



2018 Lobbying Guide

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Disclaimer:

The contents of this document are intended as guidance only and do not constitute legal advice or opinion. Please refer to relevant legislation and policy in the *Lobbying Act* and the *Lobbyist Code of Conduct* for comprehensive information about lobbying in Canada.

1. Lobbying 101: Rules and Regulations About Lobbying

1.1 Why do we lobby?

In our democratic system, lobbying is an important activity that helps hold government accountable to the electorate. Lobbying is a means by which the public maintains free and open access to government, and by which the public knows parties with whom government is meeting at any given time. These concepts underpin the [Lobbying Act](#), which is based on following four principles:

- Free and open access to government is an important matter of public interest;
- Lobbying public office holders is a legitimate activity;
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities; and
- A system for the registration of paid lobbyists should not impede free and open access to government.

For CAN-Rac and its members, lobbying provides a direct conduit for discussing climate policy recommendations and aspirations with decision makers. In 2018, CAN-Rac's lobbying activities will focus primarily on supporting the swift implementation of the Pan-Canadian Framework on Climate Change and Clean Growth. Further details on CAN-Rac's lobbying talking points can be found in a separate, accompanying document, *Meeting Canada's Climate Action Goals Through the PCF*.

1.2 What is lobbying?

Formal lobbying occurs when a person (lobbyist) is paid to communicate with a public office holder in respect of the creation or amendment of policy or legislation, or the awarding of government financial benefits such as grants, awards, or contracts. Lobbying also includes a lobbyist arranging a meeting between a public office holder and another person. Lobbyists may work as independent consultants, or they may be employees of a corporation or organization. In Canada, lobbying activities are guided by legislation laid out in the federal *Lobbying Act* (Canada, Office of the Commissioner of Lobbying of Canada, 2008).

1.3 What isn't lobbying?

The *Lobbying Act* does not apply to oral or written communication made to a committee of the Senate or House of Commons, or made to a body or person having jurisdiction or powers conferred by an Act of Parliament, or as part of the proceedings in a matter of public record. It also doesn't apply when oral or written communication is made to a public office holder with respect to the enforcement or interpretation of an Act of Parliament, nor is it applicable when submitting requests for information (Canada, Office of the Commissioner of Lobbying of Canada, 2008).

1.4 Who is a lobbyist? When do you need to register as a lobbyist?

Lobbyists are individuals who are paid to communicate with federal public office holders, and they must register under the *Lobbying Act (2008)* and abide by the [Lobbyist Code of Conduct](#) (Canada, Office of the Commissioner of Lobbying of Canada, 2015). By law, they must uphold duties to report on their lobbying activities to the Office of the Commissioner of Lobbying. People who lobby on a voluntary basis are not required to register.

The term "public office holder" applies to virtually anyone occupying a position in the federal government. It includes members of the Senate and the House of Commons and their staff, officers and employees of federal departments and agencies, members of the Canadian Armed Forces and the Royal Canadian Mounted Police (Canada, Office of the Commissioner of Lobbying of Canada, 2015). In most cases, there is a prohibition on public office holders engaging in lobbying activities for a period of five years following the termination of their public service.

When we talk about "lobbying" by CAN-Rac members, we recognize that unpaid volunteers make up the core workforce of many CAN-Rac member organizations. Often it is these unpaid volunteers who will speak with public office holders to promote the interests of CAN-Rac. Unpaid volunteers technically are not 'lobbyists' and they do not need to register with the Office of the Commissioner of Lobbying, nor do they need to report on their lobbying activities as would a paid lobbyist. That said, it is good practice for unpaid "lobbyists" to adhere to the guidelines laid out through the *Lobbying Act* and the *Lobbyist Code of Conduct*. In this document, we will use the term "lobbyist" to include both paid and unpaid persons who communicate with public office holders in respect of the climate policies advocated for by CAN-Rac, understanding that the same standards of professionalism apply regardless of whether or not one is paid to lobby. It is up to member organizations to ensure paid staff are appropriately registered and compliant with reporting requirements if they are engaging in paid lobbying activities.

In section 1.8 in this guidebook, we provide some additional information on reporting requirements for paid lobbyists. This information will not apply to most CAN-Rac members, as most of our members are unpaid volunteers.

1.5 Office of the Commission of Lobbying

The Commissioner of Lobbying is federal government appointee, appointed by the Governor in Council, and holding office for a seven-year term. The Commissioner is responsible for implementing the *Lobbying Act*, including developing and implementing educational programs to foster public awareness of the Act.

The Commissioner maintains a public registry of lobbyists and their activities that includes all the reports and documentation filed with the Office under the provisions of the *Lobbying Act*.

1.6 Lobbyists' Code of Conduct

In addition to the *Lobbying Act*, the Office of the Commissioner for Lobbying maintains guidelines for lobbying conduct, described in the *Lobbyists' Code of Conduct* (Canada, Office of the Commissioner of Lobbying of Canada, 2015). Like the *Lobbying Act*, the *Code* is also based on four principles:

1. **Respect for Democratic Institutions**
Lobbyists should act in a manner that demonstrates respect for democratic institutions, including the duty of public office holders to serve the public interest.
2. **Integrity and Honesty**
Lobbyists should conduct with integrity and honesty all relations with public office holders.
3. **Openness**
Lobbyists should be open and frank about their lobbying activities.
4. **Professionalism**
Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with the letter and the spirit of the *Lobbyists' Code of Conduct* as well as with all relevant laws, including the *Lobbying Act* and its regulations.

Lobbyists must be transparent about their identity, purpose, and the information they share, and must disclose their lobbying obligations to their consultancy clients or corporate or organizational employers.

It is illegal for a lobbyist to receive payment, or for an employer to offer a lobbyist payment, in whole or in part that is contingent on the outcome of their lobbying activities.

Lobbyists are prohibited from putting public office holders into perceived or actual conflicts of interest. They cannot provide public office holders with gifts, exploit connections that may confer a sense of preferential access, or undertake to lobby someone for whom they have done political work until a specified amount of time has elapsed following that political work.

1.7 Charities, Lobbying and Political Activity

Many of CAN-Rac's member organizations are registered charities. Registered charities must comply with all of the lobbying regulations described above, but they also must consider limitations to their political activities under legislation set out in the [Income Tax Act](#). This legislation prescribes how registered charities may contribute unique insights gained from their frontline experience to informing policy development and government decision-making.

The Canada Revenue Agency maintains an excellent resource website to provide guidance to charities with regard to lobbying and political activity, and much of the following information is drawn from this site. CAN-Rac members belonging to registered charities are encouraged to thoroughly explore this site and should defer to information provided there.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/resources-charities-donors/resources-charities-about-political-activities.html>

The Income Tax Act rules apply to how a charity uses its resources (resources are anything the charity owns or controls, including its financial assets, staff, volunteers, directors, premises, and equipment). The Income Tax Act requires that charities remain strictly non-partisan, meaning that they must never use their resources to directly or indirectly support or oppose a political party or candidate for public office. Charities cannot be involved with elections, and they also cannot connect their policy statements or views with any party or candidate.

1.7.1 What is Political Activity?

(For reference, see Canada Revenue Agency Policy Statement CPS-022: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-022-political-activities.html>)

A charity can carry out limited amounts of political activities that are non-partisan in support of its charitable purposes. Charitable purposes must always

come first, and political activities can only be a minor focus, serving to support the charitable purpose. The Income Tax Act requires that substantially all - namely, 90% or more for charities operating on an annual budget in excess of \$200,000 - of a charity's resources be devoted to charitable activities.¹

A purpose is only considered charitable if it generates undisputed public benefit. If the charity must enter into debate about whether a policy or position is good or beneficial, then the organization's purpose becomes political. While some purposes can only be achieved through political intervention and legislative change, organizations established for such political purposes cannot be registered as charities.

The courts have determined political purposes to be those that seek to:

- further the interests of a particular political party; or support a political party or candidate for public office
- retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country

Political activities include online petitions and position statements that engage the public and are directed at government decisions or decision makers. Even some public actions that may seem quite indirectly political on the surface can be construed as political activity if the charity's internal strategies provide rationale for planned actions that may carry political influence.

The CRA gives the example of a wildlife protection charity that publicly discourages tourists from visiting a country where poor wildlife practices are carried out; behind the scenes, in internal communications, the charity's rationale for this public position is that it hopes the resultant drop in tourism revenue will cause that country's government to rethink its wildlife protection policies. In this case, the public communications that discourage tourists from visiting the country in question are considered by the CRA to be political activities even though the political influence of the campaign is likely quite indirect.

¹ There is some flexibility with what constitutes 'substantially all' of an organization's resources, particularly for small charities. Registered charities with an annual operating budget of less than \$50,000 can devote up to 20% of their resources toward political activities. For charities operating on \$50,000 to \$100,000 annually, 15% of their resources can be used for political purposes. For charities operating on \$100,000 to \$200,000 annually, 12% of their resources can be used for political activities. See Section 9 – *What expenditure limits does the Income Tax Act impose on political activities?* in Canada Revenue Agency Policy Statement CPS-022, <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-022-political-activities.html>

1.7.1.1 What About Lobbying?

Interestingly, under the Income Tax Act, some direct lobbying of public office holders actually does not constitute political activity.

So long as the charity does not involve the public but instead makes its representations only to government directly, whether by invitation or not, this is considered charitable, not political. Even if the charity explicitly advocates that the law, policy, or decision of any level of government in Canada or a foreign country ought to be retained, opposed, or changed, the activity is considered to fall within the general scope of charitable activities. For example, meeting with an MP to try to influence legislative changes or decisions related to the charity's purpose is considered part of the charity's work, and is not considered political activity.

This type of charitable lobbying must still represent only a minor portion of the charity's activities, be subordinate to the charity's purposes, and all representations should:

- relate to an issue that is connected to the charity's purposes
- be well-reasoned (or where time constraints make this impractical, should be based on a well-reasoned position and such a position should be submitted in a timely manner to the elected representative or public official concerned)
- not contain information that the charity knows or ought to know is false, inaccurate, or misleading

1.7.1.2 What does this mean for charities lobbying through CAN-Rac?

If you belong to an organization that is a registered charity and you would like to undertake lobbying on behalf of CAN-Rac, note that you must comply with all regulations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*, and you must ensure that the activities you undertake are compliant with restrictions on your political activity under the Income Tax Act.

If you are meeting directly with a public office holder, either by invitation or request, and there is no public-facing campaign element to your lobbying and the purpose of the meeting is related to your charity's registered purpose, your meeting should be considered as part of your charity's work and not as political activity. If, however, you combine your lobbying with a public call to action or other public communication about the issue at hand, you may have to count your lobbying activities as political activity.

If you are uncertain about whether your intended activities will be deemed political, it is best to contact the Canada Revenue Agency to seek guidance. For example, if your charity is registered with a purpose of advancing education, public communication about a topic that is of interest for lobbying purposes (e.g. understanding details of climate policy implementation) *may* be allowed

as part of your charity's permitted work and not be deemed political, but it would have to be backed up by a credible educational delivery program.

1.8 Reporting Requirements for Paid Lobbyists

The information in this section does not apply to the unpaid volunteers who make up the majority of CAN-Rac's membership. We present this information solely for interest and reference for the few paid lobbyists on staff with some member organizations.

For a consultant lobbyist, reports must be filed within ten days of a lobbying meeting, and must detail the lobbyist's (and their client's) information and the purpose and details of the meeting. The lobbyist must also file monthly returns to report lobbying activities that have occurred in that month. A lobbyist must file a return at least once in a six-month period, regardless of whether they have been actively lobbying or not.

For an in-house corporate or organizational lobbyist, the most senior paid officer is responsible for filing returns on behalf of the organization. Organizations and corporations have up to two months to file detailed reports on lobbying meetings and, as with consultant lobbyists, they must also file monthly lobbying activity reports and at least one report every six months regardless of lobbying activity levels.

Returns must be filed regarding staff lobbying activities when one or more employees communicate with public office holders on behalf of the employer, and those duties constitute a significant part of the duties of one employee or would constitute a significant part of the duties of one employee if they were performed by only one employee. The Office of the Commissioner of Lobbying interprets the threshold for significance as 20% of the employee's overall duties (Canada, Office of the Commissioner of Lobbying of Canada, 2011). Duties that comprise lobbying activities include the time spent preparing for communicating with a public office holder, as well as the time actually spent communicating with the public office holder, over a one-month period. If it is difficult to calculate time spent on lobbying, it is also possible to estimate significance based on the relative importance of lobbying activities as they apply to the lobbyist employee's overall duties (e.g. what proportion of the employee's duties are directly related to lobbying?).

The Governor in Council may make regulations requiring fees to be paid on filing returns or any other services provided by the Commissioner. Failure to file reports as required under the *Lobbying Act* may result in a summary conviction with a fine not exceeding \$50,000 and / or a six-month prison term, or an indictment with a fine not exceeding \$200,000 and /or a two-year prison term.

2. CAN-Rac's Guide to Lobbying

2.1 Meeting with MPs to Advance Policy Recommendations

MPs have offices on Parliament Hill in Ottawa and also in their home ridings. Depending on the size of the riding, there may be one or more constituency offices, particularly if the riding spans multiple municipalities or communities.

For CAN-Rac's 2018 lobbying, members are encouraged to meet with their own community MPs in their constituency offices rather than traveling to Ottawa to meet with specific portfolio-holders, Cabinet Ministers, or MPs from other communities or ridings. The rationale for this approach is to leverage CAN-Rac members' local expertise on climate change impacts and issues affecting the MP's riding. Ideally, this will provide incentive for the MP to act on their constituents' recommendations. It will also elevate the MP's awareness of CAN-Rac, its membership, and its strength as a national network of community-based experts rather than just as an Ottawa-based ENGO. Also, lobbying in constituencies is more effective as MPs have a responsibility to be responsive to constituents' concerns and bring them to Cabinet.

When you are trying to advance a policy recommendation, the more MPs you can meet, the better. Assuming that your time and resources are limited, you may need to be strategic about focusing on meetings with MPs who are more accessible or more likely to care about your issue and be amenable to acting on your recommendations.

Prioritize meeting with your own MP in your riding, and work to build a relationship with that person and their staff. If you have access to other MPs in nearby ridings, draw on existing relationships that colleagues, board members, or volunteers in your organization might have to obtain introductions to the MP or their staff. Make an effort to meet with MPs across the political spectrum, both to remain non-partisan and in order to establish good rapport and relationships with all parties. Establishing good, non-partisan relationships with MPs will allow you to remain engaged on advancing your policy issue even if elections lead to significant political leadership shifts.

2.2 Booking Meetings

While the House is sitting, MPs are in Ottawa. During recess periods, MPs often travel back to the riding to conduct constituency-level meetings. Aim to schedule your meeting well in advance of any upcoming recess period, at least two weeks prior to the date you'd like to meet.

The Parliament of Canada House of Commons Sitting Calendar can be found here: <https://www.ourcommons.ca/en/sitting-calendar>

In 2018, Parliament is recessed:

January 1 – January 26

February 19 – February 23

March 5 – March 16

April 2 – April 13

May 14 – May 18

June 25 – September 14

October 8 – October 12

November 12 – November 16

December 17 – December 31

You can find contact information for your MP through the Parliament of Canada's easy-to-use directory of current MPs, Ministers, Parliamentary Secretaries, and other Parliamentary Officers at <https://www.ourcommons.ca/Parliamentarians/en/members>. This database is searchable by Parliamentary duty, the Parliamentarian's name, constituency, and provides address and phone numbers for Ottawa and constituency offices.

MPs are generally very amenable to meeting with their community members. To book a meeting with your MP, search for the nearest constituency office and place a phone call to establish a suitable meeting date. Be prepared to tell the staff person why you want to meet with the MP, and be as specific and detailed, or as general as you want.

2.3 Establishing an Agenda for Meeting with an MP

Well in advance of your meeting, determine the issue you want to discuss with your MP and the key points you would like to raise. It is often helpful to prepare a briefing note (1-2 pages, usually) that summarizes your position and can be left with the MP at the end of the meeting.

Map out the time that has been allocated to you for the meeting, noting who among your delegation will speak to each subject, in what order, and for how long. It is a good idea to rehearse your presentation as a group, especially if members of your group are new to lobbying. Also make sure you have a contingency plan for addressing your most important points if your time gets cut short.

For CAN-Rac's 2018 lobbying, members should raise issues related to implementation of the Pac-Canadian Framework on Clean Growth and Climate Change in their meetings with MPs. Member organizations may wish to

emphasize different priority issues within the PCF, especially if particular policies or issues have direct impact on their community or align with their organizational mandate. A detailed list of priority talking points follows in the second half of this document.

2.4 Running an Efficient Meeting with an MP

Our thanks go out to CAN-Rac member Lyn Adamson of JustEarth, who shared with us some valuable etiquette tips for conducting a well-managed meeting with an MP. Lyn's document is available online² and provided the basis for this overview.

- Designate a note taker, timekeeper, and meeting chair in advance.
- Prior to the meeting, verify your arrival time and the amount of time you have for the meeting. Reaffirm this time allocation with the MP at the start of the meeting. MPs are often very busy and usually can allocate no more than 30 minutes to a meeting, though this may vary when meeting in the constituency office. Be flexible and be respectful of the MP's time; they may have to cut your meeting short if their schedule is particularly busy, so be gracious about whatever time you are able to secure with them.
- Briefly (30 seconds each) introduce each person in the group. This introduction can include a mention of why the issue at hand is so important to you.
- Chair should open the meeting with remarks that establish warmth and gratitude toward the MP for making time for the meeting. For example, thank the MP for some favourable action the MP may have taken (on this or any issue), or express a general thank you for the government's climate leadership. Where relevant, you could thank the MP for their involvement in the introduction of a climate policy across Canada and/or international climate leadership (e.g. Paris Agreement, Kigali Agreement, Powering Past Coal Alliance, new methane emissions regulations).
- Introduce the problem: Provide a succinct summary of why climate change is an urgent priority, and one that deserves greater focus and effort on the part of the MP and government. You may wish to draw on your own personal or organization's experiences, highlighting climate change impacts at the community or regional level, or you could speak more broadly about Canadian or international climate crises and of our responsibilities and obligations to act. Keep this part of the deputation to 2-3 minutes, at most, and allow the MP time to respond or ask questions.
- Introduce solutions: Describe a few (3-5, at most) key policy measures from the Pan-Canadian Framework on Clean Growth and Climate Change that you

² See JustEarth's notes on effective lobbying at <http://justearth.net/notes-lobbying-mps>

would like to discuss. If your lobbying delegation consists of several people, have each person speak to a different policy or recommendation. Keep discussion high level and succinct, and aim to present your case in no more than 2 minutes policy / recommendation.

- Ask the MP to contribute their ideas or insights on how they can help us to accomplish the goals we have described. Do they understand our goals? Do they agree with our positions? Do they need more information?
- Make sure you make time to listen to the MP. It's one of the biggest failings of lobby meetings that lobbyists spend all the time talking and not enough time listening. You want to hear what intel they have, what motivates them, what they care about, their read of the situation, how your follow-up communications can be most impactful.
- Ask the MP how we can help them to move the climate action agenda forward and achieve mutually agreeable goals? What can we offer them in exchange for their assistance on furthering progress on our issues?
- Establish any action items to be completed after the meeting, including follow up meetings, introductions to other people or resources, or any other commitments agreed to during the meeting.
- Thank the MP and their staff for the meeting. Pass along any materials you wish to leave behind – these should be minimal and usually brief, just one or two documents. Ask if they would like to receive any links or resources electronically.
- Photos: Often MPs and their staff will request a photo at the end of a meeting. Agree to this at your discretion. Sometimes it is helpful to have this kind of public evidence that MPs are being held to account by their electorate, but sometimes such publicity can run counter to your lobbying aims. Use discretion.
- Follow up: Make sure to send the MP and their staff a thank you note and any materials they would like to see. Complete the tasks to which you committed during the meeting, such as introducing the MP to other people or resources. You may also want to consider inviting the MP to your events in the community to encourage further relationship building and network opportunities.

2.5 Links & Resources

10 things you should know about lobbying: <https://lobbycanada.gc.ca/eic/site/012.nsf/eng/00403.html>

Lobbying Act: <http://laws.justice.gc.ca/eng/acts/L-12.4/>

Advice & Interpretation of Lobbying Act: https://lobbycanada.gc.ca/eic/site/012.nsf/eng/h_00011.html

Income Tax Act: <http://laws-lois.justice.gc.ca/eng/acts/I-3.3/>

Canada Revenue Agency Resources for Charities About Political Activities: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/resources-charities-donors/resources-charities-about-political-activities.html>

Canada Revenue Agency Policy Statement CPS-022 (Guidance on Political Activities for Charities): <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-022-political-activities.html>