



ORL launches survey on proposed dollar value limit for Lobbyist Gifts

The Office of the Registrar of Lobbyists (ORL) is inviting public feedback on a suggested \$40 limit for gifts permissible under the *Lobbyists Transparency Act* (LTA) to inform an update to the [Lobbyist Gifts](#) guidance document.

Reason for public feedback

Lobbyists frequently contact the ORL asking whether a gift is permissible under the LTA. The ORL is often asked to provide a specific dollar amount to guide that assessment. Public feedback on a suggested \$40 limit for permissible gifts will inform the development of ORL gift guidance, which promotes awareness and understanding of the requirements of the LTA.

Have your say

This document provides background on the LTA's gift prohibition and exception test. It outlines the key consultation question of whether it provides clarity to propose a specific value limit for gifts permitted under the LTA's narrow exception, even if the limit is a guide rather than a rule. It also provides examples to illustrate how updated gift guidance might apply in different situations.

Please review the document and provide your feedback in this survey:

[ORL survey on proposed value limit for lobbyist gifts](#)

This survey is open to everyone: lobbyists, organizations, public bodies, office holders, and members of the public.

This survey will open at 4:00pm on December 14, 2022 and close at 4:00pm on January 20, 2023.

All responses to the survey, along with participants' and organizations' names will be posted in their entirety to the ORL website and accessible to the public after January 20, 2023.

If you are experiencing technical difficulties with the survey, wish to provide feedback in a different manner, or have any other questions, please contact the ORL at 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

Background

Gifts from lobbyists: What does the legislation say?

The LTA prohibits lobbyists from promising or giving gifts or other benefits to public office holders they are lobbying. The Office of the Registrar of Lobbyists (ORL) interprets “gift or other benefit” to mean anything of value given for free or at a reduced rate.

There’s a **narrow exception** to this when **both** of these conditions apply:

- 1) If 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”

AND

- 2) The total, combined value of *all* gifts promised or given to a public office holder, must total less than \$100 over a 12-month period.

For a gift to fall under the first part of the exception test, it must meet ALL the following criteria:

- 1) It must be given in connection with a duty or responsibility of the public office holder;
- 2) There must be a protocol or social obligation connected with the public office holder’s duty or responsibility that compels promising or giving a gift, and;
- 3) **The gift itself must be within the *normal* range of gifts appropriate for that protocol or social obligation.**

Proposed dollar value guideline for assessing the “normal range” of gifts

To help clarify whether a gift is within the *normal* range, the ORL is proposing updating the [Lobbyist Gifts](#) guidance to state that an **approximate \$40 value limit** can be used to help assess whether a gift is *normal* to a protocol or social obligation.

When would the proposed limit apply?

All gifts must be assessed on a case-by-case basis within the context in which they are promised or given. However, guidance stating that gifts above \$40 in value would typically viewed as abnormal (therefore, likely impermissible) could provide some clarity to lobbyists about a value limit.

This approximate value would apply to all gifts or benefits – tangible tokens of gratitude or courtesy, gifts given within traditional cultural protocols, meals, beverages and hospitality, tickets and passes, services, sponsored travel, and anything else of value given for free or at a reduced rate.

If legitimate and exceptional circumstances necessitate that a *normal* expression of a protocol or social obligation exceed \$40 in value, such a gift may be permissible. Conversely, if a gift is given under a protocol or social obligation where a gift of substantially lower value than \$40 would *normally* be expected, those circumstances may factor into assessing a gift’s permissibility. As a result, the \$40 value limit would remain a guide and lobbyists would remain responsible for ensuring that gifts met all of the requirements under the LTA.

The proposed \$40 limit was determined by examining the normal value of gifts reported in the *Lobbyists Registry*.

Exception test for gifts: definitions

The ORL will update the Lobbyists Gifts guidance to clarify the requirements for the gift exception test – that the gift must be promised and/or given under the **protocol or social obligations that normally accompany the duties or responsibilities** of the public office holder.

What are the ‘duties and responsibilities of the public office holder’?

Under most circumstances, the permissibility of a gift is limited to circumstances in which the lobbyist is engaging with a public office holder who is performing an official duty or responsibility. This likely includes the responsibilities that fall within in the public office holder’s job description or those that are understood to be part of their office’s official role.

What does protocol or social obligation refer to?

Protocol: a rule or practice of proper diplomatic etiquette that cultural or societal groups observe when engaging with one another.

Social Obligation: a courtesy or kindness that is compelled by the unwritten rules of human relationships.

What is an “obligation that normally accompanies” the duties of the public office holder?

If a lobbyist has a protocol or social obligation to promise or give a gift to a public office holder who is performing the duties of their office, the gift itself must be within the *normal* range of gifts appropriate for that obligation. A gift is extraordinary, and thus impermissible, when it is disproportionate to the circumstances of the protocol or social obligation in question.

Examples for illustration

Example 1: A Minister attends an event to celebrate the completion of a project jointly undertaken by the province and a private organization. The Minister was responsible for this project and is attending the event as the government’s representative. The organization gives the Minister a T-shirt with the project’s name and logo. The value of this gift is \$25.00.



This gift is likely **permitted**:

- It falls within a Minister’s duties and responsibilities to attend events celebrating the completion of a project that their Ministry was involved in.
- The organizers of the event may feel a social obligation to offer such a “thank you” gift to the Minister to show appreciation for the Minister’s attendance and involvement in the project.
- The gift is valued less than \$40 and is a normal expression of a social obligation.

Example 2: A lobbyist who is lobbying several public office holders for changes to government policy sends all of these office holders a box of chocolates in December as a holiday gift. The value of each box of chocolates is \$25.00.



This gift is likely **NOT** permitted:

- The gift is not given in connection with a duty or responsibility of the office holders.

- Even if the lobbyist feels socially compelled to provide a holiday gift to the office holders, the gift is impermissible because it is not *accompanying a duty or responsibility* of the office holder.
- While the value of the gift is below \$40, this alone does not make it permissible.

Example 3: An MLA attends an event hosted by a cultural organization that has strong ties to the MLA's constituency. This organization is also lobbying the MLA on a number of matters. It is a well-established protocol within this organization's cultural traditions that esteemed guests are presented with a traditional cultural object. The object does not have a clear market value, but would likely be well in excess of \$40.



This gift is likely **permitted**:

- It appears to fall within the MLA's duties and responsibilities to attend significant cultural events within their constituency.
- It is a well-established cultural protocol within this organization to present esteemed guests with a specific gift.
- Because this gift is part of a well-established protocol, exceeding the approximate \$40 limit is within the *normal* range of what is appropriate to the circumstances.

Example 4: A public office holder attends a meeting with industry representatives at their office. The meeting lasts several hours and runs through the lunchtime. The industry representatives provide lunch (including food and beverages) to all attendees, including the public office holder, with a total value of \$30.00 per person.



This gift is likely **permitted**:

- It appears to fall within the public office holders' duties and responsibilities to attend such meetings.
- Due to the timing and length of the meeting the hosts would likely feel a sense of social obligation to provide lunch to their guests.
- The refreshments appear to be normal expression of a social obligation, as is evidenced by the \$30.00 total cost per person.

Example 5: An in-house lobbyist for an organization takes an MLA to a restaurant for lunch to discuss the impacts of a specific piece of legislation and to recommend amendments. The total value of the lunch is \$30.00.



This benefit is likely **NOT** permitted:

- It appears to fall within an MLA's duties and responsibilities obtain stakeholder feedback, which may include meeting with lobbyists.
- However, there is likely no social obligation to pay for a public office holder's meal at a restaurant. It is noted that MLAs are provided with a per diem for such legitimate business expenses.
- While the value of the lunch is within the approximate \$40 limit, this alone is not enough to make a gift permissible. Because there is typically no social obligation to pay for a restaurant meal for a public office holder, this gift is likely prohibited.

Example 6: A community organization hosts an evening event to raise awareness of a number of key issues and concerns related to their work. As part of the event, leading experts in the field give speeches highlighting emerging and important issues. The organization invites a Minister whose portfolio is directly connected to these issues. The organization is lobbying this Minister for changes to government policy. Complimentary food and beverages with a total value of \$85.00 per person are provided to all guests.



This benefit is likely **NOT** permitted:

- It typically falls within a Minister's duties and responsibilities to attend events that raise awareness of key issues related to their office.
- Because the event is held in the evening, the organization would likely feel an obligation to provide food and beverage to the attendees.
- However, the \$85.00 per person cost exceeds the approximate \$40 limit and would likely not be viewed as a normal expression of a social obligation.