

Message From the Commissioner

The Government of Newfoundland and Labrador, in 2005, passed the *Lobbyist Registration Act*, which sets out the regulations that govern lobbying activities in the province. Lobbying is defined as communicating, for pay or other benefit with a public office holder in an attempt to influence public policy or program decisions.

It is my job as Commissioner of Lobbyists to ensure that any and all lobbying activities are conducted in a transparent and ethical manner and in a way that complies with the intent and the spirit of the law. In other words, lobbyists must not only adhere to the regulations set out in the *Act*, they must be seen to be complying with those regulations.

In addition to the *Act*, the Province of Newfoundland and Labrador has in place a Code of Conduct. The Code sets out very clearly the penalties for lobbyists who do not adhere to the *Act*. It is my role as Commissioner to investigate any irregularities. My office has produced a brochure on the Code, which is available to the general public, and which sets out the requirements and approved activities of lobbyists.

In keeping with the spirit of accountability, we have a Registry of Lobbyists, which is the core instrument for recording the registration and information on lobbyists. Citizens can turn to the Registry to access lobbying activities.

I also regard it as my duty to keep abreast of the legislation in other jurisdictions. There is an annual meeting of Commissioners and Registrars of Lobbyists and, in September 2010, it took place in St. John's. It is always an informative gathering, where ideas are shared and common problems discussed.

As for the future, in addition to enforcing the *Act* and the Code, I see my role as continuing to make the public aware of the legislation and to encourage citizens to report any wrong-doing. It is important that all stakeholders—elected officials, public servants, agencies, lobbyist and citizens—be assured of the spirit of accountability that is a key component of good government.

I am pleased to present this 2010-2011 Annual Report of the Office of the Commissioner of Lobbyists. This report covers the period of April 1, 2010 to March 31, 2011.

As Commissioner of Lobbyists, I am accountable for the preparation of this report and the actual results reported.


LEEANN MONTGOMERY
Commissioner of Lobbyists

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Who We Are

The Office of the Commissioner of Lobbyists is located at Suite E160 Bally Rou Place in the City of St. John's. Administrative support is shared among the Royal Newfoundland Constabulary Public Complaints Commission (RNCPC), the Criminal Code Mental Disorder Review Board and the Office of the Commissioner of Lobbyists and is provided by a manager (RNCPC) and a secretary.

During the fiscal year, there were 68 active lobbyists. Of these, 17 were consultant lobbyists and 51 were organizations with in-house lobbyists.

A "consultant" lobbyist is one who, for remuneration or other gain, reward or benefit, undertakes to lobby on behalf of a client. A consultant lobbyist is not an employee of the client or organization, whereas an "in-house" lobbyist is employed by the organization to lobby on its behalf. A further stipulation for an in-house lobbyist is that his or her lobbying activities must constitute 20% of the employee's duties over a three-month period. According to the *Act*, a lobbyist can also be deemed in-house if part of his or her duties as an employee is to lobby on behalf of the organization if the employee's duties to lobby, together with the duties of other employees to lobby, would constitute 20% of time at work of one full-time employee, assessed in a three-month period, were those duties to be performed by only one employee.

The Registrar and the Registry of Lobbyists are located at 59 Elizabeth Avenue, St. John's.

The Registry of Lobbyists is available for free viewing at <https://cado.eservices.gov.nl.ca/Lobbyist/Menu.aspx>.

Commissioner of Lobbyists: LeeAnn Montgomery
Tel: (709)729-2918

Registrar: Dean Doyle
Tel: (709)729-4043

Administrative Support: Lorraine Roche
Gerry Peach

Vision

An environment where lobbying of government entities can take place in an open and transparent manner.

Mandate

The mandate of the Office of the Commissioner of Lobbyists is contained in the *Lobbyist Registration Act*, Chapter L-24.1, SNL 2004. The Commissioner of Lobbyists is responsible for the investigation of alleged violations of the *Act* or the Code of Conduct, denying or cancelling a lobbyist's registration where the *Act* or Code have been breached, and ordering, upon application, that some or all registration information be kept confidential. The Commissioner may also recommend changes to the Code of Conduct.

Highlights of Accomplishments

Registrants

An online registry exists for registrants and there is no fee to avail of this service. The online registry can be found at <https://cado.eservices.gov.nl.ca/Lobbyist/Menu.aspx>. In 2010-11, all registered lobbyists used this service to complete the registration process.

Historical Total: There have been 139 lobbyists' registrations – 41 by consultant lobbyists and 98 by organizations with in-house lobbyists.

Active Registrations: 68 registrations are active and ongoing - 17 by consultant lobbyists and 51 by organizations with in-house lobbyists.

Annual Meeting: September 2010, St. John's

In September 2010, the Commissioner of Lobbyists was pleased to host the third annual Commissioners and Registrars of Lobbyists annual meeting in St. John's. Commissioners and Registrars from all across Canada attended and several very interesting papers were presented. Among the topics discussed were lobbyists and political activities, the benefits of consultant versus in-house lobbyists, and whether charitable organizations should be forced to register their lobbying activities. In addition, each commissioner or registrar presented an update on developments in his/her jurisdiction.

There were a number of guest speakers. Dr. Paul Prosser, Professor Emeritus, Dalhousie University, School of Public Policy and Administration explored the concept of “responsible regulation” and examined the challenges facing lobbying regulators to test the utility of responsive regulation, among them the problem of identifying the lobbying community, barriers to detecting non-compliance and the uncertain effectiveness of current sanctions. In addition, Washington lawyer and lobbyist, Nicholas Allard, provided a session on “Lobbying and Democracy”.

Confidentiality Order

Section 18(1) of the *Lobbyist Registration Act* states:

At the request of a person who is required to register in the registry of lobbyists, the Commissioner of Lobbyists may order that some or all of the information contained in the return that is required to be filed for registration purposes be kept confidential if the information relates to an investment project of the client or enterprise concerned, the disclosure of which may seriously prejudice the economic or financial interest of the client or enterprise.

Each year, the Commissioner of Lobbyists receives several queries regarding the purpose of, and the guidelines under which, a Confidentiality Order would be issued. This past year, there were no formal requests for a Confidentiality Order.

Activities

Issue 1: Confidentiality Orders

As per section 18(1) of the *Lobbyist Registration Act*, a Confidentiality Order may be issued by the Commissioner of Lobbyists if a lobbyist feels some or all of the information contained in a registration may seriously prejudice his or her economic enterprise. Several general enquiries about the guidelines for issuing such an order were received by the Commissioner during the fiscal year, but no formal requests were made for confidentiality orders and so, no investigations were necessary.

In a small jurisdiction like ours, this is not uncommon. Today, lobbying is more necessary, wide-spread and complicated and my office exists to ensure that it is more open, more professional and practiced with a greater degree of legal compliance.

Objective	
The Commissioner of Lobbyists will have responded to all requests for Confidentiality Orders.	
Measure	All requests for Confidentiality Orders responded to
Indicators	Actual Results
Investigations conducted for each request	There were no requests for investigations received during the fiscal year.
Confidentiality Orders issued for each request	There were no requests for such orders received and thus, no Confidentiality Orders issued.

Issue 2: Code of Conduct

Lobbying is a legitimate profession performed for the most part by law-abiding, highly skilled professionals who help government arrive at better informed decisions. To ensure the public knows that lobbying is guided by openness, transparency and accountability, Newfoundland Labrador has in place a Code of Conduct. The Code helps curb abuses and affords the public a better understanding of the public policy process.

Each year, the Commissioner of Lobbyists undertakes a jurisdictional review, including the Codes of Conduct, which is carried out via telephone and email. There are several reasons why the Office carries out such a review. The *Lobbyist Registration Act* was passed in 2005 and has not been tested too extensively. The review of the relevant legislation and the cases that have arisen from it in other parts of Canada serves as a learning tool. Such a review gives the Commissioner an idea of the kinds of problems that have been encountered in other jurisdictions with regard to lobbying legislation, which in turn helps the Office prepare should those problems be encountered here. It highlights best practices that have been incorporated in other provinces over the past year, which may serve as a guide for Newfoundland and Labrador. Finally, by carrying out such a jurisdictional review, we come to know our provincial and federal counterparts, who often serve as valuable resource people.

Objective	
The Commissioner will have reviewed the Code of Conduct.	
Measure	Code of Conduct Reviewed
Indicators	Actual Results
Research completed on Codes of Conduct in other jurisdictions	<p>The Commissioner researched Codes of Conduct across Canada. That research was carried out via a series of telephone calls and e-mails to other jurisdictions during the period of May-August 2010. Furthermore, the annual meeting held in St. John's in September 2010 afforded an opportunity for updates on other jurisdictions.</p> <p>The provinces of British Columbia and Alberta do not presently have Codes of Conduct but the Registrar of Lobbyist for British Columbia has indicated that she will be recommending that a Code be added.</p> <p>The Commissioner of Lobbyists of Alberta is also considering the implementation of a Code of Conduct.</p>

<p>Consultations with other jurisdictions completed</p>	<p>After consultations with Commissioners and Registrars in other jurisdictions, there were no recommendations for changes or amendments.</p> <p>There were no other issues of significance for this province.</p>
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Opportunities and Challenges Ahead

The Office of the Commissioner of Lobbyists plays an important role in assuring the public that any infractions of the *Lobbyist Registration Act* or the Code of Conduct are investigated and that wrong-doers are penalized. The Commissioner must be vigilant in keeping the public informed of her role and must encourage citizens to report any alleged non-compliance with the *Act* and/or the Code. By becoming part of the process, the general public may be reassured that transparency and accountability remain key elements in any lobbying activity.

Financial Report

The budget of the Office of the Commissioner of Lobbyists is contained within the Administrative Support (Professional Services) budget of the Department of Justice, and is not required to provide a separate audited statement. While the Office of the Commissioner of Lobbyists does not appear as a separate line in the Program Expenditures and Revenues of the Consolidated Revenue Fund, the approximate budget is provided below:

Approximate Budget Office of the Commissioner of Lobbyists	
Salaries	25,000
Operating Costs	20,000
Total	45,000

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