

Lobbyists Code of Conduct *

[*Integrity Act 2009*, s 68]

Preamble

Free and open access to the institutions of government is a vital element of our democracy.

Lobbying is undertaken by many people in the community in relation to a broad range of matters. In effect, lobbying can be any communication by a member of the community seeking to express their views or interests to a government representative on a matter that is subject to a decision of the Government.

Professional lobbyists are a legitimate part of, and make a legitimate contribution to, the democratic process by assisting individuals and organisations to communicate their views on matters of public interest to the government, and so improve outcomes for the individual and the community as a whole.

The public has a clear expectation that lobbying activities will be carried out ethically and transparently, and that government representatives who are approached by lobbyists are able to establish whose interests the lobbyists represent so that informed judgments can be made about the outcome they are seeking to achieve.

The *Integrity Act 2009* (the Act) and this code ensure that contact between lobbyists, as defined by the Act, and government representatives (including local government) and Opposition representatives is conducted in accordance with public expectations of transparency and integrity, and in the public interest.

1. Application

This code applies in conjunction with the Act and the Ministerial Code of Conduct and other relevant codes, including departmental and ministerial staff codes of conduct.

2. The Act

This code operates in addition to the Act. The Act defines “lobbyist” and “third party client” in s. 41 and “lobbying activity” in s. 42 – see definitions, below. The Act sets out a number of conditions and prohibitions with which lobbyists are required to comply. This code provides for standards of conduct with which

* This amended Code took effect from 12 September 2013

lobbyists must comply. It also imposes obligations on lobbyists to provide information about some lobbying activities carried out by them – see s. 68(4).

Under the Act, the integrity commissioner keeps a register of lobbyists, and publishes the register on the commissioner's website (see s 49(1)).

The Act also provides that:

- (a) success fees must not be paid to, or received by, lobbyists (see s 69);
- (b) for two years after leaving office or the public service, former senior government representatives and former Opposition representatives must not carry out a lobbying activity relating to official dealings they had in the two years before leaving office or the public service (see s 70(1));
- (c) a government representative or an Opposition representative must not knowingly permit the carrying out of a lobbying activity of the kind described in paragraph (b) (see s 70(2) and (3));
- (d) an entity that is not a registered lobbyist must not carry out lobbying activity for a third party client (see s 71(1)); and
- (e) a government representative and an Opposition representative must not knowingly permit a lobbying activity of the kind described in paragraph (d) (see s 71(2)).

Regard should be had to the Act itself for further information about the operation of these provisions, and to ensure compliance with the Act.

3. Standards of Conduct for Lobbyists

3.1 Lobbyists shall observe the following principles when engaging with government representatives and Opposition representatives.

- (a) Lobbyists shall conduct their business to the highest professional and ethical standards, and in accordance with all relevant law and regulation with respect to lobbying.
- (b) Lobbyists shall act with honesty, integrity and good faith and avoid conduct or practices likely to bring discredit upon themselves, government representatives, their employer or client.
- (c) Lobbyists shall not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment.
- (d) Lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided

to parties whom they represent, the wider public, governments and agencies.

- (e) If a material change in factual information that the lobbyist provided previously to a government or Opposition representative causes the information to become inaccurate and the lobbyist believes the government or Opposition representative may still be relying on the information, the lobbyist should provide accurate and updated information to the government or Opposition representative, as far as is practicable.
- (f) Lobbyists shall not knowingly make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions.
- (g) Lobbyists shall keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party.
- (h) Lobbyists shall indicate to their client their obligations under the Integrity Act, and their obligation to adhere to the Lobbyists Code of Conduct.
- (i) Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, or disclosure is required by law.
- (j) Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.
- (k) Lobbyists shall advise government representatives and Opposition representatives that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.
- (l) Lobbyists shall not place government representatives or Opposition representatives in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on them.
- (m) Lobbyists should inform themselves of the policies of the Queensland Government and local governments restricting the acceptance of gifts by officials.

3.2 When making an initial contact with a government representative or Opposition representative about a particular issue on behalf of a third party

client, the lobbyist must inform the government representative or Opposition representative that they are:

- (a) a lobbyist currently listed on the register of registered lobbyists, or
- (b) a listed person for a lobbyist who is currently on the register of registered lobbyists;
- (c) that they are making the contact on behalf of a third party;
- (d) the name of the third party;
- (e) the nature of that third party's issue; and
- (f) the reasons for the approach.

3.3 When making an initial contact with a government representative or Opposition representative about a particular issue on behalf of a third party client, a lobbyist who became a former senior government representative or former Opposition representative less than two years earlier must indicate:

- (a) that they are a former senior government representative or a former Opposition representative,
- (b) when they became a former senior government representative or a former Opposition representative, and
- (c) that the matter is not a “related lobbying activity”, an activity prohibited under the Act.

3.4 Failure to comply with these standards of conduct may provide grounds under the Act for:

- (a) refusing an application for registration as a lobbyist (s 55(b)) and
- (b) cancelling a lobbyist’s registration (s 62(b)).
- (c) Alternatively, the Integrity Commissioner may issue a warning to the registrant, or suspend the registration for a reasonable period (s. 66A(2)).

4. Information about lobbying activities (s 68(4))

Lobbyists must provide the Integrity Commissioner with information about lobbying activities carried out by them. The information will be made public by

the Integrity Commissioner by publishing it on the Integrity Commissioner's website.

Lobbyists must file directly onto the Integrity Commissioner's website, no later than 15 days after the end of every month, information for a register of lobbyists' contact with Government and Opposition representatives, reporting on each and every lobbying contact by them, during that month, with a government or Opposition representative.

The information that is to be provided for each such lobbying contact is:

- (a) the name of the registered lobbyist;
- (b) whether in arranging the contact, the lobbyist complied with the requirements of 3.2 of the Lobbyists Code of Conduct and, if relevant, 3.3;
- (c) the date of the lobbying contact;
- (d) the client of the lobbyist;
- (e) the title and/or name of the government or opposition representatives present (identifying the Minister/Department/agency or, in the case of a Member of Parliament, his or her name);
- (f) the purpose of contact [drop down menu]: making or amendment of legislation; development or amendment of a government policy or program, awarding of government contract or grant; allocation of funding; making a decision about planning or giving of a development approval under the *Sustainable Planning Act 2009*, commercial-in-confidence; other.

5 Definitions

For ease of reference, the following definitions are summarised from the Act:

"Contact" includes telephone contact, email contact, written mail contact and face-to-face meetings (s 42(3)).

"Government representative" means the Premier or another Minister, an Assistant Minister, a councillor, a public sector officer, a ministerial staff member or an Assistant Minister staff member (s 44). ["Public sector officer" is defined below.]

"Listed person", for an entity currently registered on the register of registered lobbyists, means a person whose name is entered in the register as a person employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activity (s 49(3)(b)).

"Lobbyist" means an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client (s 41(1)). However, "lobbyist" does not include (s 41(2)):

- (a) a non-profit entity;
- (b) an entity constituted to represent the interests of its members (e.g. an employer group, a trade union or a professional body such as the Queensland Law Society);
- (c) members of trade delegations visiting Queensland;
- (d) an entity carrying out incidental lobbying activities; or
- (e) an entity carrying out a lobbying activity only for the purpose of representing the entity's own interests.

Also, an employee or contractor of, or person otherwise engaged by, an entity mentioned in paragraphs (a) to (d) above is not a lobbyist in relation to contact carried out for the entity (s 41(3)(a)). An employee of an entity mentioned in paragraph (e) above is not a lobbyist in relation to contact carried out for the entity (s 41(3)(b)).

"Lobbying activity" means contact with a government representative in an effort to influence State or local government decision-making, including the making or amendment of legislation; the development or amendment of a government policy or program; the awarding of a government contract or grant; the allocation of funding; and the making of a decision about planning or giving of a development approval under the Sustainable Planning Act 2009 (s 42(1)). However, it does not include (s 42(2)):

- (a) contact with a committee of a Legislative Assembly or a local government;
- (b) contact with a member of the Legislative Assembly, or a councillor, in his or her capacity as a local representative on a constituency matter;
- (c) contact in response to a call for submissions;
- (d) petitions or contact of a grassroots campaign nature in an attempt to influence a government policy or decision;
- (e) contact in response to a request for tender;
- (f) statements made in a public forum;

- (g) responses to requests by government representatives for information;
- (h) incidental meetings beyond the control of a government representative; or
- (i) contact on non-business issues e.g. issues not relating to a client of the lobbyist or the lobbyists' sector.

"Lobbying contact" does not include contact solely for the purpose of arranging, changing or cancelling a meeting, or meetings where no lobbying occurred.

"Opposition representative" means the Leader of the Opposition, the Deputy Leader of the Opposition or a staff member in the office of the Leader of the Opposition (s. 47A).

"Public sector officer" is the chief executive of, or a person employed by, 1 of the following entities—

- (a) a department;
- (b) a public service office;
- (c) a registry or other administrative office of a court or tribunal;
- (d) a local government;
- (e) a corporate entity under the *Local Government Act 2009*;
- (f) the parliamentary service;
- (g) a government owned corporation;
- (h) an entity, prescribed by regulation, that is assisted by public funds.
(s 47)

"Third party client" is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.
(s. 41(2))