



*Joint Standing Committee on Integrity*

14 March 2023

Dear Mr Easton,

***Integrity Commission Draft Framework Report – Recommendations for reforming lobbying oversight in Tasmania***

The Joint Standing Committee on Integrity would like to thank you for the opportunity to provide a response to the *Integrity Commission Draft Framework Report, Recommendations for reforming lobbying oversight in Tasmania*.

Comments on the recommendations proposed are outlined below. While Committee agrees with certain recommendations in the Integrity Commission report, if there is a need for any form of parliamentary approval, it should be noted that individual committee members will consider any amendments on their merits.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rob Valentine'.

**Hon. Rob Valentine MLC**

**Committee Chair**

**Recommendation 1 – The Commission recommends the following definition of lobbying activities:**

*‘Communication with [public representatives], in which a person or entity seeks to advocate for an interest, prior to a decision regarding: making or amendment of legislation, development or amendment of a government policy or program, awarding of a government contract or grant, and allocation of funding.’*

- The alteration of the definition to better express what constitutes lobbying activities makes it clearer as to what lobbying activities are, whilst not constraining communication with public representatives informally.

**Recommendation 2 – The Commission recommends the following exemptions from the definition of lobbying activities:**

- *Occurring in the normal functioning of government operations, such as communications between colleagues, staff, or other [public representatives]*
- *About personal or family matters*
- *Which are already transparent by nature (for example, public forums), or involving incidental meetings or constituents seeking advice or assistance from their local member*
- *Submission made in response to public consultation processes.*
- The Committee agrees with this recommendation noting the importance of not discouraging access from the community to government by using too broad a definition of ‘lobbying activity.’
- Amendments to the first exemption are suggested to refine its application:-

*Occurring in the normal functioning of in-house government operations, limited to communications between government colleagues, staff, or other [public representatives]*

- An additional exemption is recommended to cover regular, open briefings offered to the Legislative Council or House of Assembly by interested parties as part of normal arrangements when considering legislation before the Chamber.

**Recommendation 3 – The Commission recommends that a ‘lobbyist’ be defined as:**

*‘an individual or organisation undertaking lobbying activities.’*

- The Committee considers there are certain individuals who meet with elected members who should be considered advocates rather than lobbyists and clarification is required.

**Recommendation 4 – The Commission recommends that a ‘registered lobbyist’, i.e. for the purposes of triggering the threshold for inclusion on the Register of Lobbyists, be defined as:**

- *Any person, company or organisation (including its employees) who conducts lobbying activities on behalf of a third-party client*
- *Any person, company or organisation who conducts lobbying activities on behalf of a corporation or organisation, whether as an employee or contractor (i.e. in-house).*
- The Committee is in favour of expanding the definition of ‘registered lobbyist’ to cover in-house lobbyists, making the definition more in line with other jurisdictions.

**Recommendation 5 – The Commission recommends adding the following obligations for lobbyists to the Lobbying Code of Conduct:**

- *Act in good faith and avoid conduct likely to bring discredit upon themselves, [public representatives], their employer or client*
  - *Correct any inaccurate information and not let a representative rely on inaccurate information*
  - *Indicate to their client their obligations under legislation and Lobbying Code of Conduct*
  - *Not divulge confidential information*
  - *Not represent conflicting or competing interest without the informed consent of those whose interests are involved*
  - *Inform [public representatives] of any conflict of interest*
  - *Not place [public representatives] in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on them, and*
  - *Inform [public representatives] of the guidance on restricting gifts.*
- The Committee notes the Queensland code of conduct for lobbyists has been given as an example of good practice and that these changes would make the Tasmanian code of similar calibre.

**Recommendation 6 – The Commission recommends that [*‘public representative’*] for the purpose of the lobbying regulation be expanded and defined as:**

- *A Minister, a Parliamentary Secretary, a Member of Parliament of the political party (or parties) that constitute the Executive Government of the day*
  - *A person employed as a Ministerial advisor*
  - *A Member of Parliament in the House of Assembly*
  - *A Member of Parliament in the Legislative Council*
  - *A Head of Agency appointed under the State Service Act 2000*
  - *A direct report of a Head of Agency appointed under the State service Act 2000*
  - *Equivalent public officials not in the State Service, such as Chief Executive Officers (CEOs) and members of Boards of State-owned Companies and Government Business Enterprises.*
- The Committee is not opposed to expanding the definition, bringing Tasmania more into line with other States. It is understood that Government is not the only area where lobbying occurs and the definition should therefore include a wider range of individuals, as in the recommendation, than those covered in the current definition.
  - The Committee considers that the scope of public officials needs further consideration to capture all those who make decisions or influence decisions. In particular the Committee thinks there should be consideration of those delegated to perform certain duties.

**Recommendation 7 – The Commission recommends adopting standards in the Lobbying Code of Conduct that prescribe minimum standards for [*public representatives*] in relation to interacting with lobbyists. These should be more stringent than the general standards in the current Code, and should include:**

- *No undocumented or secret meetings*

- *Seeking the views of all parties whose interests are likely to be affected by adopting a lobbying proposal*
  - *Giving no preferential treatment and/or access to particular individuals or groups*
  - *Accounting for informal lobbying representations in reporting requirements*
  - *Not divulging information that would produce unfair advantage, and*
  - *Reporting any reasonably suspected breach of the Lobbying Code of Conduct.*
- The Committee is concerned with the practical application of this recommendation, particularly in relation to ‘seeking the views of all parties whose interests are likely to be affected by adopting a lobbying proposal.’

**Recommendation 8 – The Commission recommends that entity information require for the register include information currently required:**

- *Business registration details*
- *Names and positions of persons employed, contracted or engaged*
- *Names of clients and client organisations, and*
- *Contact details.*

**And recommends expanding to include:**

- *Whether acting as a third-party lobbyist, or in-house lobbyist*
  - *Whether the lobbyist has worked as a [public representative] (defined in section 2.1) in the previous 12 months, and to specify the role*
  - *Whether the lobbyist has been paid to professionally advise on an election campaign (i.e., in an election, in order to get someone elected) in the previous 12 months, and*
  - *Whether the lobbyist has made a donation to a [public representative] or political party in the last 12 months.*
- The Committee is not opposed to this recommendation, noting the expansion of information will make it more meaningful for public scrutiny of lobbying activities.

**Recommendation 9 – The Commission recommends [public representatives] be required to disclose contact that meets the definition of ‘lobbying activities’ – i.e. lobbying by all lobbyists – on a contact disclosure log within 5 days of the contact, and include the following information:**

- *[public representative] name and title – if meeting or phone call, other [public representatives] present*
- *Name and organisation/firm of lobbyist (if a ‘registered lobbyist’)*
- *Date and time of lobbying activity contact*
- *The nature of the lobbying activity, i.e., in respect of government decisions in relation to:*
  - *Developing or amending legislation*
  - *Developing or amending policy*
  - *Awarding a grant or contract*
  - *Allocation of funding*
  - *Other – (if other specify)*
- *Form of contact – meeting, phone call, text message, written submission/proposal*

- *Whether the person or entity engaged in lobbying activities is on the lobbyist register*
  - *Whether meeting notes are kept and held on record as required for public officials*
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- The recording of the recommended data allows the Tasmanian public to be aware of the frequency, type and topic of lobbying activities that are occurring, which would allow greater transparency in this area. Such recording of data brings Tasmania into line with some other jurisdictions both in Australia and overseas.
  - The Committee is concerned with the practical application of the associated record keeping, given individual members of parliament are not required to file communications on any official record that is subject to the Right to Information Act, unless holding a ministerial office.
  - The Committee sees the contact disclosure log as potentially an administrative burden that may be difficult to adhere to for Members with smaller staffing levels.
  - There are also grey areas in determining the distinction between formal and informal meetings that may need to be disclosed and this needs further definition.

**Recommendation 10 – The Commission recommends that gift giving between lobbyists and [public representatives] be banned outright. Prior to any gift or benefit, [public representatives] should first check the lobbyist register, and if the provider of the gift is a registered lobbyist, they should not accept the gift. [Public representatives] should not give gifts to any registered lobbyist.**

- The Committee is not opposed to this recommendation.

**Recommendation 11 – The Commission recommends banning the acceptance of success fees paid from clients to lobbyists.**

- The Committee agrees with this recommendation to ban the acceptance of success fees, noting this change brings Tasmania into line with other jurisdictions.

**Recommendation 12 – The Commission recommends that the cooling off provisions remain at the current period of 12 months, but should apply to all [public representatives] under an expanded definition.**

- The Committee notes other jurisdictions prohibition periods range from 12 to 24 months and considers the merit in extending the timeframe to improve transparency.

**Recommendation 13 – The Commission recommends restricting [public representatives] from being party to lobbying activities by lobbyists who previously advised them on electoral campaigns (i.e., provided political advice in an election period, in order to get them elected). This would not apply to general advice outside an election period, or general communications advice. This should apply for a period of 12 months after being elected.**

- The Committee considers that there may be a need to better define ‘advised on political campaigns’ within this recommendation

**Recommendation 14 – The Commission has made recommendations elsewhere regarding limits on political donations, and here recommends more transparency in relation to political donations and lobbying activities. Specifically, we recommend an additional transparency measure when lobbyists register with the Commission and annually when confirming that their details are up to date: indicating whether they have donated to a [public representative] or political party in the previous 12 months.**

- The Committee is not opposed to this recommendation.