



2020
ANNUAL
REPORT

COIBC

OFFICE OF THE CONFLICT OF INTEREST
COMMISSIONER

COIBC | OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER

August 17, 2021

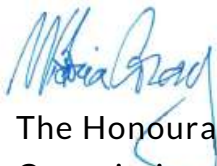
Honourable Raj Chouhan
Speaker of the Legislative Assembly
Room 207
Parliament Buildings
Victoria BC V8V 1X4

Dear Honourable Speaker:

It is an honour to present the Annual Report of the Office of the Conflict of Interest Commissioner for 2020.

This Report is submitted pursuant to section 15 of the *Members' Conflict of Interest Act*, Chapter 287 of the Revised Statutes of British Columbia.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victoria Gray".

The Honourable Victoria Gray, Q.C.
Commissioner

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COMMISSIONER'S MESSAGE

The Office of the Conflict of Interest Commissioner worked throughout 2020 to assist the 87 Members of the Legislative Assembly (MLAs) to avoid actual and apparent conflicts of interest and meet their financial disclosure obligations, thereby enhancing public confidence in the integrity of the decisions of the Legislature. The Office did so as the independent Office administering the *Members' Conflict of Interest Act* (the Act).



Hon. Victoria Gray, Q.C.
Commissioner

I started as Commissioner in early January, 2020, and a little over two months later, the world changed owing to the Covid-19 Pandemic. The Office shifted from working entirely from the Menzies Street office to working entirely remotely with occasional office visits. We learned that our computers were seriously out of date and made an office-wide upgrade. Owing to the good-natured, creative, and cooperative staff, we were able to continue our work almost seamlessly. Some access issues arose during our transition to Microsoft Teams in late 2020, but with the help of the Legislature's IT Department they were resolved with minimal disruption.

Owing to the pandemic, MLAs were offered the opportunity to attend their annual meetings with me either in person or virtually. It was the first time a Commissioner had held virtual meetings with MLAs.

A general election was called on October 24, 2020, which had the effect of dissolving the Legislature and I was therefore unable to hold further disclosure meetings. At that point, staff had managed to arrange and coordinate 25 virtual meetings and 11 in-person meetings.

The Act requires me to file Public Disclosure Statements (PDSs) concerning MLAs' financial disclosure following annual meetings, and the practice of the Office has been to file them for all MLAs at one time. This avoids appearing to single out any MLAs. The Act does not specifically address the situation of an election call before the completion of the annual meeting with every MLA, but required me to file PDSs for those MLAs who met with me. I filed the 36 PDSs for those MLAs who had completed the disclosure process with the Clerk of the Legislative Assembly on November 3, 2020.

My Office updated its Bulletins on Accepting and Disclosing Gifts in the early spring. During the election period, I took the opportunity to revise and update the Bulletins regarding Sponsored Travel and Letters of Reference and Support. Many of the Cabinet members of the 41st Parliament were retiring both from Cabinet and as MLAs, and so I prepared a new bulletin regarding responsibilities Post-Political Office. These Bulletins are available on our website, coibc.ca.

The 42nd Parliament included a number of new MLAs. Many of the Cabinet Ministers and Parliamentary Secretaries are also new to their role. Several of them reached out to me and my Office for opinions about compliance with the Act as they settled into their new roles.


I am pleased that MLAs continue to seek advice from me and my Office before problems arise. Most of the credit is due to the staff of the Office, who are responsive, knowledgeable, and professional. They are good-natured and have a wonderful sense of humor. They add immensely to my enjoyment of my work and I am grateful to them.

OVERVIEW

Holding elected office is a public trust. The rules governing conflict of interest for Members are set out in the Act and ensure that those who are elected to public office are held to high standards of conduct.

A conflict of interest arises when a Member's duty to act in the public interest is or may be affected by their private interest.

Members must avoid both actual and apparent conflicts of interest, and must arrange their private affairs to prevent such conflicts from arising. Where that is not possible, they must ensure that they do not participate in decisions affecting their private interest.



Members must act in the public interest at all times, and must not use their official position for personal gain or advantage.

OTHER PROHIBITIONS



INSIDER
INFO

SECTION
4

Members must not use information that is gained in the execution of their office, and that is not available to the general public, to further or seek to further their private interest.



INFLUENCE

SECTION
5

Members must not use their office to influence a decision, to be made by another person, to further their private interest.




EXTRA
BENEFITS

SECTION
7

Members must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of their duties of office.

COMMISSIONER'S ROLE

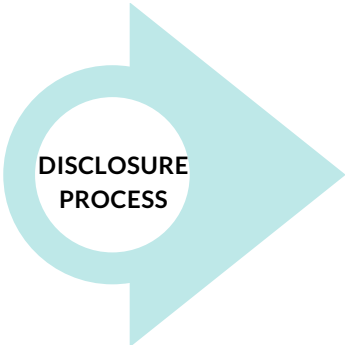


The Commissioner is an independent, non-partisan Officer of the Legislative Assembly who is responsible for impartially administering the *Members' Conflict of Interest Act*

In British Columbia, as in most parliamentary democracies, there are several Statutory Officers of the Legislature whose work is essential to ensure accountability and promote good governance. However, the Conflict of Interest Commissioner is the only Officer of the *Legislative Assembly*.

The Conflict of Interest Commissioner is dedicated *exclusively* to the service of the Legislative Assembly itself in respect of the Members' conduct expectations and discipline. As a result, the records contained in our Office remain confidential as part of legislative privilege.

THREE PRIMARY ROLES



DISCLOSURE PROCESS

Meets with each Member at least annually to review the disclosure of their financial interests



ADVICE & OPINIONS

Provides confidential advice to Members about their obligations under the Act



INQUIRIES

Responds to allegations that a Member has contravened the Act, and conducts an inquiry if warranted

INFORMATION AND ADVICE

As the focus of the Commissioner's work is to help Members understand the Act and provide guidance to prevent conflicts of interest from arising or persisting, arguably the Commissioner's most important function is the advisory role.

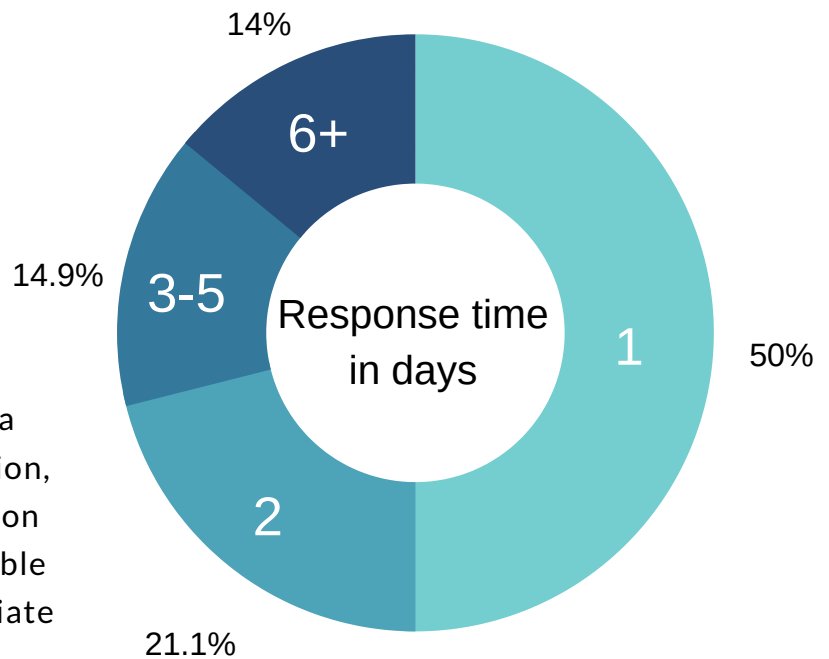
Under section 18 of the Act, Members may request that the Commissioner provide a formal written opinion on a conflict of interest matter, and are encouraged to do so if in any doubt about their obligations. This advice remains confidential unless the Member decides to release it. The Commissioner is also available to provide confidential oral advice to Members.

If the Commissioner determines that a Member has or may have a conflict of interest, the Commissioner can make recommendations and specify a time-frame for compliance.

In addition to responding to requests for advice in relation to specific issues, we frequently provide general information to Members about their obligations and provide assistance with disclosure, reporting and procedural matters.

We are able to respond to most requests for advice or information within 2 business days. It may take longer to provide a final response if the matter is more complex, as research and further communication with the Member may be required.

Members of the public and the media also contact our Office for information, primarily in relation to our jurisdiction and ongoing inquiries. If we are unable to assist, we try to make an appropriate referral (e.g. Ombudsperson).



Members ask the Commissioner for advice on a wide variety of issues, most of which fall under the following categories:

Constituency Issues

Members may ask about providing appropriate assistance to constituents. Questions relating to the proper use of constituency resources are generally referred to the Office of the Speaker or the Clerk of the Legislative Assembly.

Disclosure/Holdings

Members ask questions about reporting of investment holdings, hold mail accounts, business and other financial interests, particularly during the annual disclosure period.

Gifts/Benefits

If offered a gift in connection with their duties of office, Members ask the Commissioner whether it is appropriate to accept the gift and whether it must be formally disclosed.

Family

Questions involving family members primarily involve the employment activities of a spouse or child, but may include those of other family members.

Letters of Reference

Members may ask if it is appropriate to write letters of reference or support for individuals or groups in their constituency and about the proper use of letterhead (i.e. personal, constituency, ministerial).

Outside Activities

Questions regarding outside activities primarily involve whether the Member may engage in volunteer or paid work in addition to their MLA duties.

Sponsored Travel

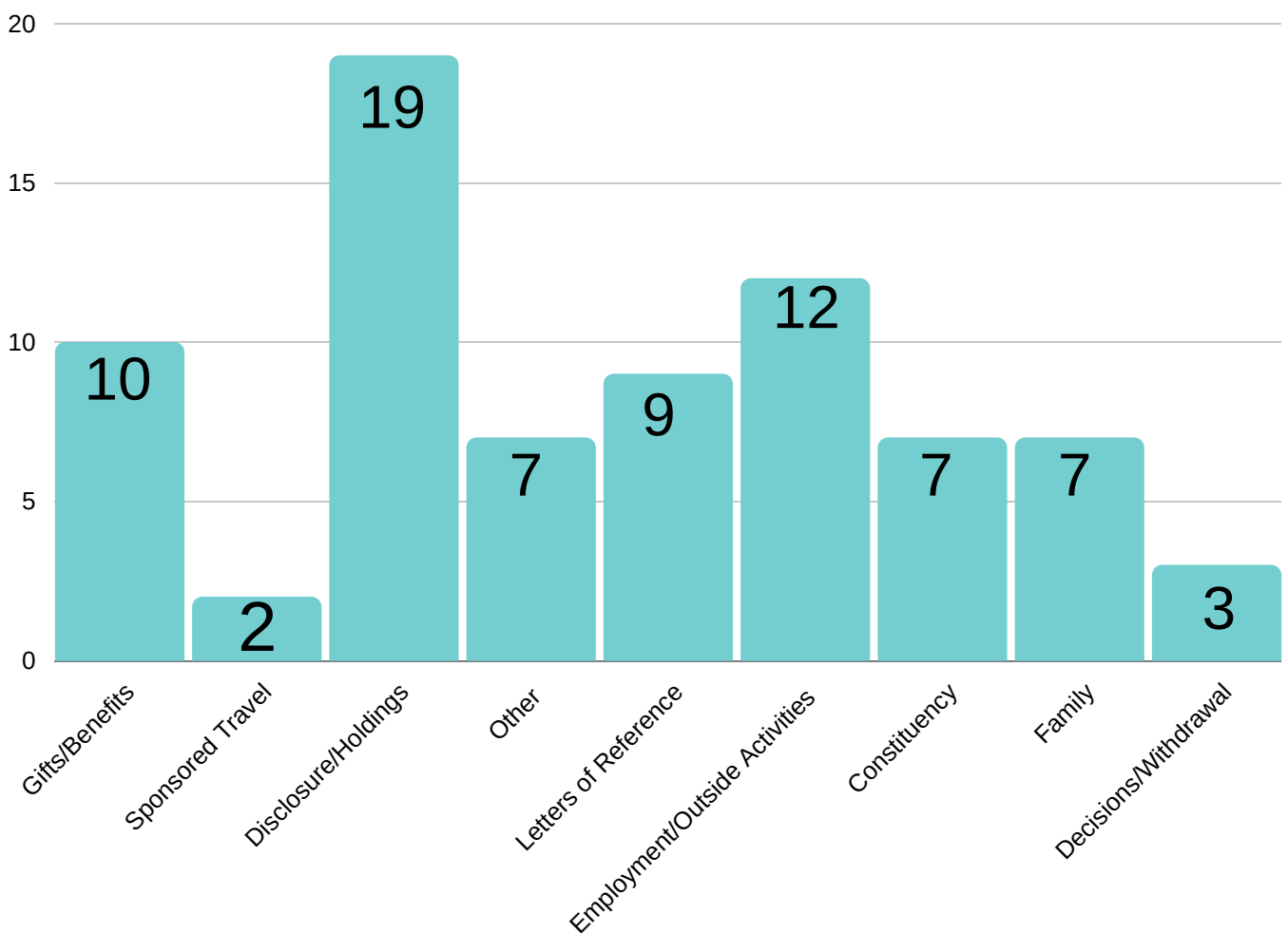
Sponsored Travel includes any travel and related expenses paid for in whole or in part by a third party. Members should seek approval from the Commissioner before accepting such offers.

Taking Part in Decisions/Withdrawal

Members who have a private interest in a matter before the Legislative Assembly or one of its Committees may be required to withdraw from participation, if the Commissioner determines that there is a conflict or apparent conflict of interest.

REQUESTS FROM MEMBERS FOR ADVICE

In 2020, we had approximately the same number of requests for advice as in 2019. Compared to previous years, there were fewer requests relating to gifts and sponsored travel, due to the unusual conditions of the Pandemic. However, there were significantly more requests for advice about disclosure obligations, as the usual disclosure period was interrupted by the election and a new disclosure process began in the fall with a number of new MLAs being elected.



ALLEGATIONS CONCERNING MEMBERS

The Commissioner may conduct an inquiry into allegations that a Member has breached the Act.

Under section 19 of the Act, the Commissioner may provide an Opinion about a Member's compliance with the Act or section 25 of the *Constitution Act* in response to a request from a member of the public, a Member of the Legislative Assembly or Executive Council, or the Legislative Assembly.

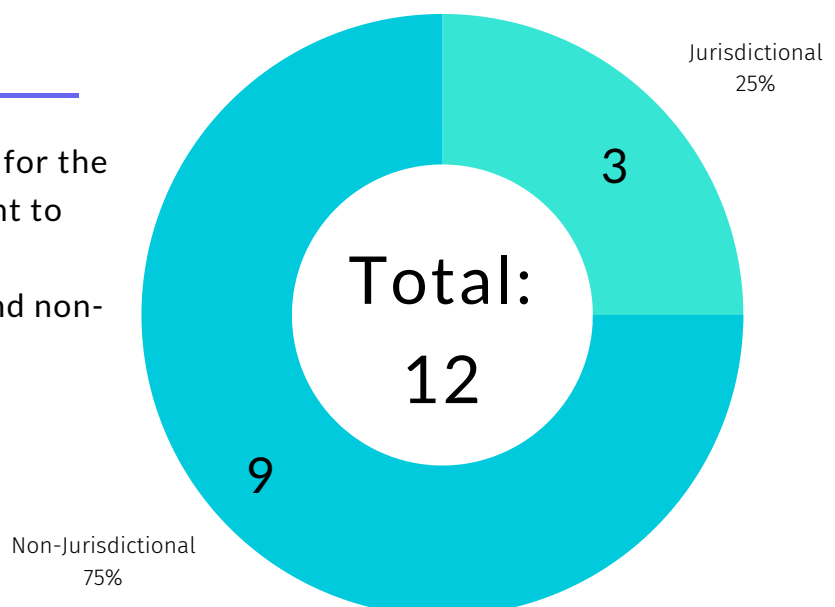
Typically, when concerns about a Member's compliance are brought to our Office, the Commissioner first gathers information informally to determine if there are reasonable and probable grounds to support the allegations. The Commissioner then determines whether to proceed to the formal inquiry stage or dismiss the allegations as unsupported.

If a Member is found in contravention of the Act, the Commissioner may recommend a penalty, which may include a reprimand, suspension, fine of up to \$5,000 or a declaration that the Member's seat be declared vacant until an election is held in the Member's electoral district. It is then up to the Legislative Assembly to accept or reject the recommendation.

REQUESTS FOR INQUIRY

Our Office received 12 requests for the Commissioner's Opinion pursuant to section 19 in 2020. Most of the requests were from the public and non-jurisdictional.

No inquiries were held in 2020.



ANNUAL DISCLOSURE PROCESS

Every Member must, within 60 days of being elected, and after that annually, file with the Commissioner a Confidential Disclosure Statement (CDS), which contains a statement of the nature of the assets, liabilities and financial interests belonging to the Member and their spouse.

Separate disclosure forms are required if the Member has any minor children, and if the Member, their spouse or minor child, has a controlled private corporation. Members (and their spouses if available) are required to meet with the Commissioner to review their statements.

Once the contents of the confidential statements have been finalized and acknowledged to be accurate, Public Disclosure Statements (PDS) are prepared by our Office. The PDS contains most, but not all of the information contained in the CDS, as well as a summary of any gifts or personal benefits that have been disclosed to the Commissioner since the Member's last filing.

Members' PDSs are all filed together on the same date with the Clerk of the Legislative Assembly, where they are available for public inspection, in person or online at <https://www.leg.bc.ca/content-committees/Pages/Public-Disclosure-Statements.aspx>.

2020 DISCLOSURE

The 2020 disclosure process was an unusual one. First, due to the pandemic, Members were given the option to meet with the Commissioner virtually rather than in person. Many Members chose this option.

Second, before all Members had an opportunity to meet with the Commissioner, a general election was called. The writ was issued on September 21, 2020, dissolving the Legislature. The effect of the dissolution of the Legislature was that Members ceased to be Members and the disclosure process for 2020 ended. At that point, 36 of the 87 Members had met with the Commissioner, either in person or remotely. The PDSs of those Members who had completed the disclosure process were filed with the Clerk on November 3, 2020. For those Members who had filed their CDSs but had not met with the Commissioner before the writ was issued, no PDS was filed.

The 42nd Provincial General Election was held on October 24, 2020, triggering a new disclosure process.

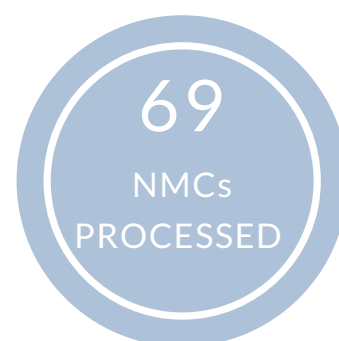
ONGOING DISCLOSURE OBLIGATIONS

After Members have filed their annual Confidential disclosure Statements, they have an ongoing obligation to report any material changes to their financial interests within 30 days of the change occurring.

REPORTING MATERIAL CHANGES

A "material change" is an acquisition or disposition, whether in whole or in part, occurring after the Member has filed a disclosure statement, of any asset, liability, financial interest or source of income by the Member, their spouse or minor children or a private corporation controlled by any of them, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed.

After reviewing the Member's material change form, our Office prepares a Notice of Material Change (NMC) which is then filed with the Clerk of the Legislative Assembly, where it is filed with the the Member's most recent PDS.



REPORTING GIFTS & BENEFITS

Members are prohibited from accepting gifts or personal benefits in connection with the performance of their official duties. However, there is an exception for gifts or personal benefits received "as an incident of protocol or social obligations". In most cases this means a token expression of appreciation or complimentary hospitality in the context of some official interaction.

Members must disclose and provide details of any gift or personal benefits they have received if the value of the gift exceeds \$250. A summary of gifts received throughout the year is included in the Member's PDS. As most gifts are received in conjunction with an official event or are gifts of sponsored travel, there were few gifts disclosed in 2020 because most in-person events were cancelled and travel was restricted due to the pandemic.



OTHER ACTIVITIES

MEETINGS AND COLLABORATION

Our Office is an active member of the Canadian Conflict of Interest Network (CCOIN), which brings together Commissioners and professional colleagues from all the parliamentary and legislative jurisdictions in Canada. CCOIN members meet annually to exchange information and learn about best practices and developments in their respective jurisdictions. Due to the pandemic, the 2020 conference that was scheduled to take place in Yellowknife, Northwest Territories, was cancelled. Instead, Commissioners held a virtual meeting on September 9, 2020.

We are also a member of the Council on Governmental Ethics Laws, which hosts an annual conference bringing together practitioners from the fields of conflict of interest, ethics, elections, lobbying, freedom of information and campaign finance, from both the United States and Canada. The 2020 conference, held in December, was also virtual.

The Commissioner meets with other Statutory Officers on occasion, and the Office participates in regular meetings with Officers and their staff to discuss matters of shared interest. Topics include cybersecurity, diversity and inclusion in the workplace, and the implementation of the *Declaration of the Rights of Indigenous Peoples Act*.

LEGISLATIVE INTERNSHIP PROGRAM

Each year, the Commissioner meets with Legislative Interns who have been selected for the BC Legislative Internship Program. In 2020 Commissioner Gray met with the Legislative Interns on January 5 for a socially distanced presentation and lively discussion.

The Program has been sponsored for more than 40 years by the Legislative Assembly and the exchange is a valuable experience for both the Commissioner and the Interns.

FINANCES AND ACCOUNTABILITY

The Office is accountable for its operations through the issuance of the annual report and the annual budget presentation to the Select Standing Committee on Finance and Government Services (the Committee). The Commissioner met with the Committee on April 28, 2020.



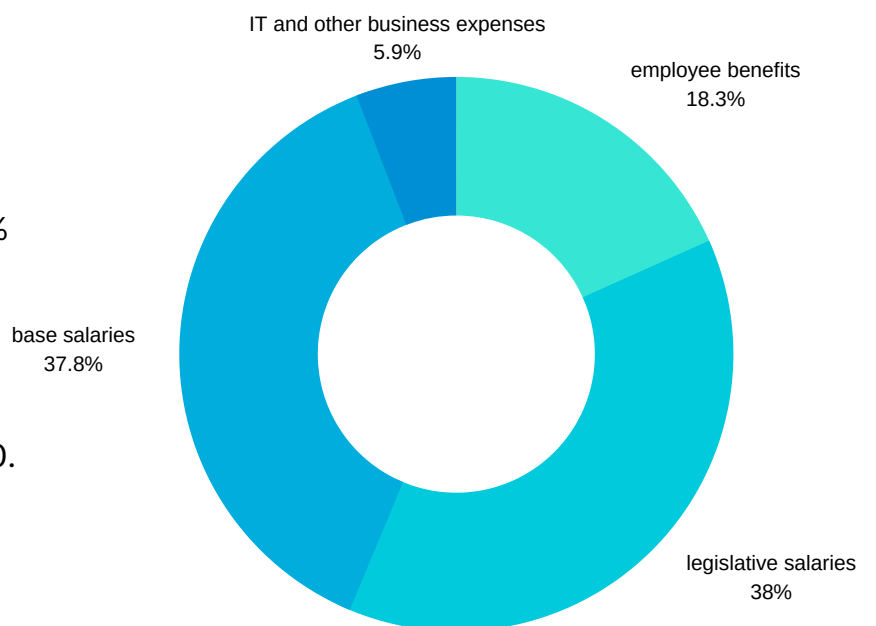
For fiscal year 2020/21 we received a budget appropriation of \$734,000. The actual cost of our operations for the year was \$631,329.

The difference of approximately \$102,600 was due primarily to the absence of travel and professional services expenses.

OPERATING EXPENSES

Our most significant budget items are salaries and benefits. Two of the three staff members are fulltime, and one works 60% time. The Commissioner works on a 75% of fulltime basis.

Due to the pandemic, no travel expenses were incurred in 2020.



ACKNOWLEDGEMENTS AND APPRECIATION

EXTERNAL SUPPORT

Technical support to our Office is provided by the Legislative Assembly Information Technology Branch (LAITB). Many thanks to the LAITB staff for their expert advice and assistance with our day to day technology needs, as well as support for our ongoing projects. We are also grateful to the Speaker and the Clerk of the House and their respective Offices, as well as the Caucus Chairs and the Members' assistants.

The guidance and hard work of staff in these offices was particularly appreciated as we adjusted to the challenges of remote work as a result of the pandemic.

OFFICE COLLEAGUES

Amber Derricourt, Executive Administrative Assistant

Ms. Derricourt joined the Office in July 2012. Her primary responsibility has been working with the Members in the annual disclosure process and throughout the year. Her experience and gentle nature has continued to make her a valuable and appreciated colleague.

Carol Hoyer, Executive Coordinator

Ms. Hoyer joined our Office in June 2018 as our Executive Coordinator. She has extensive experience in senior administrative roles within government, in particular with the Ministry of Health and the Ministry of Indigenous Relations and Reconciliation. Her work is greatly valued and appreciated.

Alyne Mochan, Legal Officer

Ms. Mochan has been our talented and diligent Legal Officer since 2011. She is an important member of our team, as well as a valuable resource for the work of CCOIN - where she has earned the respect and gratitude of our colleagues around the country.



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