



Office of the Ethics Commissioner

Guide to Fees, Gifts and Other Benefits – November 2024

I. Introduction

This guide is intended to assist Members of the Legislative Assembly (“Members”) in understanding their obligations under the *Conflicts of Interest Act*, RSA 2000, c C-23 (the “Act”), with respect to fees, gifts or other benefits.

It is intended to provide guidance with respect to Members’ obligations generally under the Act and specifically in the context of the regulatory changes that came into effect on January 1, 2024, pursuant to the *Members’ Gifts and Benefits Regulation*, Alta Reg 145/2023 (the “Regulation”).

Members are encouraged to read and consider this guidance as the interpretation and application of the rules as set out in the Act and the Regulation may vary from how these rules have been interpreted and applied by the Office of the Ethics Commissioner in the past.

Please note that this guide does not and cannot cover every situation. As such, Members are encouraged to contact the Office of the Ethics Commissioner if they are uncertain about a fee, gift or other benefit’s acceptability. Members may seek this Office’s advice by completing and submitting a Gift Acceptance Request/Reporting Sheet, available on our website.

Throughout this guide, the term “gifts” is used for ease of reference, but it should be read as meaning “fees, gifts and other benefits” unless the context suggests otherwise. Similarly, the term “family” is used for ease of reference, but references to “family” should be read as “the Member’s spouse or adult interdependent partner or minor child”, unless stated otherwise.

Members and their family may, from time to time, be offered fees, gifts or other benefits. The Act contains rules regarding what Members and their family may accept, what must be disclosed to the Ethics Commissioner and what the Ethics Commissioner discloses publicly. These rules are found in sections 7, 12 and 14 of the Act and the Regulation.

II. General Prohibition Against Gifts – Section 7(1)

The basic rule regarding gifts is that Members and their family are prohibited from accepting from a person (other than the Crown) a gift connected, *directly or indirectly*, with the performance of the Member’s Office. Member means a Member of the Legislative Assembly and includes a Minister whether or not the Minister is a Member of the Legislative Assembly.

The rule prohibits the acceptance of a “*fee, gift or other benefit*”. Considered individually, a fee is a payment made in exchange for advice or services. A gift is something voluntarily transferred from one person to another without compensation. A benefit is an advantage or profit gained.

The prohibition on accepting fees, gifts or other benefits applies to all gifts that are **connected, directly or indirectly, with the performance of the Member’s office**. As suggested by the phrase “directly or indirectly”, this prohibition is generally broad in scope. It prevents a Member or their family from accepting anything of value that is connected to the role of a Member as an elected official. Put another way, Members and their family are prohibited from accepting any gift that would not have been received but for the fact the Member is an elected official, unless an exception to the prohibition applies.

The Ethics Commissioner will consider the entire context in determining whether the gift is connected, directly or indirectly, to the performance of the Member’s office. Particular attention will be given to the relationship between the Member and the person or entity providing the gift including the length, closeness and nature of the relationship.

Members and their family may continue to accept gifts from family and friends consistent with the nature and value of gifts exchanged prior to the Member assuming office. Gifts from relationships established after the Member assumes office will be subject to greater scrutiny and will generally be prohibited, especially when those donors have recent, current or anticipated business before government.

III. Gifts from charities, other Canadian governments and political parties – Section 7(2)

Section 7(2) provides for exceptions to the prohibitions contained in section 7(1). Specifically, a Member and their family may accept a non-monetary gift or non-monetary benefit from the Member’s political party, constituency association, a charitable organization and any level of Canadian government.

IV. Incident of Protocol or Social Obligation – Section 7(3)

Section 7(3)(a) through (d) provides for further exceptions to the prohibitions contained in section 7(1). These specific exceptions only apply if the fee, gift or other benefit are either an **incident of protocol or of the social obligations that normally accompany the Member’s office**.

1. Incident of Protocol

Protocol refers to the system of rules and behaviour used at formal or official ceremonies or occasions or the rules of diplomatic etiquette and the practices that countries or other groups observe in the course of contacts with one another.

As such, gifts accepted as incidents of protocol are gifts from individuals or organizations, typically governments or cultural groups but possibly also other entities, given to Members or their family within the commonly accepted practices of those groups or society generally, typically in the context of a formal or official meeting or event.

The Ethics Commissioner will consider the entire context in determining whether a gift is an incident of protocol, including the nature and value of the offering, the identity of the donor, the common practices of the donor and the occasion, the Member’s role in the occasion and any recent, current or anticipated matters the donor had or has before government.

Representatives from foreign governments or Indigenous groups will commonly provide culturally significant gifts to a Member during a meeting. These gifts will often be acceptable as an incident of protocol. However, Members must be cognizant of the value of these gifts as the Ethics Commissioner's approval to retain these gifts will be required if the value is greater than \$500.

2. Social Obligation

A gift that is an incident of the social obligations that normally accompany the Member's office is a gift the Member is required to or has a duty to accept as part of the social relations and courtesies generally expected in the performance of the Member's role.

The assessment as to whether such a duty to accept applies in any given situation is determined objectively by assessing how a well-informed person, fully informed of the entire context of the gift, would view the matter, and not the subjective assessment of the Member being offered the gift.

The Ethics Commissioner will consider the entire context of the gift to determine whether it qualifies as a social obligation. These considerations include the type of gift, value of the gift, identity of the donor, the relationship between the donor and the Member's role in the legislature or government, the occasion for the gift including the significance of the occasion and whether the occasion itself is something the Member would be expected to attend, the Member's role in that occasion, any recent, current or anticipated matters that the donor has before government and any recent gifts given to the Member by the same donor.

This exception recognizes that Members are expected to attend certain events, meetings and conferences in their official capacity and that Members may accept invitations associated with these events, meetings and conferences. It is also generally accepted that Members may also receive meals or other hospitality at these events. Further advice on the types of gifts that will be acceptable as social obligations is provided in the *Categories of Fees, Gifts or Other Benefits* section below.

3. Categories of Fees, Gifts or Other Benefits

The Act establishes four categories of fees, gifts, or other benefits each with different rules for acceptance. These categories are set out in subsections 7(3)(a)-(d) of the Act.

(a) Gifts other than tickets and invitations (Section 7(3)(a))

Subsection 7(3)(a) of the Act provides that gifts that are an incident of protocol or of the social obligations that normally accompany the Member's office may be accepted without breaching the Act if the value of the gift is **\$500 or less**. This value is set out in the *Members' Gift and Benefits Regulation*.

Gifts under subsection 7(3)(a) are often referred to simply as "tangible" gifts. However, subsection 7(3)(a) refers to any fee, non-monetary gift or other non-monetary benefit that does not fall within the exceptions in subsections 7(3)(b) or (c) and as a result is not limited to tangible gifts.

In some cases, such as after a speech is given, a Member may be put in a position where the Member is not able to or does not want to refuse the gift or does not know its value when accepting it. In those cases, the Member should discuss with the Office of the Ethics Commissioner as soon as practicable thereafter how to deal with the gift.

(b) Tickets and invitations to events (Section 7(3)(b))

Tickets and invitations to events that are an incident of protocol or of the social obligations that normally accompany the Member's office may be accepted if the tickets and invitations to events are accepted in accordance with the regulations. Further information about the requirements of the regulations is available below in the *Recording, Reporting and Disclosure of Gifts* section.

The Act and regulations no longer contain monetary limits on the value of tickets and invitations to events that may be accepted by Members. However, a Member still breaches the Act by accepting tickets or invitations to events that are not an incident of protocol or social obligation.

Common examples of events that Members are typically expected to attend may include charity fundraisers, school graduations and regional or provincial cultural, artistic or sporting events. However, Members should not assume that complimentary admission to these types of events will be acceptable as the entire context of a gift must be considered. The list of factors the Ethics Commissioner will consider are provided above under the heading "Social Obligation" in Part IV of this guide.

(c) Waivers of attendance fees and payment or reimbursement of reasonable travel expenses for conferences or meetings (Section 7(3)(c))

Waivers of attendance fees and payment or reimbursement of reasonable travel expenses for attendance at a conference or meeting may also be accepted by Members if the waiver, payment or reimbursement is an incident of protocol or of the social obligations that normally accompany the Member's office provided the waiver, payment or reimbursement is accepted in accordance with the regulations.

Again, the Act and regulations no longer contain monetary limits on the value of the waivers, payments or reimbursements that may be accepted by Members. However, a Member still breaches the Act by accepting any waiver, payment or reimbursement that is not an incident of protocol or social obligation.

If a meeting or conference relates to a Member's portfolio, the Member's attendance provides utility to their constituents or a Member has expertise in the conference matter, a waiver of the attendance fee may be considered a social obligation that normally accompanies the Member's office. When a Member is invited to speak at a conference or bring greetings on behalf of the Province, it is typically acceptable within the social obligation exception for the Member's attendance fees and reasonable travel expenses for the conference to be covered. A waiver of attendance fees for a conference or meeting of importance to the Province would likely also fit within the social obligation exception.

(d) Ethics Commissioner Approval – Section 7(3)(d)

If a fee, gift or other benefit is an incident of protocol or of the social obligations that normally accompany a Member's office but it does not fit within any of the categories above, a Member must obtain approval from the Ethics Commissioner to retain the gift. The Ethics Commissioner can only give this approval if the Ethics Commissioner is satisfied that there is no reasonable possibility that retention of the gift will create a conflict between a private interest and the public duty of the Member.

Section 7(3)(d) requires that the Member seek the Ethics Commissioner's approval either before or as soon as practicable after receiving the gift. In many cases, it would be perceived as rude to decline a gift that is offered during a public event or ceremony. In these cases, the Member may accept the gift but should seek the Ethics Commissioner's advice or approval soon thereafter, normally on the next regular business day.

4. *Gifts from Lobbyists*

Members must be particularly careful when accepting gifts from lobbyists as lobbyists may have recent, current or anticipated matters before government, which is one of the factors the Ethics Commissioner will consider when determining the acceptability of a gift.

5. *Requesting the Ethics Commissioner's Advice or Approval*

Members may use the Gift Acceptance Request/Reporting Sheet available on the Office of the Ethics Commissioner's website to request advice or approval of the Ethics Commissioner with respect to any gift. Members should contact the Office of the Ethics Commissioner as early as practicable to ensure the Ethics Commissioner has sufficient time to provide advice or approval.

V. Recording, Reporting and Disclosing Gifts

1. *Determining Value*

While the value of a gift is one factor that is considered when determining whether a Member may accept a gift, determining the value of a gift is essential to determining whether the gift must be recorded by the Member, reported to the Ethics Commissioner or publicly disclosed by the Ethics Commissioner.

The *Members' Gifts and Benefits Regulation* requires that Members record and report the value of any gift, if known, or a reasonable estimate of the value, if the value is not known. The Office of the Ethics Commissioner uses the fair market value of a gift to determine its value. The fair market value is the amount that any member of the public would pay for the gift on the open market. Any applicable taxes, fees and service charges must be included in the value of the gift.

There may be circumstances in which a gift's value is difficult to ascertain. However, Members are still required to provide a reasonable estimate of the value in these circumstances. The Office of the Ethics Commissioner expects that Members will use all reasonable efforts to determine a reasonable estimate of the value. These efforts may include inquiring about the value with the donor or conducting internet searches for comparable items. Members must provide an explanation of how the estimate was determined to allow the Office of the Ethics Commissioner to assess the reasonableness of the estimate. If a Member cannot determine a reasonable estimate of the value of a gift, they should not accept it as the ability to provide a reasonable estimate of the value is required to fulfill their recording, reporting and disclosure obligations.

Section 2(3)(a) of the Regulation provides that, in determining value, the total value of all tickets, invitations, waivers, payments or reimbursements accepted from the same source must be aggregated in respect of each event, conference or meeting. For example, if a Member accepts complimentary registration, valued at \$500, and complimentary hotel accommodation, valued at \$250, from the organizer of a conference, the registration and accommodation is considered to be one gift valued at \$750.

Section 2(3)(b) of the Regulation provides that, in determining value, the total value must be considered separately for the Member and each individual on whose behalf the tickets, invitations, waivers, payments or reimbursements are accepted. For example, if a Member accepts two tickets to a charity fundraiser, each valued at \$150, and brings his or her spouse to the event, the tickets are considered to be two separate \$150 gifts that are to be treated separately when recording or reporting the gift.

2. Ongoing Recording Obligations – Gift Acceptance Request/Reporting Sheet

There are no recording or reporting obligations with respect to gifts under \$250.

For tickets to events and waivers, payments or reimbursements in relation to a conference or meeting with a value greater than \$250 that are accepted as an incident of protocol or of the social obligations that normally accompany the Member's office, Members must record the following information:

- (a) a description and the date of the event, conference or meeting;
- (b) the date the ticket, invitation, waiver, payment or reimbursement is accepted;
- (c) the name of the person who provides the ticket, invitation, waiver, payment or reimbursement;
- (d) the circumstances in which and reason why the ticket, invitation, waiver, payment or reimbursement is given and accepted;
- (e) the value, if known, or a reasonable estimate of the value, if the value is not known, of the ticket, invitation, waiver, payment or reimbursement;
- (f) any other information required by the Ethics Commissioner.

The Gift Acceptance Request/Reporting Sheet, whether or not it is used to seek the Ethics Commissioner's advice or approval, can be completed and retained by the Member to comply with this ongoing recording obligation.

3. Reporting over \$1,000

For tickets to events and waivers, payments or reimbursements in relation to a conference or meeting with a value greater than \$1,000 that are accepted as an incident of protocol or of the social obligations that normally accompany the Member's office, Members must record all the above information and report that information to the Ethics Commissioner within 60 days of acceptance in the form determined by the Ethics Commissioner.

The Gift Acceptance Request/Reporting Sheet, whether or not it is used to seek the Ethics Commissioner's advice or approval, can be completed by the Member and sent to the Ethics Commissioner to comply with this reporting obligation.

4. Annual Disclosure

Members are required by section 12(e) of the Act to annually provide a list of all fees, gifts and other benefits accepted with a value greater than \$250. This includes all tickets to events and waivers, payments or reimbursements in relation to conferences which are recorded throughout the year. This also includes any other gifts over \$250 accepted during the year. The Gift Acceptance Request/Reporting Sheet can be used for this purpose.

5. Public Disclosure

Under section 14(3)(b) of the Act, each Member's public disclosure statement will identify the fees, gifts or other benefits accepted with the Ethics Commissioner's approval under section 7(3)(d). Pursuant to section 14(8) of the Act, all other information regarding gifts disclosed to the Ethics Commissioner is confidential unless it is relevant to a proceeding under Part 5.

Members are encouraged to contact the Office of the Ethics Commissioner if they are uncertain about a gift's acceptability or have any questions about their obligations under the Act and Regulation.