

Memorandum of Understanding

Between

**The President of the Treasury
Board**

And

**The Conflict of Interest
Commissioner**

Table of Contents

- 1. Purpose 4
- 2. Definitions 4
- 3. Office’s Legal Authority and Mandate 5
- 4. Agency Classification and Crown Agency Status 5
- 5. Guiding Principles 5
- 6. Accountability Relationships 6
 - 6.1 Minister 6
 - 6.2 Commissioner 6
 - 6.3 Deputy Minister 7
 - 6.4 Executive director is accountable to: 7
- 7. Ethical Conduct 7
- 8. Roles and Responsibilities 7
 - 8.1 Minister 7
 - 8.2 Commissioner 9
 - 8.3 Deputy Minister 10
 - 8.4 Executive director 12
- 9. Reporting Requirements 14
 - 9.1 Annual Business Plan 14
 - 9.2 Annual Report 15
 - 9.3 Other Reports 15
- 10. Communications 15
- 11. Administrative Arrangements 16
 - 11.1 Applicable Directives of TB/MBC, PSC, and the Government 16
 - 11.2 Administrative Support Services 16

11.3 Legal Services	17
11.4 Freedom of Information and Protection of Privacy.....	17
11.5 Delegation of Human Resources Management Authority under the PSOA	17
11.6 Records Management	17
11.7 Client/Customer Service	17
12. Financial Arrangements.....	18
12.1 Funding.....	18
12.2 Taxation Status.....	19
13. Audit and Audit Review Arrangements	19
13.1 Audits.....	19
14. Staffing and Appointments.....	19
14.1 Staffing	19
14.2 Appointments.....	19
15. Liability Protection.....	20
16. MOU Effective Date, Duration and Periodic Review	20
16.1 Effective Date	20
16.2 Reviews and Amendment.....	20
17. Signatures	21
Schedule 1: Applicable TB/MBC, PSC and Government Directive & Policies	22
Schedule 2: Administrative Support Services	23
Schedule 3: Public Communications Protocol	24

1. Purpose

- a. The purpose of this Memorandum of Understanding (MOU) is to:
 - I. establish the accountability relationships between the Minister and the Commissioner on behalf of the Office;
 - II. clarify the roles and responsibilities of the Minister, the Commissioner, the Deputy Minister, and the Executive director;
 - III. set out the operational, administrative, financial, auditing, and reporting arrangements between the Office and the Ministry.
- b. This MOU should be read together with the *Public Service of Ontario Act, 2006 (PSOA)* and Ontario Regulation 384/07. This MOU does not affect, modify, limit, or interfere with the responsibilities of any of its parties as established by law. In case of a conflict between this MOU and any act or regulation, the act or regulation prevails.

2. Definitions

In this MOU:

- a. “AAD” means the Management Board of Cabinet Agencies and Appointments Directive;
- b. “ATAGAA” means *Adjudicative Tribunals Accountability, Governance and Appointment Act, 2009*;
- c. “Commissioner” means the Conflict of Interest Commissioner;
- d. “Executive director” means the most senior management position established in the Office of the Conflict of Interest Commissioner and is set out in O. Reg. 147/10 and O. Reg. 148/10 made under the PSOA,;
- e. “Deputy Minister” means the Deputy Minister, Treasury Board;
- f. “MBC” means Management Board of Cabinet;
- g. “Minister” means the President of the Treasury Board;
- h. “Ministry” means the Treasury Board Secretariat
- i. “Office” means Office of the Conflict of Interest Commissioner (referenced in Section 17, 18, and 20 of the *PSOA*);

- j. “PSC” means the Public Service Commission;
- k. “PSOA” means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A.;
- l. “TB” means Treasury Board.

3. Office’s Legal Authority and Mandate

The legal authority and mandate of the Commissioner are established under the *PSOA* and its regulations. Pursuant to this authority, the Commissioner has a leadership role in raising awareness among public servants about the conflict of interest and political activity rules that affect them when they are carrying out their duties. The Commissioner’s duties include, but are not limited to, requests for advice or determinations from deputy ministers, chairs of public bodies, and other designated individuals on specific conflict of interest or political activity matters. The Commissioner considers requests from part-time adjudicators of prescribed public bodies, to engage in political activities other than those which are expressly permitted in the *PSOA*. The Commissioner also advises on financial declarations received from public servants working on matters involving the private sector and considers conflict of interest rules submitted by public bodies, to ensure consistency with standards established for ministry employees.

The Commissioner also has authority under the *ATAGAA* to approve the ethics plans of adjudicative tribunals.

4. Agency Classification and Crown Agency Status

- 4.1 The Office is prescribed as a public body and a Commission public body under the *Public Service of Ontario Act, 2006*, and classified as a regulatory agency under the Management Board of Cabinet Agencies and Appointments Directive.
- 4.2 The Office is an administrative entity of the Crown. While the Office does not have a separate legal personality for civil/private law purposes that would be required for it to be a Crown agency in law, the Office has its own legal personality for certain administrative, public law purposes. The Office may be referred to as a Crown agency when that term is used to distinguish between ministries and other administrative entities of the Crown.

5. Guiding Principles

The parties agree to the following principles:

- a. the Minister acknowledges that the Commissioner exercises powers and performs duties in accordance with his/her legal mandate;

- b. the Minister acknowledges the need for the Commissioner's statutory decisions to be made, and be seen by the public to be made, independently and impartially;
- c. the Minister acknowledges that the Office plays a meaningful role in the development of the policies and programs of the government, as well as in the delivery of those policies and programs;
- d. the Commissioner acknowledges that accountability is a fundamental principle to be observed in the management, administration and operation of the Office;
- e. as an agency of the government, the Office conducts itself according to the management principles of the Government of Ontario. These principles include ethical behaviour; prudent, efficient and lawful use of public resources; fairness; high quality service to the public; and openness and transparency to the extent allowed under the law;
- f. the Office and the Ministry agree to avoid duplication of services wherever possible, subject to observance of the principle of independence in decision-making, which may limit or preclude the joint delivery of services between the Office and the Ministry.

6. Accountability Relationships

6.1 Minister

The minister is accountable:

- a. to Cabinet and the Legislative Assembly for reporting and responding to the Legislative Assembly on the affairs of the Office;
- b. for reporting and responding to TB/MBC on the Office's performance and compliance with the government's applicable directives and operational policies;
- c. to Cabinet for the performance of the agency and its compliance with the government's operational policies and broad policy directions;
- d. for receiving and ensuring the Office's annual report is made available to the public after tabling it in the Legislative Assembly.

6.2 Commissioner

The Commissioner is accountable:

- a. to the Minister for the performance of the Office in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Commissioner and the Office by the *PSOA*, the *ATAGAA*, this MOU, and applicable TB/MBC, PSC and Government directives;
- b. for reporting to the Minister, as requested, on the Office's activities;
- c. for ensuring timely communications with the Minister regarding any issue that affects, or can be reasonably expected to affect, the Minister's responsibilities for the Office.

6.3 Deputy Minister

The Deputy Minister is accountable to the Secretary of Cabinet and the Minister for the performance of the Ministry in providing administrative and organizational support to the Office and for carrying out the roles and responsibilities assigned by the Minister, the *PSOA*, this MOU, and applicable TB/MBC, PSC and Government directives.

6.4 Executive director is accountable to:

- a. the Commissioner for operational matters;
- b. the PSC for the proper exercise of any human resource management authorities delegated by the PSC.

7. Ethical Conduct

- a. all individuals who work in the Office and are hired under Part III of the *PSOA* are subject to the conflict of interest and political activity rules for ministry staff;
- b. the Executive director is the ethics executive for staff of the Office. The Executive director shall inform the staff of the Office of the ethical rules to which they are subject including the disclosure of wrong-doing provisions in the *PSOA*;
- c. the Commissioner and Executive director positions are "designated senior positions" for the purposes of the restrictions on post-service activities, set out in ss. 14 to 20 of the O. Reg. 381/07 made under the *PSOA*.

8. Roles and Responsibilities

8.1 Minister

The Minister is responsible to Cabinet and the Legislative Assembly for:

- a. reporting and responding to the Legislative Assembly on the affairs of the Office;

- b. reporting and responding to TB/MBC on the Office's performance, compliance with applicable TB/MBC directives, the government's operational policies and policy directions;
- c. where required, recommending to TB/MBC the merger, any change to the Office's mandate or dissolution of the Office;
- d. recommending to TB/MBC the powers to be given to, or revoked from, the Office, when a change to the mandate of the agency is being proposed;
- e. meeting at least annually with the Commissioner to discuss issues relating to the fulfillment of the Commissioner's mandate;
- f. working with the Commissioner to develop appropriate measures and mechanisms related to the performance (but excluding any action in relation to a decision) of the Commissioner;
- g. recommending to Cabinet appointments and reappointments to the position of Commissioner;
- h. determining at any time, the need for a review or audit of the Office, directing the Commissioner to undertake reviews on a periodic basis, and recommending to TB/MBC any changes to the governance or administration of the Office resulting from any such review or audit;
- i. when appropriate or necessary, taking action or directing that corrective action be taken with respect to the Office's administration or operations;
- j. receiving the Commissioner's annual report and ensuring that the annual report is made public after tabling it in the Legislative Assembly;
- k. informing the Commissioner of the government's priorities and broad policy direction for the Office;
- l. consulting, as appropriate, with the Commissioner (and others) on significant new directions or when the government is considering regulatory or legislative changes for the Office;
- m. developing the Office's MOU with the Commissioner, recommending it to TB/MBC for approval and signing it into effect after it has been signed by the Commissioner;
- n. reviewing and approving the Office's annual business plan;
- o. recommending to TB/MBC any provincial funding to be allocated to the Office.

8.2 Commissioner

The Commissioner is responsible for:

- a. providing leadership to the Office by setting the goals, objectives, and strategic directions within its mandate;
- b. ensuring the implementation of actions that support the goals, objectives and strategic direction of the Office and otherwise directing the affairs of the Office so as to fulfill its mandate;
- c. making decisions consistent with the business plan approved for the Office;
- d. consulting with the Minister on strategic policy direction for the Office;
- e. ensuring timely communications with the Minister regarding any issues or events that may concern, or can reasonably be expected to concern the Minister in the exercise of his/her responsibilities relating to the Office;
- f. consulting with the Minister in advance regarding any activity which may have an impact on the government and ministry's policies, directives, procedures, or guidelines or on the agency's mandate, powers or responsibilities;
- g. developing performance measures and targets for the Office and monitoring the performance;
- h. taking corrective action or directing that corrective action relating to the operations of the agency be taken if needed, either independently or as agreed to with the Minister (or Deputy Minister on behalf of the Minister) except that any action in relation to the Commissioner's procedural and substantive decision-making functions shall be made independently by the Commissioner;
- i. reporting to the Minister as requested on the Office's activities within agreed upon timelines;
- j. ensuring that the Office operates within its approved budget allocation in fulfilling its mandate and the public funds are used for the purpose intended with integrity and honesty;
- k. developing the Office's MOU with the Minister and signing it into effect;
- l. reviewing and approving the Office's business plan, budget, annual report and financial reports and submitting them to the Minister in accordance with the timelines specified in the applicable TB/MBC and Government directives and this MOU;

- m. providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of the agency's response to each report, and any recommendation in the report;
- n. advising the Minister annually on any outstanding audit recommendations;
- o. ensuring that the Executive director informs staff of their responsibilities under the PSOA with regard to rules of ethical conduct, including political activity;
- p. making sure that the Executive director has appropriate management systems in place (financial, information technology, human resources) for the effective administration of the Office;
- q. making sure that Executive director has an appropriate framework in place for the Office's staff to receive adequate orientation and training;
- r. making sure that the Executive director makes staff aware of and ensures compliance with applicable PSC and TB/MBC and Government directives;
- s. making sure a process for responding to and resolving complaints from the public and the Office's clients is in place;
- t. identifying to the Minister or Deputy Minister issues of interest that would assist government in encouraging ethical behaviour in the public service of Ontario;
- u. carrying out effective public communications and relations for the Office as its chief spokesperson;
- v. co-operating with any review or audit of the Office directed by the Minister of TB/MBC;
- w. consulting with the Deputy Minister as needed, on matters of mutual importance including services provided by the Ministry and compliance with TB/MBC directives and Ministry policies;
- x. identifying to the Deputy Minister issues of interest that would assist the government in encouraging ethical behaviour in the public service of Ontario.

8.3 Deputy Minister

The Deputy Minister is responsible for:

- a. advising and assisting the Minister regarding the Minister's responsibilities for the Office, including informing the Minister of policy direction, policies and priorities of relevance to the Commissioner's mandate;

- b. advising the Minister on the requirements of the AAD and other directives that apply to the Office;
- c. recommending to the Minister, as may be necessary, the evaluation or review, including a risk-based review of the Office or any of its programs, or changes to the management framework or operations of the Office;
- d. facilitating regular briefings and consultations between the Commissioner and Minister and between Ministry staff and Office staff;
- e. attesting to TB/MBC as required, to the Office's compliance with the mandatory accountability requirements set out in the AAD;
- f. ensuring that the Ministry and the Office have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the Office;
- g. ensuring the Office has an appropriate risk management framework and risk management plan in place for managing risks that the Office may encounter in meeting its program or service delivery objectives;
- h. undertaking timely risk-based reviews of the Office, its management or operations, as may be directed by the Minister or TB/MBC;
- i. establishing a framework for reviewing and assessing the Office's business plans and other reports;
- j. supporting the Minister in reviewing the performance targets, measures and results of the Office;
- k. advising the Minister on documents submitted by the Office to the Minister for review or approval or both;
- l. submitting to the Minister, as part of the annual planning process, a risk assessment and management plan for each risk category;
- m. undertaking any reviews of the agency as may be directed by the Minister;
- n. co-operating with any review of the Office, as directed by the Minister or TB/MBC;
- o. monitoring the Office on behalf of the Minister while respecting the Office's authority and Commissioner's decision-making independence, identifying needs for corrective action where warranted, and recommending to the Minister ways of resolving any issues that might arise from time to time;
- p. negotiating a draft MOU with the Commissioner, as directed by the Minister;

- q. consulting with the Commissioner or Office's Executive director, as needed, on matters of mutual importance including services provided by the ministry and compliance with TB/MBC directives and Ministry policies;
- r. meeting with the Commissioner quarterly or as directed by the Minister;
- s. arranging for administrative, financial and other support to the Office as specified in this MOU;
- t. informing the Commissioner, in writing, of new government directives and any exceptions to or exemptions in whole or in part from TB/MBC directives or Ministry administrative policies;
- u. when required, submitting a report to the secretaries of TB/MBC on the wind-down of the agency, disposition of any assets, completion of any outstanding responsibilities by the Office, and the termination of any appointment;
- v. consulting with the Commissioner on the performance evaluation of the Executive director;
- w. identifying to the Commissioner issues of interest that would assist government in encouraging ethical behaviour in the public service of Ontario.

8.4 Executive director

The Executive director is responsible for:

- a. managing the day-to-day operations of the Office in accordance with the mandate of the Office, TB/MBC, PSC and Government directives, accepted business and financial practices and this MOU;
- b. advising the Commissioner on the requirements of and compliance with the AAD as well as other TB/MBC, PSC and Government directives and policies and Office procedures and policies;
- c. applying policies and procedures so that public funds are used with integrity and honesty;
- d. providing leadership and management to the Office staff, including financial resource management;
- e. ensuring appropriate information technology and human resource management systems are in place for the effective administration of the Office;

- f. establishing and applying a financial management framework for the Office in accordance with applicable Ministry of Finance/Treasury Board controllership, directives, policies and guidelines;
- g. translating the goals, objectives and strategic directions of the Commissioner and Office into operational plans and activities, in accordance with the Office's approved business plan;
- h. ensuring the Office has oversight capacity and an effective oversight framework in place for monitoring its management and operations;
- i. preparing the Office's business plan and establishing systems to ensure that the Office operates within its approved business plan;
- j. keeping the Commissioner informed, with respect to the implementation of policy and the operations of the Office;
- k. ensuring the Office has an appropriate risk management framework and risk management plan in place as directed by the Commissioner;
- l. supporting and advising the Commissioner in meeting his/her responsibilities, including compliance with all applicable legislation, directives, policies, procedures and guidelines;
- m. carrying out in-year monitoring of the Office's performance and reporting on results to the Commissioner;
- n. keeping the Ministry and the Commissioner advised on issues or events that may concern the Minister, the Deputy Minister and the Commissioner in the exercise of their responsibilities;
- o. seeking support and advice from the Ministry, as appropriate, on Office management issues;
- p. establishing a system for the retention of agency documents and for making such documents publicly available when appropriate, for complying with the *Freedom of Information and Protection of Privacy Act* and the *Archives and Recordkeeping Act, 2006* where applicable;
- q. undertaking timely risk-based reviews of the Office's management and operations;
- r. consulting with the Deputy Minister as needed, on matters of mutual importance, including services provided by the Ministry, and on TB/MBC, PSC and Government directives and Ministry policies;

- s. co-operating with a periodic review of the Office directed by the Minister of TB/MBC;
- t. fulfilling the role of ethics executive for public servants, other than appointees (i.e., the Commissioner) who work in the Office, including promoting ethical conduct and ensuring that all staff are familiar with the ethical requirements of the *PSOA*, including the conflict of interest and political activity rules and the protected disclosure of wrong-doing provisions;
- u. co-ordinating with the Ministry, the development of a performance measurement system for Office staff, other than counsel, and implementing the system;
- v. making sure that an appropriate framework is in place for the Office's staff to receive adequate orientation and training; making sure that Office staff are aware of and comply with applicable PSC and TB/MBC and Government directives.

9. Reporting Requirements

9.1 Annual Business Plan

The Commissioner will ensure that the Minister is provided with the Office's annual business plan, covering a minimum of 3 years from the current fiscal year, that includes a financial budget and a risk management plan, for approval within the timelines established by the Minister for this purpose.

The Commissioner is responsible for ensuring that the Office's annual business plan meets the requirements of the AAD.

The Commissioner will ensure that the business plan includes a risk assessment and risk management plan to assist the Ministry in developing its risk assessment and risk management plan information in accordance with the requirements of the AAD, to assess risks, develop and maintain necessary records and report to TB/MBC.

The Minister will review the Office's annual business plan and will promptly advise the Commissioner whether or not he/she concurs with the directions proposed by the Office. The Minister may advise the Commissioner where and in what manner the Office's plan varies from government or Ministry policy or priorities, and the Office will revise its plan accordingly.

The Commissioner is responsible for ensuring that the Office's business plan includes a system of performance measures and reporting on the achievement of the objectives set out in the business plan. The system must include performance goals, how they will be achieved, and target time frames.

In addition, the Chair of TB/MBC may require the Minister to submit the Office's business plan to TB/MBC for review at any time.

9.2 Annual Report

The Commissioner is responsible for ensuring that the annual report is submitted to the Minister for tabling in the Legislative Assembly. The Commissioner will submit the annual report to the Minister within 90 days of the end of the Office's fiscal year, which is April 1 – March 31.

The Commissioner will provide a copy of the annual report to the Minister. The Ministry is responsible for translation of the final report into French and for filing the report with the Legislative Assembly on behalf of the Minister, in accordance with the Standing Orders of the Assembly.

In accordance with the AAD, the Minister will post the report within 30 days of tabling the report in the Legislature.

9.3 Other Reports

The Commissioner is responsible for supplying specific data and other information, as may be requested by the Deputy Minister or Minister from time-to-time, for the purpose of Ministry administration within prescribed timelines.

10. Communications

The parties to this agreement recognize that the timely exchange of information and consultation is essential to success in discharging their respective responsibilities. Such exchange and consultation must respect the legislated function of the Commissioner.

“Communications” shall not be interpreted as including discussion or exchange of information about specific current, past, or future cases to be dealt with by the Commissioner.

The parties therefore agree that:

The Ministry will consult with the Commissioner, as appropriate, on broad government policy initiatives, legislation and regulations, public communications strategies, and publications being considered by the government that may impact on the Commissioner's mandate or functions:

- a. the Ministry will keep the Commissioner informed of the results of stakeholder and other public consultations and discussions;

- b. the Commissioner will consult with the Minister and/or Deputy Minister or the Deputy Minister's delegate on public communications strategies and publications, and all relevant planned events and issues that concern or can be reasonably expected to concern the Minister in the exercise of the Minister's responsibilities;
- c. the Commissioner will keep the Ministry informed of the results of stakeholder and other public consultations and discussions;
- d. the parties and/or their delegates will meet as needed, to identify issues of interest that would assist government in encouraging ethical behaviour among Ontario public servants;
- e. the Office and Ministry will adhere to the Communications Protocol set out in Schedule 3 to this MOU for ongoing issues management.

11. Administrative Arrangements

11.1 Applicable Directives of TB/MBC, PSC, and the Government

The Commissioner is responsible for ensuring that the Office operates in accordance with all TB/MBC, PSC and Government directives, as well as applicable Ministry financial and administrative directives, policies procedures and guidelines, as listed in Schedule 1 to this MOU. The Office and the Ministry will exchange information in a timely manner where needed to facilitate compliance, including in respect of the Office's continued use of electronic systems such as WIN and IFIS.

The Commissioner is responsible for ensuring that the legal, financial and other interests of the government in intellectual property are protected in any contract that the agency may enter into with a third party that involves the creation of intellectual property.

11.2 Administrative Support Services

- a. the Deputy Minister is responsible for providing the Office with the administrative and organizational support services listed in Schedule 2 to this MOU, and for negotiating with Ontario Shared Services concerning these services, as appropriate;
- b. schedule 2 may be reviewed at any time at the request of either party;
- c. the Deputy Minister will ensure that the support or services provided to the Office are of the same quality as those provided to the Ministry's own divisions and branches;
- d. the Deputy Minister will ensure that the Office is included in the Ministry's financial systems as part of the provision of corporate services.

11.3 Legal Services

- a. legal services to the Office will be provided by the Ministry of the Attorney General, in accordance with an MOU established between the Office and the Ministry of the Attorney General;
- b. the Office may request outside legal services when it requires expertise which is unavailable within the Ministry of the Attorney General or when the use of a law office of the Crown would result in any conflict of interest;
- c. outside legal services will be acquired in accordance with the Ministry of the Attorney General's "Operating Policy on Acquiring and Using Legal Services".

11.4 Freedom of Information and Protection of Privacy

The Commissioner is the institution head for the purposes of the *Freedom of Information and Protection of Privacy Act*.

11.5 Delegation of Human Resources Management Authority under the PSOA

Individuals in the Office with delegated or sub-delegated authority will be accountable to the PSC or the sub-delegating authority as appropriate, and will exercise that authority in compliance with any relevant legislation, directives or policies and in accordance with the mandate of the Office, and within the parameters of the delegated authority.

11.6 Records Management

- a. the Commissioner is responsible for ensuring that a system is in place for the creation, collection, maintenance, and disposal of records;
- b. the Commissioner is responsible for ensuring that the agency complies with the TB/MBC Management and Use of Information and Information Technology (I&IT) Directive, in conjunction with the Corporate Policy of Recordkeeping, as applicable;
- c. the Commissioner is responsible for ensuring that the Office complies with the *Archives and Recordkeeping Act, 2006*.

11.7 Client/Customer Service

- a. the Office will develop a formal process for responding to complaints about the quality of services received by clients of the Office consistent with the government's service quality standards;

- b. the Office's process for responding to complaints about the quality of services is not a mechanism for re-consideration or appeal of the Commissioner's exercise of his/her statutory power of decision;
- c. the Commissioner will ensure that the Office delivers services at a quality standard that reflects the principles and requirements of the OPS Service Directive;
- d. the Office's annual business plan will include performance measures and targets for client service and the Office's response to complaints.

12. Financial Arrangements

12.1 Funding

- a. the Office is funded from the Consolidated Revenue Fund pursuant to the government's annual Results-based Planning process and the Legislature's annual approval of the provincial estimates;
- b. the Commissioner will deliver estimates of the Office's expenditures for inclusion in the Ministry's Program Review, Renewal and Transformation to the Minister in sufficient time to be analyzed and approved by the Minister;
- c. the estimates provided by the Commissioner may, after appropriate consultation with the Commissioner, be altered as required. The parties acknowledge that TB/MBC has final decision-making authority;
- d. financial procedures of the Office must be in accordance with TB/MBC and Government directives and guidelines and other applicable government direction;
- e. when ordered to do so by the Minister of Finance and/or the President of the Treasury Board, pursuant to section 16.4 of the *Financial Administration Act*, the Office shall pay into the Consolidated Revenue Fund any money that the Minister of Finance determines is surplus to its requirements;
- f. pursuant to section 28 of the *Financial Administration Act*, the Office shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Government of Ontario without the written approval of the Minister of Finance and/or the President of the Treasury Board. The Minister's approval is required before seeking the Minister of Finance's statutory approval;
- g. the Commissioner will provide to the Minister annual financial statements, and will include them as part of the Commissioner's annual report;

- h. salary information will be submitted in accordance with the *Public Sector Salary Disclosure Act, 1996*.

12.2 Taxation Status

The Office is responsible for paying the Harmonized Sales Tax (HST) where applicable, in accordance with the federal *Excise Tax Act*. The Office recovers HST paid to suppliers through a centrally administered account maintained by the Office of the Provincial Controller.

13. Audit and Audit Review Arrangements

13.1 Audits

- a. the Office is subject to periodic review and value-for-money audit by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division (IAD) of Treasury Board Secretariat;
- b. the Internal Audit Division (IAD) may also carry out an internal audit, if approved to do so, by the Ministry's Audit Committee or by the Corporate Audit Committee;
- c. regardless of any external audit, the Minister or Deputy Minister may direct that the agency be audited at any time;
- d. the Commissioner will promptly provide a copy of every report from an audit to the Minister and the Minister of Finance as well as a copy of its response to the audit report and any recommendations therein. The Commissioner will advise the Minister annually on any outstanding audit recommendations;
- e. the Commissioner may request an external audit of the financial transactions or management controls of the Office, at the Office's expense.

14. Staffing and Appointments

14.1 Staffing

Staff working in the Office are employed under the authority of Part III of the PSOA, and are governed by MBC and PSC human resources directives.

14.2 Appointments

The Commissioner is appointed by the Lieutenant Governor in Council on the recommendation of the Minister, pursuant to section 14 of the *PSOA*.

15. Liability Protection

- a. the Office, and by extension the Commissioner and the staff of the Office, will be Protected Persons under the Government of Ontario General & Road Liability Protection Program covering third party liability where bodily or personal injury, death, or property damage including loss of use thereof is caused;
- b. the Office, and by extension the Commissioner and the staff of the Office, are participants in the province's Master Business Travel Accidental Death and Dismemberment Program.

16. MOU Effective Date, Duration and Periodic Review

16.1 Effective Date

- a. this MOU becomes effective on the date of its signature by the parties and continues in effect until it is revoked or a new MOU is signed by the parties;
- b. upon a change in the Minister or Chair, the parties must either sign a letter of affirmation that is attached to the MOU or sign a new MOU within 6 months of the change without affecting the effective date of the MOU, either the Minister or Commissioner may initiate a review of this MOU by written request to the other.
- c. full review and replacement of this MOU will be conducted immediately in the event of a significant change to the Office's mandate, powers or governance structure as a result of an amendment to the *PSOA*.

16.2 Reviews and Amendment

- a. mandate, powers, governance structure and operations, may be reviewed periodically as determined by and at the discretion and direction of TB/MBC or the Minister;
- b. the Minister or TB/MBC, as the case may be, will determine the timing and scope of the review, and assign responsibility for conducting the review;
- c. the Minister will consult with the Commissioner as appropriate during any such review;
- d. the review shall not include a review of the specific exercise of the Commissioner's procedural and substantive decision-making function in specific cases;
- e. the Commissioner and Executive director will co-operate in any review;

- f. where the Minister initiated the review, the Minister will submit any resulting recommendations for change to TB/MBC for consideration;
- g. if either of the parties deems it expedient to amend this MOU, they may do so only in writing. Any amendment shall only be effective after approval by the parties.

17. Signatures

Original Signed by:

Sidney Linden
Conflict of Interest Commissioner

March 17, 2015
Date

The Hon. Deb Matthews
President of the Treasury Board

March 25, 2015
Date

Schedule 1:

Applicable TB/MBC, PSC and Government Directives and Policies

These directives include, but are not limited to the following:

- Agencies and Appointments Directive
- Accountability Directive
- Advertising Content Directive
- Human Resource Management Directive
- Human Resource Delegation of Authority Directive
- Employment Policy
- Information and Information Technology Directive
- Procurement Directive
- Travel, Meal & Hospitality Expenses Directive
- Procurement Directive on Advertising, Public and Media Relations and Creative
- Communications Services
- Visual Identity Directive
- Management and Use of Information and Information Technology (I&IT) Directive, in conjunction with the Corporate Policy of Recordkeeping, as applicable
- Perquisites Directive

The Office is responsible for complying with all directives, policies and guidelines to which it is subject. The Ministry will inform the Office of amendments or additions to the directives, policies and guidelines that apply to the Office.

Schedule 2:

Administrative Support Services

The Deputy Minister is responsible for ensuring that the Ministry and/or OSS provide the following administrative support services to the Office:

- a. financial administration: pay and benefits administration; accounts payable and technical advice; purchasing; central mail and printing services; and records and form advisory services;
- b. human resources services: classification; advice and consultation regarding recruitment procedures and staff relations; job description writing; career counselling and staff development; and advice and consultation regarding corporate initiatives such as occupational health and safety, etc.;
- c. corporate learning and development opportunities and career planning services: available and open to Office staff and the Ministry must assist the Executive director in ensuring that these are communicated effectively to Office staff;
- d. information technology and telecommunications services: advice, consultation, and support;
- e. internal audit: financial compliance, management, human resources and information systems audits; operational reviews and special investigations as required;
- f. accommodation: planning, including lease renewals;
- g. freedom of information program services: the Ministry access and privacy coordinator will administer access and privacy files for the Office;
- h. French language services translation and interpretation services;
- i. business planning;
- j. performance measurement and program evaluation;
- k. communications and marketing.

Schedule 3:

Public Communications Protocol

Context

In the joint interest of effective communications and issues management, there will be one primary contact in the Ministry and Office. The Ministry lead is the Director of the Communications Branch, and the Office lead is the Executive director. The primary contact(s) may be modified in situations where timeliness will be compromised, and/or due to the sensitivity of the matter.

The Ministry will be the primary contact between the Office and other ministries/agencies on matters in which there is a mutual communications interest. However, this does not preclude the Office from contacting ministries/agencies directly to seek information on the matter in question.

The Ministry and the Office will work together, as appropriate, in preparing communications messaging. At a minimum, each will advise the other of final messaging.

Notification Process:

With as much notice as possible, but at least two days in advance, the Office lead will advise the Ministry lead via e-mail and/or telephone contact of impending press conferences, press releases, and of media interviews conducted or requested.

For non-contentious issues, the agency lead will notify the Ministry lead of opportunities to enhance the Ministry's or the agency's profile (e.g., upcoming media responses, news releases, and communications plans) and that may generate media interest fifteen days in advance. The agency lead will provide the Ministry lead with information for the ministry's consideration and for its use within seven days of the date of the opportunity.

Similarly, where the Ministry is aware of/participating in an opportunity to enhance the ministry's/agency's profile and that may generate media interest, the Ministry lead will notify the agency lead fifteen days in advance.

Where the agency intends to deliver a message, approval is required from the minister's office and shall be sought via the ministry lead. If the agency were not to receive comments or approval from the minister's office or ministry lead within forty-eight hours of the date on which the item is to be issued, the agency can proceed accordingly.

Contentious issues are those that may reasonably be expected to be of concern to the Legislative Assembly or the public or are likely to have direct implications for either the Ministry or the government, or are likely to result in inquiries being directed to the Minister

or government. For contentious issues the Office lead will notify the Ministry lead immediately upon becoming aware of the issue and will notify the Deputy Minister's office simultaneously. The Office must obtain the approval of the minister's office prior to issuing media responses or news releases that relate to a contentious issue.

The Ministry lead may also advise the Office lead of contentious issues that require attention. The Office lead will provide all required background information on the issue to the Ministry lead, who will arrange to have Ministry briefing material prepared.

When it is established that an inquiry received by the Minister or Ministry relates to a case in progress at the Office, the inquiry will be immediately re-directed to the Office without comment. Any response made by the Minister or Ministry to the inquiring party will indicate that the inquiry has been forwarded to the Office and that the Minister or Ministry cannot interfere with the Commissioner's mandate.

Briefing Material:

Office briefing material sought by the Minister and/or initiated by the Office will form the basis of the Ministry issues notes, house book notes, and other materials required as determined by the Ministry. The Ministry will share the final briefing materials (including those obtained from other ministries/agencies) with the Office.

Ministry Support:

The Ministry will provide communications and issues management support to the Office, is deemed appropriate by both parties. With respect to issues management, this will include providing the Office with information gathered through the Ministry's daily monitoring of the media and Hansard.

Visual Identity:

The Office will identify itself in all media responses and news releases as an Office of the Government of Ontario.