



**Australian Government**

**Attorney-General's Department**

# **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 Submission**

**January 2021**

On 10 December 2020, the Joint Committee of Public Accounts and Audit (the Joint Committee) invited the Attorney-General's Department (the department) to provide a submission to the Joint Committee's inquiry into Auditor-General Reports 33, 47, 48 (2019-20) and 5 and 8 (2020-21). The department is pleased to provide the following submission in relation to ANAO Report No 48 (2019-20), *Management of the Australian Government's Lobbying Code of Conduct* (the 2020 report).

## Introduction

The 2020 report was released on 26 June 2020 as a follow-up audit to ANAO Report No 27 (2017-2018), *Management of the Australian Government's Register of Lobbyists* (2018 report). That report was released on 14 February 2018 and made a single recommendation that the Department of the Prime Minister and Cabinet (PM&C), as the agency responsible for administering the Lobbying Code of Conduct (the Lobbying Code) at the time:

- implement a strategy to raise lobbyists' and Government representatives' awareness of the Lobbying Code and their responsibilities
- assess risks to compliance with the Lobbying Code and provide advice on the ongoing sufficiency of the current compliance management framework, and
- develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.

PM&C accepted this recommendation.

The 2020 report made two recommendations:

Recommendation no.1 - Attorney-General's Department establish effective governance processes for the implementation of the recommendation made in Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.

Recommendation no.2 - Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

The department accepted both recommendations.

In addition to the formal recommendations made to the department, the 2020 report found that the department had not implemented the recommendation previously made to PM&C. The department accepts that the implementation of the ANAO's previous recommendation was delayed. Significant technical issues occurred when the new Lobbyist Register IT system, developed by PM&C, was deployed. The department prioritised the development and implementation of a replacement, interim IT solution, and the development of a long-term fit-for-purpose IT system. Further details are set out below.

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## Current overview

The department has commenced implementation work on both recommendations of the 2020 report.

The department is preparing the deliverables required to implement **Recommendation 1** of the report. In particular, the department is finalising an implementation plan for the recommendations in both the 2018 and 2020 reports. The department is also preparing revised guidance material and a broader communications strategy, including an education and outreach component, for the Lobbyist Register (consistent with the ANAO's previous recommendation to PM&C), and ensuring that staff and senior managers understand the intent of the ANAO's recommendations.

In line with **Recommendation 2** of the report, the department is in the early stages of evaluating compliance risks with, and the sufficiency of the current Lobbying Code, ahead of expected advice to Government in mid-2021.

## Background

### The Lobbying Code

The Lobbying Code's purpose is to promote trust in the integrity of government processes and ensure that contact between lobbyists and Australian Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. This is primarily accomplished through the public-facing Lobbyist Register. The department has also published guidance material about the Lobbying Code on its website for both lobbyists and Australian Government representatives.

Any lobbyist who acts on behalf of third-party clients for the purposes of lobbying Australian Government representatives must register their details and comply with the requirements of the Lobbying Code. The Lobbying Code requires registered lobbyists to update their details bi-annually.

The Lobbying Code provides that an Australian Government representative shall not knowingly and intentionally be a party to lobbying activities that contravene the Lobbying Code, and shall report breaches of the Lobbying Code to the Secretary of the department. The department's website provides dedicated contact details and an online form for this purpose.

The Lobbying Code also requires certain former Government representatives to refrain from lobbying on behalf of third parties in matters related to their former roles for a particular period of time. This requirement applies to former Ministers and Assistant Ministers for 18 months after leaving their role, and ministerial staff at the adviser level and above, senior public service officials and Australian Defence Force personnel for 12 months after leaving their role.

The Lobbying Code is an administrative initiative, in the sense that it is not underpinned by legislation. The Lobbying Code allows the department to deregister lobbyists for non-compliance, though the department will usually attempt to resolve potential non-compliance in a cooperative manner in the first instance. In the most recent reporting period beginning 1 July 2020, the department deregistered six lobbying organisations due to non-compliance with the Lobbying Code.

## Transfer from PM&C

PM&C administered the Lobbying Code from 2008 until a revised Administrative Arrangements Order in May 2018 made the Attorney-General responsible for whole-of-government integrity policies and activities, including the Code. However, PM&C retained responsibility for the day-to-day operation of the Lobbyist Register until 10 May 2019, to allow it to develop a new supporting IT system. Upon completion of the new IT system, responsibility transferred to the department.

The department experienced a number of technical issues after the new IT system was deployed. The most significant of these issues were bugs in the automated workflows which resulted in an inability to publish accurate information on the public Lobbyist Register. Lobbyists were also unable to update their details on the Lobbyist Register, as the Lobbying Code requires on a bi-annual basis.

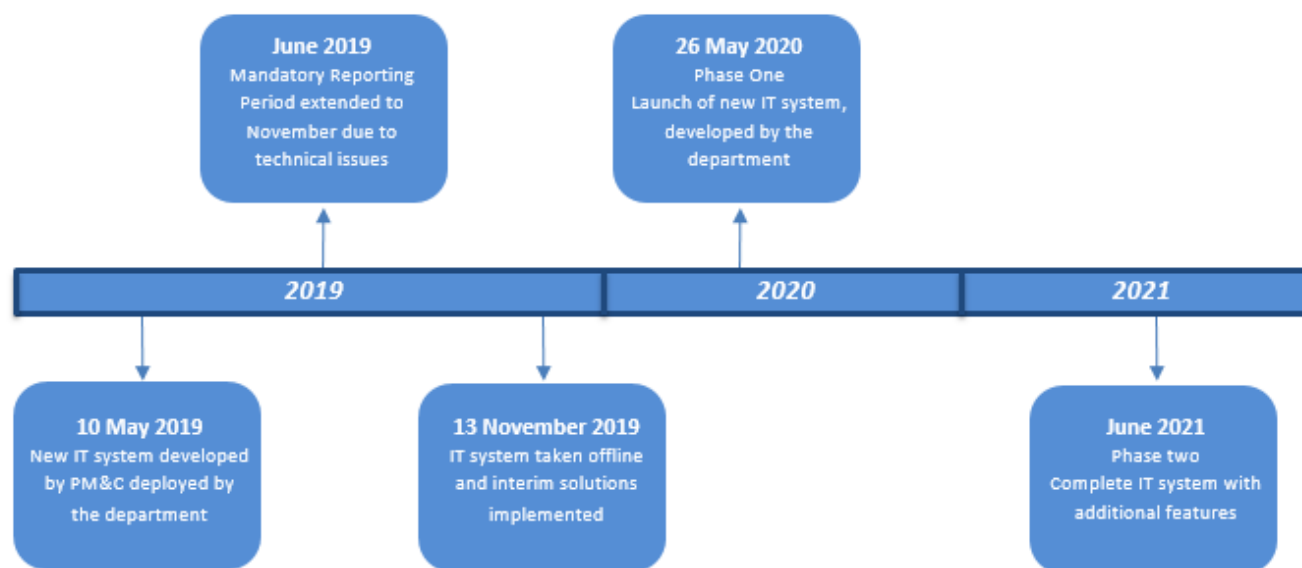
## Technical Issues – updated IT system

The department's focus after the transfer of the Lobbyist Register was to address continued technical issues while managing the mandatory update periods required under the Lobbying Code as effectively as possible. In doing so, the department prioritised the development and implementation of a replacement, interim IT solution, and the development of a long-term fit-for-purpose IT system that would assist in implementing the recommendation from the 2018 report. On 13 November 2019, the department deployed the temporary system. It took the automated workflow function offline, and contracted additional staff to undertake manual processing of registrations (consistent with how the Lobbyist Register had previously operated at PM&C prior to development of the new IT system).

The department launched the first phase of the long-term IT solution on 27 May 2020. It incorporates features designed to assist the department in the implementation of the ANAO's previous recommendation. As noted in the department's response to Recommendation 1 of the 2020 Report, this includes automated notification features to ensure that registered lobbyists receive periodic reminders of their obligations under the Lobbying Code (including any obligations to refrain from certain kinds of lobbying activities for a particular time period, in the case of registered lobbyists who are former Government representatives).

Phase two is scheduled to be completed by June 2021. Phase two will continue to build on current features that address the ANAO's recommendations. The updated IT system will include the redevelopment of IT features to improve the department's ability to monitor compliance with the Lobbying Code, make it easier for the public to report breaches of the Lobbying Code, track performance measures for the department, improve reporting capabilities and enhance a number of features to reduce the compliance burden on users.

## Timeline



## Implementation of recommendations

### Recommendation 1

Attorney-General's Department establish effective governance processes for the implementation made in Auditor-General Report No. 27 of 2017-18 *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.

<b>Implementation Status</b>	In progress
<b>Expected completion</b>	June 2021

The department has begun establishing governance processes to ensure it implements the recommendation of the 2018 report. In particular, the department is finalising an implementation plan the sets out the milestones and deliverables that will assist in meeting this recommendation. The implementation plan aligns with the intent of the ANAO's recommendations, which the department understands to be:

- To emphasise the importance of lobbying activities being carried out with integrity and transparency, and the need to undertake effective communications and compliance activities under the Lobbying Code.
- To ensure that the Lobbying Code, as a long-running Government initiative, remains appropriately calibrated to effectively and efficiently achieve its intended outcomes.
- To ensure that the department adopts effective governance arrangements, including clear lines of responsibility and measurable outcomes, in implementing the ANAO's previous recommendations.

The department's Audit and Risk Management Committee is expected to consider the implementation plan in the first quarter of 2021.

The department has also begun work on developing each of the deliverables of the implementation plan. These are:

- A *communications strategy* for the Lobbying Code (which will contain its own deliverables and timeframes). The department is preparing the strategy and drafting revisions to the public facing guidance material.
- An *evaluation framework* for the department's administration of the Lobbying Code and Lobbyist Register. The department has begun identifying performance metrics, taking into account the evaluation factors provided in the ANAO report and measures for monitoring performance. These measures are also being addressed through Stage 2 of the Lobbyist Register IT build in the context of the redevelopment work discussed above.
- *Advice to Government* on the sufficiency of the Lobbying Code, including an assessment of risks to compliance (see Recommendation 2 below).

## Recommendation 2

Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectation of transparency, integrity and honesty.

<b>Implementation Status</b>	In progress
<b>Expected completion</b>	June 2021

The department 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. The department has provided initial advice about these matters to the Attorney-General, and expects to provide more detailed advice, as per the ANAO's recommendation, in mid-2021.