



democracy Watch
émocratie en surveillance

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Office of the Conflict of Interest and Ethics Commissioner
ATTN: Mario Dion, Commissioner
Parliament of Canada
Centre Block, P.O. Box 16
Ottawa, Ontario
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Email: ciec-ccie@parl.gc.ca

July 13, 2020

RE:

- 1. Your current inquiry into some of the Prime Minister Trudeau's actions – the evidence is clear he violated the federal ethics law**
- 2. Request for second inquiry into whether Prime Minister Trudeau, and/or anyone acting on his behalf at the Office of the Prime Minister or the Office of the Privy Council, and/or a deputy minister, associate deputy minister, deputy head or associate deputy head in the Government of Canada acting on his behalf, participated in the decision or attempted to influence the decision of anyone else to recommend that a sole-source contract be given to WE Charity, and/or used inside information in participating or attempting to influence that decision**
- 3. Request that you recuse yourself from conducting inquiry and ruling on the above matter because you were appointed by the Trudeau Cabinet, and also because of your statements showing bias against effective enforcement**
- 4. Request that you ensure this and other Democracy Watch complaints will be investigated and ruled on, given the commitment you made before the House Ethics Committee in December 2017**

Dear Commissioner Dion:

I am writing concerning enforcement of the *Conflict of Interest Act* (the “*Cofl Act*” – (S.C. 2006, c. 9, s. 2) generally, and specifically requesting a second inquiry into the actions of Prime Minister Trudeau and/or persons acting on his behalf

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participating in or trying to influence the decision-making process in favour of recommending the sole-source WE Charity contract to administer the new Canada Student Service Grant (CSSG) program, as there is evidence that gives reason to believe that this occurred, and that an attempt to influence that recommendation would violate a section or sections of the *Cofl Act* (namely section 9, and also possibly section 8) that are different than the sections on which your current inquiry is based.

Democracy Watch is filing this request because your communications with MPs about the inquiry you are conducting strongly suggest that you are only investigating some actions by Prime Minister Trudeau, namely announcing the WE Charity contract and defending the contract after it was announced, as violations of other sections of the *Cofl Act* (subsections 6(1), 7 and 21 – **See part 1 below** for details).

Your communications state that you are not going to investigate one of the most important allegations raised by this situation, namely:

Did the Prime Minister and/or anyone acting on his behalf in the Office of the Prime Minister or the Office of the Privy Council, and/or a deputy minister, associate deputy minister, deputy head or associate deputy head in the Government of Canada acting on his behalf, participate in the decision or attempt to influence anyone's decision to recommend a sole-source contract be given to WE Charity?

Democracy Watch's position is that there is reason to believe that there was an attempt by the Prime Minister or someone acting on his behalf participate in the decision or to influence the recommendation to give WE Charity a sole-source contract and that, therefore, this part of the situation needs to be investigated. **See part 2 below** for the reasons for Democracy Watch's request for this second inquiry.

Democracy Watch's position is also that you should recuse yourself from investigating and ruling on this matter. **See part 3 below** for the reasons for this position.

Democracy Watch's position is also that you are effectively required to ensure this and other Democracy Watch complaints will be investigated and ruled on, given the commitment you made before the House Ethics Committee in December 2017. **See part 4 below** for the reasons for this position.

1. Your current examination of only some actions of Prime Minister Trudeau and only some sections (6(1), 7 and 21) of the *Cofl Act* – the evidence is clear that Prime Minister Trudeau violated these sections

(i) Your current examination limited to only some sections of *Cofl Act*
According to your July 3, 2020 letter to Conservative MP Michael Barrett, which can be seen on Twitter at:

<https://twitter.com/MikeBarrettON/status/1279154583307202567/photo/1>

in response to his June 28, 2020 letter to you, which can be seen on Twitter at:

<https://twitter.com/MikeBarrettON/status/1279154590412419072/photo/3>

and according to your July 3, 2020 letter to NDP MP Charlie Angus, which can be seen on Twitter at:

<https://twitter.com/CharlieAngusNDP/status/1279163486476664835/photo/1>

in response to his July 3, 2020 letter to you, which can be seen at:

<https://69490847-1bbc-4d85-bb17->

dc869f025e9a.filesusr.com/ugd/3c9b44_165b0457fca645e08018b3e7c9a07fac.pdf

and according to your office's tweet which can be seen at:

<https://twitter.com/EthicsCanada/status/1279157898631774208>

you are currently only inquiring into possible violations by Prime Minister Trudeau of subsection 6(1), section 7 and section 21 of the *Cofl Act*. In fact, in your letter to MP Barrett, you said he had not provided evidence of any violation of sections 5, 9 or 11(1) of the *Act*.

Subsection 6(1), combined with section 4 and the definition of private interest in subsection 2(1) of the *Cofl Act*, prohibits a public office holder from making or participating in a decision “related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.” Section 4 states that a public office holder is in a conflict of interest when s/he “exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person’s private interests.”

“Private interest” is defined in subsection 2(1) of the *Cofl Act* as excluding only situations involving matters of general application (such as participating in passing a law that applies generally to many people or organizations) and a couple of other situations – none of these situations apply in any way to the awarding of a sole-source contract.

“Family member” is defined in subsection 2(2) as including one’s spouse and dependent children (with “spouse” is defined in subsection 2(1) as a spouse who is not officially separated by a separation agreement or court order). “Relatives” is defined in subsection 2(3) as including people related to the office holder by “birth, marriage, common-law partnership, adoption or affinity” unless the Ethics Commissioner determines otherwise.

Section 21 requires the public office holder to “recuse himself or herself from any discussion, decision, debate or vote on any matter in respect of which he or she would be in a conflict of interest.”

Section 7 prohibits a public office holder, in the exercise of an official power, duty or function, giving “preferential treatment to any person or organization based on the identity of the person or organization that represents the first-mentioned person or organization.”

(ii) Your current examination limited to only some actions of PM

While it is somewhat unclear, especially in your letter to MP Angus, your letters to MP Barrett and MP Angus strongly indicate that you are only examining the Prime Minister Trudeau's actions of:

1. Announcing the sole-source WE Charity contract on June 25, 2020, as set out in this news release from the Office of the Prime Minister (PMO): <https://pm.gc.ca/en/news/news-releases/2020/06/25/prime-minister-announces-support-students-serving-their-communities> and at a news conference covered in this media article: <https://www.cbc.ca/news/politics/student-grant-trudeau-1.5626475>.
2. Defending the sole-source WE Charity contract, in part by claiming that WE Charity is the only organization in Canada that could administer the CSSG program, as reported in this media article: <https://www.cbc.ca/news/politics/we-charity-student-volunteer-program-1.5628610> and this article: <https://www.cbc.ca/news/politics/trudeau-we-charity-1.5631278>.

For this reason, and also given new evidence that has been revealed since your July 3rd letters to MP Barrett and MP Angus, Democracy Watch is requesting a second inquiry into other actions of Prime Minister Trudeau and/or anyone acting on his behalf, with regard to possible violations of section 9, and also possibly section 8, of the *Coff Act*. **See section 2 below** for the reasons for Democracy Watch's request for this second inquiry.

(iii) Evidence is clear that those actions by PM violated subsection 6(1) and sections 21 and 7 of the *Coff Act*

Since you exchanged letters with MP Barrett and MP Angus, evidence has been revealed that clearly shows that the above two actions by Prime Minister Trudeau violated subsection 6(1) and section 21 of the *Coff Act*, as follows:

1. According to this article: <https://globalnews.ca/news/7153106/trudeau-we-charity-recuse/> and the video at the top of the article, Prime Minister Trudeau admitted that participated in the decision by Cabinet to approve the sole-source contract with WE Charity to administer the CSSG. As a result, he did much more than just announce the contract.
2. According to this article: <https://www.canadalandshow.com/trudeau-family-paid-by-we-organization/> it is confirmed that Prime Minister Trudeau's mother Margaret Trudeau was paid \$312,000 for speaking events (-20% for a commission to her agency), and his brother Sacha Trudeau was paid \$40,000 for speaking events (-20% for a commission to his agency) from 2016 to 2020 by ME to WE, which according to its webpage at: <https://www.metowe.com/about-us/> and its webpage at: <https://www.metowe.com/about-us/faq/> is a directly affiliated and inter-connected partner organization with WE Charity.
3. According to this article: <https://www.cbc.ca/news/politics/margaret-justin-trudeau-we-charity-1.5643586> Prime Minister Trudeau's spouse, Sophie

Gregoire-Trudeau, is an “ambassador and ally” for WE Charity. According to this WE Charity page: <https://www.we.org/en-CA/we-stories/local-impact/sophie-gregoire-trudeau-inspires-positive-well> Ms. Gregoire-Trudeau is “more than an ambassador of WE Well-being, she is its mentor, booster and champion.” And this is the webpage for the Well-being podcast that Ms. Gregoire-Trudeau hosts for WE Charity: <https://www.we.org/en-CA/get-doing/activities-and-resources/wellbeing/we-well-being-podcast/>. As the above linked article also mentions, Prime Minister Trudeau himself has appeared at WE Charity events several times. According to this article, WE Charity produced an advertisement that featured Prime Minister Trudeau in 2017: <https://nationalpost.com/news/critics-denounce-we-charity-campaign-style-ad-for-justin-trudeau-amid-pms-scandal-over-charity-links>. In sum, for several years Prime Minister Trudeau and his spouse have promoted WE Charity, and WE Charity has promoted Prime Minister Trudeau and his spouse.

As a result of the above, it is clear that Prime Minister Trudeau, by attending the Cabinet meeting and participating in the Cabinet decision to approve the sole-source WE Charity contract, exercised an official power when he had the opportunity to further the interests of his spouse (given her direct work with WE Charity) and/or improperly further the interests of WE Charity (given the work by the Prime Minister’s spouse, mother and brother for WE Charity). This is a clear violation of subsection 6(1) of the *Cofl Act* and, because he did not recuse himself from the Cabinet decision-making process, also a clear violation of section 21 of the *Act*.

As you stated in paragraphs 288-292 of the *Trudeau II Report* (pages 45-46), which can be seen at: https://ciec-ccie.parl.gc.ca/en/publications/Documents/InvestigationReports/Trudeau_II_Report.pdf: “Private and public interests can take many forms, including financial, social or political.” And as you stated in paragraphs 296-301 of that *Report* (pages 46-47), “improper” actions are “incorrect, unsuitable or irregular” or “fraudulent or otherwise wrongful” and “lie on a spectrum, ranging from irregularity through inadvertence to willful fraud.”

It is also clear that Prime Minister Trudeau violated section 7 of the *Cofl Act* by attending the Cabinet meeting that approved the contract, and by defending the sole-source contract with WE Charity, especially by making the claim that WE Charity is the only organization that could administer the CSSG program, for the following reasons:

1. Section 7 prohibits office holders from, in the exercise of an official power, duty or function, giving “preferential treatment to any person or organization based on the identity of the person or organization that represents the first-mentioned person or organization.”
2. In former Ethics Commissioner Mary Dawson’s [2012 ruling](#) on Conservative Minister Paradis giving preferential treatment to former

Conservative MP Rahim Jaffer, Commissioner Dawson wrote (on page 21), that "preferential treatment" means:

"The expression "preferential treatment" is not defined in the Act and was not defined in the predecessor 2006 Conflict of Interest and Post Employment Code for Public Office Holders. I believe, however, that its meaning is quite clear. I take note of the 1984 Report of the Task Force on Conflict of Interest, co-chaired by the Honourable Michael Starr and the Honourable Mitchell Sharp, entitled Ethical Conduct in the Public Sector, in which "preferential treatment" is defined as "treatment more favourable than might be accorded to anyone else in similar circumstances.""

3. Section 7 sets out a very important rule -- it means that Cabinet ministers and their staff (and senior government officials who are appointed by Cabinet) can't meet or communicate with, or help or give access to themselves or to others whom the federal government has access to, to anyone more (or more responsively) than anyone else based on the identity of the person or organization that is asking for help or contacting them.
4. In this situation, section 7 would be violated whether the Prime Minister's spouse or Marc Kielburger or Craig Kielburger are determined to be the representatives of WE Charity, given the Prime Minister has a long-term relationship with all of them.
5. According to this article: <https://www.cbc.ca/news/politics/trudeau-we-charity-volunteer-1.5635501> several experts disagree that WE Charity is the only organization that could administer the CSSG program, and point to Volunteer Canada, United Way, the Community Foundations of Canada, YMCA/YWCA, Boys and Girls Clubs of Canada, and 4-H Canada organizations with equal or greater capacity than WE Charity to administer the program. In addition, as that article points out, along with this article: <https://www.thechronicleherald.ca/news/canada/federal-government-wont-say-which-organizations-other-than-we-charity-it-considered-to-run-900-million-student-volunteer-grant-program-470281/> and this article (quoting the head of the Public Service Alliance of Canada): <https://www.cbc.ca/news/politics/we-charity-pandemic-covid-coronavirus-trudeau-1.5635379> the federal government already has the Canada Service Corps program and the Canada Summer Jobs program, both of which are very similar to the CSSG program, and the public servants who run those programs very likely could have run the CSSG program through those programs. In other words, from all the evidence, the Prime Minister's claim that WE Charity is the only organization that could administer the CSSG program was a clearly false claim.

Given the above, in order to prove he didn't violate section 7, Prime Minister Trudeau would have to prove that he regularly approves sole-source contracts worth millions of dollars (under its contract, WE Charity would have received \$19.5 million), and that he regularly defends such contracts by making false claims. It is clear that Prime Minister Trudeau could not prove either of those

things and, as a result, it is clear that Prime Minister Trudeau also violated section 7 of the *Cofl Act*.

Former Ethics Commissioner Dawson ruled in the Paradis ruling cited above (at p.22):

"I believe that Mr. Paradis assisted Mr. Jaffer because he wanted to help a former caucus colleague. This preferential treatment was therefore based on the identity of Mr. Jaffer."

With regard to the Prime Minister's actions in this situation, the ruling should be:

"Prime Minister Trudeau approved a sole-source contract for \$19.5 million to WE Charity, and defended that contract repeatedly by making a false claim, based on the fact that his wife represents the charity and/or that Craig Kielburger and Mark Kielburger represent the charity. The preferential treatment was therefore based on their identity as representatives of the charity."

These conclusions concerning the violations of subsection 6(1) and sections 21 and 7 of the *Cofl Act* are supported as well by the following sub-parts (iv) and (v) which explain how the *Cofl Act* must be interpreted broadly, and prohibits being in even an apparent conflict of interest.

(iv) The *Cofl Act* must be interpreted broadly

The *Cofl Act* is remedial legislation. The *Interpretation Act* requires that the *Cofl Act* be "given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects." (*Interpretation Act*, R.S.C., 1985, c. I-21, section 12).

The primary purpose of the *Cofl Act* in section 3 is to "minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise." That means the *Act* should be interpreted by the Conflict of Interest and Ethics Commissioner with this goal in mind.

The Supreme Court of Canada ruled in two cases in 1996 that "If democracies are to survive, they must insist upon the integrity of those who seek and hold public office" (*Harvey v. New Brunswick*), and; "given the heavy trust and responsibility taken on by the holding of a public office or employ, it is appropriate that government officials are correspondingly held to codes of conduct which, for an ordinary person, would be quite severe" and; "[t]he magnitude and importance of government business requires not only the complete integrity of government employees and officers conducting government business but also that this integrity and trustworthiness be readily apparent to society as a whole" (*R. v. Hinchey*).

(v) The *Coff Act* prohibits being in a conflict of interest

Given that the subsection 6(1) of the *COIA* covers situations in which the public office holder “reasonably should know” that they would be in a conflict of interest, the *COIA* clearly covers situations involving an appearance of a conflict of interest. This conclusion is reinforced by the broad, comprehensive language used in the operative provisions of the *COIA*, which make it clear that it was intended to apply to real and apparent conflicts of interest. As noted above, section 3 of the *COIA* articulates among its purposes prevention and avoidance of “conflicts of interest” generally, without any limiting language that would confine it to “real” conflicts of interest.

The Federal Court of Appeal has ruled unanimously that the phrase “a conflict of interest” means a situation in which a public office holder has “competing loyalties” or “a real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties” that “might reasonably be apprehended to give rise to a danger of actually influencing the exercise of a professional duty” (*Democracy Watch v. Campbell*, [2010] 2 F.C.R. 139, 2009 FCA 79, para. 49, quoting from *Cox v. College of Optometrists of Ontario* (1988), 65 O.R. (2d) 461 (Div. Ct.)). In other words, the phrase “conflict of interest” includes an apparent conflict of interest.

As L’Heureux-Dubé, J. wrote for the majority in *Hinchey*: “The need to preserve the appearance of integrity...” requires that the statutory provisions at issue in *Hinchey* be interpreted so as to prohibit actions “...which can potentially compromise that appearance of integrity” (para. 16). Justice L’Heureux-Dubé also noted: “...it is not necessary for a corrupt practice to take place in order for the appearance of integrity to be harmed. Protecting these appearances is more than a trivial concern” (para. 17).

In articulating the concept of an apparent conflict of interest, the *Commission of Inquiry into the Facts of Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens* (“Parker Commission”) emphasized the underlying objectives of conflict of interest rules as maintaining and enhancing trust and confidence in government and the importance of public perception that government business is being conducted in an “impartial and even-handed manner” (p. 31). To this end, the Parker Commission adopted this definition of an apparent conflict of interest:

“An apparent conflict of interest exists where there is a reasonable apprehension, which reasonably well-informed persons could properly have, that a conflict of interest exists.” (p. 35)

This definition drew upon the definitions set out in Supreme Court of Canada rulings, such as *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369, and *Old St. Boniface Residents Association Inc. v. Winnipeg (City)*, [1990] 3 S.C.R. 1170.

2. Request for second inquiry into actions of Prime Minister Trudeau, and/or anyone acting on his behalf, violating subsection 6(1) and/or section 9 of the *Cofl Act* by participating in or attempting to influence anyone's decision to recommend a sole-source contract for WE Charity (and possibly also section 8 if secret information was used in that attempt)

Everything in section 1 above makes it clear that Prime Minister Trudeau's extensive family ties to the WE Charity mean he has a conflict of interest concerning the organization, and that he, and anyone acting on his behalf, is therefore prohibited by *Conflict of Interest Act* ("*Cofl Act*") subsection 6(1), combined with the subsection 2(1) definition of "private interest" and sections 4 and 21, from participating in any decision-making process that provides an opportunity to further the interests of the charity.

The phrase "anyone acting on his behalf" in reference to the Prime Minister includes the following people, all of whom are covered by the *Cofl Act*, and all of whom the Prime Minister appoints and/or serve at his pleasure:

1. the staff of the Prime Minister's Office (PMO), all of whom he appoints;
2. every Cabinet minister, all of whom he appoints, and their staff;
3. the Clerk of the Privy Council whom the Governor in Council (GIC) appoints under section 125 of the *Public Service Employment Act* ("*PSEA*" – S.C. 2003, c. 22, ss. 12, 13), and;
4. other GIC-appointed members of the senior staff of the Office of the Privy Council as well as deputy ministers, associate deputy ministers, deputy heads and associate deputy heads (and equivalent positions) all of whom the GIC appoints under section 127.1 of the *PSEA*. See that section of the *PSEA* at: <https://laws-lois.justice.gc.ca/eng/acts/p-33.01/page-11.html#h-404798>.

Because he has this conflict of interest, Prime Minister Trudeau, and anyone acting on his behalf, are also prohibited by section 9 of the *Act* from using "his or her position as a public office holder to seek to influence a decision of another person so as to further the public officeholder's private interests or those of the public office holder's relatives or friends, or to improperly further another person's private interests." In this situation, the section 9 prohibition applies to the Prime Minister and/or anyone acting on his behalf attempting to influence anyone's decision in favour of recommending that a sole-source contract be awarded to WE Charity.

As well, Section 8 of the *Cofl Act* prohibits an office holder from using "information that is obtained in his or her position as a public office holder and that is not available to the public to further or seek to further the public office holder's private interests or those of the public office holder's relatives or friends or to improperly further or to seek to improperly further another person's private interests." In this situation, the section 8 prohibition applies to the Prime Minister and/or anyone acting on his behalf using inside information to assist their attempt

to influence anyone's decision in favour of recommending that a sole-source contract be awarded to WE Charity.

There is reason to believe that Prime Minister Trudeau and/or persons acting on his behalf participated in and/or attempted to influence the decision to recommend awarding a sole-source contract to WE Charity, for the following reasons:

1. According to this article: <https://nationalpost.com/news/politics/we-charity-boss-said-pmo-called-to-award-900m-student-grant-program-day-after-it-was-announced> and video footage contained in that article, during a video-conference call on June 12, 2020 Marc Kielburger, the co-founder of WE Charity and ME to WE, stated that ““So myself, my team... had all watched this (April 22nd announcement), and the next day, the Prime Minister's Office kindly called us and said, 'you know that announcement we just made? Would you be interested in helping us actually implement it?'””.
2. According to that same article, Marc Kielburger claimed in an emailed statement on June 30, 2020, after a week during which many questions were raised about the sole-source WE Charity contract, that during the video-conference call on June 12, 2020: “Speaking loosely and enthusiastically, I incorrectly referred to the Prime Minister's Office. In fact, the outreach came from unelected officials at Employment and Social Development Canada. To be specific, contact came to We Charity the week of April 26th from a Senior Assistant Deputy Minister, Skills and Employment Branch at Employment and Social Development Canada and various additional members of ESDC staff. In fact, all discussions came at the instigation of departmental officials and they led discussions with respect to contract and program parameters.”
3. However, no one in the Employment and Social Development Canada department has confirmed Mr. Kielburger's claim.
4. According to this article: <https://www.thechronicleherald.ca/news/canada/federal-government-wont-say-which-organizations-other-than-we-charity-it-considered-to-run-900-million-student-volunteer-grant-program-470281/> the Employment and Social Development Canada department claimed in a written statement that the department considered other organizations to administer the CSSG program, but the department has refused to disclose any details, including the list of other organizations, to prove that it considered other organizations.
5. According to this article: <https://www.theglobeandmail.com/politics/article-oregan-telford-helped-raise-400000-for-we-charity/> concerning, in part, Katie Telford, the Prime Minister's Chief of Staff, “The Prime Minister's Office said Ms. Telford did not recuse herself from discussions about the contract...”
6. According to this article: <https://www.kamloopsthisweek.com/kielburger-backtracks-after-saying-pm-s-office-contacted-we-about-900m-program-1.24162776> Gina Wilson, a senior associate deputy minister from another department, Heritage Canada, asserted in a statement that “there was no

- pressure either from the Prime Minister's Office or from (Youth) Minister (Bardish) Chagger's office to formalize an agreement with WE Charity” and that “To ensure we could maximize the award money available to students during this difficult time, we needed to move quickly to set up the program” and that “Officials determined that utilizing WE Charity with its extensive reach and capacity would be the most effective approach to quickly deliver this program.”
7. According to the part 2 Policy Statement of the Contracting Policy of the Government of Canada at: <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=14494> contracting “shall be conducted in a manner that will:
 - a. stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition, and reflect fairness in the spending of public funds...” and, according to part 4.2.8, along with section 9 of the *Department of Public Works and Government Services Act* (S.C. 1996, c. 16), no other minister other than the Minister of Public Works are permitted to be involved in government contracting processes. By definition, then, it was improper if the Prime Minister or anyone on behalf of the Prime Minister attempted to influence the contracting process in favour of WE Charity.
 8. According to the Prime Minister’s *Open and Accountable Government* guide, Annex E, sub-annex E.3, at: https://pm.gc.ca/en/news/backgrounders/2015/11/27/open-and-accountable-government#Support_to_Ministers ministerial staff act at the direction of ministers, and while they do not have legal authority over public servants, and would be acting improperly if they tried to direct any public servant to do anything, under the Annex I: Code of Conduct for Ministerial Exempt Staff at: https://pm.gc.ca/en/news/backgrounders/2015/11/27/open-and-accountable-government#Code_of_Conduct this does not in any way preclude or prevent a situation in which a staff person for the Prime Minister or any other minister attempts to influence a public servant. And, according to this Treasury Board report on responsibilities and accountabilities of ministers and senior officials, subsection 3.2 at <https://www.tbs-sct.gc.ca/report/rev-exa/ar-er-eng.pdf>: “the minister is accountable for anything done in his or her name by exempt staff.”

Taken all together, this evidence contains conflicting statements from the co-founder of WE Charity about how the contracting process was initiated, with the initial statement indicating PMO involvement; the Prime Minister’s Chief of Staff participating in the contracting process; no denials of PMO interference from anyone at the Government of Canada department that actually issued the contract, and; Government of Canada rules that make it clearly improper for the Prime Minister or anyone acting on his behalf interfering in a contracting process.

Based on this evidence and these rules, there is reason to believe that, at least, someone acting on behalf of the Prime Minister participated in a contract decision-making process that resulted in the recommendation that a sole-source contract be awarded to WE Charity to administer the CSSG program and, as a

result, there is reason to believe that someone acting on behalf of the Prime Minister attempted to influence the recommendation, in contravention of subsection 6(1) and section 9 of the *Coff Act*.

That meets the threshold in the *Coff Act* for undertaking an examination into the contracting process.

To be complete, the inquiry must examine all communications concerning the WE Charity contract (letters, faxes, emails, texts, pins, phone calls, virtual calls (Zoom, FaceTime, Skype etc.)) between and amongst everyone involved: public servants, Cabinet ministers, ministerial staff or Cabinet appointees (including deputy ministers, associate deputy ministers, deputy heads and associate deputy heads), and representatives of WE charity.

3. Request that you recuse yourself from conducting inquiry and ruling on the above matter because you were appointed by the Trudeau Cabinet, and also because of your statements showing bias against effective enforcement

On January 30, 2018, Democracy Watch sent you a letter that can be seen at:

<https://democracywatch.ca/wp-content/uploads/LettToEthicsCommReApptBiasComplaintsJan302018.pdf>

requesting that you recuse yourself from investigating and ruling on all matters concerning the Trudeau Cabinet and Liberal MPs because you were nominated for the position of Ethics Commissioner after a secretive process that was controlled by the Prime Minister's Office (PMO) and Cabinet and involved officials from the PMO, Privy Council Office and the Treasury Board.

The PMO- and Cabinet-controlled appointment process did not include consultation with opposition parties as required under subsection 81(1) of the *Parliament of Canada Act* as the opposition parties made clear in several statements in the House of Commons. As you know, Democracy Watch filed an application for judicial review of your appointment in Federal Court based on the reasonable apprehension of bias and conflict of interest on the part of the Trudeau Cabinet when appointing you, and is currently applying to the Supreme Court of Canada for leave to appeal the Federal Court of Appeal's ruling on its application.

Democracy Watch's position is that you share this reasonable apprehension of bias because you were chosen through this Cabinet-controlled process. Your appointment was approved in the House of Commons only on division, as several MPs voted against your appointment.

As well, Democracy Watch's position is that you made statements when testifying on December 12, 2017 before the House of Commons Standing Committee on Access to Information, Privacy and Ethics that show a bias toward

weak and incorrect enforcement of the *Cofl Act*. During the hearing, the transcript of which you can see at:

<http://www.ourcommons.ca/Content/Committee/421/ETHI/Evidence/EV9337990/ETHIEV84-E.PDF>

you stated that:

“I believe that people are fundamentally honest, that people do not get up in the morning with the intent of breaching the law.” (p. 2)

and that:

“People are fundamentally honest.” (p. 10)

It is impossible for anyone to know whether everyone is fundamentally honest, and your assumption that everyone is honest means you have created a reasonable apprehension that, when faced with someone claiming to have made an honest mistake while the evidence shows that they violated the *Cofl Act*, you will favour finding them not guilty because they did not “intend” to violate the *Act*.

Given that the intent of an alleged violator is irrelevant to a legally correct assessment of whether they violated the *Cofl Act*, your statement creates a reasonable apprehension of bias against legally correct enforcement of the *Act*.

For the above reasons, Democracy Watch requests that you recuse yourself from investigating and ruling on this matter, and that you refer the investigation and ruling to someone qualified and independent from all federal political parties, such as a provincial ethics commissioner who has no ties to any federal political party or the provincial wing of any federal political party.

4. Request that you ensure this and other Democracy Watch complaints will be investigated and ruled on, given the commitment you made before the House Ethics Committee in December 2017

During your testimony referred to above before the House of Commons Standing Committee on Access, Privacy and Ethics on December 12, 2017, you stated the following (at page 11):

“The common point that comes to mind is accessibility, the need for a truly accessible office to make sure that people who want to make a complaint know that the office exists and know the parameters of filing a complaint. That’s what the Office of the Public Sector Integrity Commissioner did. It promoted the office and the parameters of what it regulates and what it does. This is one of the things I would like to do.

The philosophy focuses on accessibility, giving full force to the act and providing every opportunity for the spirit of this legislation to be upheld. There are not many complaints. At her last appearance in 2014, Commissioner Dawson said she was surprised to find that only one-quarter to one-third of the files she was studying were complaints. The other files were about issues she had decided to investigate on her own.

Complaints are a way of self-regulation. A truly accessible office is another way of ensuring that MPs and public office holders remain honest, as a complaint might be filed at any time.”

Democracy Watch’s position is that these statements give rise to a legitimate expectation that you will ensure that all complaints filed by Democracy Watch will be properly reviewed, and that a public ruling will be issued for each complaint.

Please contact Democracy Watch at the address above if you need any more information to delegate an inquiry into the whether the Prime Minister, or anyone acting on his behalf, attempted to influence anyone’s decision to recommend that WE Charity be awarded a sole-source contract to administer the CSSG program.

Given that much of the information concerning the situation has already been made public, as summarized above, we expect to receive a ruling on this matter very soon.

Sincerely,



Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch