

# Lobbyist Registries

Suzanne Craig, D.Jur., Linda Gehrke, LSM  
and Robert Marleau C.M.

December 02,  
2019

Collingwood Inquiry

# What is Lobbying?

“Lobbying is best understood broadly as an organized effort to influence the development or ultimate fate of anything the government does: pass a law, develop a policy or program, award a contract, or give away money.”

Madame Justice Denise E. Bellamy

Toronto Computer Leasing Inquiry

Volume 2: Good Government

# What is Lobbying?

In Ottawa, lobbying is “Any *communication* with a *public office holder*...

- by an individual *who is paid or represents a business or financial interest*
- with the goal of trying to *influence* any legislative action... or the outcome of a decision of any matter
- before Council, a Committee of Council, or a Ward Councillor, *or staff member acting under delegated authority.*”

(By-law No. 2012- 309)

# What is Lobbying?

Put another way, lobbying comprises

- Instances of *unsolicited* communication
- to *influence* a decision
  - before a public office holder
- initiated by individuals *advancing a financial or business interest*
- outside of the *normal business processes*.

# What is Lobbying?

- Focus is on **substantive communication**:
  - a telephone call, meeting, email
- Focus is on
  - meaningful dialogue or exchange
  - that materially advances a matter that is defined as lobbying
  - whether in a formal or in an informal setting.

# Types of lobbyists:

## Consultant lobbyist:

- paid to lobby on behalf of a client

## In-house lobbyist:

- lobbies on behalf of their employer or their own business

## Voluntary, unpaid lobbyist:

- lobbies a public office holder without payment
- On behalf of a business or for-profit organization

## Not-for-profit groups / organizations

- when communicating regarding a financial interest
- where that not-for-profit (nfp) has paid staff (Ottawa, Hamilton, Peel)
- where nfp is funded by a for-profit entity to advance its interests
- where lobbying is not ancillary or incidental to the nfp's purpose, operation (Vaughan)
- where paid consultant (Toronto, Vaughan) or paid staff (Ottawa, Vaughan) lobby for the nfp
- where nfp lobbies for a grant, award, financial benefit and is not a "community services organization" (Toronto)

# Lobbyists vs. Citizen Groups

Look at the type of activity, not the individual:

- Lobbying generates a financial return to the lobbyist.
- Advocacy generates a broad community benefit with no clear financial returns to specific parties.
- Constituents, neighbourhood community associations and not-for-profit groups communicating about general neighbourhood and public policy issues, not for the special financial benefit or interest of the constituent, community association, not-for-profit group or a for-profit entity.

# How is Lobbying Perceived?

When people think about lobbying...

- The US example
  - Improper use of influence
  - Special interests
  - Powerful organizations

Lobbying should be perceived as

- Having a legitimate role in democratic processes
- Benefitting lobbyists, public office holders and the public **when properly conducted and made transparent**
- **A potentially useful activity that needs to be carefully controlled** . *Bellamy Inquiry Report, vol. 2, Good Government, Recommendation 97*

# How should Lobbying be Treated?

*“The City should treat lobbying as a potentially helpful practice that should be carefully controlled.”*

*The Honourable Madam Justice Denise E. Bellamy, Commissioner, Toronto Computer Leasing Inquiry Report, (Bellamy Inquiry Report), vol.2, Good Government, Recommendation 97, page 80.*

# Protecting the Public Interest

“A lobbyist is in the business to try to exert influence. That is not necessarily against the public interest. What is against the public interest is when lobbying occurs in secret.”

*Bellamy Inquiry Report, vol. 2, Good Government, Recommendation 116, page 90.*

# What can we do?

## Target transparency, not perception

- Managing the perception of illegitimacy is difficult
- Transparency is an achievable goal
  - Establish a Lobbyist Registry to track and publish records of lobbying.
  - Establish a Code of Conduct to manage behaviour.

The shared benefits of lobbying are lost when it takes place behind closed doors.

# What can we do?

- “In general, lobbying is neither as bad as some fear nor as good as some hope. And in any case, it is not going to go away; nor should it—as long as it is properly done. Some lobbying practices, especially those that are not out in the open, undermine the democratic ideal. Lobbying can best contribute productively to the democratic dialogue when everyone can see and understand what is going on. Thus, one key to overcoming skepticism about lobbying is a clear understanding of what lobbyists should and should not be able to do. That may be achieved through a code of conduct for lobbyists. Another key is transparency in lobbying, through a lobbyist registry.”

*Bellamy Inquiry report, Volume 2, Good Government, Recommendation 97, page 80.*

# What must we do?

1. Provide transparency through a lobbyist registry by-law
2. Ensure ethical lobbying through a code of conduct for lobbyists.
3. Ensure public office holders report unregistered lobbying by making it an obligation in both the Council code of conduct and the employee code of conduct.

# Purpose of a lobbyist registry

“The fundamental purpose of requiring lobbyists to register is to achieve greater transparency in government decision making and dispel the perception that influence is being brought to bear by private interests unknown to the public—in a “back-room deal.” The public has a right to know how decisions are being made and what attempts are being made to influence government decision-makers.”

*Bellamy Inquiry Report, vol. 2, Good Government, Recommendation 116, p.90.*

# The Lobbyist Registry

A Lobbyist Registry is a system for tracking and publishing lobbying activity.

A Registry should disclose, at least:

- The lobbyist's contact information
- The subject matter of their lobbying; and
- When, how and with whom they spoke.

# It is really about a change in culture

A lobbyist registry benefits the public by **accounting for all ethical lobbying**. Beyond increasing transparency, a registry will serve to highlight the ethical transgressions of those who are caught lobbying inappropriately.

Ethical lobbying is promoted through a lobbyists' code of conduct and ensured through **effective investigation and sanctions**.

“Another purpose of a registry is to **change the interaction** between lobbyists and public servants by requiring both parties to think about the consequences of their conduct.”

Madame Justice Denise E. Bellamy

*Bellamy Inquiry Report, vol. 2, Good Government, Recommendation 116, page 91.*

# The Lobbyist Registry

## Implementing a Lobbyist Registry:

- Simple: An Excel sheet posted monthly
- Advanced: An online database
  - Licenses for different systems may be available from other jurisdictions
- In small as well as large communities, business and personal relationships exist between councillors, municipal staff and lobbyists.
- The purpose of a lobbyist registry is to make lobbying activities transparent, which is in the public interest.; not to interfere with business and personal relationships outside of municipal sphere.
- A code of conduct for lobbyists can require that they not place a public office holder in a conflict of interest and ban all gifts, hospitality and benefits from lobbyists and their clients with active lobbying registrations.

# It is really about a change in culture

“Another purpose of a registry is to **change the interaction** between lobbyists and public servants by requiring both parties to think about the consequences of their conduct.”

Madame Justice Denise E. Bellamy

*Bellamy Inquiry Report, vol. 2, Good Government, Recommendation 116, page 91.*