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office of the
registrar
of lobbyists
BRITISH COLUMBIA

GUIDANCE DOCUMENT

ORGANIZATIONS

February 6, 2020

PURPOSE OF THIS GUIDANCE DOCUMENT

This guidance document provides an overview for organizations with in-house lobbyists under the *Lobbyists Transparency Act* (LTA).

Notice

This document is for information purposes only and does not constitute a decision or finding by the Registrar of Lobbyists for British Columbia or their delegates. This guidance does not affect the powers, duties or functions of the Registrar of Lobbyists, or their delegates, regarding any investigation or other matter under the *Lobbyists Transparency Act*, respecting which the Registrar and their delegates will keep an open mind. Responsibility for compliance with the *Lobbyists Transparency Act* remains with each client, lobbyist, and public office holder.

GUIDANCE FOR ORGANIZATIONS

What is the main rule for organizations?

The main rule is that an organization that is lobbying must register. The new LTA requires all organizations with in-house lobbyists to register in the BC Lobbyists Registry. The only exception to this is organizations with fewer than six employees who do limited lobbying, as outlined below.

There is no longer a 100-hour threshold for registration of lobbying in British Columbia – the threshold was removed on May 4, 2020, with the coming into force of the *Lobbyists Registration Amendment Act, 2018*.

What kinds of organizations must register if they are lobbying?

An organization that is lobbying must register whether it is incorporated, unincorporated, a sole proprietorship, a partnership, or an association. The term “organization” includes:

- a business, trade, industry, professional, or voluntary organization;
- a trade union or labour organization;
- a chamber of commerce or board of trade;
- a charitable or non-profit organization, association, society, coalition or interest group;
- a government, other than the government of British Columbia;¹ and

¹ See exceptions set out in Section 2 of the LTA.

- a person other than a person on whose behalf a consultant lobbyist undertakes to lobby.

Who must an organization list in the Lobbyists Registry?

An organization must ensure that its Registration Return lists all of its in-house lobbyists. An in-house lobbyist is defined as:

- an employee, officer, or director of an organization who receives a payment for the performance of the person's functions and who lobbies on behalf of the organization or an affiliate.

Who must an organization list in a Monthly Return?

An organization must list the names of all the in-house lobbyists who participated in the lobbying activity. One Lobbying Activity Report is required for each lobbying activity.

What is the exception to the rule that an organization that is lobbying must register?

The exception to the rule that all organizations with in-house lobbyists must register in the BC Lobbyists Registry is very limited. The LTA provides that an individual is not an in-house lobbyist if they meet this three-part test:

1. The individual is an employee, director, or officer of an organization that has fewer than six employees
AND
2. The lobbying by the individual—either alone or together with other individuals in the organization—on behalf of the organization, or an affiliate of the organization, totals fewer than 50 hours in the preceding 12-month period
UNLESS
3. The primary purpose of the organization is to represent the interests of its members, or to promote or oppose issues, and the lobbying by the individual is for that purpose.

If an organization has fewer than six employees, but one or more individuals, alone or collectively, spent 50 hours lobbying or preparing to lobby in the preceding 12-month period, the organization's lobbying activities must be registered.

See the diagram on the following page for further explanation.

**Is the primary purpose of your organization to:
represent interests of members, or
promote or oppose issues?**



FURTHER GUIDANCE FOR ORGANIZATIONS THAT FIT WITHIN THE EXCEPTION

Which organizations qualify for the exception?

Organizations that are not member-based or that do not have a primary purpose to promote or oppose issues may qualify for the exception if the organizations have **fewer than six employees** and the lobbying activities add up to fewer **than 50 hours** in the preceding 12-month period.

Examples of organizations unlikely to qualify for the exemption are unions and chambers of commerce since their primary purpose is to represent the interests of their members or to promote or oppose issues. However, local chapters that are not engaging in lobbying activities themselves need not register.

Which activities are included in the 50-hour calculation?

In addition to any meetings, all preparatory activities directly related to carrying out a lobbying activity must be included in the 50-hour calculation.

Activities directly related to lobbying that would be counted as part of the 50 hours include:

- researching and writing reports, letters, submissions, and other correspondence to be given to a public office holder;
- deciding which public office holders to target;
- lobbying by letter, email, phone, or in person;
- time spent negotiating contracts for services related to the lobbying strategy;
- time spent by service providers working on behalf of your organization to develop aspects of the lobbying strategy (for example, a graphic designer or writer);
- hiring and training staff to lobby; and
- monitoring and adjusting the strategy.

Which activities are not included in the 50-hour calculation?

If an organization has documented the date of the decision to lobby, activities that predate the decision to lobby would likely not be included in the calculation. These may include:

- researching an issue and developing positions;
- gathering information and data to help develop a position; and
- internally discussing issues that later become the subject of lobbying activities.

How is the 50 hours calculated?

The calculation is based on the hours spent collectively by the organization that is preparing to lobby (it is not 50 hours per individual or per subject matter). Note that 50 hours equals 6.25 eight-hour days.

What happens if the organization exceeds the 50 hours?

If the organization exceeds the 50 hours, then the requirement to register is triggered, and the organization must register its lobbying activities within 10 days of the lobbying activity that puts the hours spent lobbying above 50.

How do I assess whether my organization has exceeded 50 hours of lobbying?

Organizations that may meet the criteria for the exception should maintain a record of the amount of time spent on lobbying activities on an on-going basis. That record can be used to determine whether those activities amount to 50 hours in the previous 12-month period, which would trigger the requirement to register. And it could be used to demonstrate to the Registrar, if necessary, that the lobbying activities added up to fewer than 50 hours in the preceding 12-month period.

How would I demonstrate to the Registrar that I qualify for the exception?

You must record time spent in activities that are directly related to carrying out a lobbying activity as accurately as possible and produce that record for the Registrar if asked.

Which activities are included in the 50-hour calculation but do not require registration in the Lobbyists Registry?

When counting an organization's activities toward the 50-hour threshold, preparatory activities performed by all employees of an organization count, including the hours of employees who do not need to be registered in the Lobbyists Registry as in-house lobbyists. This is unusual, but it can happen. For example:

- An employee who provides background research that is used in a submission but does not “communicate” with public office holders, as required in the definition of “lobby” in s.1 of the *Lobbyists Transparency Act*, would not need to be listed in the registration although their hours must be counted.
- An administrative assistant who proofreads or helps to assemble a submission but does not “communicate” with public office holders would not need to be listed in the registration although their hours must be counted.

What if I have questions about the rules for organizations?

After reading this guidance document, if you have questions, contact the Office of the Registrar of Lobbyists for BC for assistance at info@bcorl.ca