

Lobbying Code of Conduct and Register of Lobbyists

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Senate

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On 6 December 2007, when the Prime Minister released the Standards of Ministerial Ethics, he confirmed that the Government would establish a Register of Lobbyists. The Government is now delivering on that commitment.

Today, I am tabling the Lobbying Code of Conduct and announcing the establishment of the Register of Lobbyists.

The Government recognises that lobbying is a legitimate activity and part of the democratic process. Lobbyists can help individuals and organisations communicate their views on matters of public interest to the Government and, in doing so, improve outcomes for the individual and community as a whole.

However, there is a legitimate concern that Ministers, their staff and officials who are the target of lobbying activities are not always fully informed as to the identity of the people who have engaged a lobbyist to speak on their behalf. The Government believes that this information can be fundamental to the integrity of its decisions and should be freely available to those who are lobbied and to the wider public.

The public is also right to be concerned about politicians and others who leave office and immediately begin a career lobbying their former colleagues using contacts they developed and information they obtained while in office.

Respect for the institutions of Government depends to a large extent on public confidence in the integrity of ministers, their staff and senior officials.

The Lobbying Code of Conduct is intended to promote trust in the integrity of government processes and ensure that contacts between lobbyists and Government representatives are conducted in accordance with public expectations of transparency, integrity and honesty.

The Standards of Ministerial Ethics prohibit, for a period of 18 months, former Ministers having business dealings with government representatives on matters with which they had official dealings as Minister. The combination of these Standards and the Lobbying Code, means the public can be confident that Ministers will not be able to use the experience and contacts they have gained in office to enhance their value to the private sector, either as lobbyists or as senior executives in business with the Government.

The Code requires a 12 months cooling off period for Ministerial staff, senior public servants or defence personnel who have resigned or retired, who may want to work as lobbyists. They are prohibited from engaging in lobbying activities with Government for a year in relation to any matter that they had official dealings with in the last year of their employment.

Honourable Senators may be aware that I released an exposure draft of the Lobbying Code of Conduct for public comment on 2 April 2008. Twenty-eight submissions were received from companies involved in lobbying as well as from members of the public, and I thank all who put thought and effort into ways of enhancing the code. Suggestions have been taken into account and a number of changes have been made to the exposure draft of the Code as a result.

As I have said, lobbying is a legitimate part of the democratic process. The revised Code represents an appropriate balance, I believe, between the right of Ministers, officials and the public to know who stands to benefit from the efforts of lobbyists, and the ability of business to be able to make views known to Government. It will not impose unreasonable demands on the lobbying industry, business or Ministers and officials.

Although there was a lobbyists' register in place from 1984 to 1996, it was not a public register, and did not include a code of conduct to regulate lobbying practice. The new Lobbying Code of Conduct and Register brings our integrity checks on third party lobbyists up to international standards. The European Parliament is moving to establish a mandatory public register of lobbyists and a code of conduct. Canada and the United States also have registers.

The Lobbying Code of Conduct will apply to third party or consultant lobbyists – that is, those lobbyists who represent third parties including lawyers, accountants and business advisers who are employed in government relations roles in professional services firms, and professionals such as lawyers who may lobby on a regular basis.

It does not apply to government relations staff employed in major companies or peak industry organisations as the very nature of their employment means that it will be clear to Ministers and others whose interests they will be representing.

The objective of the code is not to make every company whose staff or executives visit a Minister sign a register. Rather it is to ensure Ministers and other Government representatives know whose interests are being represented by lobbyists before them and to enshrine a code of principles and conduct for the professional lobbying industry.

There are a number of other exemptions to the Code. For example, it will not apply to individuals who make representations to the Government on behalf of family members or friends. It will not include statements made in a public forum or to foreign trade delegations visiting Australia or to registered tax agents, Customs brokers and other persons who are registered under an Australian Government scheme regulating members of that profession, provided that their dealings with Government are part of the normal day to day work of people in that profession.

These are sensible exclusions that will ensure that the Register does not impede day to day communications with government.

The Code makes clear this Government's determination that, from 1 July 2008, Ministers, Parliamentary Secretaries, ministerial staff and other Government representatives do not grant access to lobbyists who are not on the Register.

Transparency will be further enhanced by requiring registered lobbyists who wish to make representations to Ministers or their staff to declare who they are acting for and the nature of the matter that they wish to discuss before access is granted. This is the key to the strength of both the Register and Code.

Through these requirements, the Register of Lobbyists will allow Ministers and their staff to know who is engaged in lobbying and whose interests are being promoted. It is aimed at ensuring openness, transparency and accountability in government, rather than control.

And let's be clear - registration will not give automatic access to Ministers, their staff and officials but, for those who are properly registered, the Register will not impede free and open access to Government.

The Register of Lobbyists will, for the first time, be available for public inspection. It will be administered by the Secretary of the Department of the Prime Minister and Cabinet. Lobbyists will be required to update their details as soon as practicable in the event of any changes and confirm that they are up to date on a quarterly basis, failing which their registration will lapse. The Department has undertaken to update the information on the Register on a same day basis in the event that a lobbyist needs to make urgent representations to government on behalf of a new client.

Lobbyists will also need to comply with the principles of engagement with Government representatives set out in the Lobbying Code of Conduct. These principles describe a standard of conduct for lobbyists that will encourage a culture of ethical behaviour and integrity in their activities. Lobbyists who do not comply with the principles will be removed from the Register.

To reinforce the importance that the Government attaches to the need for lobbyists to be persons in whose integrity Ministers and other Government representatives can have confidence, any person who has been sentenced to a term of imprisonment of longer than 30 months or who has been

convicted as an adult of an offence involving dishonesty in the last 10 years will be refused registration. Lobbyists will need to provide statutory declarations to the Secretary of the Prime Ministers' Department confirming these matters before they are registered.

In addition, the Cabinet Secretary will be able to direct the Secretary of the Prime Minister's Department to refuse to register an individual as a lobbyist, or remove an individual from the Register. I expect that this power will be used in exceptional circumstances only.

A number of the submissions that were received in response to the exposure draft suggested that the power to remove lobbyists from the Register, or refuse them registration, should be exercised only after the individual concerned had been given an opportunity to be heard. While that was always intended, the Government has now included a clear statement to that effect in the revised Code.

A further change as a result of the consultation process relates to the problem of lobbyists publicly disclosing a relationship with a client on the register which might result in market speculation about a pending transaction involving the client, when that transaction had not previously been disclosed by the client, or body corporate, in accordance with its continuous disclosure obligations under Chapter 6CA of the Corporations Act 2001.

While the Code will require the lobbyist to advise the Minister of their client on a confidential basis in advance of any lobbying activity, the lobbyist will be required to include the client on the Register as soon as the sensitivity has passed - otherwise the Code of Conduct will have been breached.

The registration requirements will apply from 1 July 2008. From that date, lobbyists must be on the Register if they wish to make representations to government on behalf of their clients. In the meantime lobbyists can apply to the Secretary of the Department of the Prime Minister and Cabinet to be included on the Register. Further information about the process for applying for registration should be available later today on the Department's website.

The registration of lobbyists should be seen as part of the Government's determination to restore respect for the institutions of government and improve governance across the public sector.

To that end, the Public Service Commissioner and the Chief of the Defence Force have decided that the Lobbying Code of Conduct should also apply to the Australian Public Service and the Australian Defence Force. I understand that they will shortly be issuing guidance to the Australian Public Service and the Australian Defence Force on lobbying activities as they relate to members of the APS and ADF.

The Prime Minister promised from day one of this Government that a Code of Conduct for lobbyists would be part of the transparency and integrity provisions being established by the Rudd Government. It was flagged in the Standards of Ministerial Ethics, along with the provisions which prevent Ministers from working in their field of Cabinet knowledge for 18 months after leaving office.

Mr President, I am pleased to say that today we have another integrity provision in place to help restore public confidence in Government and governance.

And I table the Lobbying Code of Conduct which underpins the Register of Lobbyists.

Lobbying Code of Conduct 2008 [PDF - 56KB]
