligence, emotional maturity and commitment. They are expected to be political, providing a perspective that is different than that of the non-partisan public service.

I found that ministers' staff do not have a formal human resources framework with job descriptions and performance appraisals. Almost everyone with whom I spoke said that this would be helpful and would ensure a common understanding of the wide-ranging responsibilities for ministers' staff.

I was told that on-the-job training is minimal. They want more.

And it was evident that knowledge of the conflict of interest rules is mixed. Some politicians and staff had a high-level, general understanding of the rules, but were not fully versed in how they would apply to their work life. Some said they understand ethical concepts and feel comfortable relying on their own moral compass for guidance. Others readily engaged in informed debate about the merits and details of the rules.

In summary, I found that there is a glaring need to professionalize the hiring, training and appraisal of the work of ministers' staff. I will be a vocal advocate to make this happen.

## THE CONSULTATION PROCESS

The *Public Service of Ontario Act* was introduced in 2006, and eight years later I felt it was a good time to assess our work. I have undertaken reviews of other legislative mandates for my Office, and this consultation was a natural extension of that work. I believed the consultation would inform and strengthen our ability to provide relevant, appropriate and useful direction to ministers' staff.

Through the summer and fall of 2014, my staff and I met with the current and former premiers, current and former MPPs, current and former bureaucrats, and current and former members of political staff in MPPs' offices. They represented the three major political parties, and represented government experience that ranged from the 1980s to the present day. Wide-ranging discussions were held with more than 50 people in interviews that frequently took more than an hour. People were thoughtful and provocative, criticizing changes they did not like and lauding those that they did, candidly offering prescriptions for improving the way government works. I have kept their identities anonymous in this report, referring to them by their current or former status.

The academic research I consulted helped frame the issues I wanted to address, as well as the questions to ask during the consultation. That said, I do not consider the work I've done in this report to be academic in nature, preferring to use the experience my Office has had with investigative work and reporting as a guide.

My intention was to provide insight into the role of ministers' staff within the context of politics at Queen's Park. With that knowledge in hand, the goal was to assess whether the rules are relevant to the current day. Do the rules matter? Do ministers' staff understand them? And if not, what needs to change to ensure that as the Ethics Executive for ministers' staff, I can provide the best advice possible?

My discussions took place shortly after the election of a majority government, following just over two and a half years of a minority government. Many people were critical of the climate in a minority government, saying that all members of the House were in constant election mode. The culture was described to me as combative, toxic and intensely partisan. People told me they felt that the focus on an election that could happen at any moment took all of the energy away from other initiatives, on both sides of the Legislative Assembly.

I considered this evolving political context and the candid observations of all the people with whom we met. As I developed my recommendations I came to the conclusion that any proposals for change should apply whatever party forms the government, however a premier wishes to structure his or her office to fulfill the mandate, and whatever the balance of seats in the Assembly. As such, I am not commenting on whether decision making should be centralized or not, or on the reporting structure for a minister's chief of staff. The goal is to ensure professionalism and education about appropriate ethical behaviour in all aspects of public service so that all staff, no matter the party, have the skills and tools to tackle the difficult and ever-important job of ensuring the government serves the needs of all Ontarians.

## THE ROLE OF THE INTEGRITY COMMISSIONER

As Integrity Commissioner, I am the Ethics Executive for ministers' staff, a position created by the *Public Service of Ontario Act, 2006*. This is a broad mandate under which I provide direction on conflict of interest and ethical matters. I ensure that ministers' staff follow the Act's Conflict of Interest Rules as they apply to their work in the service of government, and when they leave for jobs outside public service.

In practice, the bulk of my work in this regard is focused on post-employment meetings with departing staff, ensuring that they understand their responsibilities and obligations to the Crown after they leave. This includes informing them about their continuing responsibilities regarding confidential information and preferential treatment, and about the one-year restriction against lobbying their former minister's office and ministry. To a lesser degree, I receive questions from political staffers about ethical and conflict of interest issues they encounter personally in the course of their employment. My staff and I are proactive in offering training to staff in all ministers' offices so that they fully understand the rules under the Act, and to provide them with the resources of my Office whenever they need direction.

My observation is that too frequently, the rules are an afterthought, lost in the busy-ness of navigating the overwhelming volume of work to be done each day. In the last fiscal year, I received more than 360 inquiries from 107 MPPs. Yet in that same period, I received only 133 inquiries from approximately 400 ministers' staff, and only 43 of those were inquiries about in-service obligations.

Public service is a public trust, where the link between good ethics and good government is indelible. This is affirmed by the Act, which is unique in Canada in recognizing the role played by ministers' staff and providing them with explicit rules on conflict of interest. In establishing both distinct rules, as well as an Ethics Executive for this group, it is clear that there are high expectations of ethical behaviour.

It is important to note that my jurisdiction under the PSOA is limited only to those staff who work in the office of a Cabinet minister. It does not extend to include the staff who work in the offices of backbench MPPs or those who serve in opposition. It also does not include the staff who work in constituency offices.

## THE ROLE OF MINISTERS' STAFF

*"I saw the best and the worst."*  
*Former minister's chief of staff*

*"The fun part of being a political staffer is that there are only 12 people to convince, not 200."*  
*Former minister's chief of staff*

It is evident that the roles and responsibilities of ministers' staff have changed over the years in keeping with different styles and personalities of governments and politicians.

Academic research into the role of ministers' staff is not especially abundant. While I did review some very helpful papers and articles on the subject – most of which focused on the federal experience – I was not able to find much research that specifically addressed political staffers and ethical behaviour.

The notable exception is by Liane Benoit, who conducted a study on ministerial staff for the federal *Commission of Inquiry into the Sponsorship Program and Advertising Activities* in 2006. Benoit's work thoroughly articulates the evolution of both the role of and the prevailing attitudes toward the ministers' staffer in the federal context. The paper describes the view of constitutional expert J.R. Mallory that the duties of political staff should be limited to administrative functions, without any influence on policy or program development.

This perspective certainly has its detractors, including Paul Tellier and Donald Savoie (also referenced by Benoit), who have each asserted that political staff have an important function as policy advisors who are loyal to the minister alone because they share his or her political commitment. Certainly, this is the view that prevailed in my conversations with former and current ministers' staff – staffers maintained that they provide a perspective on policy options that is independent of the bureaucracy and that this should be considered as added and needed value to the decision-making process in government.

That said, Tellier also notes in a 1968 *Canadian Public Administration* journal article that political staff positions should be filled by the 'best and the brightest' – those with technical expertise in the policy areas of their respective ministries, not just individuals with partisan political affiliation.

Benoit's work also refers to the political staffer as a 'statutory orphan', a term that is not accurate for Ontario, at least not since the PSOA came into force. In this respect, one could argue that Ontario is ahead of the game in that we have acknowledged, at least to some degree, the unique role of ministers' staff in the functioning of government. We have clearly moved beyond the categorization of political staff playing only an administrative role, as Mallory had advocated.

This was reflected in conversation with current and former ministers' staff, who were unequivocal in describing their responsibilities as being loyal to the minister, supporting the government in bringing its policies into force, stickhandling issues with the bureaucracy and, where needed, providing policy alternatives that were not brought forward by the public service. One former staffer described the role as "providing advice and covering the minister's back." In addition, there is the expectation that on their own time, they will be politically active, assisting the minister and/or the party with fundraising and election-related activities.

The duties are much like those of staff who support senior executives everywhere. The number of people in a minister's office varies according to the size of the ministry, although the core functions are relatively consistent: chief of staff, policy advisor, director of communications, legislative assistant, and administrative support, among others. They are the eyes and ears of their minister. They review and comment on briefing documents prepared by the bureaucracy, brief the minister for Question Period and other appearances, work with the bureaucracy to advance key initiatives, write speeches and news releases, meet with ministry stakeholders and more. And they derive high job satisfaction from being able to influence decisions that affect the province. Said one former staffer (who also had experience as a public servant): "The fun part of being a political staffer is that there are only 12 people to convince, not 200."

The responsibilities, of course, also include a political dimension as ministers' staff apply a political lens that reflects the outlook and mandate of the elected government. This lens cannot and should not be provided by the politically-neutral bureaucracy. Said one former chief of staff: "I always viewed my job, and I think other staffers the same, as putting the best information before the premier and Cabinet that I possibly could, and to assist my colleagues in doing that."

As described by one former chief of staff, politicians are elected to advance their agenda, and they need like-minded people to help get the work done. "Elected officials need the right to surround themselves with staff that they can trust and have a shared vision and are committed to their agenda."

In doing one's job well to ensure that a minister fulfills that mandate, a minister's staff employee can help ensure a successful re-election campaign. "My job is to get the minister re-elected, not the party," said one. Similar comments were made by current and former staffers from all political parties.

Indeed, despite the majority result of the 2014 election, people told me that it seems that the election-focused mode has not changed. There is no question that it seems the world is more polarized. Information moves rapidly, at times without sufficient thought before hitting the send button. There is a sense that with so much change, government can be a step or two behind. One former bureaucrat feels this acutely. "We have ministers and deputy ministers working with a century-old job description in a social media world," he said. "What has changed is outside government, not inside. The biggest change for everyone has been loss of government control over influences of policy making and governance – this leaves both the political and public service sides reeling."

## **Working With The Public Service**

The Internet age has brought about a shift in power, suggested one former public servant. Where policy initiatives were previously largely the purview of the public service, now new information and ideas are simply a Google search away. Ministers' staff reach out directly to stakeholders, and those same players lobby political staff as well as the politicians themselves. The ideas come from all quarters and do not follow a prescribed path. Initiatives are expected to show an immediate impact.

Governing parties want a firm hand on policy, execution, and understanding how those initiatives will affect stakeholders. They reach out and are responsive to stakeholder communities directly, often using ministers' staff as the point men. In expanding the role of ministers' staff, this devolved into a reduction of power that in governments past had been held by others such as members of the public service. As told by one former ministers' staffer, the thought was that governments that wanted substantive policy change couldn't always rely on the public service – there was a feeling that this group would generate only the same solutions that would serve the status quo. If the government wanted change, this former staffer said, it concluded that it needed to expand the group of people bringing in new ideas. And that meant relying more on ministers' staff.

Ministers' staff interactions with the public service were a sensitive issue in the interviews. One former MPP observed that the political will and the views of the public service are not always aligned. "It is a complex relationship and a more complicated time than it has ever been."

One former chief of staff talked at length about the delicate balance to the minister-deputy minister-chief of staff relationship. "All points have to work for it to work well," he said. He spoke of a mentor who advised that all political staff must understand that it's not their job to do the job of the public service. "It's their job to understand that information, put a filter, and get the information to the minister."

Another former chief of staff was surprisingly critical of how some of his own staffers approached their jobs. "Political staff don't understand their own role and ministers don't understand their role. The biggest failing is political staff not adding value. Staffers often duplicate the work of the public service. They should add their political observation and do analysis refinement – in other words, add political value. They push paper, cut and paste and duplicate the work of bureaucrats. Political staff ... must be doing something other than what the public service does."

A former MPP said that strong and involved staff are essential to ensure the bureaucracy produces the appropriate policy. Others I spoke with had a less critical view, believing that it is possible to strike a balance between the goals of the elected officials and the non-partisan responsibilities of the public service. In this, the role of ministers' staff is just as important: the challenge is to work to enact the will of the elected government, while also respecting the role and contributions of the politically neutral bureaucracy. And as we have learned, problems often arise when this relationship swings out of balance.

One former minister suggested that because ministers' staff have such an important role in the corridors of power, they can develop the attitude that they know more than the minister. "They do not know how to be respectful. The power goes to their head. They have a sense of entitlement. They want to make the decisions – they do make the decisions."

A former bureaucrat agreed, stating that in his opinion ministers' staff have gained authority at the expense of ministers, and also at the expense of the public service. However, not everyone believes this is a bad thing. The key is balance and a clear understanding of who is in charge.

A ministers' chief of staff, in particular, has a critical leadership role in a minister's office. He or she is charged with responsibility to help the minister get the job done. This is most commonly manifested in taking direction from the minister and working on files with members of the public service and stakeholders. When a minister and the chief of staff are in sync, the leadership role is appropriate and works well. I heard from many people that problems are most likely to arise when some members of staff take this responsibility, and the apparent delegated authority, too far. They try to act as if they were the minister and take action without appropriate oversight.

Another former public servant said that while it is clear that much must be done to ensure ministers' staff know their jobs, and are appropriately equipped to do their work, he believes the model serves government well. I am inclined to agree.

### **Loyalty**

Issues can also arise when the political message and loyalty to the minister have too much importance. Loyalty was an overarching theme in all of the interviews. The *Public Service of Ontario Act* makes it clear that ministers' staff loyalty is to the Crown, but those staff I interviewed frankly stated that their loyalty is to the premier and/or their minister first, followed by the Crown or people of Ontario second.

As such, ministers' staff serve their political employers, but they are paid by taxpayers. It is important to underscore that this exists in all political parties. Political staffers work in the offices of all MPPs, and frequently get those jobs because of their previous work supporting a particular political party. And while my role as Ethics Executive is limited to working with the political staff employed in ministers' offices, it is evident that loyalty to the elected member and to the party is paramount in all offices.

I find it a concern that few people who work or have worked as ministers' staff mentioned having a loyalty to the people of Ontario. There is a need for balance and sober second thought to ensure that the actions of ministers' staff are consistent with fulfilling the government's mandate, and that they are not focused predominantly on how an issue will affect the political party's standing. Ministers' staff must be aware that, like those who work for all MPPs, they are paid by taxpayers to serve the people of Ontario.

What is needed is leadership, the establishment of professional expectations, being clear at the outset who is in charge and how decisions will be made, and running a minister's office with documented lines of authority. This means that guidelines and rules are required, an example being the 2013 restriction on

the involvement of ministers' staff in commercial transactions, which I view as an important step in clarifying the role of the political staffer.

## THE RULES AND WHO THEY COVER

*"It comes down to culture. Why should one group do it one way  
and another group do it another way?"*

*Former MPP*

The Conflict of Interest Rules and sections of the PSOA apply to ministers' staff. They do not apply to the many other Queen's Park staffers who work in the offices of government or opposition backbenchers.

The in-service rules cover such areas as conflict of interest, political activity, giving preferential treatment and accepting gifts. The post-employment rules cover the one-year restriction against lobbying an individual's former ministry, and outline where an individual can and cannot take employment. The rules also clearly outline prohibited conduct such as seeking preferential treatment and disclosing confidential information.

One of the most important features of the rules is the requirement to always be aware of the possibilities for real – and apparent – conflicts of interest. A conflict of interest occurs when an individual's private life interferes with their ability to serve the public interest.

Ontario's first Integrity Commissioner Greg Evans put it this way: If public office is indeed a public trust, it follows that this trust is about a conscious effort to place the public interest ahead of one's own where they conflict. Ethics in government is more than merely a commitment not to knowingly mislead or defraud the public. It is a positive undertaking to discharge responsibilities in a manner which is in harmony with the values of the society in which we live.

One former MPP used our interview as an opportunity to advocate for the importance of ministers' staff, and highlighted the need for clarity on the job expectations and training. "The issue is not so much that they are blatantly breaking rules – it is that they don't know that they may be. Rules are not treated with the respect that they deserve. They are not as familiar with the rules as they should be and they don't give them priority. We rely too much on goodwill and a genuine intent to do the right thing without being humble enough to understand that it is not as simple as common sense."

I believe that training can help remedy that situation. However, I also believe that it is time to move one step further and apply the rules to a larger group: all staff who work in MPP offices at Queen's Park.

I understand the reasoning behind the Act in focusing on the staff in ministers' offices. Their responsibilities, access to information, and ability to enact change are not the same as for staffers in other offices. However, since the in-service rules are largely about conflict of interest and provide a very helpful framework for ethical behaviour, it sends a mixed message when the rules apply to one group and not to another.

I was pleasantly surprised that the majority of people I spoke with believe that the in-service rules should apply to all political staff at Queen's Park, not just to ministers' staff. Said one former MPP who sat both in government and in opposition: "When they are separate, it sends the wrong message."

Added a former chief of staff to a minister: "It is absurd that an opposition member, they have the same job on the other side, I found they were far less governed by rules. And yet they were trying to hold us to account. There should be more responsibility taken, and they should also get some of the benefits. They should be able to more readily access ministry officials."

A former MPP agreed: "There are good arguments to be made. It comes back to culture. Why should one group do it one way and another group do it another way?"

A few participants felt that certain post-employment restrictions should also apply to employees who work in the offices of MPPs. Currently, after a minister's staffer leaves Queen's Park, the rules restrict them from lobbying their former minister, political staff colleagues as well as the public servants in their former ministry for 12 months. However, this rule does not apply to the former staffer of a backbencher or an opposition member if a Cabinet shuffle or election resulted in the member's appointment to Cabinet. Closing this loophole would be relatively easy and would help to establish a standard of ethical behaviour for individuals working for MPPs not in Cabinet.

There was not the same agreement on whether other aspects of the rules should be changed. As noted above, when ministers' staff leave government the rules stipulate that they cannot lobby their former minister's office, the people in that office, and the ministry, for 12 months. There have been suggestions that this restriction is too short and should be extended to five years, as it is at the federal level. However, I also heard from some who believe that the federal government restriction of five years is too long. One former staffer noted that he believes the five-year restriction in Ottawa has made it more difficult to attract professional and experienced staff, resulting in ministers' staff being younger and therefore less experienced.

It is my position that the rules should not be so strict as to limit the ability of government to attract skilled and capable people to public service and at the same time, once they have completed their public service, allow them to return to their profession in the private sector. It is in the public's interest to facilitate the movement of individuals and the transfer of skills and knowledge to the private and public sectors.

## LEADERSHIP

*“The leadership needs to create the culture. I would like to create a culture where workers can come forward in comfort and to create an environment where doing the right thing comes naturally. Politics makes this difficult because of the intense and urgent environment in which we work.”*

*Former MPP*

I often talk about ethical leadership, and I consider it no different than the leadership skills brought to other areas such as operations and strategic planning. It should be clear at the outset who is in charge, what their values are, and how those values are employed in getting the job done.

Ethics and integrity start at the top, come full circle, and end at the top. There should be no doubt in anyone's mind what those values are. Ethical leadership means being accountable and not avoiding the difficult questions or conversations about what it means to do the right thing.

Premiers, ministers, party leaders and MPPs need to set the tone for their staff and teams, actively demonstrating ethical behaviour and making it a priority in their communication with their colleagues and staff. They need to make a personal commitment and create a shared understanding of the ethical values. Ministers' staff must have a clear understanding of how they are accountable for their actions, and of course, this must come from the employer – the minister.

In fact, it's the law. The PSOA states that it is the minister's responsibility to make sure that staff are familiar with the conflict of interest rules, and also to promote ethical conduct among staff. My experience tells me that few are aware of their legal obligations in this area, particularly when ministers at times have tried to deflect their own responsibility for the mistakes or ethical lapses of their staff.

It is consequently my view that more can be done to educate ministers about this important responsibility, and to support them in making sure that they have the tools to take this critical role for their staff.

## HIRING, TRAINING AND PERFORMANCE APPRAISALS

*"The most significant impact is the qualities that the job does select for. And the number one quality, head and shoulders above any other quality, is loyalty."*

*Former Chief of Staff*

The ministers' staff world is largely one where job descriptions and professional performance evaluations do not exist. On the positive side, it means the positions offer flexibility and wide-ranging responsibilities that can vary based on the issues of the day. On the negative, the absence of clear expectations and a lack of accountability can lead to unchecked behaviour and flawed assumptions of authority.

Most of the people I spoke with agreed that job descriptions are important. Yet in the next breath, some countered that they could be difficult to write because the responsibilities are so fluid. I do not agree. The responsibilities for any job must be articulated. Training must be undertaken to support staff to fulfill those expectations. And performance evaluations must be conducted on a regular schedule to identify success, shortfalls and opportunities for career development.

In many cases, ministers' staff -- and also staff in MPP offices -- are hired without specific skills for the job. I was told by people in all parties that a key requirement to get in the door is loyalty to the party and/or the candidate, not specific job skills. Said one chief of staff: "The most significant impact is the qualities that the job does select for. And the number one quality, head and shoulders above any other quality, is loyalty. You can see where that can head. You're not dealing with a traditional workplace. This is a workplace where loyalty matters above all else. Loyalty to the party. And loyalty to your boss."

And so with an enthusiastic, partisan-focused employee, the need for training is imperative. This is because while party loyalty may be a requirement to get a job interview, it must swiftly be made clear that their first loyalty is to the people of Ontario. They can easily lose sight of this amid the partisan din that often dominates Queen's Park business.

Efforts at training for political staff have historically been haphazard. Some sessions may be held immediately after an election, but the topics are rarely revisited in subsequent years. Many of the current and former political staff I met with gave me a one-word answer when I asked how much training they received: None.

Staffers told me they were welcomed to the job, shown a desk and a computer, and left to sink or swim. There might be task-oriented training, such as how to prepare briefing notes according to an accepted format, but there was little more. The expectations are general: make sure there are no surprises for your boss, be available 24/7, and do it all for less pay than the private sector, and no job security.

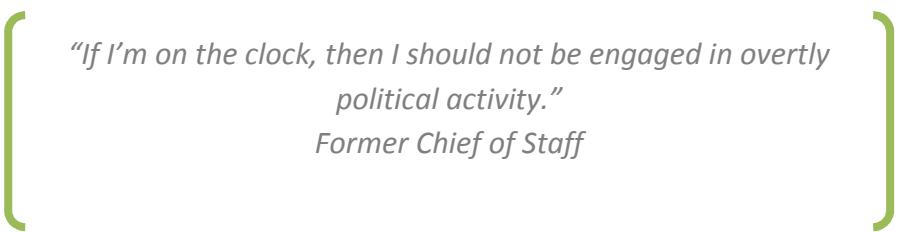
Staff told me that when training or documentation was provided when they started a job, there could be so much of it in a short period that they suffered from information overload. Some staffers told me how they sought out the more senior ministers' staff and developed mentoring relationships. This was left largely to each individual to manage, however.

It seems astonishing to me that while the public and private sectors regularly invest significant sums in training employees on the job, so little is available to ministers' staff with such important jobs to fulfill.

Everyone I spoke with agreed that there should be formalized training that is offered on a regular schedule – one that takes into account the higher than average turnover within ministers' offices. It should cover a wide range of topics, from record keeping to ethics and understanding the rules as laid out in the PSOA. Everyone I spoke with agreed that they would prefer to have this training in a retreat-style setting, where distractions are minimized. “There is something to be said about meeting collectively when you bring everyone’s intellect together,” said one former MPP. And they also agreed that the training should be offered at regular intervals, not just when hired.

My Office provides training on the PSOA to staff in all ministers' offices, and continues to be vocal in reminding staff of the resources it has to offer.

## POLITICAL ACTIVITY



*“If I’m on the clock, then I should not be engaged in overtly political activity.”*  
Former Chief of Staff

In considering the appropriateness of political activity for ministers' staff, it is essential first to understand what is permitted under the PSOA.

Political activity is defined quite generally in the Act, including anything done in support of a political party or candidate. The Act clearly states that ministers' staff are entitled to engage in political activity, including certain political activity in the workplace. It also provides three prohibitions regarding political activity:

- ministers' staff cannot engage in political activity in the workplace that is unrelated to their ministerial duties;
- they cannot use government premises or resources; and
- any political activity cannot conflict with the interests of the Crown.

This provision is different from a public servant in the bureaucracy, who is restricted from engaging in any political activity in the workplace.

For the purposes of this consultation, I drew a distinction between what I considered ‘political’ activity, and what I considered ‘partisan’. Where political activity would include advocating for the position of a political party, partisan activity more commonly describes the types of activities related to an election campaign: knocking on doors, preparing candidates’ election materials, supporting campaign office operations, etc.

A minister’s work will be dictated by the platform of the governing party, and a staffer will be motivated to support those policies. I consider this to be ‘political’ activity that is part of the job. The challenge is in providing direction and assistance to ministers’ staff so that they do not go too far in their ‘political’ work – so that overtly ‘partisan’ work does not creep in and dominate the government work.

In my training sessions for ministers’ staff, I make it clear that certain political activity is permitted under the rules. When it comes to the partisan or campaign-related activities, I expect that these generally take place after working hours (*e.g.* a fundraising dinner with their minister) and definitely outside of the office. That said, I fully recognize these jobs are not conventional 9-to-5 postings. Ministers’ staff work from early morning to late at night. As one former chief of staff described it: “I work a 14-hour day. The Crown gets 7.5 hours of work. The Queen gets her pound of flesh. If I’m on the clock, then I should not be engaged in overtly political activity [*i.e.* campaigning].” I keep this in mind to ensure my directions on partisan activity are practical.

There is rarely a clear point in the day where ministers’ staff would see their ministerial duties stop and their partisan party activities begin. As a result, for example, my advice is always to make sure that partisan emails do not come from government offices, and that they be sent after conventional office hours. And I would note that while I give this advice to ministers’ staff, their counterparts in the offices of backbench MPPs and opposition MPPs are not subject to the same guidance or scrutiny. My advice to them, however, is the same.

Ministers’ staff told me that they rigorously follow the rules, and that when they undertake campaign-related partisan activities they do it after-hours, or they take time off from their ministers’ staff duties.

I note, however, that problems can arise with this practice. While a staffer may be appropriately taking a day off from Queen’s Park to take part in partisan activity, the distinction could be lost on the public, particularly when it comes to the activities of senior political staff who have a more visible profile. Ministers’ staff may think they are wearing a staff hat on one day and a partisan hat on the next. The public, however, may believe that they are wearing the same two hats every day and just exchanging them as convenient.

I have long made it clear to ministers that they always carry ministerial authority with them, regardless of whether they mean to employ it. The same follows true for ministers’ staff – especially those in the

most senior roles – where the public may not perceive that there is any difference between the role and responsibilities of a staff employee, and those of a party worker, just because the activity takes place on a particular day. The public expects transparency of these roles and accountability for the actions taken. I caution ministers' staff to be acutely aware of how they manage these roles and responsibilities, and ensure that there is always a distinct line between the two.

I am also aware that the political activity rules in the Act are somewhat vague. This is likely because Ontario has been at the forefront in developing legislation on this issue. Now that we have several years of experience in applying these particular rules, it is time to consider how they can be clarified to ensure understanding and compliance.

## RECOMMENDATIONS

Ministers' staff are essential to the smooth operation of government, and should be managed as any other professionals in the public service. The consultation confirmed my long-held belief of the need for education, for clear expectations, accountability and transparency. It is important that my recommendations are thoughtfully reviewed and considered. They are not difficult to implement and I will continue to be a vocal advocate for acceptance and implementation.

### **1. Establish One Set of Rules For Employees in the Offices of All MPPs**

**The Conflict of Interest Rules for Ministers' Staff should be amended so that the in-service rules apply to staff in *all* MPP offices at Queen's Park, not just those who work for ministers. The in-service principles of conflict of interest and preferential treatment should apply equally across party lines.**

It does not make sense to me that ministers' staff are clearly caught by the rules, but other staffers doing essentially the same kinds of jobs in the offices of other MPPs are left to find their own way. The rules are sensible and easy to follow. In implementing this change, Queen's Park would send an important signal to employees, and to the public, of the high ethical and professional expectations for everyone in these positions.

I further believe that it would be a natural extension of my role as Ethics Executive for ministers' staff for me to be able to offer advice, direction and resources to all staffers in MPP offices at Queen's Park. This is similar to the independent, confidential advice I provide to all MPPs under the *Members' Integrity Act, 1994*.

Consideration should also be given to applying certain post-service rules to employees working in all MPP offices so as to restrict them from lobbying their former boss for 12 months if the member in question becomes a minister.

### **2. Provide Written Job Descriptions and Regular Performance Appraisals**

**Ministers' staff should be provided with thorough and clear job descriptions. They should receive regular performance appraisals in keeping with established human resources practices.**

Clear professional human resources practices should be established, followed, and documented. Staff would benefit from clear supervisory authority so that they know to whom they report, and who is responsible for hiring and dismissals.

Clear and explicit job descriptions are essential, as are regular and professional performance assessments. Expectations need to be laid out. Whenever possible and where necessary, there should be a list of what staffers can and cannot do without the authority of a minister. It must be clear when they are speaking on behalf of the minister, which I believe could help reduce the tension that can arise in dealings with the public service. When the roles of all players are fully understood, the focus can be on getting the job done.

It is equally essential that ministers' staff understand that they are accountable for fulfilling the expectations set out in their job descriptions. Performance evaluations must be conducted on a regular schedule, and staff should have the opportunity to discuss their work and career goals with their manager. I do not accept the argument that these positions are so unique and special that they cannot be described or assessed.

### **3. Provide Mandatory Training**

**Minister's staff should receive mandatory training on their obligations under the PSOA. All staff should be required to attend annual 'refresher' courses on their ethical obligations. This should be in addition to professional, skills-based training.**

Training must be available as part of a regular routine, not something handled quickly at the beginning of a mandate. It must be professional, setting the standard at the outset. Training must be part of the culture, cover more than the mechanics of the job and occur regularly, rather than just upon starting a job. In addition, each person employed in a minister's office should be required to review the rules annually and to sign a document to confirm that they accept and understand them. This list should be maintained by the human resources group responsible.

All staff should be required to attend training on the ethical framework as laid out in the PSOA. It is essential to understand the in-service rules and obligations. My staff and I have provided annual training to ministers' staff to help them understand the rules, and we meet one-on-one with departing employees to ensure they fully understand their post-service obligations. However, it is important to be thorough all the way through a person's employment by the Crown, not just at the end when they have decided to leave.

With regular mandatory training, the information and tools used on the job can be strengthened over time, and issues can be resolved within the context of real life circumstances. Staffers will be able to identify with the topics at hand, and explore solutions that are relevant to their jobs. Training topics should include an understanding of the in-service rules, the role of the public service, conflict of interest, gifts, professionalism and ethics. Every single person I spoke with agreed that training is important, and that there should be more of it. They also agreed that the time constraints and heady flow of issues management gets in the way of blocking out time. I have even noticed this myself in the training sessions I conduct, where many heads drop down to read email on their phones, instead of paying attention to the issues we are discussing. I encourage the use of innovative training tools to engage staff and overcome the reluctance to attend, and when they do attend, to be fully attentive.

### **4. Provide Clarity to the Rules on Political Activity**

**Revise the Political Activity rules so that they clearly outline what ministers' staff can do.**

Ministers' staff are entitled to engage in political activity. However, the Act is structured so that it explicitly provides three prohibited activities. It does not state what is acceptable, just what is not. It would be helpful to ministers' staff to have these rules revised so that they provide the needed clarity.

## **5. The Leaders Must Lead**

**The premier, ministers and all MPPs must take a leadership role in ensuring staff understand and follow the rules.**

It is not enough to have rules, policies and procedures in place. It is essential that those in leadership roles not only talk the talk, but also walk the walk. Maintaining a culture of integrity requires leaders to exercise oversight and demonstrate a commitment by being actively involved.

Ministers must heed the PSOA and embrace their responsibilities as the ethical leaders in their offices. There is value and power in leading by example and doing the right thing. If ministers feel they need additional tools to take on this role, I encourage them to seek this training, either through my Office or through other available resources.

## **IN CONCLUSION**

I am grateful to the many people who took time out of their very busy schedules to talk with me and my staff. They were candid and thoughtful, providing insights into the political diaspora. It was clear that many people had thought seriously about the roles of ministers, staff, and the public service. And it was evident that people care deeply about public service, about government and how it serves the people of Ontario. Respect for the institution runs deep.

And because of that respect, it is incumbent on all to subject the rules and responsibilities to a regular review. We must ask ourselves if we are doing the best we can to ensure good government for the people of Ontario. An ethical environment strengthens public trust in government, and all efforts to bolster the integrity of the political staffer is another step towards achieving this goal.

I am encouraged to see that some steps have been taken to address the need for training for ministers' staff and others at Queen's Park. I was also pleased to see the government take steps to define appropriate roles for ministers' staff when it declared that they should not take part in any commercial transactions on behalf of the government.

My Office has undertaken new measures, such as our recent training open house for all those who work for MPPs at Queen's Park. I was delighted at the attendance of more than 250 people during a period when the Legislative Assembly was not sitting. And I was encouraged by the feedback to the presentations and the new resources developed to explain our mandates, and welcomed the comments on the continuing need for training and refresher courses.

The principles are simple: adhering to high ethical standards, never discriminating by giving special favours, never using confidential information for personal benefit, never accepting favours, gifts or benefits when it could be inferred that someone was trying to influence or reward you. These principles are common sense, and yet we forget how much the seemingly little things matter.

The challenge for the elected officials, ministers' staff and members of the public service, I heard repeatedly, is in finding the appropriate balance. Tensions can arise because of differences and conflict over policy, personality, media focus on an issue or an unwillingness to consider new options – among many factors. For these reasons, I urge all players to recognize that each brings valuable skills and perspectives to the table, and that government is served best when these are deployed respectfully and professionally for the common good.

Ministers' staff do make a difference. They have a critical role to play in the effective operations of government. And they must always remember that they are accountable for their actions, because in an age of transparency and accountability, nothing can be hidden for long. Acting ethically is not only good for the government, it is good for all those involved, be they premier, minister, MPP or staff.

Being ethical means doing the right thing. Having integrity implies doing the right thing even when it hurts or when no one is looking. It means doing what you say you're going to do. And accountability is taking responsibility for one's actions. These three concepts are easily summarized, but can only be implemented through determined and deliberate action. The Office of the Integrity Commissioner will continue its efforts to encourage high ethical standards, integrity and accountability in the public service of Ontario.

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## **Appendix B**

### **A Push for Clarity of the Role of the Political Staffer**

By Lynn Morrison

The dissection of the Ontario government's 2012 decision to cancel the gas plant contracts is providing insight into government decision making, raising many questions about everything from the need to follow appropriate records retention schedules, to the roles of MPPs and political staffers.

The work of the Standing Committee on Justice Policy is shining a light on who was making decisions, and who implemented them. Were political staffers directing the actions of public servants, and if so, on what authority? How much did it cost? Who was really in charge? And who should be in charge?

There needs to be more discussion and clarity about the role of political staff to give Ontarians reason to have confidence in their political institutions.

As the Ethics Executive for the people who work in Ontario cabinet ministers' offices -- the political staff – I provide direction about conflict of interest and political activity. It is my job to make it crystal clear that government resources should *never* be used to carry out party activities. But it is not always clear where the line falls between government policy and party activities.

The role of the political staffer is constantly evolving. Several decades ago, a minister's staff consisted of a driver and an administrative assistant. Across the board, staff sizes have grown. And let's be clear -- political staffers are different from bureaucrats. They hold their jobs at the pleasure of the premier or the minister they serve. They do not form a part of the neutral public service. They owe a duty of loyalty to the Crown, but if you were to ask many of them today – across the country – they would say their greater loyalty lies to their minister.

This applies to people employed by politicians from all parties – not just those in ministers' offices. And in my experience over the past 25 years, I can say that there is no uniform understanding of what the rules should be for how these people go about their work.

Culturally, we do not expect our politicians to lose their political stripes once they are elected. Yet it is a common cry from the opposition benches and the public that a certain government action was "political". For that matter, so is opposition action – and that's the way it's supposed to be.

So if the lines are blurred when we try to determine whether a politician's actions are serving the people or serving the party, then surely they are just as fuzzy for staffers.

The *Public Service of Ontario Act* was a start. Proclaimed in 2007, it tries to address the issue of political activity – but it is also clear that this was contemplated as a check on what we conventionally think of as campaign-related activities, as opposed to managing an MPP's image during a controversy. It does not address the kind of activity that appeared to take place in the gas plant negotiations, where political staff took a lead role in decision making. To be realistic, we must accept that our elected officials are, by

definition, political – and this is also a characteristic of the people who work in their offices. The issue is to identify when they cross the line.

This is important because the role of political staff can have a significant impact on the integrity of the public service. It can cause the public to question whether decisions were made for purely political reasons or whether balanced policy making occurred. Should political staff be involved in contract negotiations?

As Integrity Commissioner, I have special responsibility for ministers' staff, and I will be pushing to achieve clarity. We need to build consensus about the expectations and rules, and so I will be seeking the views of party leaders, former parliamentarians, bureaucrats, political staffers and others. My goal is to clarify the rules and expectations for political staff so they reflect the realities of modern government and increase confidence in the legislature, politicians and the public service.

Of course, rules are not the panacea. But through discussion and mutual understanding across party lines, I am optimistic that we can learn lessons and move toward the common goal of encouraging confidence in our government. In this time of hyper partisanship, it may prove a challenge, but I am up for it and I expect no less of our elected officials.

*An independent officer of the Legislative Assembly of Ontario, Lynn Morrison has served as Integrity Commissioner since 2007.*

*(Published in the Toronto Star on April 16, 2014)*

## **Appendix C**

### **Public Service of Ontario Act, 2006**

### **ONTARIO REGULATION 382/07**

#### **CONFLICT OF INTEREST RULES FOR PUBLIC SERVANTS (MINISTERS' OFFICES) AND FORMER PUBLIC SERVANTS (MINISTERS' OFFICES)**

**Consolidation Period:** From August 20, 2007 to the e-Laws currency date.

No amendments.

*This is the English version of a bilingual regulation.*

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**PART I**  
**RULES FOR PUBLIC SERVANTS WHO WORK IN A MINISTER'S OFFICE**

**INTERPRETATION**

**Definitions**

**1.** In this Part,

“confidential information” means information that is not available to the public and that, if disclosed, could result in harm to the Crown or could give the person to whom it is disclosed an advantage;

“gift” includes a benefit of any kind;

“spouse” means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 382/07, s. 1.

**Application**

**2.** This Part applies to every public servant who works in a minister’s office. O. Reg. 382/07, s. 2.

**PROHIBITED CONDUCT**

**Benefiting self, spouse or children**

**3.** (1) A public servant shall not use or attempt to use his or her employment by the Crown to directly or indirectly benefit himself or herself or his or her spouse or children. O. Reg. 382/07, s. 3 (1).

(2) A public servant shall not allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Crown. O. Reg. 382/07, s. 3 (2).

**Accepting gifts**

**4.** (1) A public servant shall not accept a gift from any of the following persons or entities if a reasonable person might conclude that the gift could influence the public servant when performing his or her duties to the Crown:

1. A person, group or entity that has dealings with the Crown.
2. A person, group or entity to whom the public servant provides services in the course of his or her duties to the Crown.
3. A person, group or entity that seeks to do business with the Crown. O. Reg. 382/07, s. 4 (1).

(2) Subsection (1) shall not operate to prevent a public servant from accepting a gift of nominal value given as an expression of courtesy or hospitality if doing so is reasonable in the circumstances. O. Reg. 382/07, s. 4 (2).

(3) A public servant who receives a gift in the circumstances described in subsection (1) shall notify his or her ethics executive. O. Reg. 382/07, s. 4 (3).

## **Disclosing confidential information**

**5.** (1) A public servant shall not disclose confidential information obtained during the course of his or her employment by the Crown to a person or entity unless the public servant is authorized to do so by law or by the Crown. O. Reg. 382/07, s. 5 (1).

(2) A public servant shall not use confidential information in a business or undertaking outside his or her work for the Crown. O. Reg. 382/07, s. 5 (2).

(3) A public servant shall not accept a gift directly or indirectly in exchange for disclosing confidential information. O. Reg. 382/07, s. 5 (3).

## **Giving preferential treatment**

**6.** (1) When performing his or her duties to the Crown, a public servant shall not give preferential treatment to any person or entity, including a person or entity in which the public servant or a member of his or her family or a friend has an interest. O. Reg. 382/07, s. 6 (1).

(2) When performing his or her duties to the Crown, a public servant shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it. O. Reg. 382/07, s. 6 (2).

(3) A public servant shall not offer assistance to a person or entity in dealing with the Crown other than assistance given in the ordinary course of the public servant's employment. O. Reg. 382/07, s. 6 (3).

## **Hiring family members**

**7.** (1) A public servant shall not, on behalf of the Crown, hire his or her spouse, child, parent or sibling. O. Reg. 382/07, s. 7 (1).

(2) A public servant shall not, on behalf of the Crown, enter into a contract with his or her spouse, child, parent or sibling or with a person or entity in which any of them has a substantial interest. O. Reg. 382/07, s. 7 (2).

(3) A public servant who hires a person on behalf of the Crown shall ensure that the person does not report to, or supervise the work of, the person's spouse, child, parent or sibling. O. Reg. 382/07, s. 7 (3).

(4) A public servant who reports to, or supervises the work of, his or her spouse, child, parent or sibling shall notify his or her ethics executive. O. Reg. 382/07, s. 7 (4).

## **Engaging in business, etc.**

**8.** A public servant shall not become employed by or engage in a business or undertaking outside his or her employment by the Crown in any of the following circumstances:

1. If the public servant's private interests in connection with the employment or undertaking could conflict with his or her duties to the Crown.
2. If the employment or undertaking would interfere with the public servant's ability to perform his or her duties to the Crown.
3. If the employment is in a professional capacity and is likely to influence or detrimentally affect the public servant's ability to perform his or her duties to the Crown.

4. If the employment would constitute full-time employment for another person. However, this paragraph does not apply with respect to a public servant who is employed part-time by the Crown. This paragraph also does not apply with respect to a public servant who is on an authorized leave of absence from his or her position, but only if the employment is not contrary to or inconsistent with the terms of the leave of absence.
5. If, in connection with the employment or undertaking, any person would derive an advantage from the public servant's employment as a public servant.
6. If government premises, equipment or supplies are used in the employment or undertaking. O. Reg. 382/07, s. 8.

### **Participating in decision-making**

**9.** (1) A public servant shall not participate in decision-making by the Crown with respect to a matter that the public servant is able to influence in the course of his or her duties if the public servant could benefit from the decision. O. Reg. 382/07, s. 9 (1).

(2) Subsection (1) does not apply if the public servant obtains the prior approval of his or her ethics executive to participate in decision-making by the Crown with respect to the matter. O. Reg. 382/07, s. 9 (2).

(3) A public servant who, in the course of his or her employment in a minister's office, is a member of a body or group shall not participate in, or attempt to influence, decision-making by the body or group with respect to a matter if the public servant could benefit from the decision or if, as a result of the decision, the interests of the body or group could conflict with the interests of the Crown. O. Reg. 382/07, s. 9 (3).

(4) A public servant described in subsection (3) shall inform the body or group if the circumstances described in that subsection exist. O. Reg. 382/07, s. 9 (4).

### **MATTERS THAT MIGHT INVOLVE THE PRIVATE SECTOR**

#### **Interpretation**

**10.** (1) Sections 11 and 12 apply to every public servant who works in a minister's office, who routinely works on one or more matters that might involve the private sector and who has access to confidential information about the matter obtained during the course of his or her employment by the Crown. O. Reg. 382/07, s. 10 (1).

(2) In this section and in sections 11 and 12,

“matter that might involve the private sector” means a matter,

- (a) that relates to services currently provided under a program of the Crown or by a public body, an agency of the Crown or a corporation controlled by the Crown with respect to which it is possible that a private sector entity will provide all or part of the financing for the services or will provide some or all of the services, and
- (b) that has been referred to a ministry, a public body or an agency of the Crown by the Executive Council or a member of the Executive Council for review or implementation. O. Reg. 382/07, s. 10 (2).

## **Duty to declare certain financial interests**

**11.** (1) When a public servant described in subsection 10 (1) begins work on a matter that might involve the private sector, he or she shall make a declaration to his or her ethics executive in which the public servant discloses the following matters respecting his or her financial interests:

1. A legal or beneficial interest of the public servant in securities or derivatives of corporations or governments, other than the Government of Ontario.
2. A legal or beneficial interest of the public servant in a business entity or a commercial operation or in the assets of such an entity or operation.
3. A legal or beneficial interest of the public servant in real property.
4. A legal or beneficial interest of the public servant in a mutual fund that is operated as an investment club where,
  - i. its shares or units are held by not more than 50 persons and its indebtedness has never been offered to the public,
  - ii. it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees, and
  - iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations. O. Reg. 382/07, s. 11 (1).

(2) Despite subsection (1), the public servant is not required to disclose his or her legal or beneficial interest in any of the following:

1. A mutual fund within the meaning of subsection 1 (1) of the *Securities Act* other than a mutual fund described in paragraph 4 of subsection (1) of this Regulation.
2. Fixed-value securities issued or guaranteed by a government or a government agency.
3. A guaranteed investment certificate or similar financial instrument issued by a financial institution entitled by law to issue such instruments.
4. A registered pension plan, an employee benefit plan, an annuity or life insurance policy or a deferred profit sharing plan.
5. Real property that the public servant, or a member of his or her family, uses primarily as a residence or for recreational purposes. O. Reg. 382/07, s. 11 (2).

(3) The public servant shall disclose the information required by subsection (1), with necessary modifications, in respect of his or her spouse and dependent children, but only to the extent that the legal or beneficial interests of the spouse or a child could create a conflict of interest. O. Reg. 382/07, s. 11 (3).

(4) For the purpose of subsection (3), the public servant shall make reasonable efforts to obtain information about the financial interests described in subsection (1) of his or her spouse and dependent children. O. Reg. 382/07, s. 11 (4).

(5) The public servant shall give his or her ethics executive a revised declaration whenever there is a change in any of the information required to be disclosed. O. Reg. 382/07, s. 11 (5).

### **Prohibition on certain purchases**

**12.** (1) A public servant described in subsection 10 (1) shall not purchase, or cause another person to purchase on his or her behalf, a legal or beneficial interest in an entity that is carrying on, or proposes to carry on, an activity relating to a matter that might involve the private sector. O. Reg. 382/07, s. 12 (1).

(2) Despite subsection (1), a public servant may purchase an interest in a mutual fund (within the meaning of subsection 1 (1) of the *Securities Act*) that includes securities of a person or entity described in subsection (1) of this Regulation but not an interest in a mutual fund described in paragraph 4 of subsection 11 (1) of this Regulation that includes such securities. O. Reg. 382/07, s. 12 (2).

(3) The prohibition described in subsection (1) ceases to have effect with respect to the matter,

- (a) six months after the date on which the action in respect of the matter is completed; or
- (b) six months after the date the Crown ceases to work on the matter. O. Reg. 382/07, s. 12 (3).

### **List of positions**

**13.** (1) For a minister's office, the individual designated under section 47 of the Act or, if no one is designated, the minister shall maintain a current list of positions in the minister's office in which public servants routinely work on one or more matters that might involve the private sector. O. Reg. 382/07, s. 13 (1).

(2) The designate or the minister, as the case may be, shall ensure that public servants employed in the positions described in subsection (1) are advised of the duties and restrictions imposed upon them under sections 11 and 12. O. Reg. 382/07, s. 13 (2).

(3) The minister's executive assistant shall notify the designate or the minister, as the case may be, of changes to be made to the list with respect to the public servants who work in the minister's office. O. Reg. 382/07, s. 13 (3).

## **PART II** **RULES FOR FORMER PUBLIC SERVANTS WHO WORKED IN A MINISTER'S OFFICE**

### **INTERPRETATION**

#### **Definition**

**14.** In this Part,

“designated senior position” means any of the following positions:

1. In the Office of the Premier, the chief of staff, the principal secretary and any other position for which the duties routinely involve advising the Premier, a minister or a public servant.
2. In any other minister's office, the executive assistant, any special assistant (including a legislative assistant, a communications assistant and a policy advisor) and any other position for which the duties routinely involve advising the minister or a public servant. O. Reg. 382/07, s. 14.

## **Application**

**15.** (1) This Part applies with respect to every former public servant who, immediately before he or she ceased to be a public servant, worked in a minister's office. O. Reg. 382/07, s. 15 (1).

(2) Despite subsection (1), this Part does not apply to a person who ceases to be a public servant before the day on which section 57 of the Act comes into force. O. Reg. 382/07, s. 15 (2).

## **PROHIBITED CONDUCT**

### **Seeking preferential treatment, etc.**

**16.** A former public servant shall not seek preferential treatment by, or privileged access to, public servants who work in a minister's office, a ministry or a public body. O. Reg. 382/07, s. 16.

### **Disclosing confidential information**

**17.** (1) A former public servant shall not disclose confidential information obtained during the course of his or her employment by the Crown to a person or entity unless the former public servant is authorized to do so by law or by the Crown. O. Reg. 382/07, s. 17 (1).

(2) A former public servant shall not use confidential information in a business or undertaking. O. Reg. 382/07, s. 17 (2).

### **Restriction on lobbying**

**18.** (1) This section applies to a former public servant who, immediately before ceasing to be a public servant, was employed in a designated senior position. O. Reg. 382/07, s. 18 (1).

(2) For 12 months after ceasing to be a public servant, the former public servant shall not lobby any of the following persons on behalf of a public body or another person or entity:

1. The minister of the minister's office in which the former public servant worked immediately before ceasing to be a public servant.
2. The minister of any other minister's office in which the former public servant worked at any time during the 12 months before he or she ceased to be a public servant.
3. A public servant who works in the minister's office described in paragraph 1 or in any other minister's office described in paragraph 2.
4. A public servant who works in the ministry of the minister's office described in paragraph 1 or in the ministry of any other minister's office described in paragraph 2. O. Reg. 382/07, s. 18 (2).

### **Restriction on employment, etc.**

**19.** (1) This section applies to a former public servant who, immediately before ceasing to be a public servant, was employed in a designated senior position and who, at any time during the 12 months before he or she ceased to be employed as a public servant, in the course of his or her employment as a public servant,

- (a) had substantial involvement with a public body or another person or entity; and
- (b) had access to confidential information that, if it were to be disclosed to the public body, person or entity, could result in harm to the Crown or could give the public

body, person or entity an unfair advantage in relation to one or more third parties. O. Reg. 382/07, s. 19 (1).

(2) For 12 months after ceasing to be a public servant, the former public servant shall not accept employment with the public body, person or entity or serve as a member of the board of directors or other governing body of the public body, person or entity. O. Reg. 382/07, s. 19 (2).

#### **Restriction re certain transactions**

**20.** (1) This section applies to a former public servant who, when he or she was a public servant working in a minister's office, advised the Crown about a particular proceeding, negotiation or other transaction. O. Reg. 382/07, s. 20 (1).

(2) The former public servant shall not advise or otherwise assist any public body or any other person or entity in connection with the particular proceeding, negotiation or other transaction until the Crown ceases to be involved in it. O. Reg. 382/07, s. 20 (2).

(3) Despite subsection (2), the former public servant may continue to advise or otherwise assist the Crown in connection with the particular proceeding, negotiation or other transaction. O. Reg. 382/07, s. 20 (3).

**21.** Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 382/07, s. 21.