



Legislative Assembly of Alberta

The 29th Legislature  
Second Session

Select Special  
Ethics and Accountability  
Committee

Conflicts of Interest Act Review

Tuesday, August 16, 2016  
1 p.m.

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**Legislative Assembly of Alberta  
The 29th Legislature  
Second Session**

**Select Special Ethics and Accountability Committee**

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Miller, Barb, Red Deer-South (ND), Deputy Chair

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**Standing Committee on Ethics and Accountability**

**Participants**

Ministry of Justice and Solicitor General ..... EA-339  
Philip Bryden, QC, Deputy Minister  
Joan Neatby, Solicitor, Legislative Reform



**1 p.m.**

**Tuesday, August 16, 2016**

[Mrs. Littlewood in the chair]

**The Chair:** We'll call the Select Special Ethics and Accountability Committee to order. Welcome to members and staff in attendance.

To begin, I will ask that members and those joining the committee at the table introduce themselves for the record, and then I will address members on the phone. I will begin to my right.

**Ms Miller:** Barb Miller, MLA, Red Deer-South.

**Loyola:** Rod Loyola, MLA for Edmonton-Ellerslie.

**Mr. Nielsen:** Chris Nielsen, MLA, Edmonton-Decore.

**Cortes-Vargas:** Estefania Cortes-Vargas, MLA for Strathcona-Sherwood Park.

**Mr. Sucha:** Graham Sucha, MLA, Calgary-Shaw.

**Drever:** Deborah Drever, MLA for Calgary-Bow.

**Ms Renaud:** Marie Renaud, St. Albert.

**Mr. Fraser:** Rick Fraser, Calgary-South East.

**Ms Neatby:** Joan Neatby, Justice and Solicitor General.

**Mr. Bryden:** Philip Bryden, Deputy Minister of Justice and Solicitor General.

**Ms Trussler:** I'm Marguerite Trussler, Ethics Commissioner.

**Mr. Ziegler:** Kent Ziegler, office of the Ethics Commissioner.

**Mr. Taylor:** Wes Taylor, Battle River-Wainwright.

**Mr. van Dijken:** Glenn van Dijken, MLA, Barrhead-Morinville-Westlock.

**Mr. Cyr:** Scott Cyr, MLA, Bonnyville-Cold Lake.

**Dr. Massolin:** Good afternoon. Philip Massolin, manager of research and committee services.

**Ms Dean:** Good afternoon. Shannon Dean, Law Clerk and director of House services.

**Mr. Roth:** Aaron Roth, committee clerk.

**The Chair:** Thank you. On the phone I believe I have Member Connolly. Go ahead.

**Connolly:** Michael Connolly, Calgary-Hawkwood.

**The Chair:** Is Dr. Swann on the phone?

**Dr. Swann:** Hello. David Swann, Calgary-Mountain View.

**The Chair:** Is Mr. W. Anderson on the phone?

**Mr. W. Anderson:** Wayne Anderson, Highwood.

**The Chair:** Is that all of those joining us on the phone?

**Ms Jansen:** Sandra Jansen, Calgary-North West.

**The Chair:** Thank you.

Just a note that the official substitutions that we have for the record are Mr. Wes Taylor substituting for Mr. Jason Nixon and Mr. Rick Fraser, who is substituting for Dr. Richard Starke.

A few housekeeping items to address before we turn to the business at hand. A reminder, again, that the microphone consoles are operated by the *Hansard* staff, so there's no need for members to touch them. Please keep cellphones, iPhones, and BlackBerrys off the table as these may interfere with the audiofeed. Audio of committee proceedings is streamed live on the Internet and recorded by *Hansard*. Audio access and meeting transcripts are obtained via the Legislative Assembly website.

Up next is the approval of the agenda. Are there any amendments to be made to the agenda?

Seeing none, moved by Member Drever that the agenda for the August 16, 2016, meeting of the Select Special Ethics and Accountability Committee be adopted. All in favour? Any opposed? That is carried.

Next we have approval of the meeting minutes. We have the minutes from the August 10, 2016, committee meeting, that were posted to the website yesterday. Is there anyone that sees any errors or omissions in the minutes? If not, would a member move adoption of the minutes, please? Moved by Mr. Clark that the minutes of the August 10, 2016, meeting of the Select Special Ethics and Accountability Committee be adopted as circulated. All those in favour, say aye. Any opposed? That is carried.

Of course, as part of the review of the Conflicts of Interest Act the committee has agreed to invite three presenters to expand on their submissions to the committee. Each presenter will be given 10 minutes to speak, and we will then open up the floor for committee members to ask questions of the presenters for 60 minutes. If committee members wish to have additional time for questions to our presenters, with the will of the committee we can look at extending that beyond the set time of 60 minutes at the appropriate time.

I would remind our presenters that if you wish to supplement your responses to the committee members' questions, you can send any follow-up material to the committee clerk, Mr. Aaron Roth, or to Jody Rempel, who will ensure that the members receive the materials.

With that, I would like our presenters to please introduce themselves now for the record.

**Mr. Bryden:** Philip Bryden, Deputy Minister, Justice and Solicitor General.

**Ms Trussler:** Marguerite Trussler, Ethics Commissioner.

**Mr. Fraser:** Rick Fraser, MLA, Calgary-South East.

**The Chair:** I would ask at this time Mr. Philip Bryden, Deputy Minister, Justice and Solicitor General, to begin with your presentation, please.

#### **Ministry of Justice and Solicitor General**

**Mr. Bryden:** Thank you very much, Madam Chair. It's a pleasure to be here today. This is the second opportunity that I've had on behalf of the public service to speak to members of the committee about the Conflicts of Interest Act. In part, my reason for wanting to come here this afternoon is that Commissioner Trussler and my office and the Public Service Commissioner's office put together a joint submission that was a supplement to our original submission to the committee. It was designed to try to identify areas of agreement or at least areas where we thought there was alignment

in our views and, in a small number of instances, to identify areas where there was a continuing difference of opinion.

The commissioner's office very kindly put together a comparison table that identified the key recommendations from the commissioner's original submission and then where there were areas of agreement from the government submission and where there were still continuing areas of difference of opinion. If you look at the comparison table, I think you'll see that it lists 31 recommendations, 15 of which are touched on in both the GOA submission and the commissioner's submission and 12 of which are areas of agreement, so there is a very substantial degree of agreement between our views and the commissioner's views.

There are three areas that I think deserve some attention and where I would like to address our perspective – and I'm sure the commissioner will address her perspective as well – and that's the whole area of gifts from lobbyists, financial disclosure from direct associates. One of the areas that is mentioned in the comparison table is an area where work is ongoing, designated office holders from agencies, boards, and commissions. We made some progress on that, and I'll speak to that as well.

I did want to take the opportunity at the outset of my remarks to emphasize what I think is the most important area of agreement between the commissioner's submission and our submission, and that's the desirability of overall alignment between the conflict-of-interest provisions in the Conflicts of Interest Act and the rules governing conflicts of interest in the Public Service Act. We have two acts that have parallel but somewhat different provisions. One, the Conflicts of Interest Act, covers members of the Legislature and political staff, and the other, the Public Service Act, covers designated office holders, which includes not only senior public servants but also designated chairs and CEOs of agencies, boards, and commissions.

I believe that the point that we want to make in terms of alignment is that where there are no meaningful differences between the different roles that are covered by the act, we think the rules ought to be the same, but where there are meaningful differences, it may be useful to consider different rules for different positions, based on the nature of the differences in those roles.

In our view, one of the most important areas where alignment would be helpful is with respect to administration. Our view is that the commissioner and the commissioner's office have expertise in the area of administration of conflict-of-interest rules, and it would be desirable to have the commissioner have overall administrative authority in relation to those areas, including the ability to give authoritative advice and guidance to individuals who are designated office holders in the public service or in the agencies, boards, and commissions. We think that that would be a major step forward.

There are, potentially, different ways of accomplishing that goal. One is to look at integrating the provisions dealing with designated office holders, that are now in part 2 of the Public Service Act, into the Conflicts of Interest Act. The other possibility would be expanding the role of the commissioner in the Public Service Act.

**1:10**

It seems to us that there are a number of areas where there aren't necessarily meaningful differences among those different groups of people who are covered by the two acts. You know, the basic principle is that people shouldn't be making decisions where their private interests are in conflict with their broader interest to the public, and of course it's important to carefully define what we mean by private interests. There are some situations where, inevitably, a private interest is involved. When members are voting on their salaries or expenses, their private interests are involved, but we can't have a conflict-of-interest rule that prohibits you from doing

that kind of thing. We think that those basic rules apply in the public service context as well. We think the reporting obligations ought to be parallel obligations.

There are areas with respect to gifts that possibly present some challenges, but overall it seems to me that alignment of gift rules makes a great deal of sense.

On the other hand, rules with respect to postemployment restrictions I think are potentially problematic in the agency, board, and commission setting, and there are two somewhat different reasons for that. One is that we don't have a consistent nomenclature for positions of people in agencies, boards, and commissions. We have some chairs of boards who are the chief executive officer of the board. The chair of the Labour Relations Board is both the chief adjudicator for the Labour Relations Board and the chief executive officer.

But there are other situations in which the chair of the board is chair of a governance agency, and the chief executive officer is someone completely different; Alberta Health Services, for example. The CEO of Alberta Health Services has a full-time job being the CEO of that very large and significant organization. The chair of the board is the chair of a governance organization that doesn't involve itself in day-to-day operation of the agency. But to describe her as someone who ought to have postemployment obligations seems a little bit strange because she's not actually an employee. Why we would want to restrict somebody that has been recruited to that role from engaging in activities when they have ceased in that governance role is not self-evident to me, but the rules are that if you're designated, the postemployment restrictions apply to you.

The commissioner has recommended, as a general proposition, that those rules not include postemployment restrictions for people in the ABC sector and that, instead, those restrictions be identified in the codes of conduct for members of those agencies.

The second point is related to that last observation, and that is that all agencies under the Alberta Public Agencies Governance Act are required to have codes of conduct. But those codes of conduct are approved by individual ministers, and the codes of conduct don't necessarily have postemployment restrictions defined in them. In fact, in my experience, it's unusual to see those things.

I agree with the commissioner that it would be desirable, if we're going to have postemployment restrictions, to have those tailored to what's appropriate to the specific agency in the code of conduct of that particular agency. That's not a practice that's used very much at the moment.

Between an across-the-board rule that there are postemployment restrictions everywhere and a rule where the postemployment restrictions are in the codes of conduct – and the codes of conduct are a little bit erratic – I'd probably opt for the second option rather than the first. Yeah, the first is where we currently sit.

Just two other brief points. One . . .

**The Chair:** Sorry, Mr. Bryden. Would you be able to wrap up quickly on your other points?

**Mr. Bryden:** I'll just mention the two areas of disagreement, and then we may get into it in the question period. One is the area of gifts from lobbyists, and the other is reporting obligations with respect to direct associates. The commissioner will no doubt give her views on that, and if you have questions for me on our views, I'll be happy to respond to your questions.

Thank you.

**The Chair:** Thank you very much.

I will just open up the floor now to questions for Mr. Bryden. Mr. Nielsen.

**Mr. Nielsen:** Thank you, Madam Chair. Thank you all for coming today. I know that time is always of the essence, and I certainly appreciate the time that you've taken to come down and share with us. Just a couple of questions for you. Could you explain the reasoning behind keeping the status quo around compelling disclosure and imposing administrative penalties on associates?

**Mr. Bryden:** Certainly. The challenge, as I see it, is that people who are direct associates are both independent from the individuals who are governed by the act and interrelated with them. It used to be that when women got married, their property became their husband's property, and you treated those two people as if they were the same person, with the husband being dominant. You know, we're not suggesting that that would be the result of treating direct associates as people who would have direct reporting obligations. But I think there is something to be said for the idea that if you choose to run for a seat in the Legislature and I choose to take employment as a deputy minister, our spouses didn't necessarily make that choice, so the obligations with respect to reporting should be on us rather than on them. That's the line of argument that I would use for maintaining the status quo.

**Mr. Nielsen:** Okay. Thank you.

I know that you already touched on this a little bit earlier in your remarks – and I don't know if there are any further remarks you want to expand on – but with regard to provisions for the cooling-off periods for CEOs and chairs of provincial agencies, is there anything, maybe, further that you want to add outside of what you've already shared with us?

**Mr. Bryden:** I think the main points were the ones that I wanted to make. This is a very tricky area because you are recruiting people into these positions. You know, it's fairly common that they're temporary positions, so you have to ask yourself: if you're making restrictions that are onerous, will that reduce the public's ability to get the best people to serve in those kinds of roles, and what purpose is actually being served by having blanket restrictions on how long people can take employment or do other things in relation to organizations that they did business with while they were chair?

**Mr. Nielsen:** Okay. Just one further question, Chair. You recommended keeping the provision on blind trust and investment agreements for deputy ministers and designated office holders, contrary to what the Ethics Commissioner recommended. Would you mind expanding on that, please?

**Mr. Bryden:** I'm not sure that we are in disagreement on that. We simply said that blind trusts can be a useful tool. There shouldn't be a requirement to use a blind trust. I think that was consistent with the views of the Ethics Commissioner.

**Ms Trussler:** Right now it's mandatory for deputy ministers to use a blind trust. Some will want to keep their publicly traded shares and put them into a blind trust, but for others who only have one or two shares that would never be relevant to what they're doing, it seems to be a bit of a waste of the taxpayers' money to make them put them into a blind trust when I can give them an exemption. I just thought that we should leave that up to the individual's choice. If they have shares that could affect their work, then I would be saying to them: either you put these in a blind trust, or you sell the shares. We wanted to have a little bit more flexibility there.

1:20

**Mr. Nielsen:** Awesome. Thank you so much.

**The Chair:** Are there any further questions? Mr. Cyr.

**Mr. Cyr:** Thank you. Can you go more into detail on the differences that you had mentioned? It looks like one of them is not exceeding \$100 for donations, and the other one is the annual disclosure process.

**Mr. Bryden:** The gifts from lobbyists: let me begin addressing gifts from lobbyists by asking the committee to think about whether in principle there's a difference between a gift that comes from a lobbyist and a gift that comes from a corporation, an individual, and if so, what that meaningful difference is. I think it's fair to say that the issue is not so much related to gifts of objects but to gifts that are associated with attendance at events. One of the challenges when you have different gift levels for different people is that the event may be such that, for example, a member could attend, but the member's political staff couldn't attend, or a minister could attend, but the deputy minister couldn't accompany the minister. Having a consistent set of rules across the board, I think, is useful.

Then the issue specifically with respect to lobbyists is: is there that difference in the committee's mind? What difference does it make in terms of what the level would be? The commissioner is recommending a kind of \$100 limit for lobbyists, that would be lower than the limit for other people. Then there's the challenge of: how do you identify a person as a lobbyist, and what's the key time frame? I'm not saying that the administration would be impossible, that you couldn't identify, say, the time of the invitation as the key time frame for whether or not somebody has registered as a lobbyist, but it makes life more complicated for members and other people who are covered by the act. I'm not sure that the benefits in terms of serving the goals of the act are sufficient to justify the different types of rules.

Another alternative, if the Legislature were to think that lobbyists should be restricted, is to think about putting restrictions on the lobbyists in the Lobbyists Act as opposed to on the recipients of the gifts, but I'm sure the commissioner will be able to articulate her views on why she thinks I'm wrong about this.

The other issue was direct associates, and I think I responded to that with respect to Mr. Nielsen's question. I don't have anything further to say on that.

**The Chair:** Dr. Swann.

**Dr. Swann:** Thank you very much. I'd appreciate further discussion around the chairs of the agencies, boards, and commissions. You drew a distinction between chairs who are independent of the operations to some extent, where there's an executive director, and ones that aren't. I'm wondering how, for example, you would view the chair of an agricultural service board who is not the executive director but then moves into a position, a hired position with government after leaving that chair without any cooling-off period, I guess you'd call it. Explain a little about why you think those that are not directly involved should not necessarily be subject to a cooling-off period.

**Mr. Bryden:** Well, from my perspective, when we're looking at recruiting people for the roles of chairs or CEOs of agencies, we have to think about the fact that people are often doing this as a stage in their career and that we anticipate that they might do something that is closely related to what they would have done during their role as chair or CEO of an agency. To restrict them from doing that may be unfair to them but also and, from a public

policy standpoint, more importantly may unduly restrict the ability of Alberta to recruit the people who are best suited to those roles.

When someone runs as a member of the Legislature, the operating assumption is that at some point they may go back to their original career as opposed to a career in government, so some sort of cooling-off period may be useful as a way of signalling to the public that people didn't take advantage of the fact that they were elected to put themselves in a situation where their employment prospects are improved. That's the rationale for the cooling-off period.

From my perspective, I'm not convinced that the rationale is the same in respect of all chairs and CEOs of agencies, boards, and commissions. There may be some where there's an argument to be made about that, but as Commissioner Trussler suggests, one way of dealing with that is to tailor it to the rules that would be in their codes of conduct and make individualized distinctions about different agencies that would be appropriate. I think that that would be an improvement on the kind of blanket rule that we have now, which is that if you're designated, you're designated for all purposes.

**Dr. Swann:** Very good. Thank you.

**The Chair:** Ms Renaud.

**Ms Renaud:** He actually just answered my questions.

**Mr. Cyr:** I'd love to hear the Ethics Commissioner on those two points of difference of opinion, and that's what I was actually trying to identify.

**Ms Trussler:** You'd like me to just go through my . . .

**Mr. Cyr:** The two differences, for sure, the lobbyists and the spouses.

**Ms Trussler:** Okay. Well, with respect to the gifts from the lobbyists I have to say that I find it quite unseemly that people who are lobbying the government for any number of reasons, for their own benefit or a client's benefit, invite members to expensive functions such as galas, dinners, golf tournaments, suites at hockey, Stampede boxes. Now, on the other hand, I don't think there's a problem with inviting members to functions that are normally held at the Matrix or the Glenora club where industry groups make their pitch accompanied by a drink and a light refreshment.

Now, I'd understood that at the federal level nothing was allowed, but I've been looking at a recent interpretation bulletin that indicates that small things like coffee, lunches are involved. What I'm proposing is a limit of \$100 on gifts from lobbyists. That leaves nothing to interpretation – you know the exact amount – and it does allow lobbyists still to offer modest hospitality to members. From my point of view, it's really easy to ascertain who is a registered lobbyist by looking at the lobbyist registry. Our office is always happy to assist, to tell you whether they are or not. If on the date you accept an invitation, they're not a registered lobbyist, if they later register, you can still go. It's just the date that you accept the invitation. But I just think that there are serious problems with gifts from lobbyists. So that's the first one.

The second one is on the ABCs. Let me just find it. I have a few notes here.

1:30

**Mr. Cyr:** The direct associates.

**Ms Trussler:** Oh. You want to talk about the direct associates?

**Mr. Cyr:** But I would like to hear about the ABCs as well.

**Ms Trussler:** Okay.

**The Chair:** We will have the opportunity for Ms Trussler to present and then ask her questions later, because right now we only have about five minutes left for members to ask questions. Just a note.

Did you want to ask later?

**Mr. Clark:** I will, yeah.

**The Chair:** You're next on the list.

**Mr. Clark:** I will defer till later. Thank you.

**The Chair:** Okay. Are there any further questions of Mr. Philip Bryden?

Okay. We will move on to the presentation from Ms Trussler.

### Office of the Ethics Commissioner

**Ms Trussler:** Thank you for inviting me to speak today. As Deputy Bryden mentioned, we have worked together on some of these issues. I'm going to only speak on the areas where we do not have complete agreement or what I might call murky areas. The deputy has just touched on some of them. I think I've just told you what I feel about gifts from lobbyists, so I'm just going to jump over that one and get into this issue of alignment.

I do think there's a serious problem in alignment with the provisions amongst the members, the political staff, and the designated office holders. Again, I agree with Deputy Bryden. We don't think they should all be treated the same, but at the moment the members and political staff are covered in one act, the designated office holders in another. On top of that, with respect to gifts the political staff provisions are in a code of conduct. Likewise, designated office holders who are part of the public service are covered for gifts in yet a different code of conduct. Then designated office holders who are chairs or CEOs of agencies, boards, and commissions all are supposed to have their own codes of conduct. So we have little bits and pieces all over the place.

One of the really interesting things is that the two codes of conduct, the one for the political staff and the one for the public service, have administrators that are not me, but I get called with questions and requests for approval for gifts. From my point of view, it would be preferable if they were under my jurisdiction on these issues as I'm already fielding the questions.

I would like to see all of the conflict-of-interest provisions in one act because I think that makes them clear. It makes them easily accessible. It makes it easier to see the differences between the three groups.

As well as being in one act, there should be some provision so they're aligned so they can be workable. For example, a minister may be invited to a gala fundraiser put on by a registered charity. Under section 7 of the act the minister may accept the invitation no matter what the cost of the ticket. Now, if the minister is going to be speaking at this function and wants to be accompanied by a staff member, unless the ticket is under \$200, the staff member cannot attend even if the minister needs the staff member with him or her because there is no exemption for staff members for registered charities. There are some instances where a minister is not able to attend a function and wishes the deputy minister to attend. These are situations where it's a nonpolitical-type event. In most cases, because of the way the codes are written now, the deputy minister cannot accept the invitation.



I'm not proposing that limits be raised across the board for deputies or for political staffers, but there should be some provision that deputies can attend if they're attending at the request of and instead of a minister and that political staff can accompany the minister when it's a legitimate working assignment, where the minister actually needs the staff member with them.

I'm also not proposing that the postemployment provisions be the same. However, the same sort of terminology and wording should be used, and quite frankly the language that's presently in the act desperately needs to be in plain language. What I propose is that ministers have a two-year cooling-off period, political staff stay at one, and that the public service be whatever is recommended by the Public Service Commissioner.

Now, with respect to the heads of agencies, boards, and commissions it's my belief that the cooling-off period should be specific to the business of the agency, board, and commission. For example, the CEO and chair of a board should be able to apply for other positions within government without a cooling-off period as long as it's an open competition, but there should be some restrictions relating to taking a position or being on the board of a stakeholder of that agency, board, and commission.

Let me give you an example just to make it a bit clearer. The CEO and board members of, for example, AGLC should not be able to take a position with a gaming company or a liquor company for a period of one year from when they leave their job or when they leave the board. I think that sort of clarifies or maybe makes it a bit more nuanced as to how we feel this should be dealt with, and that should actually be in the agencies', boards', and commissions' codes of conduct.

Postemployment for political staff. There's a bit of a loophole in the act, that I want to bring to your attention. At the moment section 23.7(6) is the section dealing with postemployment for political staff. It allows political staff to accept public service employment "in accordance with Part 1 of the Public Service Act." The difficulty is that there is a provision in part 1 of the Public Service Act, section 16(3), which allows in some circumstances for people to be appointed without competition. Now, the result is that a minister who, for example, is not going to run again could arrange to have a political staff member be given a public service position without a competition. It seems to me that this is an abuse of the provisions.

As a result, I'm recommending that section 23.7(6) be amended so that political staff members are only allowed to take employment in the public service after an open competition. From a recent conversation I had with the office of the Public Service Commissioner, I believe that she's in agreement with me on this issue.

The next area I want to deal with is that of privilege. One of the issues that arose in the original Redford investigation was the refusal to give the then commissioner documents that were legally privileged. There were valid reasons for doing so because if the documents were given to the commissioner, then the privilege is waived and the tobacco companies could have demanded them, but I'm of the belief that not having the documents severely hampered the initial investigation. What I'm suggesting is that there be a provision which allows all of the documents to be released to the Ethics Commissioner but that the legislation provide that any documents given to the Ethics Commissioner do not waive any legal privilege. Now, I think Justice is working on this area. I haven't seen huge amounts of progress, but having this change is really essential to carrying on investigations.

The next one is the inclusion of chairs and CEOs of ABCs. Expanding the number of ABCs that report to my office was first raised in the fall of 2014. I proposed a list of those to be included, but in subsequent conversations with Justice and CHR the list

changed. Some of those I proposed, it was agreed, don't need to be included, but it was suggested that a number on my list should be included. Justice did a very thorough and thoughtful risk analysis, and I'm in agreement with that list that Justice has.

Have you provided it to the committee?

**Mr. Bryden:** No.

**Ms Trussler:** It's something that could be provided.

There were one or two that we agreed to discuss at a later date – for example, the Workers' Compensation Board – but overall there was consensus, and I would appreciate a very strong recommendation that the list that currently reports to me be expanded. With respect to the ABCs, as I said, I'm only looking for financial disclosure, but I would like some oversight with respect to their codes of conduct so that they all have appropriate provisions for gifts and postemployment that are tailored to those ABCs.

**1:40**

The next one is the direct associate reports. This is kind of a little thing, but it's been a bit of a problem. The direct associate reports for MLAs are sent to the Treasury Board, and these reports are checked against contracts awarded and payments made by the government to ascertain if direct associates are receiving government payments. However, for political staff, under the legislation the reports are only sent to the ministers, who often call and say: what am I supposed to do with these? I would recommend that political staff direct associate reports also be sent to the Treasury Board so that a conflict check can be done for contracts and payments made to the direct associates of political staff.

The final item is the financial disclosure of direct associates. At the moment there is nothing in the act that compels direct associates to provide me with financial disclosure, and there are no penalties if they do not. This has not been a problem with members, with one exception that was resolved although another may be looming, has never been a problem with deputy ministers and other senior officials, but there has been considerable push-back with other designated office holders. What I would like to see is a legislative requirement that direct associates provide financial disclosure and there be the ability to impose an administrative penalty if it's not provided.

I should have some discretion because you may be in situations where there's a divorce in the works and the other side is not prepared to provide the disclosure. There should be some discretion, but in most cases I think it's very important to have that provision, particularly with the designated office holders.

Thank you.

**The Chair:** Thank you.

With that, I will open it up for questions.

**Ms Miller:** Thank you all for coming. I know you guys are extremely busy. What is your take on the definition of private interest in section 1(1) of the act? Does it concur with what is seen in other jurisdictions?

**Ms Trussler:** In most jurisdictions, as in ours, private interest is defined in the negative. The only place where I saw a difference, where it was defined more positively, is in the federal legislation. What it does, I think, is that it narrows it down a bit, gives it a bit more certainty.

**Ms Miller:** Thank you.

One more question if I may, Chair.

**The Chair:** I'll just move it to Mr. Clark, and then I'll come back to you.

**Ms Miller:** Okay.

**The Chair:** Mr. Clark.

**Mr. Clark:** Thank you very much, Madam Chair, and thank you again to all of you for being here. I just wanted to expand a little bit, briefly, on the lobbyist piece. You talked about consolidation. I believe you said that you envision consolidating all of this under the Conflicts of Interest Act. Is that correct? Where do you think this should live ultimately, legislatively?

**Ms Trussler:** Well, I think it's really up to the members in the Legislature to decide finally what the outcome is, depending on the recommendation of this committee. I believe it would be more transparent and clear for people if all of the conflict-of-interest provisions were in one act, whether they relate to members, ministers, political staffers, or designated office holders, rather than being in two acts and two codes of conduct.

**Ms Miller:** From previous investigations done by your office, roughly how many concluded that there was a breach, and of these, how many include recommendations for sanctions?

**Mr. Ziegler:** Our office has done a number of investigations over the years. I don't believe we have any stats that we could currently give you on that, but we can certainly go back to the beginning. I think the office was first established in about 1992, if I'm correct. We could probably go back and pull some statistics for you if the committee would like that.

**Ms Miller:** That would be wonderful. Thank you.

**The Chair:** Mr. Clark.

**Mr. Clark:** Thank you again, Madam Chair. To the commissioner: you alluded earlier, or at least I thought I heard you allude earlier. There's a question of perhaps reversing the onus or even having perhaps a dual onus in having some limitations or consolidation within the Conflicts of Interest Act but perhaps also having some provisions in the Lobbyists Act which clarify the roles and responsibility of the registered lobbyist in terms of offering certain things rather than it being the onus on just the members or deputy ministers to choose whether or not to accept something. Can you speak a bit to that? Do you feel both? Is it belt and braces? Do we need to do both?

**Ms Trussler:** The Lobbyists Act is currently under review. They're just starting it, and I'm going to be making the same recommendation, so it's on both sides.

**Mr. Clark:** Good. I'll see you there.

**The Chair:** Just before I move further, is there anyone on the phone that would like to be added to the speakers list?

**Cortes-Vargas:** What is the take of the commissioner on the provisions in the act that grant the commissioner power to exempt individuals from a cooling-off period? Back to that kind of question that he was talking about before. You were saying that there's a little bit of difference, but can you kind of expand on that, on the cooling-off period?

**Ms Trussler:** There is a provision for exemptions on cooling off. I've never given one. I think it's only for extraordinary

circumstances because sometimes these things arise, but I have not seen one as yet in terms of those exemptions. My main concern on the cooling off is the one with respect to political staff.

**Cortes-Vargas:** Okay. Thank you.

**Dr. Swann:** Thanks very much for this overview. Can you clarify for us? I gather that one of the roles of the Ethics Commissioner that now you're looking for support for is to establish consistent codes of conduct in all agencies, boards, and commissions as well as government services. What is the nature of the sanctions? Would that depend on each individual department to establish its own sanctions for those who breach codes of conduct? Is that part and parcel of codes of conduct, what the consequences of breaching those codes are? Would you be involved in that review as well?

**Ms Trussler:** Each of the ABCs is supposed to have a code of conduct. As Deputy Bryden mentioned, some of them have provisions; some don't. I can speak from experience with the AGLC code of conduct. They had a gift provision in there. They also had a provision of a cooling-off period of six months for being on the board or working for a liquor company or a gaming company. I cannot remember off the top of my head what the provisions were if you breached the code of conduct, but each of these . . .

**Dr. Swann:** I guess part of what I'm asking here is: will you have some influence on the sanctions, or will you simply be asking that they have them there?

**Ms Trussler:** That's what I would be asking for, some authority to review their codes to make sure that they've got appropriate ones for their particular area and that they have proper sanction. Now, if the committee wants to give me the jurisdiction to actually do an investigation if someone has breached their codes, I'm happy to do it, or they may want to have a compliance officer on their board or in the employment of that agency, board, or commission. It's really up to the committee to decide how they want this administered, but I would be happy to do it if need be.

**Dr. Swann:** Thank you.

**The Chair:** Ms Miller.

**Ms Miller:** Yes. My next question is a two-part question. The first part is: how do the provisions around cooling-off periods in Alberta compare to other jurisdictions?

**Ms Trussler:** I can't speak to the other provinces, but I know that the cooling-off period in Ottawa for ministers is five years.

**Ms Miller:** Okay.

**Ms Trussler:** I think that's too long, and I think the Ethics Commissioner in Ottawa would probably agree. But one year, I believe, is too short. So I was looking for something a little bit more onerous than one year but not as horrific as the five years.

*1:50*

**Ms Miller:** Okay. You answered the other part of my question already. Thank you.

**The Chair:** Mr. Fraser.

**Mr. Fraser:** Yes. Thanks for your presentation today. Help me a little bit. Maybe I'm just not aware. With cooling-off periods for ministers and people that hold public office to some extent, if they were to take a job clearly after the cooling-off period in, like you'd

mentioned, an open competition, would it make sense if there was some accountability around continuing to have to report after you leave the office? So there would be kind of a trail of what happens after public service, where, for instance, they would be reporting what kind of gifts they would get, those types of things, for a certain amount of time, that maybe helps facilitate that cooling-off period. Does that make sense?

**Ms Trussler:** That would be very difficult, but I can tell you that in some jurisdictions when the minister takes employment after no longer being a minister, during the cooling-off period the ex-minister actually has to get approval of the Ethics Commissioner before they can take the position.

**Mr. Fraser:** I see. Okay.

**Mr. Ziegler:** I might also add to that question, Member Fraser, that historically in our office, when members are no longer Members of the Legislative Assembly, they are required to submit a final direct associate report sometime after the end of their term. We have in the past experienced some challenges with getting former members to comply with that once they are no longer members. That's just an added piece that makes it tough.

**Cortes-Vargas:** I can also ask this to our research staff when they do their cross-jurisdictional study, but I'm just curious if you know this. In other jurisdictions do they have provisions to compel direct associates to provide financial disclosures?

**Ms Trussler:** No. I'm not aware of it.

**Cortes-Vargas:** You're leaning towards the no as kind of – I'll ask this of the research ones.

**Mr. Cyr:** I'm curious. What exactly is a direct associate in the definition here? Is that your spouse and children? Is that an associated party? Or is that your grandmother?

**Ms Trussler:** It's much less than that:

- (a) [the Member's] spouse or adult interdependent partner,
- (b) a corporation having share capital and carrying on business or activities for profit or gain and the Member is a director or senior officer of the corporation,
- (c) a private corporation carrying on business or activities for profit or gain and the Member owns or is the beneficial owner of shares of the corporation,
- (d) a partnership
  - (i) of which the Member is a partner, or . . .
- (e) a person or group of persons acting with the express or implied consent of the Member.

It's basically your spouse or any business that you've got, business activity that you're involved in.

**Mr. Cyr:** Just to be clear – we've been doing ethics for quite a bit here – this wouldn't include campaign managers and the CFOs, say, if you're on the local constituency board.

**Ms Trussler:** No.

**Mr. Cyr:** No.

**Ms Trussler:** Now, there are some other sections in the act, under obligations of members, that actually go a little bit further, that you can't do something, make a decision, or take part in a decision where it will further the private interests of the member, a person directly associated with the member, or the minor or adult child. There are some of the other provisions that take it a bit further than

the definition that I gave you under direct associate. They add others in, but a direct associate is actually quite narrow.

**The Chair:** Mr. Clark.

**Mr. Clark:** Thank you very much, Madam Chair. I want to dig a little deeper into the idea of requiring former ministers to obtain postemployment approval but also the consequences for not doing that or the consequences for breaching the cooling-off period. I guess I'll ask a dual question. What are the consequences currently? If they're a former member or a former minister, how can you enforce that? In the same way as if you're a former member and you don't file your final direct associate report – you're no longer a member – what are the consequences?

And a related, I suppose, slightly separate question, but the related question being on ministers failing to obtain the written approval – your proposed revision – guilty of an offence and liable to a fine not exceeding \$50,000. I suppose there could be some scenarios where someone says: well, I guess \$50,000 is the price I pay to take this high-paying job; perhaps a perception hit because it's out in the news media that I've done so. But beyond a financial penalty, I guess, I'm curious what power you feel you ought to have or that may exist elsewhere to actually compel compliance with the act.

**Ms Trussler:** There's just the financial penalty of the \$50,000. That's all there is right now.

**Mr. Clark:** What is there currently? Is it the same thing?

**Ms Trussler:** Actually, they're guilty of an offence, so Justice would have to bring a prosecution. It would have to go to court. Then the limit on the fine would be \$50,000.

**Mr. Clark:** Is that the current provision?

**Ms Trussler:** Yes. It's under section 23.12.

**Mr. Clark:** Okay. Thank you.

**The Chair:** Any further questions?

Seeing none, I think we'll just take a five-minute break and come back at 5 after 2 to hear from Mr. Rick Fraser.

[The committee adjourned from 1:57 p.m. to 2:05 p.m.]

**The Chair:** I'm going to call the meeting back to order now. If members wouldn't mind taking a seat.

Previous to this meeting we had invited Mr. Rick Fraser, MLA for Calgary-South East, to make a presentation to the committee regarding the Conflicts of Interest Act.

Mr. Fraser, I will hand it over to you for 10 minutes to make your presentation.

**Rick Fraser, MLA**

**Mr. Fraser:** Thanks, Madam Chair, and thanks, Members, for allowing me to come and speak about my submission regarding the Conflicts of Interest Act. I also wanted to for the record thank the Health Sciences Association of Alberta, Elisabeth Ballermann and Mike Parker. They were helpful in terms of conversations around my submission, and I do believe that they've also submitted a very similar submission to mine. In part of their submission this is in there as well.

Essentially, this is really about making sure that democracy in Alberta, particularly in the Legislature, is well rounded. I think we've had the good fortune over many years to see people from all

walks of life be able to obtain office. I think we also recognize, you know, that prior to obtaining office, we understand there's quite a bit of sacrifice that we take on to hold this office or to try to obtain this office and keep it. There's certainly a challenge afterwards. I think we can all recognize that from what we do in the Legislature, there are clearly outcomes to our decisions. Sometimes, whether you're a government member or a voting private member on a committee, you're making tough decisions that affect Albertans, so after your career in elected office it can be difficult, based on some of the tough decisions you may have had to make here as an elected member.

Regarding the Conflicts of Interest Act, you should have received – I believe there were two documents handed out to everybody. You see my submission there. It does outline the challenges, and it's surrounding: what is a Crown corporation, and what is not? I think that if you look at the definition of a Crown corporation on Wikipedia or other institutions like the University of Alberta, in fact nowhere in Canada is a health organization like Alberta Health Services listed as a Crown corporation, including in Alberta. But the way that the act reads makes it unclear, which I think has affected people in the past and can affect people in the future around this one particular government employer.

I think we can recognize, too, that people who work on the front lines in Alberta Health Services and other agencies, whether it's teachers, play a significant role because they are part of the government at an arm's length serving the public. I do believe that people who choose to serve the public before they obtain this office, whether they go to school, whether they're a nurse, a paramedic like myself, police officers, should be commended. It shouldn't come with a penalty once you obtain this office. That's what can happen here, and I think it limits our ability to perform effective democracy.

When people evaluate, when they're going to take this job, if they know that they're going to have to walk away from their pensions, their career and stop practising, they may choose not to do that. They may not choose to come in. I think we can all agree that if you're a first-time member or, like myself, in a second term, there's a lot more to this job that we don't anticipate, particularly around social media, the time involvement. People will weigh that. What I don't want to see is us limit the ability of people such as nurses, paramedics like myself, all public servants. I don't want to make it harder for them to choose to take on this role, because we need those voices in this Legislature to make it well rounded. I think that if we limit that, we limit our potential in Alberta.

I don't want to speak too much more around it, but I think the bottom line is that if we can make sure that those folks – and of course these are all subject to union agreements, negotiations with their employers, and also always subject to the Ethics Commissioner in terms of a one-on-one conversation to make sure there is no conflict of interest.

I've had a conversation with the Ethics Commissioner on this, and for anybody who does serve as a nurse, a paramedic, she doesn't believe there is a conflict of interest, but the way the act reads netted a particular outcome, and we want to avoid that in the future. My hope is that this committee would be able to basically ensure that those folks that are part of the SUCH-sector organizations – school boards, universities, health care facilities, hospitals, and colleges – are carved out. We should encourage all employers to allow those members to come back, to obtain their role back again. Again, if you're in the corporate environment, corporations do benefit from having somebody serving in the Legislature and being able to come back and provide feedback and terms. We want to make sure that that's equal for our public sector.

You know, I also don't want to exclude ranchers and farmers, but the way the act reads, I do believe that they have carved out

ranchers, particularly around ranging leases, I believe, for serving members. So, in fairness, I think that if we could do this, it would help those members that serve on the front line in health care ensure that they're not incurring a penalty. I would also say, too, to nurses, paramedics: you know, it is important to keep your skills up; you never know when you're going to need them. It's a career that I have enjoyed and loved, and I know that nurses are the same. We want them to be able to go back to that position and serve the community again.

I'm willing to take some questions, but that's the gist of it, to amend that to make it clearer that those SUCH-sector organizations are carved out so that people don't have to resign their positions. They're held in a trust, essentially, much like somebody who owns a business or a corporation would be able to hold that in trust.

**The Chair:** Ms Renaud has a question.

**Ms Renaud:** I just wasn't sure what you said about ranchers. I missed that part.

**Mr. Fraser:** Yeah. There are arrangements in the Conflicts of Interest Act where, I believe, farmers who use leased land can continue to do so. It's part of their reporting. So it doesn't disrupt their day-to-day operations, you know, and they're not losing their farms or their revenue from that while they're serving here in the public, and that's the way it should be.

**The Chair:** You've still got a couple of minutes.

**Mr. Fraser:** No. I'm good to go ahead with questions here.

**The Chair:** Okay. I will open it up to Mr. Clark.

**Mr. Clark:** Thank you very much, Madam Chair, and, Mr. Fraser, thank you. It's good to see you again. Thank you for coming in. It's interesting to see you on that side of the table; it's slightly different.

This is an interesting and, I think, an important issue for us to consider. I just wonder if you can help me and perhaps other members of the committee just understand what this looks like in practice. The way it currently works, what exactly is the restriction? Are there any examples you can provide of people who have been disadvantaged in this way, or if they haven't been, what is the risk or what is the potential risk in terms of your life post being a member? May that be well in the future. I'm just curious what the concern is and what it either does look like or what it might look like in practice in the current state and then how you'd like to see it change.

**Mr. Fraser:** In the current state people are asked to resign their positions. I think the dramatic or the real-time consequence would be that you have to move your defined benefit pension into a LIRA, and you can no longer contribute. You're also taken out of that group.

I think the other consequence is that it doesn't allow you to practise in real time, you know, on the front line to keep your skills, which I think is important. There may be regulatory bodies or regulatory colleges that require you to do so much, so that could be onerous on a practitioner.

I think it's fair to say that the average time a member serves is approximately seven years. That's not your whole life. To lose your seniority – you do put in a significant amount of time, particularly in health care, to earn that seniority and, you know, the position that you're to go back to.

2:15

I think the consequences are always – as I mentioned before, first, we want to make it easy for people. We don't want people to think that this job is something they don't want because we want all people from all walks of life to be able to sit around this table and create and manage the laws of this province.

If we make it onerous – I mean, to be honest with you, this wasn't an issue when I was elected. The way that it was interpreted based on the wording did have an effect, not just on me. I think there are quite a few members within the government that were affected.

The way it worked in the past is that it was a meeting with the Ethics Commissioner within Alberta Health Services. It was a meeting with the Ethics Commissioner here in government. They would tell you whether it was a conflict of interest. I can even say that there was no conflict of interest even then, when I was in cabinet and, of course, you're even more vigilant to ensure that you're not in conflict.

The other part of the consequence that I think can happen down the road is that based on interpretation, if we're going to include SUCH-sector organizations and we're going to say, "You can't teach," perhaps, you know – or physicians, for that matter. We've had former physicians that continue to work to keep their skills up – and I think that's important – but physicians are carved out. What I'm saying is: ensure that those folks that serve on the front line in the future are not affected.

**The Chair:** Member Drever.

**Drever:** Thank you, Madam Chair. Thank you, Mr. Fraser, for your presentation. You brought forward the fact that the role in section 6(2) is less taxing on the private sector or those owning their own business. Could you explain this matter further, please?

**Mr. Fraser:** What I would say by that: everybody has a different walk in life, and I'm not trying to point out one person or another. For instance, if I hold a business, I get to put it in trust or have somebody else manage it, and that's there for me when I come back. You know, if I work for a corporation – for instance, let's just use a banking firm – more often than not they hold that position for you while you serve because they see a benefit and allow you to come back because the skills and the things that we learn here around legislation would be of value to that corporation. Everything gets to be put in trust.

But what they're saying here in this particular instance is: "If you work for Alberta Health Services, you don't get to put that job in trust. You don't get to put that pension in trust. You basically are terminated." I think that if you were to ask people if they had to quit the job that they love in terms of serving people before, you know, they wanted to take it to the next level here in the Legislature, they may think more than twice and may not run. That's what I don't want to see, limiting the types of voices and backgrounds around this table, because they're all important.

**Drever:** Thank you.

We had other submissions suggesting that an employee of the Crown could take a leave of absence instead of ceasing to be an employee. Would that be a solution suited to your concern at all?

**Mr. Fraser:** Absolutely. I think, again, of course, nurses, paramedics, other lab technicians, and radiologists all play a different role and an important role within our hospital sector, and it may be different for them. I know for myself that there is a component in terms of wanting to keep up your practice, particularly when it comes to emergency medicine. It may be different for other

people. You want to keep those skills. Not only does it help you with your registration, year after year, with your governing body, but you don't want to lose those skills, and I think most practitioners would likely say the same. So a leave of absence would work perfectly.

Then, of course, it would be up to the Ethics Commissioner to decide, just like anything else that we do: could you work casually over your summer vacation, you know, to meet a requirement to suit your regulatory body to keep a certain skill up? That sort of thing would be up to the Ethics Commissioner to determine, whether that would be a conflict of interest or not. But a leave of absence and being able to come back to your job once you've served your time in the Legislature, I think, would be appropriate.

**The Chair:** Is there anyone on the phone that would like to be added to the speakers list?

**Dr. Swann:** David Swann.

**The Chair:** Dr. Swann, go ahead.

**Dr. Swann:** Thanks very much. Rick, can you tell us what happens currently to your pension with respect to your previous employment and how it relates to your pension in the Assembly?

**Mr. Fraser:** Well, you have to remove your pension. You're no longer a part of that plan, so that's a hit. You just have to move it into your LIRA or your regular holdings. You have to transition it.

**Dr. Swann:** Sorry. I'm not clear. Does your pension fund cease growing, I guess, as you leave the public service, and then the LAO pension kicks in?

**Mr. Fraser:** They're two different pensions. One is a defined benefit pension and a different plan. I don't have a pension in the Legislature. There's no pension in the Legislature, so it's whatever I have in my private retirement plan.

**Dr. Swann:** So if you return to your service in the public sector, you would start at what level with your pension fund?

**Mr. Fraser:** I knew that going into it, that I would take a hit to that. I could try to buy it back, but buying back your pension time is extremely expensive, and I probably wouldn't be able to afford it, depending on how long I'm, you know, fortunate enough to serve in the Legislature.

**Dr. Swann:** So you would not pick up your pension where you left off in the public sector is what you're saying.

**Mr. Fraser:** No.

**Dr. Swann:** You would start at zero.

**Mr. Fraser:** Even if I was still there – yeah, again, there are consequences. I think we all understand the consequences regarding whatever role you have. There's a bit of a price to pay to be in elected office, and we all manage that, but in this particular case this is just having to terminate your job. What normally should happen is that the pension stays there. It grows. You may be able to find a way with that group to contribute while you're in the Legislature. I'm not aware of anything like that. I know that for the past three years I did not. I just put it into regular RSPs. Once you're terminated from any position, you're no longer part of that plan, you're no longer part of that group, and you're not contributing, so you have to move your pension out into a LIRA or private holdings.

**Dr. Swann:** You're suggesting in this letter that schools, universities, colleges, and health systems, I guess, health services be included as Crown corporations. Is that the remedy?

**Mr. Fraser:** No. No, they're not Crown corporations. They're not defined as Crown corporations. It's just that the way the legislation is written left it up to interpretation what is and what isn't a Crown corporation. Alberta Health Services is a SUCH-sector organization that wouldn't be included, which would allow people to put their job, you know, basically, in abeyance or a leave of absence, a nonpaid leave of absence, and be able to move back into the position that they held once they're done serving in the Legislature and pick up where they left off.

**Dr. Swann:** Who would make this change? Would it be the individual entities such as universities, colleges, and hospitals under your scenario, or would it be . . .

**Mr. Fraser:** No. It would be this committee, in the act. It's the act that is . . .

**Dr. Swann:** In the Conflicts of Interest Act the change would be made to require all these parts or these sectors to establish protection, I guess you'd say, for employees that leave for public office.

2:25

**Mr. Fraser:** Yeah. It's defining what a Crown corporation is and what a SUCH-sector corporation is, and Alberta Health Services, in my opinion and in most people's opinion, is a SUCH-sector organization.

**Dr. Swann:** Okay. I've got you.

**Mr. Fraser:** We just need clarity so that the Ethics Commissioner is not put in a position to have to make a ruling on something that's not clear. We're leaving it up to interpretation, and that's not been helpful.

**Dr. Swann:** You're speaking on behalf of the health services. What else are we missing?

**Mr. Fraser:** Well, for instance, again, what I'm saying is that obviously Ethics Commissioners can change, and if it's left up to interpretation at any one point, what do they decide is a SUCH-sector corporation and what is a Crown corporation? I think we need to define that so that the Ethics Commissioner is not making a ruling having people terminate their jobs, leave their pensions and their positions. That's what it is, just to define that, what a SUCH-sector organization is and what a Crown corporation is.

**The Chair:** Ms Renaud.

**Ms Renaud:** Thank you, Madam Chair. Thank you. It's actually really nice to hear it said publicly that, yeah, I think people do give up jobs that they love to take this on. I know I certainly did. I gave up a job in the nonprofit sector. Fortunately, we didn't have pensions, but you are right that there is a lot of give-and-take.

I was confused about something, but you may have just answered it. You said that in the last term, when you were an MLA before and also in cabinet, there was no conflict of interest for you, or the Ethics Commissioner determined there was no conflict of interest, so you had access to your pension still. Is that correct?

**Mr. Fraser:** Yeah. Basically, I was on a leave of absence.

**Ms Renaud:** Okay. Then what changed? How did that decision change?

**Mr. Fraser:** I think that for me it's really not – I could explain the change. What I'd really like to see going forward, though, is making sure that we can keep, you know, democracy or elected office open for all people. I think the way that the legislation is worded, without defining what is a Crown corporation and what is not, it leaves it up to interpretation. I think some of even your own members were quite surprised that they would have to terminate their positions even though within their current agreements with the employer it allowed them to hold their jobs, to be in a leave of absence. I think that if we define that, that will just clear that up. Then, again, just like I said before, we all weigh the risks before we take office and then decide with our families what we're going to do.

I just think that this is one piece of the legislation, if we just define what a SUCH-sector organization is and what a Crown corporation is. I don't believe that Alberta Health Services is a Crown corporation. I believe it should fall under a SUCH-sector organization.

**Ms Renaud:** Yeah. Just a quick follow-up. If we were to make a recommendation, let's say, to change something in this act, I guess we would have to know why we were changing that piece of the act. I'm really confused as to what happened.

**Mr. Fraser:** Yeah. The former Ethics Commissioner did not define Alberta Health Services as a Crown corporation. The current Ethics Commissioner believes that Alberta Health Services is a Crown corporation. It may be just because of the legalese. It says: "an employee of the Crown in right of Canada, whether the employment is permanent or temporary or on a full-time . . . basis." Essentially, they're saying that you're going to have to forfeit your job. So if you could make it clearer. You could do that. You could probably say: excluding SUCH-sector organizations – school boards, universities, colleges, hospitals – you know, health care in general. I think that would make it clearer. I think that perhaps even unions that represent those employees would appreciate that.

I know that in my conversation with the Health Sciences Association, that's also what they're looking for, to ensure that there is no penalty imposed on those folks. Essentially, it's writing the legislation to ensure that if you're a front-line employee working, you know, for hospitals, colleges, universities, school boards, as teachers that are employed by school boards, they can hold their jobs and then return to those jobs in the same position that they held before they held elected office.

**Ms Renaud:** Okay. Thank you very much.

**The Chair:** Member Cortes-Vargas.

**Cortes-Vargas:** No. It's okay. Those were kind of my questions. I just also was wanting some clarity there.

**The Chair:** Mr. Nielsen.

**Mr. Nielsen:** Thanks, Madam Chair. Just a really quick question: if a recommendation moves forward, would you be looking for any kind of retroactivity with the decision or just going forward?

**Mr. Fraser:** I think that would be fair. I think it would be important to talk to perhaps some folks in the Legislature about where it had affected them. I think that would be fair.

**Mr. Nielsen:** To look at retroactive?

**Mr. Fraser:** Yeah. I think that for me, you know – again, it's less about me and more about future people wanting to hold office, really – more than anything, it's my inability to practise on the ambulance from time to time. I typically try to work one shift a month, if I could, to keep my skills up. It's extremely difficult because it's usually on a weekend night, which is time away from the family. There are a number of skills where if you're not using them, you lose them. For me, that was the big thing.

**The Chair:** Are there any further questions?

**Dr. Swann:** Just to be clear, Rick, you got a special dispensation from this Ethics Commissioner to continue with part-time employment. Is that what you're saying?

**Mr. Fraser:** Yeah, in certain instances. I mean, I can work part-time, but it's in the private sector, which is more occupational health and safety. Before, I did have the allowance under the former Ethics Commissioner and the ethics commissioner within Alberta Health Services to keep a casual position with Alberta Health Services, to work, ultimately, to keep my skills up. When you're working in your skills and you're doing that training, all that is forwarded to your governing body, or the Alberta College of Paramedics, and that's catalogued. Otherwise, the other penalty is that you have to go out and find that education somewhere else, so there is an additional cost to you. But if you're on a leave of absence, you're still privy to those sorts of things and can access education, which is really important, you know, with changing trends in emergency medicine.

**Dr. Swann:** So you had to make a special appeal to achieve that status – is that what you're saying? – and that it should be generally available to all public-sector employees.

**Mr. Fraser:** Yeah. Again, I'm not saying that you should not disclose your intent to the Ethics Commissioner. The Ethics Commissioner will still have, obviously, the right to see if there's a conflict. I think that's still important. It doesn't limit that. But I think that the main thing is that you should be able to take a leave of absence and, when you return, go back to your original position. That's the point.

**Dr. Swann:** Thank you.

**The Chair:** Are there any further questions?

With that, thank you, Mr. Fraser, for coming and presenting to the committee and answering questions.

For the record we'll also thank the office of the Ethics Commissioner and Mr. Philip Bryden from Justice and Solicitor General.

**Mr. Fraser:** Thank you so much. I appreciate it.

**The Chair:** Thank you.

We are on to other business. Is there any business that the committee members would like to raise at this time?

Seeing none, the date of the next meeting: our next meeting is scheduled for Friday, September 2, 2016, at 10 a.m.

If there's nothing else, at this time I would call for a motion to adjourn. Moved by Mr. Sucha that the August 16, 2016, meeting of the Select Special Ethics and Accountability Committee be adjourned. All in favour? Any opposed? That is carried.

[The committee adjourned at 2:34 p.m.]











