



SUBJECT: Lobbyist Registry implementation

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Office of the City Clerk

Report Number: CL-28-21

Wards Affected: All

File Numbers:

Date to Committee: September 9, 2021

Date to Council: September 21, 2021

Recommendation:

Approve the Lobbyist Registration policy attached as appendix A to office of the city clerk report CL-28-21.

PURPOSE:

The purpose of this report to present a Lobbyist Registry framework in the form of a corporate policy for implementation.

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

On May 5, 2021 [Office of the City Clerk report CL-15-21](#) regarding a Lobbyist Registry was presented to the Corporate Services, Strategy, Risk and Accountability committee (CSSRA), with options for implementing various components of a lobbyist registry in accordance with section 223.9 of the *Municipal Act, 2001*, S.O. 2001, c. 25. Four options were submitted for consideration which reflected a range of lobbyist registry perspectives, as presented through a jurisdictional scan.

Debate at the May 5, 2021 standing committee was lengthy, members of Council raised several questions regarding the purpose of the registry, the definition of what constitutes lobbying and who would be classified as a lobbyist. Committee supported components of option 1, for example restricting actions recorded to meetings, and to include in some components of option 2. These option 2 components are to clearly articulate the definition of lobbying and lobbyist, and to approach the registry from a corporate online form with a commitment towards regular reporting.

Council's decision represents a half-step between the existing business meeting registry process and option 2 and introduces the concept of lobbyist registry lite. It is anticipated that building upon the meeting registry process coupled with basic tenets of a lobbyist registry will deepen the understanding for Council and the community on key concepts. This foundational knowledge may help support an informed engagement in 2023 when staff are seeking input.

The following table below was presented in report CL-15-21, with modification. Staff have highlighted the option decided by Council to demonstrate how it fits into the larger spectrum of lobbyist registry types. In addition, this report seeks to clarify for Council on what had been selected, highlighting provisions and differences.

	Option 1 Expansion of the Business Meeting Registry	Option 1.5 <u>Selected by</u> <u>Council on</u> <u>May 18, 2021</u>	Option 2 Voluntary Lobbyist Registry – No Enforcement	Option 3 Mandatory Registry – Self Enforcement	Option 4 Mandatory Registry – Enforcement
Type	Voluntary	Voluntary	Voluntary	Mandatory	Mandatory
Applies to	Meeting participants (<i>current</i>)	Lobbyists	Lobbyist definition Determined by Public Consultation	Lobbyist definition Determined by Public Consultation	Lobbyist definition Determined by Public Consultation
Impacts	Members of Council (<i>current</i>)	Members of Council	Determined by Public Consultation	Determined by Public Consultation	Determined by Public Consultation
Subject Matter	A decision or matter that is going to Council, or that intends to advance	Lobbying means communicati on with a public office holder by an	Determined by Public Consultation	Determined by Public Consultation	Determined by Public Consultation

	the business of the City, or a matter to which the participant may receive any form of remuneration or benefit (<i>current</i>)	individual who represents a business or financial interest with the goal of trying to influence legislative action			
Registration	Manual (<i>current</i>)	Manual	Manual or Technological	Technological	Technological
Staffing Resources	Existing	Existing	Existing or Enhanced	Enhanced	Enhanced
Maintained By	Councillors and Mayors Office	Corporately	Corporately	Corporately	Corporately
Lobbyist Registrar	No	No	No	No	Yes
Enforcement	No	No	No	Yes	Yes

Strategy/process

Lobbying is generally defined in federal, provincial and municipal legislation as any oral or written communications with a public office holder in an attempt to influence decisions concerning legislative actions. The purpose of this type of legislation is not to restrict lobbying, but to shed light on representations to government, and to support the City's existing accountability and transparency programs. In addition, a registry allows the public to be made aware in advance of potential issues that may affect their interests or those of the public in general.

Further to the May 18, 2021 Council decision, the City Clerk was directed to proceed with implementing a lobbyist registry, to report back after public consultation in Q1 2023 with options (SD-11-21); and that the registry be implemented in September 2021.

Draft Lobbyist Registration Policy

The policy decisions that Council determined in May are reflected in the proposed corporate policy on Lobbyist Registration attached as Appendix A.

The registry of lobbyists would be public, and designed to record the lobbying of City Council (meetings only) with representatives that have a business or financial interest and the goal of trying to influence legislative action.

The policy places the onus on the lobbyist to register using the proposed lobbyist registration form and process. All submissions are filed with the Clerk pursuant to Sections 2 and 3 of the policy, and the form will be finalized after Council approves the policy.

Key Definitions

Lobbying: communicating with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence legislative action.

Legislative Action: the development, introduction, passage, defeat, amendment or repeal of a bylaw, motion, resolution or the outcome of a decision on any matter before Council or a Committee of Council.

Public office holder: under the Policy refers to all members of Council.

Communication: restricted to meetings, both in person and virtual. (Does not include any other forms of communication.)

Note: This definition reflects a narrow scope of activity and mirrors the existing Ward 2 business meeting registry. A future registry may expand the definition of communication to include all expressive forms of contact including telephone calls, emails, text and social media messages, applicable to Option 3 or 4 registries (page 2).

Information a Lobbyist provides in Advance of a Meeting to a Member of Council

Each form/return to be filed within specified time limits under section 2 of the policy must contain the following information:

- Name, business address and contact information of the lobbyist.
- Whether they are a consultant lobbyist, in-house lobbyist or voluntary unpaid lobbyist.
- Name of the individual, client, or other entity, including all business names under which the individual, client or other entity is operating, on whose behalf they are lobbying.
- Name of the individual or individuals they are lobbying.
- Subject matter.
- Date on which the lobbying will start and finish, with the date on which the lobbying finishes being no more than one year after the date on which the lobbying starts.
- If the lobbyist has received government funding related to the undertaking, and the names of other parties involved in the lobbying activity.

Filing is done once for each lobbying undertaking and includes all subsequent meetings and lobbying activities related to the same application by the same lobbyist.

Role of the City Clerk

The Office of the City Clerk has the following responsibilities associated with a registry:

- Create a registry, determine consultation and registration times in relation to when lobbyists may file returns and notices and when the registry will be available for scrutiny.
- Examine whether the returns and notices submitted contain all the required information and whether they are submitted in the form and manner prescribed in the policy.
- Refuse to accept, or remove from the registry, any return or notice that does not contain all the required information or the required form, and replace the return with the corrected information and form.

Restrictions on Application of Policy

The proposed policy does not apply to other levels of government or public sector officials, including members of First Nations of Indian band councils, officials and employees of the City, the Region of Halton, the Town of Milton and Oakville and Town of Halton Hills, and other municipal bodies, publicly-funded school boards and educational institutions, publicly-funded healthcare institutions and certain municipal associations.

The policy does not apply to oral or written submissions made in proceedings that are a matter of public record to Council or a Committee of Council or communication that occurs during a public process such as a public meeting, hearing, consultation, open house or media event held or sponsored by the City or a public office holder or related to an application. Lobbying exemptions also include communication restricted to a request for information, communication restricted to compliments or complaints about a service or program, submitting a bid proposal as part of a procurement process and any communication with designated employees of the City as permitted in the procurement policies and documents of the City and communication regarding a financial interest by not-for-profit groups or organizations where such group or organization has no paid staff.

The proposed policy does not apply to the enforcement or interpretation of any policy or legislation or the implementation or administration of any policy, directive or program that applies to that person or organization. The policy does not apply in respect of submissions on behalf of a personal matter related to a constituent. However, a development application considered to specifically benefit a constituent would be covered by this policy.

Publishing of Registry

The process to compile, amend and post the registrations to the City's website will occur through a manual process of posting accessible records that can be searched using a control + find function. At this time, the city's business intelligence program, Web Focus, does not feature a public dashboard component to display registrations, it may be considered for future iterations. Through the course of the pilot, analyses will be conducted to determine the staff time to conduct the process manually and availability of technological systems to achieve more efficient and effective process.

Implementation and Communication of Policy Requirements

Subject to Council adoption of the policy, the Office of the City Clerk will work with internal stakeholders to implement the registry process including the finalization and publication of:

- the corporate registration form;
- education materials for the public;
- templates for the registry; and
- internal standard operating procedures for staff.

Staff have provided two sample communication materials that assist both the public and staff with understanding the purpose and registration requirements, an information sheet attached as Appendix B, and a flow chart attached as Appendix C. In addition, appropriate information will be posted on the City's web site. The policy and lobbyist registration forms will be available at the Office of the City Clerk's counter in City Hall and on the City's web site. The onus will be on the lobbyist to properly register in advance of undertaking lobbying efforts with any public office holder.

Monitoring the Implementation of the Policy

As directed by Council, staff will monitor the implementation of the policy as the City's first foray into a corporate lobbyist registry. Analysis and feedback on the policy and implementation will form part of the public consultation to occur in the first quarter of 2023. After the engagement, staff will report back on the outcomes of the pilot program, the engagement results and recommend potential options for implementation.

Options Considered

As reported in CL-15-21, other municipalities that have implemented a lobbyist registry program include the Cities of Toronto, Ottawa, Hamilton, Brampton, Vaughan, Region of Peel, and the Town of Collingwood. In each case, by-laws have been adopted that govern the program, administration, enforcement, penalties and sanctions.

Staff reviewed the by-laws for the respective municipalities in detail and have incorporated pertinent elements of a lobbyist registry as per Council direction. Staff considered a by-law, however, as this is a pilot program with no enforcement provisions, sanctions or penalty to enforce, a by-law is not required. It was determined a corporate policy approach sufficiently documents the requirements of the pilot program.

Financial Matters:

As indicated for option 1, expansion and enhancement of the existing business meeting registry model as a lobbyist registry, includes the least costs as existing staff and processes can be leveraged in application of the existing system for all Council members.

Throughout the pilot program, staff will track progress and monitor the need for additional financial resources.

Time and resources required for development of legislative framework, processes, consultation, communications, and training may have impacts on a number of internal departments.

Climate Implications

Not applicable.

Engagement Matters:

Engagement on the terms of the lobbyist registry identified by the Corporate Services, Strategy, Risk and Accountability Committee and Council occurred through the course of the meeting and the public's ability to delegate and submit written correspondence. Further engagement on the pilot program and consultation on other options will occur as directed in Q1 2023. Office of the City Clerk staff will partner with Corporate Communications to create a comprehensive public education campaign, and in 2023 launch engagement to garner feedback on the program, and to inform what a permanent lobbyist registry may look like.

Conclusion:

Building upon report CL-15-21 regarding a lobbyist registry, and subsequent direction of Council, staff have provided a draft policy for approval, and an implementation plan for the pilot program.

Respectfully submitted,

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Appendices: (if none delete section)

- A. Draft Lobbyist Registration Corporate Policy
- B. City of Burlington Lobbyist Registration Information Sheet
- C. City of Burlington Lobbyist Registration Flow Chart

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.