



## Responses to ORL survey on proposed dollar value limit for lobbyist gifts

Between December 14, 2022 and January 20, 2023, the Office of the Registrar of Lobbyists (ORL) invited public feedback on a proposed approximate \$40 limit for gifts permissible under the *Lobbyists Transparency Act* (LTA) to inform an update to the Lobbyist Gifts guidance document.

All interested parties – lobbyists, public bodies, and members of the public – were invited to provide their feedback through an online survey.

Seventeen participants shared their feedback through this survey. The survey responses are listed below in the order in which they were received.

If you have any other questions, please contact the ORL at [info@bcorl.ca](mailto:info@bcorl.ca) or 250-387-2686. Callers outside Victoria can contact the office toll-free by calling Enquiry BC and requesting a transfer to 250-387-2686.

Enquiry BC

Vancouver: 604-660-2421

Elsewhere in BC: 800-663-7867

## Submission #1

Please provide your name

**Carissa Wilson**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**[No response]**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

**Yes, the dollar amounts help to set standards as what is normal expression of protocol or social obligation can vary wildly.**

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

**It may be a bit restrictive, given the rising costs of living, \$50 rings more reasonable, in my personal opinion.**

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

**Considering the rising costs of all things in BC, \$50 feels more reasonable and sustainable**

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

**[No response]**

**Submission #2**

Please provide your name

***James Morrison***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***Compensation Employees Union***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***Yes, an approximate dollar amount does help clarify. A know threshold creates cognition for both the providing party and receiving party to think about the nature and amount of the gift.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***We believe the limit should be \$50 given the rising cost of items.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***We believe the limit should be \$50 given the rising cost of items.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***Disclosure of approximate value.***

**Submission #3**

Please provide your name

***Mike Cunningham***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***[No response]***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***Yes - it helps to have a dollar amount established.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***No - it seems low - once a dollar amount is established it is unlikely to be changed for a while.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***\$250 - it is already the threshold for requiring reporting that is outlined in the Members Conflict of Interest Act - so there would be alignment between the two.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***Providing clear, simple guidelines for advocacy events such as MLA briefings that involve a meal or reception.***

**Submission #4**

Please provide your name

***Christopher Girodat***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***Capilano Students' Union***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***Yes, because the phrase "protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder" is vague and does not lend itself will to intuitive interpretation, especially in grassroots organizations for which lobbyists are unlikely to have been exposed to those protocols or social obligations.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***Yes, because it is nominal in the context of most public office holders.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***[No response]***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***[No response]***

**Submission #5**

Please provide your name

***Bartek Kienc***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***[No response]***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***No. Because citizens should have access to their government without having to submit an onerous amount of forms and having to register their every move. The limit should be high enough so that it doesn't impede the normal operation of society while protecting against graft.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***No. The limit is too low and only creates an absolutely pointless administrative burden. This is particularly difficult for First Nations, small businesses and individual citizens who do not have departments of idle compliance staff sitting around just to fill out ORL forms.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***\$250***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***[No response]***

**Submission #6**

Please provide your name

***Dan Battistella***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***[No response]***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***At some level a clarified dollar amount may provide good guidance.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

**I do not believe that a \$40 limit is reflective of the current business climate. In some locations, it's difficult to purchase a meal under \$40. A \$100 limit should be considered at a minimum. Even at that, if someone's obligations can be swayed at \$41 or \$101 for that matter, they should not be in the position they are in.**

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***See response above***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***[No response]***

## Submission #7

Please provide your name

**Caroline Andrewes**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**Association of Consulting Engineering Companies - British Columbia**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***The approximate dollar value seems reasonable with respect to regular gifts, for example a small token of appreciation for attendance at an event. However, given that many organizations host evening events that include food and beverage service, the approximate dollar value is not appropriate. It is impossible to host a large event at a hotel or conference centre and be charged \$40 or less for dinner service. It is recommended that the ORL consider a different value for these type of events to allow public office holders to attend.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***Yes - the value is approximately what our organization uses when selecting gifts for special guests or speakers at events.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***Only in the case of food and beverage service. \$40 is insufficient in the case of large gatherings like conferences or industry awards presentations. Public office holders regularly attend these types of events. If the \$40 limit were imposed we would not be able to offer dinner to these guests.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***The examples provided were reasonable and helpful for understanding the guidance. The exception is the example of an evening event that includes dinner. As a result of inflation over the past few years, even the value referenced in the example (\$85) is insufficient for many commonly used venues in BC (for example, the Vancouver Convention Centre).***



## Submission #8

Please provide your name

**Kyle Larkin**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**[No response]**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

**Yes, absolutely. I believe that a dollar-amount will help lobbyists with assessing if they can or cannot provide a gift.**

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

**Yes and no, as it depends what the \$40 includes. As this covers hospitality, it will be important for the ORL to make a determination as to what the \$40 includes. For hospitality, this could be as wide as including the cost of food, beverage, service fees, rooms rentals, catering, taxes etc. The federal Office of the Commissioner of Lobbying has just gone through a similar exercise. In the first new draft of the Lobbyists Code of Conduct, it was suggested that the limit would be set at \$40, including all those aforementioned costs. The office realized after some feedback that this would prevent receptions from being held as no caterer would be able to provide such service at such a low cost. In their final draft submitted to Parliament, they clarified that the \$40 was only for the cost of food and beverage, divided by the total number of participants a reception. By excluding taxes, service fees etc., it's more in line with current costs of a legislative reception. I would suggest the ORL also set the limit at \$40, tie it to inflation, and exclude taxes and other fees.**

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

**[No response]**

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

**[No response]**

**Submission #9**

Please provide your name

***Claire Belanger-Parker***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***[No response]***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***It does help to clarify and will help to clear with our offer/expectation when in contact with the public office holder.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***I do not believe that \$40 is appropriate. The gift is often in the form of a meal and the rising cost of food could create some challenges. A continental breakfast at a conference cost approximately \$49/pp.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***With the rising cost of food and the fact that the suggested amount would be used for either breakfast, lunch or dinner, I believe \$60.00 would be more appropriate.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***[No response]***

**Submission #10**

Please provide your name

***Stephanie McLean***

If you are providing feedback on behalf of an organization, please provide the name of that organization.

***[No response]***

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***Ascribing a dollar value will help provide clarity.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***This limit is too low. With the increases in inflation tickets to events or dinners often exceed \$40. This amount is also out of line with other provinces, like Alberta where the limit is more than double the proposed amount.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***\$100 is in line with other jurisdictions and accounts for inflation.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***I think consideration should be given to additional exceptions for gifts from Indigenous communities. It would be wholly inappropriate for an elected official to decline gifts given in ceremony and sometimes they exceed \$40, like a Pendleton blanket.***

## Submission #11

Please provide your name

**Bill Tieleman**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**West Star Communications**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***A dollar amount, regularly updated for inflation, is helpful so that organizers can plan accordingly for any event and to determine what level of gift is possible and appropriate for the circumstances.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***\$40 is simply far too low an amount for any type of organized social event. The cost of a sit down dinner at any hotel, restaurant or other facility would exceed \$40 for anything but a snack and a glass of water. \$40 is also far too low for any type of gift such as a bag, sweatshirt, jacket, hat or even t-shirt that might be custom made for the organization, business, union or other group - either for their general purposes or for a specific event such as a fundraising effort where elected officials might be attending.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***The Members' Conflict of Interest rules use the amount of \$250 as a maximum an MLA can receive in a gift or gifts in one calendar year. The ORL rules could and should be consistent with this amount for simplicity's sake and to avoid confusion.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***The overall intent of the Lobbyist Gifts regulation is to ensure, presumably, that lobbyists do not attempt to buy influence with elected officials or public servants by showering them with expensive gifts that would neither be nor be seen as appropriate in the circumstances. That goal is laudable and achievable without making the regulation so restrictive that every MLA***

***will have to not attend ordinary social functions where an organization, business or union is simply including them along with their own members and staff at an event. The \$250 limit should cover almost any reasonable costs.***

## Submission #12

Please provide your name

**Victoria Gray**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**Office of the Conflict of Interest Commissioner of British Columbia**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***Yes, an amount that represents the usual “ballpark” for such gifts would likely be of assistance. Many people may not be familiar with the term “protocol or social obligations” and be unsure what the ORL considers appropriate in circumstances in which lobbyists are likely to engage with public office holders. Setting out a limit would help to take the guesswork out of the situation and make it easier for lobbyists to comply with their obligations.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***From the background material provided, it appears that the \$40 limit is consistent with the ORL’s expectations and lobbyists’ understanding of what is a “normal” expression of protocol or social obligation. The amount is modest enough to avoid a perception of the lobbyist trying to influence the public office holder, but generous enough to provide a reasonable token of appreciation, light meal etc.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***\$40 seems reasonable for most situations. There may be situations where a higher limit is appropriate, which could be assessed on a case by case basis.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***It may be helpful to provide examples that illustrate what would be “normal” expressions of protocol/social obligations relating to different types of public office holder (e.g. political staff member vs. Minister)***

**Submission #13**

Please provide your name

**Karen Ranalletta**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**CUPE BC**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***The approximate dollar amount does not help to clarify whether something is permissible. While it is clear as a standalone criterion, it does not shed light upon whether the gift normally accompanies the duties and responsibilities of the public office holder.***

***The dollar amount itself does not illuminate whether the circumstances surrounding the providing of the gift makes it permissible. The \$100 limit is clear and objective, however the second part of the test is unclear and subjective because the terms are vague and undefined. Ascribing a dollar amount does not add a definition or provide any clarity to the language of the exception test.***

***Furthermore, the language of the guidelines does not map onto all the groups covered by the LTA. The LTA was amended to greatly expand the scope of its coverage to all unions and non-profit advocacy organizations. Any organization that exists to advocate for its members or in relation to issues, no matter how small the organization or how limited the lobbying (i.e. under 50 hours annually), is now subject to all the LTA registration and reporting requirements. Meanwhile, small businesses doing a similar amount of lobbying remain exempt from the application of the LTA.***

***This means that a business can lobby to be awarded a government contract without having to report anything, let alone gifts, to the ORL while a small non-profit holding an AGM at which the local MLA speaks about the organization's advocacy must register and report this activity, along with the branded mask they gave the MLA for attending. The small business could communicate privately and directly with POHs without any reporting of these communications while a union local would have to register and report publicly tweeting at the Minister of Labour.***

***The ORL's guidance fails to reflect the reality of the many new organizations that are now subject to the gift-giving and reporting rules. For example, a union's annual convention or a non-profit's AGM are very different events than an industry dinner and treating them as the same thing under unclear and subjective language is not appropriate. Union members***

***interacting with POHs in a convention setting is a different dynamic than corporate lobbyists interfacing with POHs at an industry-sponsored dinner.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***No, it is not an appropriate amount. The \$100 limit over a 12 month period is already becoming increasingly problematic with the rising cost of living. High inflation and the increasing cost of food, goods, and services means that the \$100 limit is functionally lower than it used to be.***

***\$100 as a limit is more modest today than even a few years ago, and \$100 worth of gifts does not look the same today as when the legislation was drafted. Lowering the limit further would not further the goals of the LTA.***

***A lower amount would encourage the use of disposable, wasteful, and low-quality goods and services in relation to gifts. It would discourage the purchase of local products and services, ethically made goods, and goods produced with higher labour standards such as unionized workplaces or living-wage employers. A change to legislation that would directly lead to such outcomes is not supportable nor in the public interest.***

***Furthermore, it is not the dollar amount which signifies whether a gift is acceptable – rather, it is the circumstance of the gift. Whether a gift is \$40 or \$100 does not signify the circumstance of the gift. What is considered “normal” – and therefore acceptable – is dependent upon the circumstances and how those circumstances are viewed and evaluated. Whether something is “normal” does not depend upon the dollar value.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***No. The dollar amount and the assessment of whether something is a normal expression of a social obligation are not linked. Furthermore, adding another dollar amount to the compliance landscape may simply further confuse registrants who are already navigating a complex process. In the alternative, the amount should be consistent with the disclosure threshold of \$250 for protocol/social obligation gifts in the Members’ Conflict of Interest Act (COIA).***

***The COIA similarly prohibits MLAs from accepting gifts unless these are received as an incident of the protocol or social obligations that normally accompany the responsibilities of office. The COIA specifically anticipates that protocol or social obligation gifts may exceed \$250 in value, either at one time or over a 12 month period. However, if this occurs, the MLA is required to file a disclosure statement with the Conflict of Interest Commissioner regarding the nature of the gift, its source, and the circumstances under which it was given or accepted. For protocol/social obligation gifts totaling \$250 or less, no disclosure is required.***



***The purpose of the COIA and the Commissioner's supervision over gifts received by MLAs is to ensure these POHs are not improperly furthering their private interests in the exercise of their public duties. The Legislature clearly indicated that protocol/social obligation gifts totaling \$250 or less over a 12 month period are of too little value to be viewed as improperly benefiting an MLA personally. Gifts in amounts greater than this must be disclosed to the Commissioner for review.***

***No rationale has been provided for requiring lobbyists to report protocol/social obligation gifts that MLAs are not required to report because the Legislature considers the value of the gift too low to be problematic. Further, even if the purpose of the LTA gift-giving prohibition was to capture and report gifts that MLAs are not required to report under the COIA (which is not in fact the purpose of these provisions), there is no reasonable explanation for the \$150 difference in the value of allowable gifts (\$100 versus \$250).***

***At minimum, the LTA should synchronize the protocol/social obligation gift value over a 12 month period with the COIA non-disclosable gift limit of \$250. This ensures transparency and oversight of all gifts to MLAs.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***The guidance should include renewed attention to the overarching purposes of the legislation. The legislation exists to improve transparency, prevent corruption, increase public faith in institutions, increase public faith in the neutrality of POHs, encourage compliance, and ensure a level playing field for lobbying activities. The guidance could include information that explicitly links the reasoning behind the test to the overarching purpose of the legislation.***

***For example, the inclusion of "normal" in the LTA language suggests that part of the reasoning behind the prohibition and exception framework is rooted in what the public would think of the gift and whether it might unduly influence a POH. Guidance around this element, such as how the ORL would place themselves in the public's shoes when evaluating against this standard, would be helpful.***

***The guidance could include further information on what it considers "normal" and whether there is an explicit standard against which gifts are measured for compliance. If the ORL uses, for example, a reasonableness test then this should be stated so that registrants can more easily understand and comply with the legislation. In all areas, the guidance should include content which encourages and empowers registrants to comply with the legislation and report all gifts regardless of the dollar amount. Clarifying language, robust examples, usable standards, and specific reasoning behind example decisions would all aid in this effort.***

***Notably, the guidance does not include the clear instructions that the ORL frequently provides to registrants if they call or email for assistance in relation to gifts. This information should be readily available through the ORL's online guidance documents. For example, recently the ORL updated the guidance to remove the reference to venue costs when calculating the amount of a gift related to attending an event. However, the ORL did not state that***

*registrants no longer have to include the value of the venue in determining the per-person costs nor was an explanation provided for this change.*

*The guidance should endeavour to explain in simplified terms the compliance system that currently exists. The current landscape includes varied and subjective rules which makes it harder to comply, despite the best efforts of organizations. This is even more pronounced for smaller organizations with fewer resources, such as non-profits, community groups, and small union locals.*

*The ORL's guidance should explicitly include that the protocol and social obligation amount in the LTA (\$100) differs from the amount permitted under the Members' Conflict of Interest Act (\$250 before disclosure reports are required). It should also ideally include a rationale as to why this amount is different, given the COIA's amount is 150% more than the amount under the LTA. Some clarity and guidance on this would be helpful in ensuring understanding and compliance, so that organizations do not accidentally go over the prescribed amount in the LTA under the mistaken understanding that the COIA governs gifts to MLAs. This is particularly relevant for organizations that were previously not required to register under the LTA but who have a history of presenting protocol/social obligation gifts to MLAs.*

*This information would also increase transparency for the public, since the existence of vastly different amounts in legislation targeted at MLAs and lobbyists, respectively, may lead to confusion around the true limits of the legislative scheme. This would also assist with clearing up any confusion between MLAs and lobbyists about what is mutually acceptable with respect to protocol/social obligation gifts.*

*The guide should include more information about what "protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder". Without clear definitions for all these terms ("protocol," "social obligation," "duties and responsibilities") organizations are left to wonder whether they are indeed complying with the requirements of the LTA.*

*Notably, the guidance provided by the Conflict of the Interest Commissioner is not consistent with the guidance provided by the Registrar of Lobbyists. The Commissioner's Guide to Gifts "Meals and hospitality" section provides an example of a trade union issuing an invitation to MLAs to a reception where refreshments and alcohol are provided (pg. 9). The Guide considers this to be an acceptable protocol/social obligation gift because:*

*Members' duties include meeting with constituents and stakeholder groups to better understand their concerns. Invitations to events intended to raise awareness of issues where standard hospitality is provided and are widely attended are generally acceptable. (pg. 9).*

*The ORL's guidance is silent on events hosted by labour organizations and the Commissioner has questioned whether MLAs' attendance at union convention receptions is actually part of the protocol or social obligations that would normally accompany the duties of POHs. This could realistically lead to a scenario where the Registrar of Lobbyists determines that an invitation to a union event was an improper gift to an MLA while the Commissioner determines that the invitation was entirely appropriate for an MLA to receive. These types of*

***politically sensitive circumstances can be avoided by ensuring that the ORL interprets an MLA's duties broadly and consistently with the Commissioner.***

***Similar questions about whether a members' duties include attending industry-sponsored events do not appear to have been raised by the ORL. Respectfully, the Registrar's view of lobbying activities is too narrowly focused on commercial interests. The ORL's guidance must reflect the breadth of non-profit and advocacy organizations currently regulated by the LTA.***

***Union members, unlike corporations, are voters and individual constituents. Trade unions, unlike commercial lobbyists, make important and unique contributions to the health of BC's democracy by engaging large segments of the working public. Elected officials must liaise with labour organizations and their members to understand their concerns and perspectives. It is through this consultative process that POHs become informed of the interests of working people so that these can be reflected in public policy endeavours.***

***There is immense value in providing public representatives with information on labour and working conditions, so that they may engage with these issues and act upon them in an informed manner. This information-deliberation-action cycle is precisely the type of social process which underlies a healthy and thriving democracy. It would be illogical to hold that it is improper for MLAs to participate in this process or that it is outside the scope of their duties. The ORL's guidance must acknowledge that MLA duties include meeting with constituents and stakeholder groups such as unions and non-profit advocacy organizations.***

***Similarly, the standards of conduct for political staff and public servants appears to conflict with the guidance provided by the ORL. Political staff and public servants are also POHs. They are prohibited from accepting a gift that arises out of employment unless the gift is of nominal value, the exchange creates no obligation, reciprocation is easy, and it occurs infrequently. Buying someone a coffee and bagel during a meeting would appear to meet all these criteria but is prohibited by the ORL's interpretation. Likewise, being invited to an industry-sponsored event does not appear to meet these criteria (more than nominal value and reciprocation is not easy) but is permissible under the ORL's interpretation.***

**Submission #14**

Please provide your name

**Sussanne Skidmore**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**BC Federation of Labour**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***The approximate dollar amount does not help to clarify whether something is permissible. While it is clear as a standalone criterion, it does not shed light upon whether the gift normally accompanies the duties and responsibilities of the public office holder.***

***The dollar amount itself does not illuminate whether the circumstances surrounding the providing of the gift makes it permissible. The \$100 limit is clear and objective, however the second part of the test is unclear and subjective because the terms are vague and undefined. Ascribing a dollar amount does not add a definition or provide any clarity to the language of the exception test.***

***Furthermore, the language of the guidelines does not map onto all the groups covered by the LTA. The LTA was amended to greatly expand the scope of its coverage to all unions and non-profit advocacy organizations. Any organization that exists to advocate for its members or in relation to issues, no matter how small the organization or how limited the lobbying (i.e. under 50 hours annually), is now subject to all the LTA registration and reporting requirements. Meanwhile, small businesses doing a similar amount of lobbying remain exempt from the application of the LTA.***

***This means that a business can lobby to be awarded a government contract without having to report anything, let alone gifts, to the ORL while a small non-profit holding an AGM at which the local MLA speaks about the organization's advocacy must register and report this activity, along with the branded mask they gave the MLA for attending. The small business could communicate privately and directly with POHs without any reporting of these communications while a union local would have to register and report publicly tweeting at the Minister of Labour.***

***The ORL's guidance fails to reflect the reality of the many new organizations that are now subject to the gift-giving and reporting rules. For example, a union's annual convention or a non-profit's AGM are very different events than an industry dinner and treating them as the same thing under unclear and subjective language is not appropriate. Union members***

***interacting with POHs in a convention setting is a different dynamic than corporate lobbyists interfacing with POHs at an industry-sponsored dinner.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***No, it is not an appropriate amount. The \$100 limit over a 12 month period is already becoming increasingly problematic with the rising cost of living. High inflation and the increasing cost of food, goods, and services means that the \$100 limit is functionally lower than it used to be. \$100 as a limit is more modest today than even a few years ago, and \$100 worth of gifts does not look the same today as when the legislation was drafted. Lowering the limit further would not further the goals of the LTA.***

***A lower amount would encourage the use of disposable, wasteful, and low-quality goods and services in relation to gifts. It would discourage the purchase of local products and services, ethically made goods, and goods produced with higher labour standards such as unionized workplaces or living-wage employers. A change to legislation that would directly lead to such outcomes is not supportable nor in the public interest.***

***Furthermore, it is not the dollar amount which signifies whether a gift is acceptable – rather, it is the circumstance of the gift. Whether a gift is \$40 or \$100 does not signify the circumstance of the gift. What is considered “normal” – and therefore acceptable – is dependent upon the circumstances and how those circumstances are viewed and evaluated. Whether something is “normal” does not depend upon the dollar value.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***No. The dollar amount and the assessment of whether something is a normal expression of a social obligation are not linked. Furthermore, adding another dollar amount to the compliance landscape may simply further confuse registrants who are already navigating a complex process. In the alternative, the amount should be consistent with the disclosure threshold of \$250 for protocol/social obligation gifts in the Members’ Conflict of Interest Act (COIA).***

***The COIA similarly prohibits MLAs from accepting gifts unless these are received as an incident of the protocol or social obligations that normally accompany the responsibilities of office. The COIA specifically anticipates that protocol or social obligation gifts may exceed \$250 in value, either at one time or over a 12 month period. However, if this occurs, the MLA is required to file a disclosure statement with the Conflict of Interest Commissioner regarding the nature of the gift, its source, and the circumstances under which it was given or accepted. For protocol/social obligation gifts totaling \$250 or less, no disclosure is required.***

***The purpose of the COIA and the Commissioner’s supervision over gifts received by MLAs is to ensure these POHs are not improperly furthering their private interests in the exercise of their public duties. The Legislature clearly indicated that protocol/social obligation gifts totaling***

***\$250 or less over a 12 month period are of too little value to be viewed as improperly benefiting an MLA personally. Gifts in amounts greater than this must be disclosed to the Commissioner for review.***

***No rationale has been provided for requiring lobbyists to report protocol/social obligation gifts that MLAs are not required to report because the Legislature considers the value of the gift too low to be problematic. Further, even if the purpose of the LTA gift-giving prohibition was to capture and report gifts that MLAs are not required to report under the COIA (which is not in fact the purpose of these provisions), there is no reasonable explanation for the \$150 difference in the value of allowable gifts (\$100 versus \$250).***

***At minimum, the LTA should synchronize the protocol/social obligation gift value over a 12 month period with the COIA non-disclosable gift limit of \$250. This ensures transparency and oversight of all gifts to MLAs.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***The guidance should include renewed attention to the overarching purposes of the legislation. The legislation exists to improve transparency, prevent corruption, increase public faith in institutions, increase public faith in the neutrality of POHs, encourage compliance, and ensure a level playing field for lobbying activities. The guidance could include information that explicitly links the reasoning behind the test to the overarching purpose of the legislation.***

***For example, the inclusion of "normal" in the LTA language suggests that part of the reasoning behind the prohibition and exception framework is rooted in what the public would think of the gift and whether it might unduly influence a POH. Guidance around this element, such as how the ORL would place themselves in the public's shoes when evaluating against this standard, would be helpful.***

***The guidance could include further information on what it considers "normal" and whether there is an explicit standard against which gifts are measured for compliance. If the ORL uses, for example, a reasonableness test then this should be stated so that registrants can more easily understand and comply with the legislation. In all areas, the guidance should include content which encourages and empowers registrants to comply with the legislation and report all gifts regardless of the dollar amount. Clarifying language, robust examples, usable standards, and specific reasoning behind example decisions would all aid in this effort.***

***Notably, the guidance does not include the clear instructions that the ORL frequently provides to registrants if they call or email for assistance in relation to gifts. This information should be readily available through the ORL's online guidance documents. For example, recently the ORL updated the guidance to remove the reference to venue costs when calculating the amount of a gift related to attending an event. However, the ORL did not state that registrants no longer have to include the value of the venue in determining the per-person costs nor was an explanation provided for this change.***

*The guidance should endeavour to explain in simplified terms the compliance system that currently exists. The current landscape includes varied and subjective rules which makes it harder to comply, despite the best efforts of organizations. This is even more pronounced for smaller organizations with fewer resources, such as non-profits, community groups, and small union locals.*

*The ORL's guidance should explicitly include that the protocol and social obligation amount in the LTA (\$100) differs from the amount permitted under the Members' Conflict of Interest Act (\$250 before disclosure reports are required). It should also ideally include a rationale as to why this amount is different, given the COIA's amount is 150% more than the amount under the LTA. Some clarity and guidance on this would be helpful in ensuring understanding and compliance, so that organizations do not accidentally go over the prescribed amount in the LTA under the mistaken understanding that the COIA governs gifts to MLAs. This is particularly relevant for organizations that were previously not required to register under the LTA but who have a history of presenting protocol/social obligation gifts to MLAs.*

*This information would also increase transparency for the public, since the existence of vastly different amounts in legislation targeted at MLAs and lobbyists, respectively, may lead to confusion around the true limits of the legislative scheme. This would also assist with clearing up any confusion between MLAs and lobbyists about what is mutually acceptable with respect to protocol/social obligation gifts.*

*The guide should include more information about what "protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder". Without clear definitions for all these terms ("protocol," "social obligation," "duties and responsibilities") organizations are left to wonder whether they are indeed complying with the requirements of the LTA.*

## Submission #15

Please provide your name

**Jay Fedorak**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**Public Affairs Association of Canada - British Columbia**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

**The Public Affairs Association of Canada - British Columbia (PAAC-BC) agrees that an approximate dollar amount might help clarify whether a tangible gift, such as an art object, would meet the gift exception test. PAAC-BC suggests that assigning a dollar amount to events could create unintended consequences. For example, food and venue costs may differ in different regions of the province.**

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

**PAAC-BC agrees that \$40 is an appropriate value limit for assessing whether a tangible gift is a normal expression of a protocol or social obligation. PAAC-BC suggests that a limit of \$40 would create difficulties for securing the official participation of public office holders at events where meals are provided to participants, such as speakers. The hospitality industry has increased costs significantly since the pandemic. This means that in some regions of the province it may be challenging to obtain a venue and a meal service at a price that would, according to the method of calculation stipulated in current ORL guidance, result in the "gift" being assessed at under \$40.**

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

**PAAC-BC does not have another amount to recommend, other than to suggest that the ORL should periodically review such an amount in the context of the rise in the cost of living.**

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?



*PAAC-BC notes that the Lobbying Commissioner of Canada has issued similar guidance with respect to a prohibition on lobbyists giving gifts to public office holders. These guideline provide an exemption for "access to events, including any meals or refreshments provided during these events, where the public office holder serves as a speaker, moderator or in a ceremonial role." In similar cases, the ORL provides an exemption for the costs associated with the venue, but stipulates that the value of any meals remains subject to restrictions and is reportable. PAAC-BC invites the ORL to consider whether it would be appropriate to align its guidance more closely with that of the Lobbying Commissioner of Canada.*

## Submission #16

Please provide your name

**Natalie Cushing**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**MakeWay Charitable Society**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

***An approximate dollar-amount is not helpful because it adds confusion. It is not clear how, if, or when this guideline would be enforceable. In effect, it adds an additional test to the gift exception: whether it is also exempt from the \$40 guideline. It is sufficient to say that monetary value is one of the considerations in the first part of gift exception test, and exempt gifts are expected to be of minimal value.***

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

***Introducing any new limit not prescribed by law is problematic. Since the LTA was implemented, the most common gifts given were lunches and refreshments at meetings and events. With venue costs now removed, these typically fall into the \$18-\$40 range. However, there have been exceptions. Giving ORL staff the power to enforce a \$40 limit would increase rather than decrease certainty for lobbyists in at least three ways: 1) Catering costs are often variable and difficult to predict precisely. With rising food costs, dinner events would likely often come close to \$40. 2) It is unclear how ORL staff would assess the compliance of gifts between \$41 and \$99. Such clarity would be needed before invitations are sent to avoid noncompliance. In the recent past, ORL staff have confirm gifts over \$40 met the exemption test: we are concerned these would be rejected in the future and MLAs excluded from community events. 3) Specifically for the charity sector, it is likely to have a chilling effect on public interest education and advocacy. The LTA has already discouraged some charities from working with government to advance charitable work, and a \$40 limit on gifts would further discourage them from inviting public officials to seminars, conferences, and meetings related to their official duties. In addition, setting a \$40 limit would encourage inviting large numbers of POH to reduce the per person value.***

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

***Law makers established \$100 per 12 month period as the limit on exempt gifts. We accept this limit and have put systems in place to comply with it.***

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***Future amendments to the LTA should consider whole or partial exemptions to the gifts prohibition for charities. By law, charities must devote all of their resources to public benefit activities. As such, lobbying by charities must be in service of charitable purposes. Most notable amount these are research, education, health, and public-interest policy. Charities often work closely with POH to advance their shared objectives. The gift prohibition is making it difficult to include POH in seminars, conferences, learning trips, multi-day meetings, and other educational/community events relevant to their duties. MLAs and ministerial staff in particular should be engaged with their constituents and informed on relevant issues. Charities meet this need but are being curtailed in their efforts to work with POH to advance government's objectives.***

**Submission #17**

Please provide your name

**Todd Jaques**

If you are providing feedback on behalf of an organization, please provide the name of that organization.

**MakeWay Foundation**

Does an approximate dollar-amount help clarify whether a gift may meet the first part of the gift exception test? (That the gift or benefit is promised or given under the 'protocol or social obligations that normally accompany the duties and responsibilities of office of the public office holder') Why or why not?

**No, an approximate dollar-amount is not helpful because 1) It adds a per gift limit not included in the legislation 2) It adds new uncertainty and administrative burden to legitimate gifts that meet both legislated requirements AND fall between \$40 and \$100 3) It doesn't consider cultural norms that include both food and gifts 4) The legislated limit of \$100 per 12 months is already low enough to mitigate real or perceived conflict of interest The ORL already has powers to investigate suspected cases of non-compliance. This process adheres to the values of administrative fairness and should be the process by which abuse of the exception are handled.**

Is \$40 an appropriate value limit for assessing whether a gift is a normal expression of a protocol or social obligation? Why or why not?

**Establishing a \$40 limit is likely to be problematic and prevent normal expression of a protocol or social obligation, particularly when working with Indigenous communities. When working in collaboration with Indigenous groups (not necessarily those performing the role of municipalities, who would be exempt from the LTA), it is increasingly common to follow local protocol in hosting meetings and events. This may include meals and refreshments as well as gifting, travel arrangements, childcare, etc. Where public office holders participate in such meetings and events, they typically pay for their own travel and other services, but are included in sharing of food, gifts, and cultural experiences. This is an important part of the work which would likely exceed the \$40. LTA has already created uncertainty about the ability to include POH in such work, and a \$40 limit would further exclude their participation.**

Is there another amount that would be more appropriate for assessing whether a gift is a normal expression of a social obligation? If so, why would this amount be more appropriate?

**Law makers established \$100 per 12 month period as the limit on exempt gifts. We accept this limit and have put systems in place to comply with it.**

What other information could be included in the Lobbyist Gifts guidance to clarify whether a gift meets the exception test for the LTA's gift prohibition?

***Guidance should be provided on respecting local protocol while complying with the LTA when meeting jointly with POH and Indigenous groups.***