



P.O. Box 821, Str. B, Ottawa K1P 5P9
Tel: 613-241-5179 Fax: 613-241-4758
Email: info@democracywatch.ca Internet: <http://democracywatch.ca>

10 Key Questions for Commissioner of Lobbying Nancy Bélanger (December 2022)

In her five years in office, Commissioner Bélanger has let at least two lobbyists off for clear violations of the *Lobbyists' Code*, has not found even one lobbyist guilty of violating the *Code*, is no longer disclosing key enforcement information that former Commissioner Karen Shepherd disclosed regularly, and is currently proposing to gut key ethical lobbying rules in the *Code*. MPs on the House Ethics Committee have not asked Commissioner Bélanger any questions about these very questionable actions and decisions during her multiple appearances before the Committee in the past five years.

1. How can we, as MPs, and the public, determine whether you are enforcing the *Lobbying Act* and *Lobbyists' Code of Conduct* properly given that you don't you disclose at least a summary, like former Commissioner Karen Shepherd did, of every decision you make about every situation your office reviews or investigates concerning possible violations of the *Code*, a summary that sets out the timeline of each investigation and its resolution? You also have deleted from your website the summary that Commissioner Shepherd had posted. Will you commit to providing such a summary to the Committee and posting that summary on your website for the past five years you have been in office?

Key info: Commissioner Bélanger discloses the number of new situations investigated, and the number of investigation files closed, each year, but does not have a chart on her website (as Commissioner Shepherd did) that provides a summary of each situation reviewed or investigation that sets out when each investigation was initiated, what the alleged violation was, when the investigation was completed, and why she decided not to either refer the matter to the RCMP to investigate as a violation of the *Lobbying Act*, or not to find the lobbyist guilty of violating the *Lobbyists' Code*, or why after receiving a referred matter back from the RCMP she decided not to find the lobbyist guilty of violating the *Code*.

2. You have testified in the past that you have referred 11 situations to the RCMP for investigation and possible prosecution for violations of the *Lobbying Act* – on what date did you refer each situation? Has the RCMP notified you that it has completed its investigation of any of the situations and decided not to prosecute? If so, how

many of those notifications have you received, and when did you receive them, and when will you be finding the lobbyists involved in those situations guilty of violating the *Lobbyists' Code* and issuing public reports about their violations?

Re: Commissioner Bélanger's [proposed new *Lobbyists' Code of Conduct*](#) that will gut key ethical lobbying rules in the *Code*:

3. Under the definition of [ministerial responsibility in the Prime Minister's code for ministers](#), and in the [guide for deputy ministers](#) issued by the Privy Council Office (PCO), the minister always remains the decision-maker with the legal authority and responsibility for all decisions made in a ministry. In addition, it is impossible to tell from the outside, given in part that minister's offices are exempt from the *Access to Information Act*, whether communications lobbyists have with deputy, associate and assistant deputy ministers, and lower-level policy-makers, are passed on to the minister's office or the minister him or herself. Rules 5 to 7 in Commissioner Bélanger's proposed new *Lobbyists' Code* all start "Never lobby an official..." and then set out various lobbying prohibitions. The question is: Do the words "Never lobby an official" mean never lobby anyone in a minister's department when prohibited, or do they only mean never lobby the minister? If they only mean never lobby the minister, isn't that just a charade, given the lobbyist could then lobby the minister's deputy minister or any other department official and then they pass on the lobbyist's demands to the minister's office?
4. Under the proposed new *Lobbyists' Code* Rule 6, and the definition in the new *Code's* Appendix of "other political work", if a lobbyist who is registered to lobby a Cabinet minister, or is about to start lobbying the minister, spent an hour sending out an email to 100 of the lobbyists' friends asking them to donate to the minister's riding association, and 30 of the lobbyists' friends each donated \$1,500 to the minister's riding association, raising a total of \$45,000, and the lobbyist then took 5 minutes to send an email to the Cabinet minister and the minister's staff letting them know that the lobbyist had just raised \$45,000 for the minister's riding association – the question is: How long would that lobbyist be prohibited from lobbying that minister and the minister's staff?
5. Also under the proposed new *Lobbyists' Code* Rule 6, and the definition in the new *Code's* Appendix of "other political work", if a lobbyist did that same fundraising for that same amount of time, only the donations were for a political party – the question is: How long would the lobbyist be prohibited from lobbying, and who in the party would the lobbyist be prohibited from lobbying?
6. Also under the proposed new *Lobbyists' Code* Rule 6, and the definition in the new *Code's* Appendix of "other political work", what do the words "near full-time" mean – is the definition based on a 40-hour work week or an average of the person's usual number of working hours each week, or what? And what do the words "frequent and/or extensive interaction" mean? Whatever the definitions are, if a lobbyist, without interacting frequently or extensively with a candidate, official or party, spent

anything less than nearly full-time canvassing, distributing or disseminating campaign materials, coordinating campaign office logistics, performing political research or data analysis, or campaign or political event logistics, for a candidate or party – the question is: How long would that lobbyist be prohibited from lobbying that candidate (assuming there are elected) and their staff, and who in the party would the lobbyist be prohibited from lobbying?

NOTE: The factual answer to questions #4, 5 and 6 are that the lobbyist can continue lobbying the minister, or start lobbying the minister, or any MP in the party, even the party leader, Cabinet ministers or critics, right after sending the email to them that the lobbyist has raised \$45,000 for the riding association or party, or right after doing the campaign work. There is no prohibition on lobbying/cooling-off period after doing this fundraising or campaign work.

7. Given the cooling-off period for public office holders after they leave office prohibits them from being a registered lobbyist for 5 years, why did you disregard this 5-year ban and propose that a lobbyist who serves as a top-level, full-time campaign staff person or adviser for a candidate or party will be allowed to register to lobby politicians in that party 2 years later, and a second-tier, full-time or near-full time campaign staff person or adviser will be allowed to lobby politicians in the party and their staff 1 year later? How does the sense of obligation and appearance of a conflict of interest created by the lobbyist's favours for the candidate or party suddenly magically disappear after only 1-2 years? Doesn't a politician who is elected owe the people who helped them win the election for the rest of the time they are an elected official?
8. Whatever the cooling-off periods are, if someone serves as a top-level or second-tier, full-time or near-full-time campaign staff person or adviser for a political party, who will the lobbyist be prohibited from lobbying during their cooling-off period?
9. Given federal [Ethics Commissioner Mario Dion has stated publicly](#) that his position is it is a violation of the *Conflict of Interest Code for Members of the House of Commons* and/or the *Conflict of Interest Act* for MPs, Cabinet ministers, their staff or top government officials to receive gifts or hospitality given by a lobbyist worth more than \$30 annually, why have you increased the gift and hospitality limits in the proposed new *Code* to \$40 each and \$80 annually? Even if you increased the gift and hospitality limits more, isn't it true that, given the Ethics Commissioner's position, MPs, Cabinet ministers, their staff and top government officials would still be prohibited from accepting more than \$30 annually in gifts or hospitality from a lobbyist?
10. The subtitle of [your report proposing the new Lobbyists' Code](#) is "Updated standards for ethical and transparent lobbying". Given that, in fact, you are gutting key ethical lobbying rules in ways that will allow lobbyists to lobby politicians and officials at the same time or soon after doing favours for them, and giving yourself the power to secretly decrease cooling-off periods, how can you seriously call your proposals "updated standards for ethical and transparent lobbying"?