

Submission
Public Affairs Association of Canada

Standing Committee on Social Policy
The Broader Public Sector Accountability Act, 2010 (“Bill 122”)

Introduction:

On behalf of the Public Affairs Association of Canada (“PAAC”) we respectfully present this submission to the Social Policy Standing Committee of the Ontario Legislature in respect of the *Broader Public Sector Accountability Act, 2010* or Bill 122.

This submission is divided into four sections. The first section provides Committee members an overview of the PAAC, its membership and its mandate. The second section outlines the current lobbyist registration system in Ontario, specifically those rules and regulations impacting consultant lobbyists. In section three, we outline the kinds of services public affairs professionals provide their companies, clients and organizations and why these services are valuable. Section four presents PAAC’s specific views on the proposed legislation, Bill 122.

Overview of PAAC:

The Public Affairs Association of Canada or PAAC is a national, not-for-profit organization founded in 1984. Our principal objective is to help public affairs professionals succeed in their work by providing them with forums for professional development, the exchange of new ideas and networking. In addition, the PAAC assists members by commenting on matters that impact the public affairs profession.

PAAC's growing membership represents a cross-section of the many disciplines involved in public affairs including policy development, government relations, lobbying, communications, opinion research and public relations. Our members come from both the private and public sectors, in areas such as industrial and financial companies, crown corporations, consulting firms, small business, ministries, municipalities, public relations organizations, trade associations, educational institutions, law and accounting firms. At the present time we have 150 members from across Canada.

The events we offer range from full professional development conferences to tools and techniques sessions and high-profile speakers. We also publish from time to time a comprehensive newsletter featuring the latest PAAC and industry news, as well as online job postings from across the country.

PAAC also has a voluntary code of conduct that provides guidance to our members in terms of their ethical conduct. The principles are:

1. Avoid acting in such a way as to bring harm or disrepute to the profession, colleague, employer or client.
2. Respect regulatory statutes and meet their full obligations for disclosure including the Charter of Rights and Freedoms, the federal and provincial Lobbyist Registration Acts, Privacy legislation, Municipal Registries and codes as they apply to the jurisdiction of the practice.
3. Provide advice, guidance and an informed opinion as the nature of the business, policy, or legislative issue in a manner that is forthright and credibly reasoned.
4. Avoid personal and professional conflicts of interest and inform clients and employers as soon as the potential for conflict arises.
5. Ensure any new engagement is subject to full disclosure with respect to regulatory requirements, the firm and the client.
6. Be transparent in the management of financial accounts, contractual matters, obligations and client/organizational interest.
7. Respect interpersonal confidences and confidential information.

Ontario Lobbyist Registration System and Consultant Lobbyists:

In Ontario, the rules governing consultant lobbyists are clearly defined. The disclosure requirements set out in the *Lobbyist Registration Act, 1998*, make it very clear who is lobbying public officer holders and about what subject matter—legislation, regulations, government awards, programs and policy. The disclosure requirements also make it clear that if a consultant lobbyist is arranging meetings on behalf of third parties, then he or she must register for that activity as well.

In addition, the powers of the Lobbyist Registrar to request further information about specific returns, either to clarify the subject matter of the lobbying effort, or

to clarify any new information that is submitted, ensures a significant degree of transparency and oversight of the activities of consultant lobbyists.¹

The members of the PAAC who are consultant lobbyists fully support the Ontario Lobbyist registration requirements and would also welcome specific enhancements to make the system even more transparent. For example, a number of Canadian jurisdictions have lobbyist “codes of conduct” that provide additional rules for regulating the activities and conduct of all lobbyists. The federal government and Quebec all have codes of conduct that could be readily adapted by the Ontario Lobbyist Registrar for lobbyists in Ontario.

It should also be noted too that many of our members have been instrumental in advocating for lobbyist registration systems, codes of conduct and regulatory provisions for many years at all levels of government in Canada. We have been asked to provide expert advice to the City of Toronto as they developed the first mandatory lobbyist registration system for municipalities in Canada. The PAAC also regularly facilitates meetings between our members and the federal Commissioner of Lobbying, the Ontario Lobbyist Registrar, and the City of Toronto Lobbyist Registrar for purposes of education about compliance issues and registration requirements.²

Public Affairs Services:

PAAC members provide a wide range of services to the clients, firms and organizations they represent. This includes: corporate communications, public opinion research, policy analysis, lobbying law compliance, issues and reputation management, government relations, public policy advocacy, stakeholder relations and media relations. At a general level, public affairs is about building the public policy and political case for the government to act to address an issue or opportunity that impacts a particular group (i.e. the public, a region of the province, a citizen’s group, an industry sector, a union, etc.).

In the context of government relations and lobbying, public affairs professionals provide services that are critical to the success and function of any group or organization impacted by government. This includes, for example,

¹ For an overview of recent trends in lobbying legislation in Canada, see G. W. Giorno “Themes and Trends in Lobbying Legislation: A Cross Jurisdictional Analysis” (Osgood Hall Law School Professional Development, Seminar “Lobbying, Government Relations and Ethics “October 15, 2010). This is attached as Appendix A.

² The OECD has recently released a policy framework document “Transparency and Integrity in Lobbying” (January 2010) that outlines 10 principles for enhancing transparency and integrity of the lobbying profession. This is attached as Appendix B.

- Developing public policy options to address a specific concern/opportunity,
- Assisting organizations to navigate the government decision-making process in a manner that is timely, effective and responsive to the information needs of government,
- ensuring compliance with government procurement rules and lobbyist registration requirements,
- monitoring and analyzing the legislative environment for policy changes,
- sharing of impact studies that show the consequence of a proposed course of government action,
- advice and counsel about policy or procurement decision making processes in complex governmental organizations (Ministries, Central Agencies, Cabinet Office).

The value of these services relates directly to the complexity of government and its interrelations with various forces that set government policy agendas and determine the scope, timing and financing of policy options. Government relations professionals work in this area in various capacities to ensure that the organizations they represent can navigate this complexity and make value-added contributions to the policy development process.

Some may believe that the complexity of government policy making is overstated: that various interest groups, businesses and organizations should simply contact their local elected representative for assistance and avoid the use of government relations professionals. This objection, however, fails to understand modern government decision making in various contexts.

First, there is now increased competition for scarce dollars for programs and institutions. This requires organizations to understand the political and administrative context of how funding decisions are made within ministries, between ministries and between funding envelopes—health care vs. post secondary education funding for example. Second, there are whole ranges of decisions that are either technical or administrative in nature and not political. Who those decision makers are requires experience and knowledge of government processes at different levels within ministries and central agencies. Third, governments are now more reactive to media scrutiny and detailed audits of program spending. This requires an increased sensitivity to the design of various policies and programs and what stakeholders will be impacted negatively to appreciate government policy making.

Therefore, having government relations professionals that understand this level of complexity—both inside government ministries and those outside forces that impact policy making, and having their guidance to prepare policy submissions accordingly, is more critical than ever for organizational success. Local elected representative with limited exposure to various forms of decision making and policy agenda formation cannot properly advise on these matters.

The question about the use of in-house government relations staff vs. external consultant lobbyists can be separated into two issues: specific project expertise or cost effectiveness. Some non-governmental organizations and not for profit groups, do not have the financial resources to hire in-house government relations staff so they hire consultant government relations professionals on a project specific basis. This allows for costs to be controlled and specific projects to be managed carefully. However, in some other instances, in-house government relations staff need specific expertise on a given project so they hire consultants who are experts in an area of government decision making. The point is consultant lobbyists are often utilized just like other consultants—for expertise or to manage staffing pressures and costs.

Consider the following example: certain groups of disabled citizens have historically been excluded from any involvement in the formation of social and health policies that directly affect their lives. Various interest groups representing disabled people, including disabled people themselves, form to advocate their inclusion in the policy making process. So they have to lobby government to gain the formal recognition as legitimate participants in a policy process even **before** they begin to advocate for specific social and health care policy options.

In this case, the collection of advocacy groups decides it needs to engage a government relations professional to assist them in organizing into an interest group, gaining recognition as a legitimate interest group, and then begin the process of making representations on their preferred policy options to government officials.

Here the government relations professional assists the group in making valueable contributions not just to the actual policy options under review, but enables a historically disenfranchised group to exercise their democratic rights as citizens to make their voice heard in the policy discussion. In other words, government

relations and lobbying activity can, at least in some cases, enhance democratic participation and improve public policy.³

PAAC and Bill 122

The PAAC supports the underlying principles of the proposed legislation: enhancing transparency and accountability in broader public sector organizations. We also support the restrictions on the use of public funds such as grants, transfer payments and revenues generated by the organization (in the case of Hydro One, Ontario Power Generation and the other Ontario government electricity sector agencies) for the payment of consultant lobbyists.

PAAC does want to note, however, that broader public sector organizations should be allowed to use consultant lobbyists in the manner permitted in the Bill with funds that are not public funds as defined in the Bill. Further regulatory developments should also not further restrict the use of, or payment of consultant lobbyists by the broader public sector. The use of consultant lobbying expertise should be treated equally with other forms of consultant expertise and recognized as a valuable and legitimate form of business activity. Otherwise, we are limiting the range of management options and cost-controlling mechanisms available to organizations in the boarder public sector.

³ See W. Boyce, S. Andrews and others [A Seat at the Table: Persons with Disabilities and Policy in Canada](#), 2001 (McGill Queens University Press) for an overview of how disability advocacy groups lobby in Canada.