

# Revised Lobbyists' Code of Conduct Consultation

October 23, 2014

The Commissioner of Lobbying, pursuant to powers in the *Lobbying Act* (the Act), has published a revised Code of Conduct and invited written submissions on these proposed revisions. Once the Commissioner finalizes the revisions to the Code, they will be referred to the House of Commons Standing Committee on Access to Information, Privacy and Ethics, prior to being published in the *Canada Gazette* in order to come into effect. Until such time, the Code originally introduced in 1997 will remain in place.

Based upon an earlier consultation and her own experience in administering the Code, the Commissioner has proposed changes that fall under the following categories:

## Scope

The Code will now focus on the relationship between lobbyists and Public Office Holders (POHs) and all rules that relate to the client/lobbyist relationship will be removed. While this will provide for a more limited scope, the scope of the Code will now match the main objective of the Act which is to provide transparency in communications that take place between lobbyists and POHs.

## New principle about respect for democratic institutions

Lobbying is a legitimate activity if it is conducted in a transparent manner and in accordance with the highest ethical standards. In addition to the three existing principles, of integrity and honesty, openness and professionalism, a fourth principle has been added to require lobbyists to respect democratic institutions while representing the interests of their clients or employers.

## Improper influence

Prompted by a 2009 decision of the Federal Court of Appeal (*Democracy Watch v. Barry Campbell*), the Commissioner has proposed language to ensure the avoidance of a conflict of interest when lobbying. To clarify the manner in which the Code addresses conflict of interest, four new rules were added with respect to preferential access, political activities and gifts.

- With respect to preferential access, two new rules have been added to prevent lobbying of a POH who is a relative, friend or someone with whom the lobbyist has financial or business dealings
- A new rule will prohibit lobbyists from lobbying POHs, or other POHs within that POHs' area of responsibility, when

they have performed certain political activities for them.

- Currently, gifts to POHs that constitute an expression of courtesy or protocol are permitted. A new rule will now prohibit lobbyists from giving POHs gifts that the POHs would not be allowed to accept.

## Clarifying the role of the responsible officer

In *Dentons Insights Canada* on the Act, it has been explained that the Act places the responsibility to register and report lobbying activities on the most senior paid employee (“the Responsible Officer”) of the corporation or organization affected. To ensure the Code is consistent with the Act in this regard, a new rule has been added to specify the obligations of that individual, particularly with respect to informing all employees of the responsible officers’ responsibilities under the Act and all employees’ obligations under the Code. The intention of the new rule is to facilitate compliance with both the Act and the Code.

## A balanced Code with a revised introduction

The revised Code was drafted to balance principles and rules while remaining succinct and easy to read. A revised introduction has been added in order to provide greater clarity around who is subject to the Code, who can lodge a complaint with the Commissioner when a breach of the Code is suspected and the sanctions for such a breach.

## Process

The Commissioner has prepared a background paper that was released on October 16, 2014 and has invited the views and comments of all interested stakeholders through written submissions that will ultimately be posted on the Commissioner’s website. The deadline for any such written submissions is December 19, 2014.

## Your Key Contacts



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