

Joint Committee of Public Accounts and Audit

Regulatory Activities: Inquiry into Auditor-General's Reports 33, 47, 48 (2019-20) and 5 and 8 (2020-21)

Attorney-General's Department

Hearing date: 04 March 2021

Hansard page: 11-12

Question type: Spoken

Julian Hill asked the following question:

Mr HILL: On the breaches, there were two in PM&C and one in AGD's. Is that correct?

Ms Chidgey: We're dealing with two at the moment. I can't comment on PM&C. We can take it on notice and check what previous data we have.

Mr HILL: If you could take it on notice and give us details of what the complaints were about. Were they about a meeting that happened where it wasn't with someone who was unregistered? What was the nature of the breach?

Ms Chidgey: We can take on notice anything that sat with us, with the register.

Mr HILL: You said you're dealing with two complaints at the moment?

Ms Chidgey: Yes, that's right.

Mr HILL: How many have you had prior to these two complaints?

Ms Chidgey: I think those are the two that we're aware of.

Mr HILL: Can the Audit Office provide any additional information on the nature of the breaches that you observed?

Ms Chalmers: We are aware that there was one alleged breach to the Attorney-General's Department up to March 2020 but we can't comment after that point. So that one alleged breach was by a member of the public who alleged that there was a lobbyist who was not fit to be registered due to previous criminal convictions.

Mr HILL: Was that person then deregistered?

Ms Chalmers: The Attorney-General's Department found the allegation to be unsubstantiated.

Mr HILL: Did an investigation occur?

Ms Chalmers: Yes.

Mr HILL: That's the important thing. In regards to the two at PM&C, did you have visibility of those two?

Ms Chalmers: Yes, between February 2018 and May 2019, there were two alleged breaches to PM&C. Both of those were alleging that there were lobbyists undertaking lobbying activities on behalf of clients who were not listed in the register. Both of those allegations were also found to be unsubstantiated by the Department of the Prime Minister and Cabinet.

Ms Chidgey: I might just clarify, I think we've dealt with the two breaches. I would need to take on notice what occurred with those, but they are the two we've had since taking over the register.

The response to the Member's question is as follows:

The department has received two reports of alleged breaches of the Lobbying Code of Conduct (the Code) since the transfer of the Register from PM&C in May 2019. In both instances the department found that no breach of the Lobbying Code of Conduct had occurred.

The first alleged breach was reported to the department on 28 October 2019. The complainant alleged that the lobbyist was not fit to be registered due to previous criminal convictions. The department found that the individual was not a registered lobbyist and had no obligation to register.

The second breach was reported to the department on 2 December 2019. The complainant alleged that a lobbyist was attempting to conduct lobbying activity despite having been deregistered. From the information provided, the department found that the reported breach was unsubstantiated. However, for completeness, the department contacted the individual in question to confirm that they had been removed from the Register and remind them that Australian Government representatives must not be party to lobbying activities engaged in by unregistered lobbyists.

The department considers both of the matters to be finalised.

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Attorney-General's Department

Hearing date: 04 March 2021

Hansard page: 15

Question type: Spoken

Julian Hill asked the following question:

Mr HILL: If I get the machinery of government, there's a thing that comes from one department to another one. Did the Attorney-General or his office request any advice or information or briefing on the fact that he'd just inherited the lobbying code?

Ms Chidgey: Not that I'm aware. We'd have to take that on notice.

The response to the Member's question is as follows:

Advice was not requested on the machinery of government change.

Policy responsibility for the Lobbying Code of Conduct (the Code) transferred from the Department of Prime Minister and Cabinet to the Attorney-General's Department in May 2018. However, responsibility for the day-to-day administration of the Code and the Australian Government Register of Lobbyists did not transfer across to the department until 10 May 2019, which was during a caretaker period. Following the election, the department provided information to the Attorney-General about his policy responsibilities, including informing him that he had policy responsibility for the Code, consistent with normal departmental practice. A copy of the information brief the department provided is available at <https://www.ag.gov.au/sites/default/files/2020-03/AGD-2019-IGB-Volume-II-Information-Brief.pdf>.

On 28 October 2019, the Attorney-General's Office requested the department provide informal advice about the application of the Code and any current issues that might warrant the Attorney-General's consideration. The department provided advice to the Office on 4 November 2019.

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Attorney-General's Department

Hearing date: 04 March 2021

Question date: 12 March 2021

Question type: Written

The Committee asked the following question:

The audit report noted conflicting statements from AGD and PMC about who was accountable for administering the scheme between May 2018 (when the MoG change came into effect) and May 2019 (when the Register IT system was transferred from PMC to AGD) (p. 29). What changes or improvements to MoG processes are needed to ensure that future MoG changes do not give rise to confusion over who is accountable for a regulatory or policy scheme?

The response to the question is as follows:

The department refers to its evidence at the hearing of 4 March 2021 about the lessons that the department can apply to future machinery of government (MoG) changes, in light of its experience in the transfer of the Lobbying Code of Conduct to the department in 2018. As stated at the hearing, these include the importance of developing a written plan for the transfer of responsibility and, in relation to the transfer of an IT system, arrangements to test and confirm the system's functionality.

Questions about processes for MoG changes at a whole-of-government level are a matter for the Australian Public Service Commission and the Department of Finance.

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Attorney-General's Department

Hearing date: 04 March 2021

Question date: 12 March 2021

Question type: Written

The Committee asked the following question:

The audit report recommended that AGD establish effective processes for the implementation of the recommendation made in the 2018 report. Could you update the Committee on the progress AGD has made toward this recommendation, including any milestones and their expected completion dates?

The response to the question is as follows:

The Attorney-General's Department (the department) has prepared an implementation plan covering the recommendations in both ANAO Report No 27 (2017–18), *Management of the Australian Government's Register of Lobbyists*, and ANAO Report No 48 (2019-20), *Management of the Australian Government's Lobbying Code of Conduct*. The department's Audit and Risk Management Committee noted this implementation plan at its meeting of 16 March 2021.

The implementation plan sets out governance processes for how the department will implement and monitor the implementation of the ANAO's recommendations, including through appropriate senior management engagement.

Milestones set out in the implementation plan include:

- Development of a communications strategy for the Lobbying Code of Conduct (the Code). This strategy was finalised in March 2021 and its implementation is underway. The department will commence evaluating the impact of the strategy in July 2021.
- Development of an evaluation framework for the Code. The department has drafted a preliminary framework which is on track to be finalised by the end of March 2021. This work has included developing performance measures and further enhancing the Lobbyist Register IT system to improve the department's ability to gather performance information.
- Providing advice to Government on sufficiency of the Code, including an assessment of risks to compliance, with detailed advice to be provided to the Attorney by June 2021.

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Attorney-General's Department

Hearing date: 04 March 2021

Question date: 12 March 2021

Question type: Written

The Committee asked the following question:

In response to Recommendation 2, the Department said in its submission that it 'has begun assessing the sufficiency of the Lobbying Code and risks to compliance, including by reviewing the current policy and requirements in place for lobbyists and Government representatives' (Submission 6, p. 6). Could you update the Committee on the progress of your implementation of the recommendation? What changes, if any, will be made in light of this assessment? What is the timeframe for its completion?

The response to the question is as follows:

The department expects to provide detailed advice to the Attorney-General about the sufficiency of the Code by mid-2021. Any changes to the Code are a matter for Government.