

NSW Government Lobbyist Code of Conduct

1. Preamble

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

Lobbyists can enhance the strength of our democracy by assisting individuals and organisations with advice on public policy processes and facilitating contact with relevant Government Representatives.

In performing this role, there is a public expectation that Lobbyists will be individuals of strong moral calibre who operate according to the highest standards of professional conduct.

The Government has established the Lobbyist Code of Conduct to ensure that contact between Lobbyists and Government Representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

2. Application

- 2.1 The NSW Government Lobbyist Code of Conduct has application through the Codes of Conduct that apply to Ministers, Ministerial Staff Members, senior public servants and public sector agencies, and through a Premier's Memorandum in relation to Parliamentary Secretaries.
- 2.2 The NSW Government Lobbyist Code of Conduct creates no obligation for a Government Representative to have contact with a particular Lobbyist or Lobbyists in general.
- 2.3 The NSW Government Lobbyist Code of Conduct does not serve to restrict contact in situations where the law requires a Government Representative to take account of the views advanced by a person who may be a Lobbyist.

3. Definitions

"Director General" means Director General of the Department of Premier and Cabinet.

"Lobbyist" means a person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third party to a Government Representative. "Lobbyist" does not include:

- (a) an association or organisation constituted to represent the interests of its members;

- (b) a religious or charitable organisation; or
- (c) an entity or person whose business is a recognised technical or professional occupation which, as part of the services provided to third parties in the course of that occupation, represents the views of the third party who has engaged it to provide their technical or professional services.

"Lobbyist's Details" means the information described under clause 5.1.

"Government Representative" means a Minister, Parliamentary Secretary, Ministerial Staff Member, or person employed, contracted or engaged in a public sector agency (which means a Division of the Government Service as defined in section 4A of the *Public Sector Employment and Management Act 2002*) other than staff employed under section 33 of the *Public Sector Employment and Management Act 2002*.

"Ministerial Staff Member" means a person employed under section 33 of the *Public Sector Employment and Management Act 2002* to carry out work for a Minister or a Parliamentary Secretary; a person seconded to the Department of Premier and Cabinet under section 86 of the *Public Sector Employment and Management Act 2002* and assigned to a Minister's office; or a person otherwise placed, contracted or engaged in a Minister's office or assigned to a Parliamentary Secretary.

4. Contact between Lobbyists and Government Representatives

4.1 A Government Representative shall not at any time permit lobbying by:

- (a) a Lobbyist who is not on the Register of Lobbyists;
- (b) any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist's Details noted on the Register of Lobbyists in connection with the Lobbyist;
- (c) any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government Representative, has failed to observe any of the requirements of clause 4.3.

4.2 Contact with a Government Representative for the purposes of lobbying activities by a Lobbyist includes:

- (a) telephone contact;
- (b) electronic mail contact;

- (c) written mail contact; and
 - (d) face to face meetings.
- 4.3 When making an initial contact with a Government Representative about a particular issue on behalf of a third party for whom the Lobbyist has provided paid or unpaid services, the Lobbyist must inform the Government Representative:
- (a) that they are a Lobbyist or employee, contractor or person otherwise engaged by the Lobbyist who is currently listed on the Register of Lobbyists;
 - (b) that they are making the contact on behalf of a third party;
 - (c) the name of the third party; and
 - (d) the nature of that third party's issue.

5. Register of Lobbyists

- 5.1 There shall be a Register of Lobbyists which shall contain the following information:
- (a) the business registration details of the Lobbyist, including names of owners, partners or major shareholders as applicable;
 - (b) the names and positions of persons employed, contracted or otherwise engaged by the Lobbyist to carry out lobbying activities;
 - (c) the names of third parties for whom the Lobbyist is currently retained to provide paid or unpaid services as a Lobbyist; and
 - (d) the names of persons for whom the Lobbyist has provided paid or unpaid services as a Lobbyist during the previous three months.
- 5.2 A Lobbyist wishing to have contact with a Government Representative for the purposes of lobbying activities may apply to the Director General to have the Lobbyist's Details recorded in the Register of Lobbyists.
- 5.3 The Lobbyist shall submit updated Lobbyist's Details to the Director General in the event of any change to the Lobbyist's Details as soon as practicable but no more than 10 business days after the change occurs.
- 5.4 The Lobbyist shall provide to the Director General within 10 business days of 30 September, 31 January and 31 March of each year, confirmation that the Lobbyist's Details are up to date.

- 5.5 The Lobbyist shall provide to the Director General, within 10 business days of 30 June 2009 and each year thereafter, confirmation that the Lobbyist's Details are up to date together with statutory declarations for all persons employed, contracted or otherwise engaged by the Lobbyist to carry out lobbying activities on behalf of a client, or where the Lobbyist is a person, a statutory declaration by that Lobbyist, as required under paragraph 8.1.
- 5.6 The registration of a Lobbyist shall lapse if the confirmations and updated statutory declarations are not provided to the Director General within the time frames specified in clauses 5.4 and 5.5.

6. Access to the Register of Lobbyists

- 6.1 The Register of Lobbyists shall be a public document.
- 6.2 The Director General shall ensure that the Register of Lobbyists is readily accessible to members of the public.

7. Principles of Engagement with Government Representatives

- 7.1 Lobbyists shall observe the following principles when engaging with Government Representatives:
- (a) Lobbyists shall not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment;
 - (b) 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;
 - (c) Lobbyists shall not 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; and
 - (d) Lobbyists shall keep strictly separate from their duties and activities as Lobbyists any personal activity or involvement on behalf of a political party.
 - (e) A Lobbyist who has been appointed to a Government Board or Committee must not represent the interests of a third party to a Government Representative in relation to any matter that relates to the functions of the Board or Committee.

7.2 A Lobbyist shall ensure that each of their employees, contractors or persons otherwise engaged by the Lobbyist to carry out lobbying activities observes the principles set out in clause 7.1.

8. Registration

8.1 The Director General shall not include on the Register of Lobbyists the name of an individual unless the individual provides a statutory declaration to the effect that he or she:

- (a) has never been sentenced to a term of imprisonment of 30 months or more, and
- (b) has not been convicted, as an adult, in the last ten years, of an offence, one element of which involves dishonesty, such as theft or fraud.

8.2 The Director General shall remove from the Register of Lobbyists all of the details of a Lobbyist who has been found guilty of committing an offence under section 5 of the *Lobbying of Government Officials Act 2011* for a period of time specified in a notice to the lobbyist informing the lobbyist of the removal, being not less than 12 months.

8.3 Subject to clauses 8.1 and 8.2, the Director General may at his or her discretion:

- 1) refuse to accept part or all of an application to be placed on the Register of Lobbyists; or
- 2) remove from the Register of Lobbyists part or all of the details of a Lobbyist

if, in the opinion of the Director General:

- (a) any prior or current conduct of the Lobbyist or the Lobbyist's employee, contractor or person otherwise engaged by the Lobbyist to carry out lobbying activities has contravened any of the terms of this Code or the *Lobbying of Government Officials Act 2011*; or
- (b) the Lobbyist or the Lobbyist's employee, contractor or person otherwise engaged by the Lobbyist to carry out lobbying activities has represented the interests of a third party to a Government Representative in relation to any matter that relates to the functions of a Government Board or Committee of which the Lobbyist, employee, contractor or person is a member; or

- (c) any prior or current conduct of the Lobbyist or association of the Lobbyist with another person or organisation is considered to be inconsistent with general standards of ethical conduct; or
- (d) the registration details of the Lobbyist are inaccurate; or
- (e) the Lobbyist has not confirmed the Lobbyist's Details in accordance with the requirements of clause 5.4 and/or clause 5.5; or
- (f) there are other reasonable grounds for doing so.

Note: Section 5 of the *Lobbying of Government Officials Act 2011* prohibits giving or receiving, or agreeing to give or receive a success fee for the lobbying of a Government official. A success fee is an amount of money or other valuable consideration the giving or receipt of which is contingent on the outcome of the lobbying of the Government official.

Note: Under Premier's Memorandum M2011 – 13, a Lobbyist and the employees, contractors or persons otherwise engaged by the Lobbyist to carry out lobbying activities are ineligible for appointment to any Government Board or Committee if the functions of the Board or Committee relate to any matter on which the Lobbyist represents the interests of third parties, or has represented the interests of third parties in the 12 months prior to the date of the proposed appointment.