

Lobbyist and Gift Registry

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Accountability and Transparency

Legislative and Policy Framework

- The accountability and transparency provisions in the *Municipal Act, 2001* allow a municipality to establish the following:
 - 1. Integrity Commissioner to administer Code of Conduct (provides basis for Gift Registry);**
 - 2. Lobbyist Registry maintained by a Lobbyist Registrar;**
 3. Ombudsman; and
 4. Auditor General

City of Brampton Corporate Policies

Policy 14.15.0 – Accountability and Transparency

- **Accountability** - the principle that the municipality will be responsible to the public for decisions made and policies implemented, as well as its actions or inactions.
- **Transparency** - the principle that the municipality actively encourages and fosters public participation and openness in its decision-making process. Additionally, transparency means that the municipality's decision-making process is open and clear to the public.

City of Brampton Corporate Policies

Policy 14.15.0 – Accountability and Transparency (continued)

- Accountability, transparency and openness are standards of good government that enhance public trust.
- Achieved through the municipality adopting policies and establishing processes that are open and accountable.
- Brampton will engage the public throughout its decision making process which will be open, visible and transparent to the public, while balancing the need for the decision making process to be efficient and effective.

Lobbyist Registry

Legislative Framework

Registry

- *Municipal Act, 2001* authorizes a municipality to establish and maintain a registry of returns (information) filed by persons who lobby public office holders.
- Provides a municipality with a system of registration of persons who lobby public office holders and to do the following :
 1. Define “lobby”.
 2. Require persons who lobby public office holders to give file information to the municipality.
 3. Specify the information to be filed with the municipality and specify the time within which file.
 4. Exempt persons from the requirement to give information.
 5. Specify activities where the requirement to provide information does not apply.
 6. Establish a code of conduct for lobbyists.
 7. Prohibit former public officer holders from lobbying current public office holders for a period of time (specified by municipality).
 8. Prohibit a person from lobbying public office holders without being registered.
 9. Impose conditions for registration, continued registration or a renewal of registration.
 10. Refuse to register a person, and suspend or revoke a registration.
 11. Prohibit persons who lobby from receiving payment in whole or in part contingent on the successful outcome of any lobbying activities.

Lobbyist Registrar

- *Municipal Act, 2001* authorizes municipality to appoint a Registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry.
- Registrar is not required to be a municipal employee.
- Allows Registrar to conduct inquiries in respect of requests made by council, a member of council or public about compliance with the Lobbyist Registry or with a code of conduct established.

Lobbyist Registry

Definitions

What is Lobbying?

- Generally, any communication with a public office holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, Committee of Council, Councillor or staff member.
- Consists of activities that can influence the opinions or actions of a public office holder on a range of subjects. Ex. By-laws, policies and programs, grants, purchasing, and applications for services, permits, licenses or other permission.
- Typically involves communicating outside of public forum such as Council meeting or public hearing; often – but not always - by people who are paid or compensated for their efforts.
- Helps stakeholders make informed decisions. When lobbying is transparent to the public, lobbying public office holders is a legitimate and potentially helpful activity.

What is a Registry?

- Purpose of a Registry is to enhance the transparency and integrity of the business conducted at City Hall.
- The Registry is a resource that documents instances of substantive communication, such as telephone calls, meetings or e-mails, between those who lobby and Members of City Council or City Staff in a centralized database that is easy to access and search by the public and interested stakeholders.

Who is a Lobbyist?

Many professionals, company executives, sole proprietors and contractors may lobby City staff, Members of Council, and other public office holders in the course of their business activities.

- **Consultant Lobbyist** – individual who lobbies for payment on behalf of client (another individual, company, partnership or organization).
- **In-house Lobbyist** – individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization.
- **Voluntary Lobbyist** – an individual who lobbies without payment on behalf of a business or organization.

Responsibilities

Lobbyists

- Act in accordance with the Lobbyists' code of conduct (may be part of the Lobbyist Registry By-law).
- Register their intent and their communications
 - Hamilton will require that lobbyists register in advance of any communications,
 - Ottawa allows registration up to 15 days after communications.
- Close registration when lobbying is concluded.

Responsibilities

Lobbyist Registrar

- Provides forum for registration.
- Provides interpretation of the rules.
- Provides advice to lobbyists and Council/staff.
- Conducts investigations.
- Enforces provisions of the by-law.
- Issues periodic (annual?) reports.

Responsibilities

Council Members and Staff

- Not engage with unregistered lobbyists.
- Review Lobbyist Registry regularly to confirm that lobbying instances have been registered.
- Remind lobbyists of requirement to disclose.
- Report non-compliance to Lobbyist Registrar.
- Refuse gifts, benefits, hospitality or tickets from active lobbyists.

Considerations

Scope

- Define who shall be subject to lobbying provisions
 - Toronto includes Council members and their staff, senior staff at many levels, and members and staff of various boards.
 - Ottawa includes Council members and their staff, senior staff and members and members of the Transit Commission
 - Hamilton includes Council members and their staff, and members of senior management team.
- Define exemptions to lobbying provisions, for example
 - Communications as part of public meetings (Council, Planning, etc.)
 - Already regulated processes such as for procurement
 - Complaints and compliments

Considerations

Brampton's Regulatory Framework

- Amendments to Council and Employee codes of conduct.
- Enactment of by-law to establish registry and appointment Lobbyist Registrar
 - For Toronto, Ottawa and Hamilton, the Integrity Commissioner also acts as the Lobbyist Registrar.

Considerations

Brampton's Internal Structure

- Identify responsible department/division.
- Develop manual tracking system.
- Develop IT structure for online applications for registration and interaction.

Gift Registry – *Legislative Framework*

Municipal Act, 2001 – Code of Conduct

- Authorizes municipality to establish code of conduct for members of the council.

City of Brampton - Code of Conduct for the Members of Council

- **Section 4.0. Conduct Respecting Gifts, Hospitality and Benefits**
 - Acceptance of gifts, hospitality or benefits of a nominal value is considered part of the Member's role and responsibilities and are to be received only in good faith, as an incident of protocol or social obligation.
 - Members are required to be aware of those gifts/benefits that would be of pecuniary interest and subject to the *Municipal Conflict of Interest Act, 1990* .
 - Decisions should be based on an impartial and objective assessment of each situation, free from real or perceived influence of gifts, hospitality or benefits.

City of Brampton - Code of Conduct for the Members of Council

- **Section 4.0. Conduct Respecting Gifts, Hospitality and Benefits (continued)**
 - Regardless of monetary value, the gift, hospitality or benefit could be seen as an instrument of influence, favouritism and bias on the part of the elected official.
 - Members should promote transparency and accountability to the public by continuing to set a high standard of conduct and be prepared to openly disclose all gifts and benefits that have been received in carrying out their official duties.
 - **Members are encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values for review, appreciating that they are a matter of public record.**

City of Brampton – Employee Code of Conduct (Oct. 1, 2013)

- **Section 1(f). Specific Guidelines on Conduct:**
 - Gifts should not be solicited by employees.
 - Employees should not allow themselves to reach a position whereby they might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting hospitality.

What is a Gift Registry?

- Requires officials to list all gifts, benefits and hospitality received which individually exceeds an identified amount from once source in a calendar year (municipality can define exceptions)
- In Ottawa, members of council are required to provide quarterly reports disclosing the gifts, benefits, hospitality and tickets they have received in the gift registry.
- Typically, the Gift Registry should include a description of the gift, benefit or hospitality, the source, estimated value and what is to be done with the gift.

Considerations

Scope

- Define who shall be subject to requirements of Gift Registry:
 - Council members only, or Council members and staff.
- Refinement of gift policy under Council (and staff) Code of Conduct:
 - establish value levels requiring disclosure,
 - establish parameters for gifts becoming property of the member or the Corporation.

Considerations

Brampton's Regulatory Framework

- Amendments to Council and Employee codes of conduct.

Brampton's Internal Structure

- Identify responsible department/division.
- Develop tracking system.
- Develop IT structure for online publication.

Next Steps

Staff to develop and bring to Member Services Committee

- **Proposed policies:**
 - scope for Lobbyist and Gift Registries,
 - definitions to be included in by-law(s) and codes of conduct (Council, staff and lobbyists),
 - exemptions.
- **Proposed governance structure:**
 - Integrity Commissioner or other city official,
 - staff support requirements.
- **Anticipated costs**

Next Steps (cont'd)

Staff to develop and bring to Member Services Committee

- Schedule for implementation:
 - stakeholder consultation,
 - by-law enactment and amendment of codes of conduct,
 - budget approval,
 - support structure implementation, including IT requirements,
 - training for stakeholders and staff,
 - communication to public.