



Australian Government

**Department of Resources
Energy and Tourism**

Lobbying Code of Conduct – Procedural Rule

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LOBBYING CODE OF CONDUCT – PROCEDURAL RULES

Objective

The purpose of this procedural rule is to set out the policies for Departmental staff in relation to managing contact with lobbyists.

Background

In May 2008 the Special Minister of State released the *Lobbying Code of Conduct* ('the Code'). Circular 2008/4 – "Requirements relating to the lobbying code of conduct and post separation contact with Government" was also distributed from the Australian Public Service Commission relating to these same policies.

The Code applies to Ministers, Parliamentary Secretaries, staff employed under the *Members of Parliament (Staff) Act 1984* (MOPS Act), APS employees, consultants and contractors engaged by an APS agency, and members of the Australian Defence Force.

Government Policy

The Code is intended to ensure that individuals or organisations that act on the behalf of others to seek to influence Government representatives are required to adhere to appropriate standards of probity and transparency. A main aim of the Code is to ensure that Government representatives who deal with lobbyists are able to establish which interest the lobbyist represents in order to make appropriate judgments about their motives.

Other elements of the Code include:

- the establishment by the Department of the Prime Minister and Cabinet of a 'Register of Lobbyists' (Please refer to link: [Lobbyists Register](#)). Lobbyists will be required to register and update their details (including the names of their parties by whom the lobbyist is retained) on the Register before seeking access to Government representatives;
- the requirement for lobbyists to inform Government representatives that they are lobbyists, that they are currently registered, the third party interests they represent, and the issues that the third party wishes the lobbyist to raise;
- the establishment of a set of principles (Section 8) requiring lobbyists not to engage in corrupt, dishonest or illegal activity, to make all reasonable effort to establish the truth of the information provided by parties they represent, not to misrepresent or exaggerate the extent of their access to Government and to avoid personal and political conflicts of interest; and
- restrictions on former Government employees engaging in lobbying activities.

Definition of a Lobbyist

The Code defines a lobbyist as any person, company or organisation that conducts lobbying activities on behalf of a third party client.

The Code does not apply to people who are directly employed within a company, particular industry or organisation to make representations to Government, since this does not involve the issue to establish or disclose third party interests. It also does not apply to charitable organisations or to religious organisations. A full list of the exemptions is set out in Section 3 of the Code. (Link : [Lobbying Code of Conduct](#)).

What is the role of a Lobbyist?

Lobbyists seek to influence Government not only through direct approaches to Ministers and their offices, but also through contacts with public servants. These contacts normally focus on introducing their clients' views and related information into policy and program development processes. While this is a legitimate activity that can improve the quality of advice to Government, it must be subject to similar standards of probity and transparency as lobbying contacts with Ministers.

Staff responsibilities

The [Lobbying Code of Conduct](#) applies to all Departmental staff. Staff should have regard to;

- the *Lobbying Code of Conduct* and be aware of their obligations in dealing with lobbyists;
- the fact that lobbyists will be obliged to inform staff of the third party interest that they represent and the issues that the third party wishes the lobbyist to raise;
- the existence of the Register of lobbyists, however, it is important to note that the Register does not contain past employment details of lobbyists including ex-APS employees (Link to [Lobbyists Register](#));
- the fact that they should seek assurances from any lobbyist who approaches them that they are not subject to any post employment restrictions (please refer to the section "Post APS employment as lobbyists" on page 4 of this Procedural Rule); and
- the requirement, in section 9 of the Code, to report what they believe to be breaches of the code to Enabling Services so that they may be passed on to Secretary of the Department of Prime Minister and Cabinet.

Restrictions on Departmental staff dealing with lobbyists also apply to a person engaged as a contractor or consultant working within this agency. Clauses should be now included into Departmental contracts to ensure that contractors and consultants are aware and comply with the code.

As indicated above, the Code applies only to professional lobbyists who represent the interests of a third party. It does not apply to contacts with people who are directly

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employed by a company and who make representations on behalf of that company. Nor does it apply to technical, professional or program management contacts.

Avoidance of conflict of interest

Departmental staff need to be aware and to manage any actual or perceived conflict of interest between their official duties and their relationships with lobbyists. This could include personal, financial or other interests in the organisations the lobbyists is representing or some sort of personal or social relationship with the lobbyist.

The APS Code of Conduct requires Departmental staff to disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment. This also relates to dealing with lobbyists. Breaches of conflict of interest will be dealt with under the Code of Conduct.

All substantive SES employees (and those acting in SES positions for a period which is expected to exceed, or has exceeded 3 months) are required to make annual declarations of their financial and other private interests. These declarations are undertaken using the template provided by the APSC. (Please see [link to the Conflict of Interest Declaration](#)). This declaration requires the disclosure of all private interests which actually conflict, or could reasonably be seen to conflict with your duties under the *Public Service Act 1999*.

Once completed, the declaration should be double-enveloped and sent to the Secretary's office with the outer envelope marked as "**Personal and Confidential – Private Interests Declaration**". Each declaration will be treated confidentially.

A similar process is in place for non-SES staff who will provide their declarations to the appropriate Head of Division.

Post APS employment as a lobbyists

SES employees and equivalents that leave the Australian Public Service after 1 July, 2008 are not permitted for a **12 month** period, engage in lobbying Government representatives on any matter on which they have had official dealings as public servants over their last **12 months** of employment.

The restrictions on post separation employment as lobbyists do not apply to former Departmental employees who are directly employed by outside companies or organisations and who may undertake representational work on that company's behalf. Nor do they prevent former Departmental staff who obtain employment in the private sector areas closely aligned to their former APS responsibilities from exchanging technical and professional advice with APS staff where they are mutually involved in projects or programs.

These provisions are advised on commencement in the Department. Staff leaving the Department's employment will also need to acknowledge that they understand these issues.

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| References |
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Australian Public Service Commission's Employment Policy Adviceline:
employmentadvice@apsc.gov.au

[*APSC Circular 2008/4 - Lobbying Code of Conduct*](#)

[*APS Code of Conduct*](#)

[*APSC Circular 2007/3 - Post Separation Employment*](#)

[*Public Service Act 1999*](#)

[*RET Code of Conduct*](#)