

August 1, 2018

Hon. David Eby, Q.C.
Attorney General
Room 232, Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister Eby,

RE: Definition of “former public office holder” under the LRA

I write to draw your attention to what appears to be an error in the definition of “former public office holder” that urgently requires amendment.

Section 1 of the *Lobbyists Registration Act* (LRA) states (underlined for emphasis):

"former public office holder" means

- (a) a former member of the Executive Council and any individual formerly employed in the former member's former office, other than administrative support staff,...

This definition applies to a former member of Cabinet and, apart from administrative support staff, anyone else who was formerly employed in the office of a *former* member of Cabinet.

On its face, the definition creates a significant loophole for any individual seeking to lobby who was formerly employed by a Cabinet minister still in office. It allows the individual to escape the two year lobbying prohibition and the obligation to publicly declare their past government connections in the Lobbyists Registry. That is because both of those matters depend on the individual being a former public office holder.

This has come to light most recently, when I had to determine whether the two year prohibition applied to an individual who previously worked for a Cabinet minister still in office. Based on the above definition, I was compelled to find the individual was not subject to the cooling off period. In fact, there is nothing to prevent her, in fact from lobbying the very Minister who employed her.

In another case, my office investigated a lobbyist who failed to declare in the Lobbyists Registry that he worked as an Executive Assistant for three Cabinet ministers. In this instance, all three Cabinet ministers were still members of the Executive Council during the period he was

registered to lobby. I, therefore, had to find he was not obligated to declare his past government connections.

I have gleaned from Hansard that the Legislature likely did not intend to exclude individuals such as these from the definition of “former public office holders”. Indeed, the resulting outcomes in these cases represent the very mischief the legislation was designed to eliminate; *i.e.*, the potential for undue influence and the use of insider knowledge in lobbying.

I am confident that the issues identified above were unintended. However, as the Registrar of Lobbyists, I cannot ignore the LRA’s clear and unambiguous meaning, whether or not it accords with the policy intent of the Legislature.

I believe that British Columbians would expect those who formerly held, or currently hold, important roles in government to be required to disclose that fact in the Lobbyists Registry. British Columbians would also expect those same individuals to be subject to the two year cooling off period.

I request that you amend the legislation to that effect.

Given the public interest in an amendment to correct this oversight, I am providing a copy of this letter to the Opposition Critic for your ministry, and the Leader of the Third Party. A copy of this letter will also be posted on my office’s website.

Sincerely,

ORIGINAL SIGNED BY

Michael McEvoy
Registrar of Lobbyists

pc: Michael Lee, MLA
Opposition Critic for the Attorney General

Andrew Weaver, MLA
Leader of the Third Party