



**O·R·L·**  
office of the  
registrar  
of lobbyists  
**BRITISH COLUMBIA**

**GUIDANCE DOCUMENT**

**GUIDANCE FOR LOBBYISTS DURING AN ELECTION**

**September 23, 2020**

## PURPOSE OF THIS GUIDANCE DOCUMENT

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### 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.

This guidance document explains the *Lobbyists Transparency Act* (LTA) requirements for lobbyists during an election.

The *Lobbyists Transparency Act* (LTA) requires lobbyists to enter their lobbying activities into the publicly available Lobbyists Registry which is maintained by the Registrar of Lobbyists. Lobbying under the LTA happens when there is a communication with a public office holder or senior public office holder in an attempt to influence any of the items listed in the definition of “lobby”, including legislation, Bills, regulations, programs and policies, contracts, grants or financial benefits, decisions to transfer assets, and decisions to transfer the provision of goods and services to the private sector.<sup>1</sup>

Public office holders and senior public office holders include Members of the Legislative Assembly (MLAs) and their staff amongst others.<sup>2</sup> During an election, MLAs cease to be Members of the Legislative Assembly from the moment that the writ is issued. This raises questions for lobbyists about reporting requirements and this guidance addresses those questions.

## LOBBYING

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### Do I need to register my lobbying activities during an election?

Yes. The LTA requires lobbying activities to be submitted to the Lobbyists Registry when public office holders and senior public office holders are being lobbied. There are many public office holders and senior public office holders in addition to MLAs. You

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<sup>1</sup> See the Appendix for a full definition of lobbying.

<sup>2</sup> For example, public office holders as defined in the LTA also includes: an officer or employee of the government of British Columbia; a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly; a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia; and an officer, director or employee of any government corporation as defined in *the Financial Administration Act*. See the Appendix for a full definition of public office holder and senior public office holder.

must indicate your lobbying of those public office holders in your Registration Return and lobbying of other senior public office holders in your Monthly Returns.

**Do I need to report lobbying of a candidate in the Lobbyists Registry?**

No. An unelected candidate is not a public office holder or a senior public office holder and lobbying them is not required to be registered. However, if that candidate is elected then you must submit information to the Lobbyists Registry about lobbying communications with the MLA that happened from the date they were elected.

**Do I need to report lobbying of an incumbent candidate in the Lobbyists Registry?**

It depends. The answer is “no” if the incumbent candidate is an MLA only. The answer is “yes” if the incumbent candidate is otherwise a public office holder or a senior public office holder – for example, they are a Minister. Please see the definitions for public office holders and senior public office holders in the LTA. These definitions can also be found in the Appendix.

**Do I need to report lobbying of Ministers during an election period?**

Yes. Ministers remain members of the Executive Council during an election and any lobbying communications with them should be reported as they are senior public officer holders under the LTA.

**Do I need to report lobbying communications with public office holders who are on leave from their position to work on the election?**

Yes, if your communication is a lobbying communication – i.e. a communication with intent to influence any of the matters set out in the definition of lobby – with an individual who is a public office holder or a senior public office holder, and the individual is on leave from their position, then the lobbying communications should be reported in the Lobbyists Registry.

**Can I engage with a candidate in my riding about a matter I am lobbying about?**

Yes, and whether a lobbyist is required to report that communication in the registry depends on whether the candidate is also a public office holder or senior public office holder, for example a Minister or the Premier. If your candidate is also a public office holder or a senior public office holder and the matter you engage on is a lobbying communication, then you are required to submit it to the Lobbyists Registry.

If your candidate is not a public office holder or a senior public office holder and is elected on election day, then your lobbying communications that occur after they are elected, i.e. once they are an MLA, would need to be submitted to the Lobbyists Registry.

## VOLUNTEERING

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The *Election Act* defines a "volunteer" as a person who "receives no compensation, *directly or indirectly*, in relation to the services or the time spent providing the services" (emphasis added).

### **Can a lobbyist volunteer for an election candidate during an election?**

Yes. There is nothing in the LTA that prohibits lobbyists from volunteering for an election candidate.

### **What responsibilities do I have as a lobbyist if I am volunteering during an election?**

During an election, lobbyists are required to continue to submit any lobbying communications as required by the LTA to the Lobbyists Registry. While MLAs cease to be MLAs, lobbyist continue to be required to register lobbying of other public office holders and senior public office holders.

Communications with a candidate who is a public office holder or a senior public office holder only need to be submitted to the Lobbyists Registry if you are communicating about a lobbying matter. If a lobbyist is communicating with a candidate or another campaign volunteer who is also a public office holder or senior public office holder about campaign matters that are not lobbying matters, then those communications do not need to be submitted to the Lobbyists Registry.

### **If my union or company pays for people to work for a candidate, constituency association, or political party as a "volunteer" during an election campaign, then is that a political contribution that needs to be declared under the LTA?**

Amendments to the BC [Election Act](#) came into force on November 30, 2017 that prohibit corporations and unions from contributing to provincial elections. You can contact Elections BC for further clarification at 1-800-661-8683 or [electionsbc@elections.bc.ca](mailto:electionsbc@elections.bc.ca).

### **I am a lobbyist, can I volunteer for a candidate, their political party or constituency association during an election?**

Yes. The *Lobbyists Transparency Act* does not prohibit volunteering for a candidate or party. However, note that the *Election Act* distinguishes between volunteering and the provision of property or services and the latter is considered a contribution. If you provide property or services to a candidate at no cost, that is a political contribution, which means that if that candidate is elected and you subsequently lobby them as an MLA or member of the Executive Council, you would need to declare the fact that you have made a political contribution in the Lobbyists Registry. You can contact Elections BC for further clarification on volunteering versus providing services at 1-800-661-8683 or [electoral.finance@elections.bc.ca](mailto:electoral.finance@elections.bc.ca).

## POLITICAL AND SPONSORSHIP CONTRIBUTIONS

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**Are lobbyists required to report in the Lobbyists Registry whether they have made either a political contribution (to a candidate, their political party, or their constituency association) or a sponsorship contribution (to a third party that sponsors election advertising)<sup>3</sup>?**

Yes, if the candidate is elected and you proceed to lobby them once elected.

Section 4.2(2)(f) requires lobbyists to report political contributions if the candidate is a member of the Legislative Assembly, or if sponsorship contributions are made to a third party that sponsors election advertising. As candidates are not MLAs the LTA requirements do not apply to contributions made during the election period. However, if the candidate gets elected and the lobbyist that made the contributions goes on to lobby that MLA, then at that point the lobbyist is required to declare in the Lobbyists Registry that they made a political contribution or a sponsorship contribution to a third party that sponsors election advertising since the date the last writ was issued.

**Do lobbyists have to declare in the Lobbyists Registry whether they have made either a political contribution (to an incumbent candidate, their political party, or their constituency association) or sponsorship contribution (to a third party that sponsors election advertising)?**

Yes, if the candidate is elected and you proceed to lobby them once elected.

Section 4.2(2)(f) requires lobbyists to report political contributions if the candidate is a member of the Legislative Assembly. As the Legislative Assembly is dissolved when the election is called, incumbent candidates are not MLAs for duration of the election

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<sup>3</sup> For more information on the LTA requirements for these types of contributions see our guidance document Reporting political, sponsorship, and recall contributions <https://www.lobbyistsregistrar.bc.ca/handlers/DocumentHandler.ashx?DocumentID=367>

period, so the LTA requirements do not apply to contributions made to incumbents during the election period. However, if the incumbent candidate gets re-elected and the lobbyist who made the contribution goes on to lobby that MLA, at that point the lobbyist is required to declare that they made a political contribution in the Lobbyists Registry.

**Do lobbyists have to report in the Lobbyists Registry whether they have made either a political contribution (to an incumbent candidate who is a member of the Executive Council, e.g. a Minister or the Premier, their political party, or their constituency association) or a sponsorship contribution (to a third party that sponsors election advertising)?**

Yes, if the lobbyist has made the political contribution since the writ was issued and the lobbyist has actively lobbied the Minister or the Premier, or if the sponsorship contribution was made to a third party that sponsors election advertising, then the lobbyist is required to indicate that they have made the contribution in the Lobbyists Registry. The Premier and Ministers continue as members of the Executive Council during an election period.

## **GIFTS**

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**The rules around gifts apply to designated public office holders, candidates are not public office holders, do gifts need to be registered?**

No, during the election period gifts to candidates do not need to be declared. But, if a candidate later became an MLA who you lobby, you would then need to declare this gift, as gifts given in the last 12 months (back to May 4, 2020) must be declared in the Lobbyists Registry.

**Does a political contribution to a candidate also need to be declared as a gift in the Lobbyists Registry?**

No. Political contributions have their own requirements under the LTA and do not need to be identified as gifts. What would need to be declared is the fact that the political contribution was made if the candidate wins the seat and the lobbyist subsequently lobbies them.

## APPENDIX – LTA DEFINITIONS OF “LOBBY”, “PUBLIC OFFICE HOLDER”, AND “SENIOR PUBLIC OFFICE HOLDER”

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**"lobby"**, subject to section 2(2), means

- (a) to communicate with a public office holder in an attempt to influence
  - (i) the development of any legislative proposal by the government of British Columbia, a Provincial entity or a member of the Legislative Assembly,
  - (ii) the introduction, amendment, passage or defeat of any Bill or resolution in or before the Legislative Assembly,
  - (iii) the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation,
  - (iv) the development, establishment, amendment or termination of any program, policy, directive or guideline of the government of British Columbia or a Provincial entity,
  - (v) the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,
  - (vi) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a Provincial entity or the public, or
  - (vii) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the government of British Columbia or a Provincial entity,
- (b) to arrange a meeting between a public office holder and any other individual for the purpose of attempting to influence any of the matters referred to in paragraph (a) of this definition;

**"public office holder"** means

- (a) a member of the Legislative Assembly and any person on the member's staff,
- (b) an officer or employee of the government of British Columbia,
- (c) a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly,
- (d) a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia, and
- (e) an officer, director or employee of any government corporation as defined in the [Financial Administration Act](#),

but does not include a judge or a justice of the peace;

**"senior public office holder"** means an individual who

- (a) is a member of the Executive Council,
- (b) is employed, other than as administrative support staff, in the office of a member of the Executive Council,
- (c) is a member of the Legislative Assembly,
- (d) is employed, other than as administrative support staff, in the office of a member of the Legislative Assembly,
- (e) is a parliamentary secretary,
- (f) occupies a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,
- (g) occupies the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
- (h) occupies a prescribed position in a Provincial entity;