

Response to Consultation Paper: Reforming Oversight of Lobbying in Tasmania

Summary

Font Public Relations is Tasmania's pre-eminent public relations, campaigning and government relations organisation.

We take great care to abide by the Lobbyist Register and the Tasmanian Government Lobbyist Code of Conduct in all of our lobbying operations.

We have reluctantly put aside the time to prepare this submission notwithstanding the fact that it appears from the language and loaded questions within the so-called Consultation Paper that the Integrity Commission has already made the decision to massively increase the reach of the state into lobbying in Tasmania.

In our view the proposed changes to the lobbying rules, regulations, Code of Conduct and potentially even new laws is a costly, invasive and bureaucratic solution in search of a problem.

Beyond motherhood statements, no evidence is provided in either the Consultation Paper or Research Report about the need to change the rules and regulations regarding lobbying in Tasmania, or the current Code of Conduct.

To the best of our knowledge there is no evidence of any illegal or corrupt practices taking place within the Tasmanian lobbying system.

Indeed, the Research Report states that *"DPAC also has not had to remove a lobbyist for breaches of the existing Lobbying Code of Conduct."*

In our view, any extension of the lobbying rules or Code of Conduct beyond its current remit would be an unwarranted, costly and intrusive over-reach of government into the private sector.

It runs the risk of drowning our democracy in red tape, rules and regulations, and would seriously impinge upon the rights of citizens to engage with their Government.

Until and unless the Integrity Commission can provide evidence of any corruption and malfeasance we strongly oppose any changes to the current rules, regulations and lobbying Code of Conduct in Tasmania.

Lobbying is a legitimate and vital part of our democratic system of government

Lobbying is a part of our everyday life.

At a political level, it enables individuals, community groups and businesses to have input into decision-making that they would otherwise be denied.

As the Consultation Paper itself acknowledges:

Lobbying can be a useful way to participate in decision-making and to contribute expertise and knowledge to the development of public policy. It is important for our elected representatives, particularly Ministers, to understand all aspects of issues and the potential impacts of proposed policies.

It is unclear why the Integrity Commission feels the need to further regulate this vital democratic practice in Tasmania.

The very real risk of excessive regulation of lobbying is that individuals and groups are excluded from decision-making processes, and that decisions are instead taken based on advice from bureaucrats who often fail to understand the real-world impact of their decisions.

By massively increasing the regulations, rules and laws around lobbying, individuals and small businesses are likely to be deterred from lobbying their local MP or bureaucrat for fear of inadvertently breaking the law.

Perversely, it also serves to create a split between the “have-nots” (who cannot afford to retain a lobbying firm and be sure of abiding by the rules), and the haves who will retain firms such as ours.

No evidence supporting change

There is no evidence whatsoever supporting a change to the current rules, regulations and lobbying Code of Conduct in Tasmania.

The Consultation Paper states that the reform process will “*provide an opportunity for Tasmania to establish a lobbyist system that is robust, efficient and transparent, and that leads to increased public confidence in decision-making by our elected representatives and public officials.*”

But where is the evidence that the current system is not “robust, efficient and transparent”?

In our view, the current systems is working exactly as intended and that as it is not broken, there is no need to “fix” it.

This process is truly a solution in search of a problem.

As the Research Report itself states:

Ultimately the broad goal [of lobbying regulation] is to ensure the public can make itself aware of which lobbyists are lobbying which public officials, and about what issues.

The current system already achieves this.

Under the current system, firms or individuals undertaking lobbying are required to register on the Register of Lobbyists, identify who they are lobbying for, and who is undertaking the lobbying.

This is an appropriate level of regulation and meets the suggested standards.

Suggestion of specific lobbying legislation is bureaucratic over-kill

The suggestion of specific legislation to fix a perceived problem that doesn't exist is particularly egregious.

Every law impinges on the rights of individuals and businesses. The Parliament should only enact new laws where it is absolutely clear that they are required.

To repeat the point: there is no evidence requiring or supporting specific laws in this area.

Tasmania's Criminal Code already has specific and strong laws dealing with corruption, including in *Chapter VII – Crimes Against the Executive and Legislative Power* and *Chapter IX – Corruption and Abuse of Office*.

These real crimes with real and serious penalties are far from the "soft law" that the Consultation Paper suggests currently exists regarding lobbying. The Integrity Commission already has the power to investigate the various serious crimes outlined in Chapters VII and IX of the Criminal Code, why does it need even more laws?

Likewise, the suggestion that there should be bans on public officials moving into lobbying roles is entirely inappropriate.

This represents a clear state-sanctioned restraint on an individual to earn a living and in a small place like Tasmania, could effectively render people such as former Members of Parliament, political staffers and senior bureaucrats unemployable.

We note the proposal to outlaw success fees. Again, this appears to be a solution in search of a problem. To our knowledge success fees are very rarely used in Tasmania.

New cost on business and individuals

Any additional regulation of the lobbying sector in Tasmania would automatically and necessarily impose additional compliance costs upon the "business" of lobbying.

Additional compliance cost will either need to be absorbed by lobbying organisations, negatively affecting sustainability and employment opportunities for our fellow Tasmanians; or will be passed on to individuals and clients seeking to lobby Government.

This will serve to increase the gap between those who can afford professional lobbyists, and those who cannot.

By way of example: the response to this Consultation Paper alone has taken around seven hours; a cost that cannot be recouped by our business.

Tasmanian Government policy requires that a Regulation Impact Statement (RIS) be undertaken to assess the cost of any new regulatory proposal upon business.

In our view, the commission of a Regulation Impact Statement on any proposed changes to lobbying rules in Tasmania should be a bare minimum in order to properly assess the cost of any proposed changes.

Additionally, it is our strong view that notwithstanding the above, should the Integrity Commission determine to increase the regulations regarding lobbying, the weight of any increased compliance burden should fall upon the public sector. For example, it should be for elected representatives and bureaucrats who are accountable to the public to record and report interactions, not private sector individuals and businesses.

Conclusion – Tasmania is a small place

Tasmania is a small place, with many and varied interpersonal connections on both a professional and social level.

Individuals move frequently and freely between government and the bureaucracy, the private sector, and the non-government sector.

In doing so, they continue to interact frequently in both a professional and social capacity.

They also wear “many hats” – for example, local sports club President, charity volunteer, friend etc.

To suggest that someone who happens to be a lobbyist and someone who also happens to be a government official would have to record and document each and every meeting – as the Consultation Paper hints – is absurd and nonsensical.

Would a social lunch between two people – one a political staffer and former colleague, and one a some-time lobbyist - have to be documented?

How about a casual beer or coffee?

Does every meeting with a friend or acquaintance who is also a “government official” have to start with some sort of professional disclaimer?

What about when a lobbyist is married to a senior government bureaucrat?

The current level of regulation of lobbying in Tasmania strikes the right balance.

It has been in operation for nearly 15 years without a single suggestion of wrong-doing or criminality, or that it isn’t working appropriately and as intended.

We urge the Integrity Commission to refrain from further regulating the lobbying sector in Tasmania purely for the theoretical “vibe” of it, and instead take a real-world, evidence-based approach to regulating lobbying in Tasmania.

Such an approach demonstrates that the current system is working, and does not need changing.

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