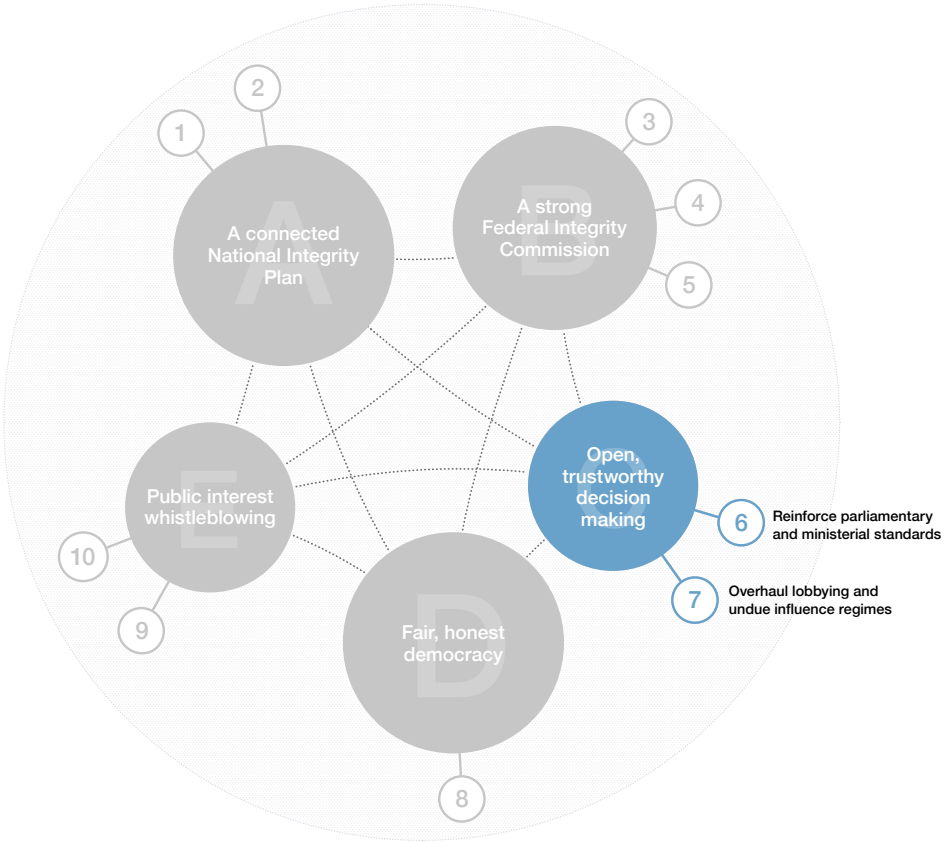
FOCUS AREA C: OPEN, TRUSTWORTHY DECISION-MAKING



Overview

INTRODUCTION

The single biggest problem for integrity in Australia is diminishing public trust that decision-making is fair, honest and free of undue influence.

In politics and bureaucracies alike, some of Australia's ways of ensuring trustworthy decision-making remain world leading – but many are failing to keep pace with public concern and demographic and economic change.

Even as overall citizen confidence in competence of government rose with Australia's COVID-19 response, so too public concern continued to grow over the size of corruption as a problem in government (from 61 percent of citizens in 2018 to 66 percent in October 2020).

Again, while there are improvements to be made in many states and territories, the federal government provides the greatest need and opportunity to catch up.

Australia's federal parliamentarians, and WA's upper house, are currently the only types of public officials without any code of conduct. Mechanisms for transparency and fairness in dealings with decision-makers – especially through professional lobbying – remain weak, cumbersome and unenforced.

Success relies on simpler, more consistent rules for all; independent advice; openness; and enforced regulations that provide clarity and certainty to decision-making. Public decisio- making can be made more "scandal-free", confident and responsive in challenging times.

WHAT SHOULD BE DONE

Public office is a public trust, to be exercised for the common good. Not a way for elected officials to support their own past or future business interests, nor to favour "mates", or lay the ground for their next job outside government through an industry "revolving door".

This fundamental principle lies at the heart of opportunities to strengthen and streamline the way undue influence is prevented and controlled in public decision-making.

For politicians, strengthened standards can reinforce their ability to fulfil their challenging roles with confidence. For public servants, citizens, businesses or industries interacting with government every day, a new approach to 'lobbying' is needed, where principles of good public decision-making are recognised by and assured for all. More efficient, fully enforced regulation of professional lobbying is needed to help ensure those principles are met.

ACTIONS NEEDED

ACTION 6

REINFORCE PARLIAMENTARY AND MINISTERIAL STANDARDS

- Legislated codes of conduct for each house of parliament, ministers and staff, continuously improved and renewed by each parliament and government, covering integrity in all decision-making, including:
  - continuous disclosure and avoidance of potential conflicting interests
  - banning secondary employment by parliamentarians
  - universal appointment on merit for all public positions
- Confidential independent advice for parliamentarians and staff on compliance
- Independent enforcement by a parliamentary integrity commissioner, reporting to parliamentary committees, supported by investigation and reporting by the integrity commission when needed
- In ministerial codes, requirements for recording and proactive publishing of diary events, reasons for decisions and decision-making processes
- Enforceable minimum 3 year 'cooling off' (anti-revolving door) periods for ministers before accepting any relevant position or benefit

ACTION 7

OVERHAUL LOBBYING AND UNDUE INFLUENCE REGIMES

- Legislated codes of conduct for all officials and persons seeking to influence public decisions involving financial, personal or political benefit (including but not limited to 'lobbyists'), based on respect for positive principles of integrity:
  - transparency
  - inclusivity
  - honesty
  - diligence
  - fairness
  - legality
- Registration of all professional lobbyists (including third-party, services firms and in-house) to boost transparency, awareness and compliance
- Confidential, independent advice for all senior office holders on compliance
- Administrative, disciplinary and criminal sanctions with independent oversight and enforcement

Background

WHY WE MUST ACT

Trust in decision-making lies at the heart of overall trust and confidence in government.

As population and global competitiveness increase, so too have citizens' expectations of government. Concerns that decision-making is easily diverted away from the common good, to instead serve private or vested interests or public officials themselves is a global problem.

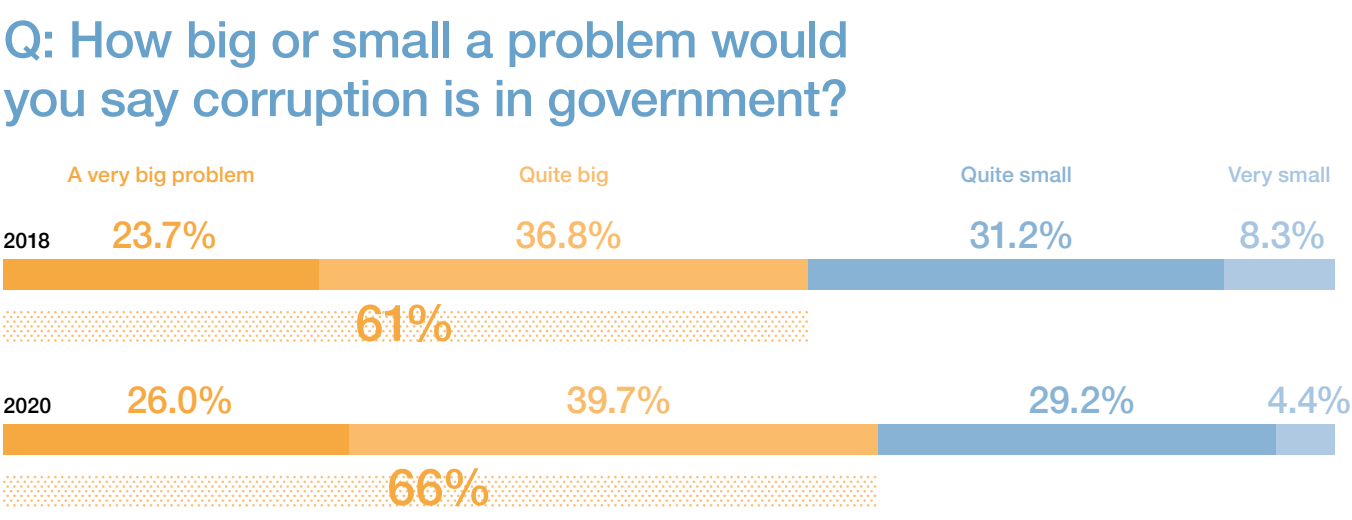
Over recent decades, declining trust in politicians and officials, recorded in many democracies, has undermined national stability and hence, security and prosperity. Australia is no exception.

In 2020, overall public confidence in federal, state and territory governments rebounded due to decision-makers' transparency and performance in response to the COVID-19 pandemic. However, as shown by Transparency International's Global Corruption Barometer survey, this does not mean citizens have become less concerned about the risk and impacts of corruption.

From May 2018 to October 2020, Australians' overall trust and confidence in government to do a good job rose, from 46 percent of citizens to 61 per cent for federal government, and 60 percent for the states and territories. However, there was also:

- no significant improvement in beliefs that governments are doing a good job of fighting corruption, notwithstanding the increased overall trust;
- no change or a continued slight increase in the proportion of citizens believing elected officials are involved in corruption; and

Figure 3.1: How big a problem is corruption in government in Australia? *Source: Griffith University and TI Australia, Global Corruption Barometer Australia, May-June 2018 (n=2,218) and October 2020 (n=1204).*



Note: Excludes don't knows; 5.9% in 2018; 9% in 2020.

- a rise (from 61 percent to 66 percent) in citizens believing corruption in government is a problem.

Concerns about corruption continue to play a strong role in citizens' confidence in government, with 41 percent of the variation in trust in federal government explained by the perceived level of corruption among federal parliamentarians (up from 37 percent in 2018).

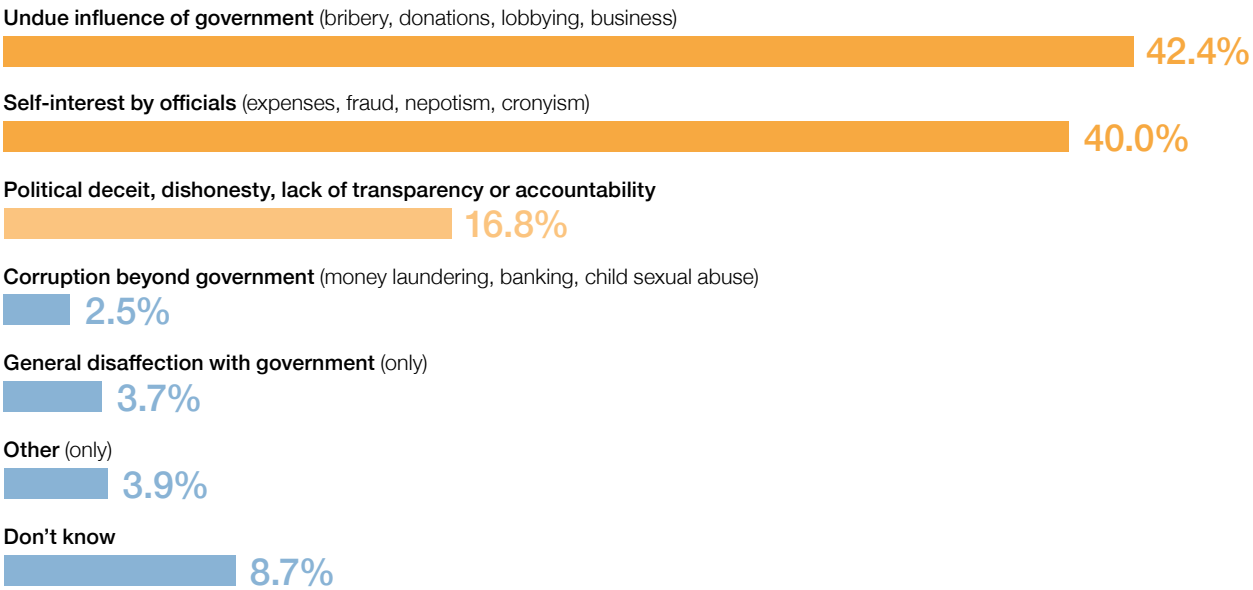
Even more important are the insights provided by public attitudes about the types of corruption that impact on trust in government decision-making. For the first time worldwide, our assessment asked citizens to explain what they meant when they saw corruption as a problem. Only four percent nominated simply issues of disaffection or dissatisfaction with government, and only three percent purely nominated issues of non-government corruption, such as banking misconduct. Otherwise themain types of corruption fell into three main groups:

- Accountability failures, political dishonesty, deceit or non-disclosure (17 percent)

- Self-enrichment by politicians or officials, including theft, embezzlement, abuse of expenses, nepotism or cronyism (40 percent)

Figure 3.2: Types of corruption that worry Australians.
Source: Griffith University and TI Australia, Global Corruption Barometer Australia, May-June 2018 (n=1,932; all respondents (86%) who identified corruption as more than a very small problem).

Q: What kind of corruption do you think is the main problem in government?



Note: Open-ended responses, grouped in analysis. Columns add to more than 100 per cent, as respondents could volunteer more than one kind.

- Undue influence, unfair access and perversion of decision-making by particular interests, whether for cash or direct gain or other reasons (42 percent)

This reinforces why anti-corruption and integrity measures must be aimed not only at "hard" corruption like bribery (purchased decisions), but "soft" and "grey area" corruption marked by failures in due process, conflicts of interest and possible undue influence. If only "hard" corruption crimes are the focus, many of the most crucial problems are simply ignored.

These growing concerns reinforce why Australia has been slipping in the Corruption Perceptions Index. In the 2017 World Economic Forum Global Competitiveness Index, even when Australia ranked relatively well for combatting 'irregular payments and bribes' (12th out of 137 countries), it ranked less well for 'favouritism in decisions of government officials' (21st) or for 'public trust in politicians' (22nd).

Strong integrity assurance is supported by the fundamental principle, reflected in Australian public law, that all public office carries with it a public duty and a public trust.

As High Court justice Stephen Gageler wrote in 2016, every holder of public office 'has a duty to exercise public power only by reference to some version of the public interest'. In 2018, NSW Chief Justice Tom Bathurst found it was a 'breach of the trust imposed' for elected officials to use power and authority to advance interests other than those of the 'constituents who they are elected to serve.'

In 2015, Australia's High Court recognised that corruption takes many forms. Direct '"quid pro quo" corruption', such as illegal bribes involving explicit promises in exchange for money, represent just one end of the spectrum. Other 'more subtle' kinds of corruption include "clientelism", where officeholders 'decide issues not on the merits or the desires of their constituencies', but according to the wishes of others from whom they have gained, or want to gain, support:

42%

Australian respondents who think undue influence (bribery, donations, lobbying, business) is the main corruption problem in government.

Unlike straight cash-for-votes transactions, such corruption is neither easily detected nor practical to criminalise. The best means of prevention is to identify and to remove the temptation.

To ensure integrity and trust in democracy, these principles mean serious strengthening of electoral and political processes (*see Focus Area D: Fair, Honest Democracy*). But they apply even more strongly once officials win or are appointed to the office they hold, and begin exercising power.

Anti-corruption and integrity bodies must operate with a wide enough definition of corruption, not limited to hard crimes, to allow them to fully address potential breaches of trust. However trust in decision-making also relies on positive assurance that officials are doing the right thing, exercising their powers for the common good – not simply enforcement when they fail.

Responses are needed which will help make decision-making stronger, especially in the post-COVID-19 era. The focus needs to be at both the political (parliamentarians) and bureaucratic levels (public servants) of decision-making.

ACTION 6

REINFORCE PARLIAMENTARY AND MINISTERIAL STANDARDS

At the political level, the key to putting decision-making above reproach is to strengthen assurance that parliamentarians and ministers are going about their vital work, with strong understanding and adherence to these fundamental principles.

Codes of conduct are the first step to this result for almost every organisation in Australia – normal for workers and leaders in business, and mandatory throughout public sector agencies and enterprises.

For elected leaders, endorsing an enforceable code of conduct is central to public confidence that no one is beyond accountability, and all are committed to lead by example, as well as providing transparency as to when and how accountability works. Benchmarks developed by the Commonwealth Parliamentary Association (2015) show how.

As of 2019, legislated codes of conduct now apply to the members in most or all houses of parliament, ministers and staff, continuously improved and renewed by each parliament and government. Only the Western Australian Legislative Council, the federal House of Representatives and the Senate remain gaps (*see context: 'Parliamentary codes of conduct: the missing federal link'*).

Filling these gaps is fundamental to ensuring trust in federal legislators and ministers, identified as the weakest area in their integrity system. For parliamentarians and the public alike, the advantage of strong codes lies in lifting standards beyond simply criminal compliance, or what will risk public scandal, to cover integrity in all decision-making, including principles and processes for:

- continuous disclosure and minimisation of potential conflicting interests
- preclusion of secondary employment by full-time parliamentarians and
- ensuring universal appointment on merit for all public positions

Banning secondary employment does not mean parliamentarians cannot preserve existing assets, investments or business interests, for example through a blind trust. However it does mean that as public officers paid to work full-time for the community, they are expected to do so, without conflict.

Concerns over nepotism and cronyism... infect even advanced democracies, long presumed to have strong institutional protections for appointment on merit.

Universal appointment on merit is central to public trust. Concerns over nepotism and cronyism, including use of public resources for partisan political entrenchment, infect even advanced democracies, long presumed to have strong institutional protections for appointment on merit.

The alternative is even stronger reform, such as in the United Kingdom, where a Commissioner for Public Appointments was established in 2019 purely to ensure all appointments, especially those made by ministers, are made in accordance with accepted principles.

Rather than creating additional regulatory regimes every time a new issue arises, best practice in Australia already points to the advantage of single, holistic integrity codes, supported by two elements which give confidence to politicians and the public that the principles are real:

- Availability of independent, confidential advice to all parliamentarians and staff on compliance with codes, such as in Queensland, Tasmania, Victoria, NSW and ACT;

- Independent enforcement by a parliamentary integrity commissioner, reporting to appropriate parliamentary committees, supported by investigation and reporting by the jurisdiction's wider integrity or anti-corruption commission when needed.

Without a mechanism for independent investigation of alleged breaches, public confidence in the results will remain elusive.

The choice for parliamentarians is whether they prefer a mechanism embedded in the parliament, overseen by the presiding officers and relevant committees, with closer understanding of political life – or no mechanism, leaving resolution of complaints entirely to partisan politics, media scrutiny, and the heavier involvement of external integrity agencies. Final crucial elements of any ministerial code of conduct – especially at federal level – are:

- minimum requirements for recording and proactive publishing of all diary events, reasons and processes relating to ministerial decisions, and

Without a mechanism for independent investigation of alleged breaches, public confidence in the results will remain elusive.

- an enforceable minimum three-year 'cooling off' (anti-revolving door) period before a former minister may accept any relevant appointment or benefit from any entity with a commercial interest in their former portfolio.

These requirements are crucial to any government-wide approach to regulating lobbying and undue influence. Ministers sit at the apex of government, access the most official information, exercise most power over decisions throughout the public sector, and are the most intensive targets of all lobbying.

In many Australian parliaments, including federally, the 'revolving door' in which ministers and their staff step smoothly between public office and lucrative private positions has become a chronic problem (*see context: 'Just a convenient skill set? How 'revolving doors' squash public trust'*).

While ministers are as entitled as anyone to seek meaningful employment after their retirement from parliament, research and experience shows that post-separation appointments are only rarely or partly owed to the general skills and talents of the individual alone.

Instead, their prime attractiveness often remains the 'inside' official information they have gained in public office, and the strategic value of their personal connections and influence with decision-makers still in government.

The speed with which ministers have taken up new and related roles, or even accepted them while still in office, confirms

the structural conflicts of interest when they are still exercising their ministerial role while negotiating with interested parties for fees and employment.

Under current requirements, ministers are theoretically banned from engaging in related lobbying or employment for at least 18 months. Elsewhere, jurisdictional rules for this cooling off period vary, extending up to five years in Canada.

Arguably, in return for their high public salary and superannuation, ex-ministers should prioritise the public interest by never accepting such roles. However a compromise is a restriction against taking on related roles within a period in which the ex-minister's confidential information and direct government influence are less likely to remain current. For Australia, three years—or essentially one cycle of elected government – would more effectively support the principle.

ACTION 7

OVERHAUL LOBBYING AND UNDUE INFLUENCE REGIMES

Public decision-making extends far beyond parliamentarians and ministers – it is the daily business of millions of Australian public servants. Responsibility for integrity in decision-making also relies on all parties to decisions, including business and the public.

Every element of the integrity system plays a role in trustworthy day-to-day decision-making. This includes fair and effective public administration, public service ethics and standards, and good public policy and performance. Where most concern arises, alongside the political process, is in response to undue influence through unfair or opaque access -- especially 'purchased', secret or exclusive access – by powerful lobby groups or individuals with vested, commercial interests.

Where most concern arises...is in response to undue influence through unfair or opaque access by powerful lobby groups or individuals with vested, commercial interests.

As defined by the Integrity Act 2009 (Qld), lobbying is 'contact with a government representative in an effort to influence… government decision-making'. Lobbying is intrinsic to relations between government and the community. Under the Australian Government's Lobbying Code of Conduct and Register of Lobbyists, established in 2008, lobbying is recognised as a legitimate and important part of democracy and public policy.

Currently such regimes focus on transparency in professional lobbying, in a bid to address risks of unfair access arising from the privileged connections of former insiders, including cash for access. Professional lobbying raises 'public expectation that lobbying activities will be carried out ethically and transparently', including the ability to establish whose interests lobbyists represent.

Whether current lobbying regimes are sufficient has rightly been questioned

– especially at a federal level, where the regime has been criticised for being confined to narrow categories of professional "third party" lobbyists, for its reliance on transparency alone, and for being purely administrative in nature, with no visible enforcement.

In NSW, concerns about the effectiveness of the Lobbying of Government Officials Act 2011 (NSW) have led to a far-reaching review by the NSW Independent Commission Against Corruption. In Queensland, a recent ten-fold increase in advice requests and complaints in relation to lobbying, as well as the Queensland Integrity Commissioner's increased referrals of apparent unlawful lobbying to the Crime and Corruption Commission and Queensland Police, suggests the public is right to be concerned that current regimes are not sufficient.

As a mechanism for bringing third-party professional lobbying "out of the shadows", current regimes need to be strengthened. However, more is needed than simple transparency. In and of themselves, such regimes have not answered wider problems that transparent or not, undue influence and unfair access is impacting on decision-making, to the benefit of some interests and to the detriment of the wider community (*see context: "Due" and "Undue" influence in the COVID era*).

Current lobbying regimes also do little to reinforce the responsibility and authority of decision-makers to resist undue influence, as opposed to place administrative requirements on lobbyists to record and publish their activity.

The key to a stronger system is to recognise and reinforce the positive obligations on all parties to participate in decision-making in a way that upholds its integrity and trustworthiness. This should include respect for due process; and the need to better regulate specific forms of lobbying where not only transparency but fairness of influence are critical issues.

The first essential element is legislated codes of conduct for all officials and persons seeking to influence public decisions involving financial, personal, or political benefit (including but not limited to 'lobbyists'), based on respect for positive principles of integrity:

- transparency
- inclusivity
- honesty
- diligence
- fairness
- legality

For most public officials, these principles should already be reflected in standard, enforceable codes of conduct. Lobbying legislation should also have broad application, extending these principles to all parties, leaving no doubt that undue influence or access can be independently examined, and where necessary, sanctions applied.

Codes and legislation need to reflect the process, with penalties appropriate for conduct that does not meet a standard acceptable to the public. Those responsible for regulating lobbying must have capacity to deal with any issues in an effective and timely manner.

The first essential element is legislated codes of conduct... based on respect for positive principles of integrity: transparency; inclusivity; honesty; diligence; fairness; legality.

A second necessary element is extension of registration requirements to all classes of professional lobbyist where there is need for routine transparency, disclosure of activity and awareness of ethical obligations. This includes not only "third-party" specialist firms but lobbying conducted by professional services firms (e.g. lawyers, accountants and management consultants) and in-house lobbyists employed by industry bodies (including for "strategic advice" behind the scenes, not simply face-to-face lobbying).

For public officials, access to confidential, independent advice for all senior office holders on compliance with lobbying and access principles is another critical requirement.

Finally, every lobbying regime needs to be backed up with administrative, disciplinary and criminal sanctions, independently enforced and oversighted by the relevant specialist commissioner and/or the jurisdiction's wider anti-corruption commission.

While administrative sanctions such as suspension or termination of registration are important, so too are stronger sanctions for breach of substantive duties of transparency and respect for due process. Also needed is effective capacity for investigation and compliance activity in respect of professional lobbying, an element missing from several regimes – even Queensland's, otherwise often recognised as the strongest of Australia's current lobbying regimes.

In the news

PARLIAMENTARY CODES OF CONDUCT: THE MISSING FEDERAL LINK

Over the last 30 years, the politicians of almost all Australian houses of parliament have seen the benefits of adopting their own codes of conduct – providing agreed statements of principles to guide their own individual and collective behaviour, and clarity on the processes to be followed to avoid and resolve suspected breaches of standards, in the public interest.

The most obvious exceptions are each house of Australia's national parliament: the House of Representatives and Senate (Table 3.1).

In response to developments over the years, federal parliamentary committees like the Senate Standing Committee of Senators' Interests (2012) have routinely affirmed the value of strengthening ethical support and advice for parliamentarians. But in a continuation of the 'puzzling regulation of the Commonwealth Parliament' described by Professor John Uhr, no action has followed.

Instead repeat scandals see alleged integrity breaches fought out messily in the public domain – often never satisfactorily resolved, or resulting in ad hoc reforms rather than enduring strengthening of the parliamentary integrity regime.

From 2015, scandals over misuse of public 'entitlements' for political and personal purposes led, in 2017, to creation of the Independent Parliamentary Expenses Authority (IPEA). However this effectively added a new accounting body, with an 'extremely limited mandate' of advice, monitoring, reporting and auditing of expenses; and as an executive agency, was not embedded in the parliament's other, limited ethics regimes.

At the same time, repeat scandals over ministerial conduct have sometimes been addressed under the Statement of Ministerial Standards published by each Prime Minister since 2007. However with no guarantee the Prime Minister will act on alleged breaches, and no mechanism for independent enforcement outside his or her own Department, public confidence in the results are often lacking – even when partial action is taken, as in the 2020 'sports rorts' affair (*see Focus Area B: A Strong Federal Integrity Commission*).

Several bipartisan committees, including the 2012 Senate Committee and 2017 Senate Select Committee on a National Integrity Commission have agreed on the need for an independent enforcement system.

Even when exposures to routine ethical challenges have become national security issues, the federal response has been to regulate – but not strengthen parliamentary integrity.

Table 3.1: Australian parliamentary codes of conduct.

Parliament	Chamber / House	Notes
ACT	Legislative Assembly	Code of Conduct 2005
New South Wales	Legislative Assembly	1988 Code of Conduct for Members (most recent 2020), Constitution (Disclosures by Members) Regulation 1983
	Legislative Council	1988 Code of Conduct for Members (most recent 2020), Constitution (Disclosures by Members) Regulation 1983
Northern Territory	Legislative Assembly	Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008
Queensland	Legislative Assembly	Code of Ethical Standards 2004
South Australia	Legislative Assembly	2002 Code of Conduct; 2004 Statement of Principles for MPs; May 2016 Statement of Principles
	Legislative Council	2002 Code of Conduct; 2004 Statement of Principles for MPs; May 2016 Statement of Principles
Tasmania	Legislative Assembly	2018; applies to MHAs & MLCs
	Legislative Council	2018; applies to MHAs & MLCs
Victoria	Legislative Assembly	Code of Conduct for MLAs & MLCs; Improving Parliamentary Standards Act 2019
	Legislative Council	Code of Conduct for MLAs & MLCs; Improving Parliamentary Standards Act 2019
Western Australia	Legislative Assembly	Members of Parliament (Financial Interests) Act 1992 (WA), Code Of Conduct For MLAs, 28 August 2003
	Legislative Council	NIL
Commonwealth (federal)	House of Representatives	NIL (Declarations of interests in standing orders only)
	Senate	NIL (Declarations of interests in standing orders only)

Photo 3.1: NSW Labor Senator Sam Dastyari resigned from federal parliament in December 2017 after accepting irregular payments and support from Chinese-linked entities and individuals. *Credit: AAP / Ben Rushton*

In December 2017, ALP Senator Sam Dastyari was forced to resign from Parliament after his pro-China statements were linked to a $1,671 travel bill paid by a Chinese-backed institute, and a $40,000 legal bill paid by Australian Chinese billionaire property developer Huang Xiangmo.

On the Coalition side, Liberal backbench MP Gladys Liu was accused of having compromised her huge political fundraising from the Chinese community through her 'direct or indirect links' with the Chinese Communist Party Government.

The events contributed to urgent passage of Australia's foreign interference regime, including the banning of most foreign political donations. However neither case was fully, independently investigated, and the *parliamentary* integrity regime remained unchanged.

Parliamentary codes of conduct are only as good as the quality of the principles they contain, and the strength of the system for enforcing them.

In October 2020, the NSW Independent Commission Against Corruption held hearings into whether the former State Liberal member for Wagga, Daryl Maguire, breached the NSW Parliament's Code of Conduct – or worse – by accepting private payments for services linked to his or his staff's roles as public officials, while supposedly employed full-time as a member of parliament.

However as ABC journalist Annabel Crabb noted, the 'stunning truth' was that the NSW regime permitted parliamentarians to run 'side hustles' as an MP, provided they disclosed them. The guidelines went so far as to insist that "engagement to provide a service involving use of a member's position" be declared, alongside other private interests – again, despite the position already being supposedly full-time, with a minimum $165,000 salary.

Public expectations would suggest any code of conduct should clearly forbid any "side hustle" involving a full-time MP accepting significant outside or secondary employment – let alone private fees for using their official time and roles in service of private clients.

However, the first step is to have any parliamentary code of conduct at all, with an effective regime of advice, support and independent enforcement.

As one senior Commonwealth integrity official (#7) told the assessment, the federal integrity system suffers a 'gap around adequate oversight of parliamentarians and ministers and their staff', which existing integrity entities simply 'don't have coverage of'. A federal anti-corruption agency alone cannot fill this gap, even if parliamentarians fall within its jurisdiction – the positive system of parliamentary integrity itself needs to be strengthened.

In the news

JUST A CONVENIENT SKILL SET? HOW 'REVOLVING DOORS' SQUASH PUBLIC TRUST

When senior government officials, especially parliamentarians walk out of their jobs and into a high-paying private role, integrity questions immediately arise.

Alarm bells sound louder as soon as the private role has any relationship to the public job the parliamentarian was just doing. They get louder again if the appointment happens smoothly and quickly – the "revolving door". Were they already making decisions while in office, because they had a relationship with the outside firm, or were thinking or hoping for the job?

Was the job already offered? Are they now using the official public information they gained – at taxpayer expense – for private purposes? Are they being employed so they can use their connections within government to get unfair access?

If the answers are 'no', then well and good. But the risks show why there are bans on post-separation employment or lobbying – such as 12 months for federal public servants and ministerial staff, and 18 months for ministers. Research by the Grattan Institute shows these bans to be full of loopholes, unsupported by sanctions and not currently enforced. Based on the career paths of 191 former federal ministers or assistant ministers since 1993, the problem affects both sides of politics.

For example, the former ALP Resources Minister, Martin Ferguson, left parliament in 2013 and took up a role with the peak oil and gas industry body (APPEA), the very sam e year. As head of natural resources with Seven Group Holdings, he was instrumental in Seven Group's attempt to buy Nexus Energy – a firm that received a lucrative lease while Mr Ferguson was in government.

In a major show of the weakness of the current regime, federal Liberal MP Bruce Billson, a former Small Business Minister, accepted a paid role with the Franchise Council of Australia in March 2016, while still a member of parliament. While he was censured by a parliamentary privileges committee for ignoring the 'primacy of the public interest' by failing to disclose the paid engagement, there was only limited recognition that he should never have held it in the first place.

Perhaps the most spectacular demonstration of the weakness of current regimes was the decision of long serving Liberal MP, Christopher Pyne, to move directly from retirement as Minister for

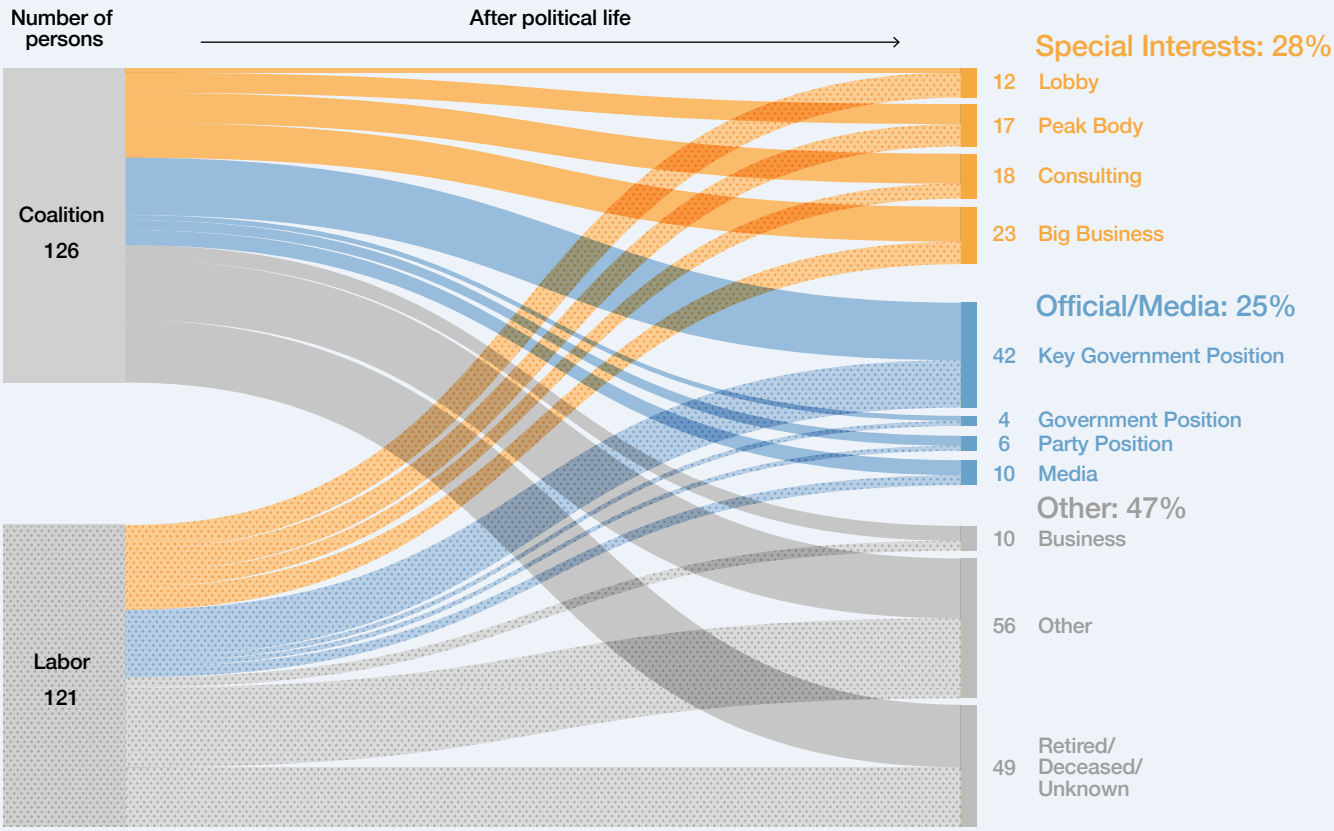
Photo 3.2: Hon. Christopher Pyne, long-serving Liberal member for Sturt (1993-2019), Leader of the Government (2013-2019) and minister for defence (2018-19) finished his career in controversy after stepping straight into a defence consultancy deal. *Credit: AAP / Lukas Coch*

Defence and Defence Industry for the three years to May 2019, to a job as defence consultant with consulting firm EY. Simultaneously, Foreign Minister Julie Bishop retired to join the board of Palladium, a private overseas aid consultancy firm, less than a year later.

A Senate inquiry confirmed that Mr Pyne negotiated his new job two months before leaving office, took it up within two weeks, and always intended to lobby on defence matters. Against the dissent of Coalition members, the inquiry was highly critical of the investigation by the outgoing head of the Prime Minister's Department – who accepted there was no breach of ministerial standards, because as an in-house advisor, Mr Pyne promised not to lobby directly, in person.

Subsequently, Mr Pyne was formally warned by the Attorney-General's Department he was banned from lobbying for one client, Saber Astronautics. The firm nevertheless went on to win two federal government grants worth almost $7 million. ●

Figure 3.3: Federal ministerial employment after politics. Research by Grattan Institute show the numbers of senior government officials who walk into high paying private roles on leaving government.
Source: Wood, D., Griffiths, K., and Chivers, C. (2018). Who's in the room? Access and influence in Australian politics, Grattan Institute, Figure 2.6.



Notes: Includes 191 people who were either federal ministers or assistant ministers and left politics in the 1990s or later. Some have had more than one role since. 'Big business' is Top 2000 Australian firms by revenue in 2016.

In the news

"DUE" AND "UNDUE" INFLUENCE IN THE COVID ERA: TIME FOR A WIDER APPROACH

In times of crisis and recovery, public decision-making has to be stronger than ever. It also needs to be agile, look for new solutions, and bring together advice from government, industry and the community in faster and better ways than may ever have been done before.

However in times of new and more streamlined decision-making – especially when government is outlaying large amounts of stimulus and support business investment – questions of due process, access and influence become even more important.

According to the OECD, the COVID-19 crisis 'creates environments that enhance risks for corruption, undue influence and bribery… and further deteriorate trust in government and businesses at a time when it's needed more than ever.'

KPMG warned corruption risks rise as governments strive to identify alternative sourcing channels for goods and investment, increasing the risk of collusion between vendors, suppliers, investors and government.

The Australian Government is focused sharply on job creation by promoting ease of doing business. It is expected to spend $507 billion as part of its COVID-19 recovery response to 2024, including more than $11 billion on infrastructure development alone.

Photo 3.3: Businessman Neville Power, former CEO of Fortescue Metals and boardmember of Strike Energy, was forced to 'step back' from board roles after appointment as Chair of Australia's National COVID19 Coordination Commission (later 'Advisory' Council). *Credit: AAP / Lukas Coch*

What governments allow by way of access to decision-making, due process, transparency and lobbying can become a critical concern.

In April 2020, recognising the lessons from previous rapid implementation of government programs – including in the 2007 global financial crisis – the Australian National Audit Office issued advice to help ensure appropriate and accountable risk management in the COVID environment.

In this environment, what governments allow by way of access to decision-making, due process, transparency and lobbying can become a critical concern.

In March 2020, the Prime Minister announced a National Covid-19 Coordination Commission (NCCC) to plan and drive Australia's post-pandemic recovery – led by Australian businesspeople, along with other government and non-government members. But as the new commission started to identify particular industries and businesses as priorities for investment, controversy began to surround its role, powers and the interests of those involved.

A leaked interim report by the NCCC proposed special support for the gas industry as part of Australia's energy strategy – despite some members having roles in that industry, including the NCCC Chair, the respected mining executive, Neville Power. Faced with allegations of undue influence, Mr Power addressed the apparent conflict of interest by stepping back from board meetings in the businesses he led, 'while he is chairing the NCCC'. Nevertheless, months later, the Prime Minister announced plans for a 'gas-led recovery' despite this conflicting with official advice on the role of gas in long-term energy plans.

Nevertheless, months later, the Prime Minister announced plans for a 'gas-led recovery' despite this conflicting with official advice on the role of gas in long-term energy plans.

The role of Mr Power and other NCCC members became even more confusing when the Prime Minister's Department could not give clear answers on how much they were being paid – initially telling a Senate committee Mr Power was receiving $500,000 per six months for the full-time role, only to clarify later that he was only expected to receive $267,000 to cover travel costs and incidentals. Some members received nothing, while others were paid $2,000 per day.

In May, a broad coalition of community groups called for due process around the roles and advice of the Commission. Independent MP Zali Steggall called for 'transparency, proper governance, and independent reporting so the Australian people know what [the NCCC] is considering, and why it's considering it, and what it is recommending to government'.

In a bid to restore trust, the Prime Minister renamed the NCCC to the National COVID-19 Commission Advisory Board in July 2020, clarifying it only had a 'strategic advisory role in providing a business perspective to Government on Australia's economic recovery.'

Nevertheless, analysis by the University of Melbourne identified it as 'a case study' of the risks that executive power 'allied with vested interests poses during times of crisis', including lack of clarity around undue influence, and absence of a duty to publicly disclose conflicts of interest.

The controversy highlights the ways legitimate policy voices interact with government, especially at times of urgency – but how the presence of vested interests, shortcuts and absence of oversight undermine trust in the integrity of decision-making, even at the highest levels of government.