



**Annual
Report of the
Saskatchewan
Conflict of Interest Commissioner
And Registrar of Lobbyists**

2020-2021



**Office of the
Registrar of Lobbyists
Saskatchewan**



June 30, 2021

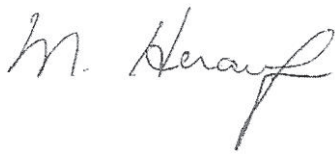
The Honourable Randy Weekes
Speaker of the Legislative Assembly of Saskatchewan
Room 129 Legislative Assembly Building
2405 Legislative Drive
Regina, SK S4S 0B3

Dear Mr. Speaker:

I have the pleasure and honour to present to you the *Annual Report of the Conflict of Interest Commissioner and Registrar of Lobbyists* for the period of April 1, 2020 to March 31, 2021.

This Report is submitted pursuant to Section 25 of *The Members' Conflict of Interest Act*, Chapter M -11.11, Statutes of Saskatchewan, 1993.

Yours respectfully,



Maurice Herauf, Q.C.
Saskatchewan Conflict of Interest Commissioner
and Registrar of Lobbyists

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COMMISSIONER AND REGISTRAR'S MESSAGE

Maurice Herauf, Q.C.
Saskatchewan Conflict of Interest Commissioner
and Registrar of Lobbyists

I am honored to be the fourth Conflict of Interest Commissioner and the second Registrar of Lobbyists appointed for Saskatchewan. I officially commenced my duties as Commissioner/Registrar on July 1, 2020. I had the fortunate opportunity to work with my predecessor, the Honourable Ronald Barclay, Q.C. for a period of six weeks prior to July 1, 2020. Ron's retirement had been postponed for a period of two months as a result of the COVID-19 pandemic.

I am very grateful to have had the opportunity to spend time with Ron. I used every second to absorb as much of Ron's knowledge gained from his ten years of experience in this position as I possibly could. Thank you Ron for being so generous with your time.

Although the past year presented difficulties because of the pandemic for the most part we were able to carry on with our work as usual.

Significant amendments to both *The Members' Conflict of Interest Act* and *The Lobbyists Act* came into effect on September 14, 2020. Some of the amendments required regulatory changes as well as major enhancements to the lobbyist registry. One of the amendments to *The Lobbyists Act* required most non-profits and charities to register their lobbying activities, which increased the number of registrations with our office.

Amendments to the Conflict legislation required for the first time, that former members had to file a final disclosure statement and have a final interview with the Commissioner. As a result, the 15 former members who either retired or were defeated in the October 2020 general election had to comply with this provision. I am pleased to report that all 15 former members fully complied with the filing requirements and interviews were conducted by telephone due to the pandemic.

Requests for opinions and advice continue to be the primary focus of my work as Commissioner. This work has been further expanded by the recent amendments permitting former members to obtain the advice of the Commissioner for a period of one year from when they ceased to be a member. A large percentage of the 15 members who retired or were defeated have utilized this provision. This amendment has been well received since many former members may have retired from or left political life but have now entered the work force in other capacities. Opinions and advice from the Commissioner to avoid potential pitfalls with new employment and new endeavors is a logical and helpful step for former members to take advantage of.

A general election was held in October, 2020. As a result, 17 new members were elected. Since we could not meet the new members in person a video was prepared for their use highlighting their responsibilities under both *The Members' Conflict of Interest Act* and *The Lobbyists Act*.

I must also express my sincere gratitude to Sandra Arberry, Deputy Registrar, and Ron Samways, who assists me with the filing of Members Private and Public Disclosure statements, for their tremendous assistance during my first year as Commissioner/Registrar. I would have been able to accomplish very little without their able assistance.

MANDATES

The Legislative Assembly is assisted in its duties by many officers who fulfill a variety of roles. These include the Officers of the Legislative Assembly who assist the Legislative Assembly in making government accountable and responsive to the public. These officers help to monitor government spending, assist individual citizens with concerns about their treatment by government entities, protect the interests of children, receive concerns about the release of government information and other privacy matters and assist Members of the Legislative Assembly to avoid conflicts of interest.

CONFLICT OF INTEREST COMMISSIONER

Since 1993, Members of the Legislative Assembly of Saskatchewan have been governed by legislation regarding their conduct as members. *The Members' Conflict of Interest Act* includes specific prohibitions regarding conflicts of interest and the use of insider information. It regulates member participation in government contracts and provides general disclosure requirements for all members.

The Commissioner performs a variety of roles under the Act. One such role is that of assisting members in understanding their obligations under the Act.

To assist in the understanding of their obligations the Commissioner may provide written advice or recommendations. The Commissioner is also available to meet with members to clarify this advice when requested or required.

Each year, members must complete and file a confidential disclosure statement with the Commissioner. From the detailed private disclosure statement, the Commissioner prepares public disclosure statements. The public disclosure statements are deposited with the Clerk of the Legislative Assembly and are available on-line for public inspection.

After filing a private disclosure statement, the member and, if available, the member's spouse must meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member's obligations under the Act.

The Commissioner may determine that the advice and recommendations provided to individual members have a broader general application and may therefore provide the advice as guidelines to all members.

The Commissioner may also conduct investigations and inquiries under the Act.

In essence, it is the responsibility of the Commissioner to ensure that each member of the Legislative Assembly maintains a high standard of ethical conduct.

REGISTRAR OF LOBBYISTS

In 2014, *The Lobbyists Act* established that the Conflict of Interest Commissioner would also serve as Saskatchewan's Registrar of Lobbyists. In August 2016 the Saskatchewan Lobbyists Act came into force.

The Office of the Registrar of Lobbyists is responsible for maintaining and operating the province's lobbyist registry, promoting and educating the general public, stakeholders and the lobbyist community about *The Lobbyists Act*, and ensuring compliance and conformity of lobbyists to *The Lobbyists Act*.

The Registrar provides directions to lobbyists and may conduct an investigation if there is reason to believe one is necessary to ensure compliance with the Act. The Registrar also has the authority to level an administrative penalty up to \$25,000 on those who are found to be in breach of the Act.

SASKATCHEWAN CONFLICT OF INTEREST COMMISSIONER



RESPONSIBILITIES OF THE CONFLICT OF INTEREST COMMISSIONER

The duties of the Commissioner are to:

- Act as an advisor to members to ensure they meet their obligations under the Act;
- Meet with each member at least annually to review the disclosure of the member's financial interests;
- Gather information in response to requests made under the Act; and
- Undertake a formal inquiry into alleged contraventions of the Act.

OBLIGATIONS OF MEMBERS

Persons elected to the Legislative Assembly of Saskatchewan are subject to statutory obligations designed to avoid any conduct that may constitute a conflict of interest on the part of the member. These statutory obligations are set forth in *The Members' Conflict of Interest Act* (the Act).

Members are prohibited from using information that they have acquired as Members of the Legislative Assembly and which is not available to the general public, for the purpose of advancing their private interests or the private interests of a family member or associate.

Additionally, a member must not use his or her position to influence other decision makers to advance the private interest of the member, his or her family or an associate.

Members are prevented by statute from accepting, except in specific circumstances, any gifts or benefits offered to them in respect to carrying out of the member's duties.

ADVISING MEMBERS

The Commissioner's primary role is that of an advisor to members. He encourages all members to consult with him at the earliest possible opportunity if they have questions or concerns about their obligations so that a potential conflict of interest can be avoided.

Requests for opinions come in various forms. Members may have an informal conversation with the Commissioner, or may make a formal request for a written response. After inquiry and research, the Commissioner provides an opinion as to whether there is a conflict. If a member has or may have a conflict of interest, the Commissioner can make recommendations specifying a timeframe for compliance.

In September 2020, the Act was amended and the Commissioner can now provide advice to former members for up to 12 months following the date on which former members ceased to hold office. Prior to this amendment, the Commissioner did not have the authority to provide advice and opinions to former members.

The Members' Conflict of Interest Act

s.27(4) A former member may request that the commissioner give an opinion and recommendation on any matter respecting the obligation of the former member pursuant to this during the 12 months following the date on which the former member ceased to hold office, and in that case subsection (2) and (3) apply, with any necessary modification.

ADVICE AND OPINIONS FROM THE COMMISSIONER

The Conflict of Interest Commissioner receives enquiries on an interesting variety of matters. For a majority of citizens of the province these matters would pose no real or perceived problem. Members of the Legislative Assembly, however, must deal with matters through a different lens and they rely on this office for guidance.

This is particularly true for new members and the Conflict of Interest Commissioner ensures that he discusses the obligations, responsibilities and expectations of their new role with regard to *The Members' Conflict of Interest Act*.

The office has always participated in the orientation of new members but this year, due to COVID, our interaction with members has been much different. As opposed to appearing in person and meeting with members face-to-face, a video presentation was created with assistance from Legislative Assembly Services which members could access on-line.

As cabinet responsibilities change and duties of other government and opposition members are reassigned, MLAs seek advice to avoid any real or perceived conflicts with their new responsibilities.

Consultations can be initiated through formal means, such as a letter or by a phone call or email enquiry. Either avenue of initiating a consultative conversation reinforces the commitment of members to abide by the spirit and intent of the Act.

As a result of changes to the Act I received a fair number of requests from former members. Most often inquiries were of a business related nature, cooling off periods, lobbying and employment opportunities.

Although advice can be provided on any topic, in general, advice sought can generally be characterized within the following categories:

GIFTS

Inquiries concerning gifts include whether they can be accepted and under what circumstances.

Eligible gifts received from a single source must be reported when the value is \$200 or more for a single gift or the cumulative value of gifts from a single source reaches that threshold.

OUTSIDE ACTIVITIES

Inquiries regarding outside activities concerning volunteer board activities in community organizations, sponsoring charitable events and attendance at events.

REPORTING AND DISCLOSURE

What is required to be disclosed to the Commissioner and what becomes public generates a fair number of inquiries. Assets of private companies held by members have always had to be disclosed to the Commissioner but not to the public.

BUSINESS AND FINANCIAL INTERESTS

Becoming an elected member sometimes requires a significant change to a member's former career. I dealt with a large number of questions from new members around investments, business dealings and government contracts involving the member or his/her family. Businesses and partnerships, contracts, investments and other financial interests must be disclosed to the Commissioner. Upon reflection, it appears that increased education and information would be beneficial to potential candidates so they are more fully aware of repercussions to their business should they be elected to office.

FAMILY

The definition of family, with respect to a member, means the member's spouse and dependent children. Over the past year questions regarding family members involve a myriad of issues including the employment or volunteer activities of a spouse, child or other family members.

TAKING PART IN DECISIONS

Members often seek advice on when it is appropriate to participate in a decision before the Legislative Assembly, the Executive Council or one of their respective committees. Questions related to personal investments tend to be the most often asked question of the Commissioner.

CONTRACTS

After each general election this office receives a large number of inquiries regarding government contracts and a member's ability to retain current contracts (for those who are newly elected) or enter into new contracts. This year has been no different.

Understanding Section 15 of *The Members' Conflict of Interest Act* is especially important for new members to ensure they fully understand what is and is not allowed once they are elected. It reads as follows:

Prohibition of participation in government contracts

s.15(1) ... government contract means a contract entered into with the Crown for any purpose, and includes any contract for:

- a) the supply to or by the Crown of any goods or services;
- b) the sale, lease or other disposition of any real property to or by the Crown;
- c) the construction of any public work for the Crown;
- d) the determination of compensation, or damages with respect to real property taken, damaged, or purchased by the Crown;
- e) the determination of compensation or damages to be paid by the Crown in cases not provided for in clause (d); or
- f) the lending of moneys to or by the Crown.

(3) in this section and in sections 16 and 17, a member participates in a government contract where the member;

- a) is, or has a right to become, in the member's personal capacity, a party to or beneficially interested in the contract; or
- b) is a shareholder, partner, director, manager or officer of, or has an interest in, a business that;
 - i. is, or has a right to become, a party to or beneficially interested in the contract; or
 - ii. has a subsidiary which is, or has a right to become, a party to or beneficially interested in the contract.

(5) except as specifically provided in this or any other Act, no member shall participate in a government contract.

I think it an opportune time to reiterate that it appears that increased education and information would be beneficial to potential candidates in advance of their becoming elected so they are more fully aware of the business repercussions should they be elected to office.

PUBLIC DISCLOSURE

Members of the Legislative Assembly are required to file a **Member's Private Disclosure Statement** with the Commissioner every year by March 31. After a general election or a by-election that statement must be filed within 90 days.

Amendments to *The Members' Conflict of Interest Act* passed in 2020 now also require former members to file a final disclosure statement within 60 days from when they ceased to be a member.

On October 26, 2020 Saskatchewan held a general election. Eleven sitting members had decided to retire which took effect on September 29, 2020 when the writ of election was presented to the legislature. Their final private disclosures were to be filed with this office by November 27, 2020 to comply with the new 60 day requirement.

Four members who stood for re-election were defeated as of October 26, 2020 and their final disclosures were required to be filed by December 24, 2020 for their compliance with the 60 day period.

The re-elected and the newly elected Members of the Legislative Assembly had a required disclosure date for the 2020 reporting period of February 16, 2021, 90 days after they were declared elected. I am pleased to be able to report that I began receiving the elected members' private disclosure statements on January 14, 2021, indicating a desire by members to meet their statutory obligations.

All former members and elected members, complied with their disclosure requirements.

Due to COVID-19 health concerns I reviewed all private disclosure statements with each elected member (61) and former member (15) utilizing telephone interviews. The first interview (a former member) was held on November 18, 2020 and the final interview (an elected member) was completed on April 13, 2021. Although not as satisfying as in person meetings, the telephone interviews allowed the disclosure process to be carried out in a safe and timely manner. I do look forward to resuming in person meetings next year!

For the 2021 disclosure year, easy-to-use, upgraded electronic disclosure forms will be available and sent to all constituency offices for members use. This will enable

members to easily and efficiently complete their private disclosure statements on electronic devices and email them to our office for filing.

GIFTS

Every year all members receive a booklet called “Accepting and Disclosing Gifts: A Guide for Members.”

This year the office updated and streamlined this booklet, which now includes a detachable desktop placemat that members can tear off for a quick and handy reference guide. The booklet outlines the Gift Rule and provides samples of acceptable and non-acceptable instances for when an MLA can accept gifts and/or benefits.

Each member was provided a copy of this booklet along with an introductory letter in November upon him or her taking office.

As to when a member can accept gifts is an ongoing concern.

The legislation provides that members are permitted to accept only those gifts or benefits that are received as an incident of protocol, customs or social obligations that normally accompany the responsibilities of office. This applies to gifts given to the member either directly or indirectly. In the absence of protocol, custom or social obligation, the gift is not allowed under section 7 of the *Act*.

Members should avoid circumstances where a reasonable person might conclude that the gift or benefit given was intended to influence the member in carrying out his or her duties.



Saskatchewan Conflict of Interest Commissioner

GIFT GUIDE FOR MEMBERS

— at a glance —

TICKETS

• GIFT BASKETS

• SERVICE

• MEALS

• SPONSORED TRAVEL

RELATIONSHIP OF DONOR

VALUE OF GIFT

CAN I ACCEPT?

PROTOCOL OR SOCIAL OBLIGATION?

THE GIFT RULE

The Members' Conflict of Interest Act

7(1) Neither a member nor any of the member's family shall accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of the member's duties of office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) Where a gift or personal benefit mentioned in subsection (2) is greater than \$200 in value, or where the total value received directly or indirectly from one source in any 12-month period is greater than \$200, the member shall immediately file with the commissioner a disclosure statement.

(4) The disclosure statement required pursuant to subsection (3) shall:

- (a) be in the form prescribed by the regulations; and
- (b) indicate the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

(5) For the purposes of this section, "gift or personal benefit" includes:

- (a) an amount of money, if there is no obligation to repay it;
- (b) a service, hospitality or property, including the use of property, that is provided without charge or for a charge that is less than its commercial value; and
- (c) any other gift or personal benefit prescribed in the regulations.

BREAK IT DOWN

The basic rule is that you are prohibited from accepting a gift given to you in connection with the performance of your duties as an elected official. This applies to gifts given to you either directly or indirectly.

If a gift is offered to a family member, the same considerations apply as if the gift were given to you directly. Your partner and dependent children are considered your "family members".

**** You can accept gifts given to you as an "incident of protocol or social obligation".**

You must immediately disclose receipt of a gift with a likely value of \$200 or more to the Conflict of Interest Commissioner.



EXAMPLES OF ACCEPTABLE / NON-ACCEPTABLE GIFTS

DONATIONS

EXAMPLE 1: After giving a speech at a local service club, you are presented with a laptop computer worth \$1,200. You would like to donate the laptop to a local non-profit group.

You may accept the gift as an incident of protocol. If you do donate the laptop, you may not claim a tax benefit. It must be disclosed as it is worth over \$200.

EXAMPLE 2: You receive a limited edition print from an oil company operating in your constituency. You would like to donate the print to a local library.

Regardless of whether you intend to keep it or not, you should politely decline this gift, given that the company is in an industry regulated by government.

SPONSORED TRAVEL

EXAMPLE 1: You are offered a trip to another country or part of the province as a “fact-finding” tour.

This type of sponsored travel May Be acceptable IF connected to your official duties and there is a benefit to the people of Sask., e.g. the tour relates to an important employment sector in your riding or involves an industry related to your portfolio. Seek advice from the Conflict of Interest Commissioner prior to undertaking.

EXAMPLE 2: You have been invited to be the keynote speaker at an event in another city, with airfare and accommodations offered by the organizers

This type of sponsored travel May Be acceptable in certain circumstances. You should seek advice from the Conflict of Interest Commissioner prior to accepting.

CHARITABLE EVENTS

EXAMPLE 1: A homeless shelter in your constituency invites you to a fundraising dinner. Tickets are \$300, \$225 of which is tax deductible. The dinner is a personal benefit which you may accept as part of the protocol or social obligations of office. You do not need to disclose the gift as the value received is \$75.

EXAMPLE 2: You have been invited to participate in a charity golf tournament. One of the major corporate sponsors of the event, a pulp mill operator, has offered to cover your entrance fees. As the sponsor is in an industry regulated by the Province, you should pay your own entrance fees if you participate.

COMPLIMENTARY PASSES AND MEMBERSHIPS

EXAMPLE 1: An airline company offers you a free pass to its airport lounges.

As the lounges provide a quiet and comfortable space in which to work while traveling on official business, you may accept. Disclosure is required as it is likely worth over \$200.

EXAMPLE 2: A private golf and country club offers you a free membership.

As there is likely little or no use of the amenities that would help you carry out your official duties, you should decline the offer.

GIFTS TO FAMILY MEMBERS

EXAMPLE 1: A local business competing for a government contract sends your daughter a complimentary ski pass to a ski resort.

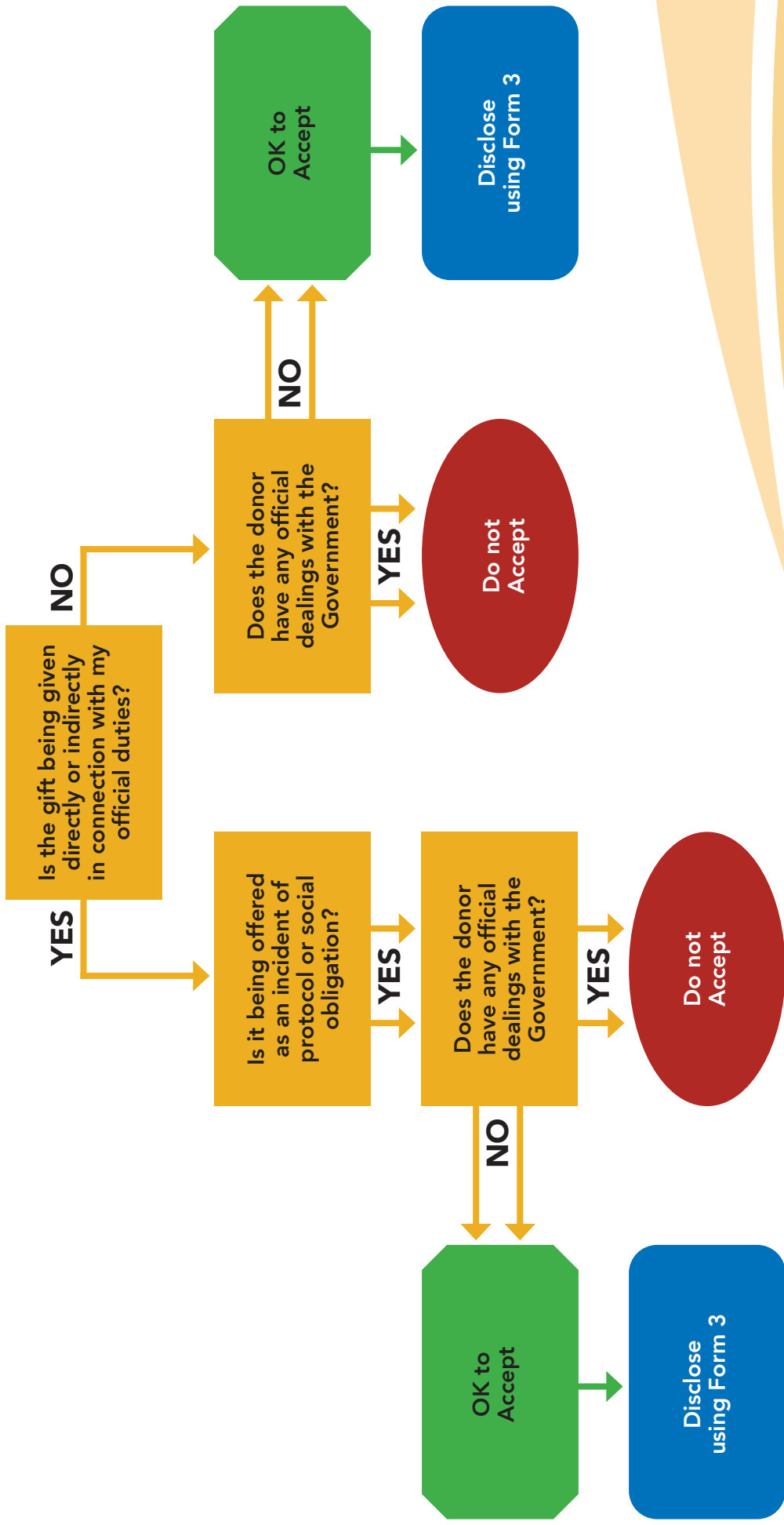
Unless there are circumstances that indicate otherwise, it looks like the gift may have been given to your daughter because of her relationship to you. In effect, the gift was indirectly given to you. The gift should not be accepted as it appears to place you under an obligation to the donor.

EXAMPLE 2: You have been invited to a leadership awards ceremony sponsored by the Chamber of Commerce. The invitation includes your spouse. Tickets to the ceremony cost \$150 each.

You may accept the free tickets as part of the protocol or social obligations of office. If you attend on your own, you do not need to disclose the gift as the value of the personal benefit is less than \$200. However if your spouse attends with you, disclosure is required as the combined value of both tickets is more than \$200.

This flowchart summarizes the general process to follow when offered a gift.

ACCEPTING AND DISCLOSING GIFTS



EXAMPLE OF FORM 3

DOWNLOAD THE FULL FORM FROM <https://publications.saskatchewan.ca/#/products/8160>
OR call the Office of the Conflict of Interest Commissioner and we will send you an electronic copy.

CONFIDENTIAL



SASKATCHEWAN

FORM 3 — MEMBER

MEMBER'S GIFT OR PERSONAL BENEFIT DISCLOSURE STATEMENT

MEMBER:

Section 7 of *The Members' Conflict of Interest Act* states, in part, that:

- 7(1) Neither a member nor any of the member's family shall accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of the member's duties of office.
- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.
- (3) Where a gift or personal benefit mentioned in subsection (2) is greater than \$200 in value, or where the total value received directly or indirectly from one source in any 12-month period is greater than \$200, the member shall immediately file with the commissioner a disclosure statement.
- (4) The disclosure statement required pursuant to subsection (3) shall:
 - (a) be in the form prescribed by the regulations; and
 - (b) indicate the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.
- (5) For the purposes of this section, "gift or personal benefit" includes:
 - (a) an amount of money, if there is no obligation to repay it;
 - (b) a service, hospitality or property, including the use of property, that is provided without charge or for a charge that is less than its commercial value; and
 - (c) any other gift or personal benefit prescribed in the regulations.

1. Single fee, gift or benefit received and valued in excess of \$200:

Name and Address of Donor: _____

Nature of Fee, Gift or Benefit: _____

Date of Receipt: _____ Value: _____

Describe the circumstances under which the fee, gift or other benefit was received: _____

If the fee, gift or benefit was received indirectly from a source other than the donor listed above, what is the name and address of the source?

2. Fees, gifts and other benefits received from one source in 12-month period exceeding \$200 in total:

Name and Address of Donor: _____

Nature of Fee, Gift or Benefit: _____

Date of Receipt: _____ Value: _____

Describe the circumstances under which the fee, gift or other benefit was received: _____

If any of the fees, gifts or other benefits were received indirectly from a source other than the donor listed above, what is the name and address of the source?

ITEMS THAT COULD BE CONSIDERED GIFTS

PRIZES

DONATIONS

SPONSORED TRAVEL

PROMOTIONAL ITEMS

COMPLIMENTARY PASSES AND MEMBERSHIPS

EVENTS AND HOSPITALITY

CHARITABLE EVENTS

It's always better to error on the side of caution and not accept a gift or benefit

OR

contact us for further discussion prior to accepting.

If you have any questions please do not hesitate to contact us:



Conflict of Interest Commissioner
630-1855 Victoria Avenue
Regina, SK

306-787-0800

EDUCATION

CCOIN (Canadian Conflict of Interest Network) is comprised of the various Integrity and Conflict of Interest Commissioners across the country at the federal, provincial and territorial levels of government and primarily those who have jurisdiction over members of legislative bodies.

The organization meets on an annual basis to discuss issues of common interest and to seek the advice and view of colleagues concerning matters related to conflicts of interest and ethics in our changing society.

2020 ANNUAL CONFERENCE

The 2020 Annual Conference was scheduled to be held in Yellowknife, NWT. However, due to COVID the conference was cancelled and instead the Commissioners participated in an on-line session via Zoom.

The session marked my first acquaintance with my CCOIN colleagues and provided me with an introduction into a few of the topical issues concerning ethics and integrity in the other provinces and territories. It was a valuable session and I look forward to perhaps attending the conference next year in-person.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

GIFT PROVISION

Section 7

Provisions were recently added to *The Members' Conflict of Interest Act* requiring former members to file a private disclosure statement for the period from the beginning of the calendar year to the date when they ceased to be a member. Inadvertently, a similar provision requiring gifts to also be disclosed for the same period was overlooked. To correct this omission I would suggest that an amendment be made to the gift provision in section 7. This would formalize the requirement to disclose any gifts received by former members during the same period as part of their final disclosure requirement.

RECONSIDERATION OF OPINION

Section 27

One of my first requests as Commissioner was to re-examine a previous opinion prepared by former Commissioner Ronald L. Barclay, Q.C. Research relating to this request led me to conclude that there is no legislative provision that provides the Commissioner with the authority to consider prior opinions.

In my review, I observed that British Columbia has a specific statutory provision that allows for reconsideration of an opinion in certain circumstances. Section 18(5) of The British Columbia *Members' Conflict of Interest Act* provides:

If the Commissioner determines that a member has not contravened this Act, that determination is final for all purposes of the Act and any proceedings under the Act, so long as the facts presented by the member to the Commissioner under subsection (1) were accurate and complete.

I would recommend that a similar provision be added to section 27 of our Act.

The benefits of a provision of this nature are twofold: first, it would encourage members to provide all relevant information to the Commissioner when requesting an opinion and second, it brings finality to opinions that were made by the Commissioner with complete disclosure.



Office of the
Registrar of Lobbyists
Saskatchewan

DID YOU KNOW?

The most frequently asked question is “what is the difference between sharing information and lobbying?”

First and foremost, the Act only applies to persons who are paid to lobby. This question has no relevance to the average person who is simply communicating with their elected member or other public office holder.

To be considered a lobbyist a person must:

- 1) Be getting paid – compensation does not only include monetary measures. It can include things like tickets to an event, a membership, a future payment or even consideration of stocks or shares.
- 2) To communicate – the Act outlines different forms of communications – meetings, written and verbal communications as well as informal communications such as having a coffee or talking on the golf course, and finally, grassroots communications.

Grassroots communication is an indirect form of communication with public office holders. Grassroots communication may use any means, including advertisements, website(s) or social media tools to encourage members of the public to communicate with public office holders directly through any means including letters, email, social media tools, text, phone or in-person demonstrations.

For further guidance on types of communications visit our website or call the office.

- 3) With a public office holder - the *Saskatchewan Lobbyists Act* applies to public office holders (POH) ONLY at the provincial government level. POH include the premier, cabinet, all MLA's, Saskatchewan public servants (government, agencies, Crown corporations) and some members of Boards.

Lobbying municipal public office holders is not a registerable requirement.

- 4) In an attempt to influence – the Act sets out seven different areas in which a person can influence and includes; the development of legislation, policy or process; development, establishment or amendment of a program, directive or guidelines and also areas involving contracts and funding. This list is not exhaustive and the definition of lobby in the Act should be consulted for the more inclusive list.

A person must meet all four of these requirements in order to be considered a lobbyist.

Upon establishing that the person is a lobbyist, the next step to be considered when answering the question “what is the difference between sharing information and lobbying?” hinges on the context of the communication. It is important to note that each and every communication varies and a blanket answer cannot be conclusive.

However, in general terms, if a lobbyist is sharing information that is publicly available and is not asking for something, requesting something or generally expecting something out of the communication, then that is sharing information. If the communication includes comments or information that promotes or improves the organization’s status then that is lobbying.

A good example is a drug company who meets with the Minister of Health to talk about a new drug on the market. If the company representative is simply fact sharing “this drug does this and that and here are some side effects...” that is information sharing. If the representative includes in this narrative that the company has for offer, or can supply or wishes to include that particular drug on Saskatchewan’s Prescription Drug Plan...” that is lobbying and must be registered.

To reiterate, each circumstance varies and we encourage lobbyists to contact the office for discussion to ensure they are compliant with the Act.

HISTORY

The Saskatchewan Lobbyists legislation came into force August 23, 2016.

The purpose of *The Lobbyists Act* is to enhance the integrity and accountability of government by fostering openness and transparency about who is attempting to influence decisions made by provincial public office holders.

In Saskatchewan lobbying may be done by consultant lobbyists or in-house lobbyists. If you are characterized as a lobbyist you must create an account on the Lobbyist Registrar's website and then regularly disclose details of your lobbying activities with provincial public office holders by registering this information on the lobbyists' registry. This information becomes available to the public as soon as it has been accepted by the Registrar.

The Saskatchewan Lobbyists Act should be seen as a companion piece to The Members' Conflict of Interest Act with the similar goal of building public confidence in democratic institutions.

INTERJURISDICTIONAL COOPERATION

The Lobbyists Registrars and Commissioners Network (LRCN) is an informal group of commissioners and registrars from Canadian jurisdictions at the federal, provincial and municipal levels who administer and supervise the lobbying regimes in their respective jurisdictions. Two municipal jurisdictions, Ottawa and Toronto have been grandfathered into this organization, recognizing their experience and history within the lobbying context. The LRCN has a long-standing practice of sharing information, legislative developments, and best practices in the conduct of our respective responsibilities.

Registrars, commissioners and their staff meet twice a year, including one meeting in person. This meeting is usually held in the fall in a different jurisdiction. Discussions include updates on jurisdiction developments, trends, and issues of the day.

We may also meet via conference call(s) through the year to discuss important matters as they arise.

The 2020 LRCN in person meeting, scheduled to be held in Victoria, BC was postponed until September 2021, dependent on COVID. The 2020 conference was held virtually.

A notable outcome of this meeting was that group members signed a Terms of Reference document, which acknowledges our shared interests and our will to foster better cooperation among all jurisdictions. These terms of reference formalize the activities of the network, which has been meeting and sharing information since 2005.

As a network, we acknowledge that lobbying legislation, regulations, and by-laws in each jurisdiction may benefit from enhancements inspired by other jurisdictions in order to ensure better transparency of lobbying activities across Canada.

EDUCATION AND OUTREACH

The 2019-2020 annual report noted that Bill No.195, An Act to Amend the Lobbyists Act was passed and received Royal Assent. The amendments brought forward in Bill No.195

Reduced the number of hours from 100 to 30 as the threshold upon which an “in-house” lobbyist is required to register and report their activities

Required charitable non-profit organizations to now register unless they have less than 5 lobbyists whose combined lobbying is less than 30 hours per year

Defined the term “gifts or personal benefits” and prohibit lobbyists from providing gifts to government officials except as a matter of protocol or social obligations and then the value of those gifts must not exceed \$200.

As a result of these amendments coming into force September 14, 2020, the Office undertook a number of outreach and educational initiatives.

New Legislation In Force [Find out more](#)



Search the Registry

[CITIZENS](#) [PUBLIC OFFICE HOLDERS](#) [LOBBYISTS](#) [RESOURCE LIBRARY](#)

Office of the Registrar of Lobbyists Saskatchewan

The Office of the Registrar of Lobbyists administers *The Lobbyists Act* for Saskatchewan.

We updated each page of our website to include a banner announcing that new legislation was in force and followed up with a push message to all registered lobbyists announcing the changes and directing them to the website.

For further clarification, the Registrar also wrote and posted to the Resource Library section of the website, three new Directives explaining the three amendments and providing guidance on how to interpret and implement the amendments into their lobbying activities.

Registrar Directives

Below are the Registrar Directives released by the Saskatchewan Office of the Registrar of Lobbyists, which are used to clarify policies, issues and procedures



30 Hour Threshold

Calculation of 30 hour threshold for in-house lobbyists



Gift Prohibition

Guidance on S.12 - Gifts from Lobbyists



Nonprofit and Charitable Organizations

As the Registrar is also the Conflict of Interest Commissioner a message on lobbying was included in the Commissioner's orientation video that all members can access.

The office is pleased to note that there have been no significant issues with implementing these new amendments. After the initial outreach the office received larger than usual call volumes from lobbyists and non-profit/charitable organizations requesting further clarification and information. We are pleased to report that no compliance issues have arisen and there has been an increase in registrations from in-house lobbyists and non-profit/charitable organizations.

One comment the office continues to receive from consultant lobbyists in particular is that with the 30 hour threshold for in-house lobbyists the playing field is still not level and transparency is still not at 100%. If the purpose of the Act is to ensure transparency and accountability, this can only be achieved when all lobbyists are required to register their activities immediately upon commencement.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

Gift Provision

s.12

Amendments were recently made to *The Lobbyists Act* which defined the term “gifts or personal benefits” and prohibits lobbyists from providing gifts to government officials except as a matter of protocol or social obligations and the value of those gifts must not exceed \$200.

Inadvertently, a provision requiring lobbyists to disclose any gifts provided to public office holders was not included in this amendment. To correct this omission I would suggest that an amendment be made to the gift provision in section 12 and to the prescribed forms contained in the Regulations. This would formalize the requirement to disclose any gifts given by a lobbyist to a public office holder to be disclosed on the lobbyist registration form.

As members are required to disclose any gifts over \$200 that are received, the same requirement for lobbyists to disclose gifts provided would maintain a system of checks and balances that is perfectly transparent and accountable for both parties.

REMINDER

Lobbyists in Saskatchewan must be cautious when they are considering giving or offering any gift or personal benefit (including event or conference invitations) to public office holders. Giving or promising a gift or personal benefit to a public office holder whom you intend to lobby may invite them to breach the restrictions to which they are subject as a public office holder or place them in a conflict of interest. As a result, you could breach your obligations as a lobbyist under *The Lobbyists Act*.

The onus remains on lobbyists to ensure that the offer of any gift or personal benefit to a public office holder complies with *The Lobbyists Act* before they make the offer.

It is important to note that an offer of a gift or personal benefit to a public office holder itself can be a breach of section 12 of the Act, even if the public office holder ultimately does not accept, or does not end up receiving or keeping the gift or personal benefit.



OFFICE NEWS

Operational Records Retention Schedule

As a formal office for the Conflict Commissioner/Registrar of Lobbyists has only been established since the dual role and inception of the Registry of Lobbyists was created, there was no prior central repository for records, both administrative and operational, associated with this office.

With the able assistance of the Provincial Archives staff, we are in the process of developing a retention and disposal schedule for records retained by the Commissioner/Registrar's office. Once complete, it will enable this office to maintain a more efficient and proper records management process. It will also enable this office to properly dispose of records such as private disclosure statements and confidential opinions for former members.

BUDGET

The fiscal year for the office runs from April 1, 2020 – March 31, 2021.

As with previous years, the budget remained relatively unchanged, with slight adjustments for cost of living and other minor increases in expenses.

**Conflict of Interest Commissioner and
Office of the Registrar of Lobbyists
Budget Summary
For the Fiscal Year 2020-2021**

Object of Expenditure Breakdown	2020-21
Personal Services	\$394,299
Contractual Services	\$133,642
Communications	\$ 2,000
Travel & Business	\$ 19,290
Supplies & Services	\$ 6,625
Equipment & Assets	<u>\$ 26,000</u>
	<u>\$581,856</u>

ACKNOWLEDGMENTS AND APPRECIATION

OUTSIDE ASSISTANCE

As a two-person office, we rely on support and assistance from various branches of the Legislative Assembly. I wish to acknowledge and sincerely thank Information Technology Services, Member Services and Financial Services for their expert advice and outstanding guidance and assistance throughout the year.

OFFICE STAFF

Sandra Arberry, Deputy Registrar and Executive Operations Officer

Sandra was appointed Deputy Registrar in 2015 with the inception of the passing of *The Lobbyists Act*. She has been instrumental in establishing and managing the office, administering the legislation and lobbyist registry and assisting in my conflict of interest mandate. She is a talented and valuable resource and appreciated colleague.

Ron Samways, Contractor

Ron has been with the office since The Honourable Ronald Barclay, Q.C was appointed as the Commissioner. He assists the Commissioner with the filing of Members Private and Public Disclosure statements. He is tremendously respected and his good humour and charismatic personality add a dimension to the office that is greatly missed when he is not here.

