Dr Michael Lester

June 2022

Submission Integrity Commission lobbying reform review

Thank you for the invitation to make a submission on the review of lobbying system.

By way of background, I was a former political journalist in Tasmania for around 20 years for the Examiner, Advocate, ABC and Mercury. I was political adviser to former Premier Jim Bacon from 1998 to 2002 and have operated as public relations consultant since then for a national company, CPR Communications and Public Relations, founding partner of M&M Communications and as a single operator using my own name and trading as Michael LesterPR.

The public, and the media, have long been concerned about the activities of lobbyists, believing they have too great an influence on the direction of government policies and decisions. At the extreme there have been suspicions and allegations of corruption and bribery by corporations of politicians to achieve their objectives. From my experience there is a lot more conspiracy theory and rumour than there are facts.

Nevertheless, I fully support the code of conduct for lobbyists and the maintenance of a register for lobbyists to ensure greater public transparency of which individuals or lobbyists are representing which firms in meetings with ministers and other key decision-makers.

I make the following observations about the current system:

- As others have pointed out, while the public can identify which lobbyists are meeting which ministers, and on whose behalf, the subject of those meetings is not recorded in detail.
- Tasmania is small and most people either know a minister or can quickly find out how to meet them. Because of this there is limited need for most businesses to engage a “lobbyist” to gain access to a minister. I suggest a high proportion of the use of professional lobbyist services is by interstate-based companies because it is easier for them to hire someone with detailed local knowledge of the Tasmanian political system than to do the research themselves. Most of those who engage a Tasmanian lobbyist just need advice on who to approach and how to do it. (I elaborate on this in a latter dot point).
- As far as I am aware, the system does not cover meetings with opposition party MPs or independents in either the lower or upper houses. This is a weakness in that, if the objective is to bring about a change in legislation, or to block legislation or regulations, it may be possible to influence a very small number of MPs to vote for or against a proposal in parliament. Indeed, this is the very definition of “lobbying”. This is especially the case in hung parliament scenarios where vote outcomes in the house could swing on a very small number of MPs, as well as in the very small Tasmanian upper house. For example, of the current 15 upper house MLCs seven are independent, and Labor and the Liberals each have four. The president doesn’t normally vote except to break ties. Therefore, in a situation where one of the major parties is proposing a controversial bill and the other is opposing it there is an opportunity to affect the outcome by

lobbying just three or four MPs. Equally it could be argued that in the interests of transparency there should be a record of lobbying activities with opposition parties, third parties and independents. I acknowledge there is a democratic reason for the omission of non-ministerial MPs from compliance in that they need some privacy to ensure constituents can raise issues with them without fear of retribution. However, we are not talking about constituents but professional lobbyists who are already on a register. In other words, I argue that the application of the current requirements is extended to include lobbying activities with all parliamentarians and not just ministers and other members of the government party.

- As touched upon in a previous point the term lobbyist as it applies under the current system needs greater clarification. Quite often in the past I have included a client against my company name on the lobby register simply to avoid any possible misunderstanding or allegations against me of acting inappropriately when, in fact, the services I am providing that client are only public relations and communications. For example, in the past I have provided media and strategic communications advice to companies which includes liaising with ministerial offices about such things as the timing of events or announcements, who will speak and the subject matter that each speaker will cover. I have at times also provided the same companies advice on which ministers and other MPs they should approach and how to frame requests for (for example) infrastructure funding assistance, among other matters. I have also assisted those companies in drafting the request letters. In my view none of these activities constitutes lobbying as such. They are simply providing advice in my areas of expertise. In each case the client makes any approaches for meetings or sends any letters of request on their own behalf. As such, they do their own "lobbying". The lobby register is not and should not be a list of PR companies and their clients. For this reason, while I am semi-retired but still provide services to a number of clients, I have removed myself from the lobby register until, or if, I take on a client that requires actual lobbying. This area needs to be defined more precisely.
- The system may benefit from more clearly codifying what sort of activities should be banned. For example, I fully support the banning of success fees which might induce both lobbyists and officials to act illegally or unethically. In any case, from my point of view fees for services are far preferable to success fees. Other unscrupulous activities such as inducements or gifts to officials to achieve outcomes are already illegal and covered under other areas of the law but it may also be beneficial for these activities to be laid out more clearly in the code of conduct.
- Companies and peak industry groups as well as a wide variety of other organisation that do not come under the aegis of the current lobbying code, in my view, carry out the vast bulk of lobbying in Tasmania. Most of the lobbying that has attracted bad press in recent years has actually been carried out by businesses themselves or peak industry groups on their behalf. For example, the campaign to head off poker machine law reform leading into the 2019 State election was carried out by the gaming companies themselves and the Australian Hospitality Association who naturally lobbied to protect their own interests. I believe the theory is that the lobbying and campaign activities these people take and on whose behalf is self-evident and therefore it is unnecessary for them to be on a register. However, the principles of engagement under the current code of conduct should apply equally to all organisations that undertake lobbying and not just the registered lobbyists.

- Functions organised by political parties or other groups as fund raisers for election campaign purposes which are attended by representatives of corporations and often have a minister (or a key shadow minister) as the guest speaker are not covered under the current lobby system – although any funds raised for a party are subject to election donation laws. Perhaps there is a need to also require these types of indirect lobbying activities to be included under the code.