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## Questions and Answers



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### 1. Why has the Government established a Register of Lobbyists?

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

Lobbying is a legitimate activity and an important 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 the community as a whole.

In performing this role, there is a public expectation that lobbying activities will be carried out ethically and transparently, and that Government representatives who are approached by lobbyists can establish whose interests they represent so that informed judgments can be made about the outcome they are seeking to achieve.

While some lobbyists work directly for a single client to advance the interests of that client, others lobby on behalf of a number of different clients. The Government believes it is important for Government representatives to know precisely who these lobbyists represent when they have dealings with them.

The Register of Lobbyists is a public document. It contains the following details about persons, companies and organisations who lobby Government representatives on behalf of a client:

- i. the business registration details and trading names of the lobbyist including, where the business is not a publicly listed company, the names of owners, partners or major shareholders, as applicable
- ii. the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activities, and
- iii. the names of clients on whose behalf the lobbyist conducts lobbying activities.

## **2. What is the Lobbying Code of Conduct and how does it relate to the Register of Lobbyists?**

The Code underpins the Register by defining lobbyists, clients, Government representatives and lobbying activities. It sets out the requirements for contact between lobbyists and Government representatives and indicates what will be publicly available on the register and the conditions for successful registration of lobbyists. A copy of the Code can be downloaded from this website.

If you are a lobbyist or a Government representative who may be approached by a lobbyist, you should download the Code and read it.

## **3. What is the definition of lobbyist?**

A lobbyist is defined in clause 3 of the Code to mean a person, company or organisation who conducts lobbying activities on behalf of a client or whose employees conduct lobbying activities on behalf of a client. These lobbyists are sometimes known as consultant lobbyists, or third party lobbyists.

The Code does not apply to in-house lobbyists, such as government relations staff employed by companies to make representations to government on behalf of the company that employs them, or staff employed in peak industry bodies or trade unions who make representations to government on behalf of their industry or their members. These people are not required to register.

## **4. Who else is excluded from the definition?**

There are a number of exclusions from the definition. These include:

- a. charitable, religious and other organisations or funds that are endorsed as deductible gift recipients
- b. non-profit associations or organisations constituted to represent the interests of their members that are not endorsed as deductible gift recipients
- c. individuals making representations on behalf of family members or friends about their personal affairs
- d. members of trade delegations visiting Australia

- e. persons who are registered under an Australian Government scheme regulating the activities of members of that profession, such as registered tax agents, Customs brokers, company auditors and liquidators, provided that their dealings with Government representatives are part of the normal day to day work of people in that profession, and
- f. members of professions, such as doctors, lawyers or accountants, and other service providers, who make occasional representations to Government on behalf of others in a way that is incidental to the provision to them of their professional or other services. However, if a significant or regular part of the services offered by a person employed or engaged by a firm of lawyers, doctors, accountants or other service providers involves lobbying activities on behalf of clients of that firm, the firm and the person offering those services must register and identify the clients for whom they carry out lobbying activities.

Further guidance on who needs to register is available below (see "Do I need to register?")

### 5. Do I need to register?

The following examples provide guidance on whether you need to register as a lobbyist. They relate in particular to paragraph (f) of the definition of 'lobbyist' in clause 3 of the Code.

1. A doctor has a patient with a serious medical condition whose treatment requires an expensive drug that is not included on the Pharmaceutical Benefits Scheme. The doctor wishes to contact the Minister for Health and Ageing to argue for the drug's inclusion on the PBS. Contact with the Minister in these circumstances is incidental to the provision of the doctor's services to the patient and the doctor does not need to register as a lobbyist.
2. A lawyer has a practice that specialises in workers' compensation cases in the course of which he communicates with Comcare on behalf of his clients. In these circumstances, the lawyer's communications with Comcare would be regarded as incidental to the services that he provides to his clients and he would not need to register as a lobbyist.
3. The government relations team in a large legal firm regularly makes representations to Government on behalf of the firm's clients as part of the services offered to the firm's clients. While the activities of the government relations staff might be incidental to the services that the firm provides to its clients, they would not be regarded as incidental to the services that the government relations staff provide to those clients, even if the government relations staff are members of the legal profession. Accordingly, the firm must be registered as a lobbyist and the staff who engage in lobbying activities must be included on the Register as employees of the lobbyist.
4. A large company with several wholly and partially owned subsidiaries has a policy that requires government relations staff employed by one of the corporate entities in the group to conduct all lobbying activities on behalf of itself and all of the other corporate entities in the group.

In keeping with the intention of the Code to apply to "third party" lobbyists, a wholly owned company within a corporate group is not regarded as being a third party client of either the parent holding company or of any other wholly owned company in the group.

*(Note: For the purposes of the Code, a wholly owned company is a company in which 100% of the issued share capital is wholly owned either by the holding company itself, by a wholly owned subsidiary of that holding company, or by a wholly owned subsidiary of that wholly owned subsidiary and so on down the line of the corporate group structure.)*

Accordingly, Government relations staff (or other staff who contact Government representatives) employed by a wholly owned company within the corporate group (as defined above) will be regarded as in-house lobbyists who do not need to register, provided that they are lobbying on behalf of either (i) the company that employs them (ii)

the group holding company; or (3) another wholly owned company (as defined above) within the group.

What if the employees of a wholly owned company in a group structure lobby on behalf of another company within the group that is not wholly owned?

A group company that is not wholly owned must, by definition, have other individuals or companies outside the corporate group who stand to benefit from any lobbying activity undertaken on its behalf.

Employees who lobby on behalf of a company within the group that is not wholly owned are regarded as lobbying on behalf of a third party. In these circumstances:

- the company that employs the relevant staff should be registered as a lobbyist;
- the relevant staff of that company should be registered as employees who undertake lobbying activities; and
- the non wholly owned company should be listed as a client.

The non wholly owned company should be identified as a client when lobbying activities are undertaken on its behalf, and removed from the list of clients no later than three months after the lobbying activities have concluded.

5. A company manages an investment fund (that is, it is the responsible entity for the fund for the purposes of Chapter 5C of the *Corporations Act 2001*) that owns assets which are themselves companies. The assets of the fund are owned by investors in the fund, but government relations staff employed in the responsible entity lobby on behalf of those assets when required.

As in the example of the holding company and its subsidiaries, the responsible entity should be registered as a lobbyist, its government relations staff should be registered as employees of the lobbyist, and it should list as its clients those assets of the fund on whose behalf it conducts lobbying activities. Those clients should be removed from the list of clients no later than three months after the lobbying activity has ceased. It should not list as clients all the assets of the fund merely because it might lobby on behalf of them at some time in the future.

6. A lobbyist is engaged by a charity to make representations on its behalf to the Government.

If a charity or other non-profit organisation engages a lobbyist to make representations to the Government on its behalf, the lobbyist will need to register and list the charity or non-profit organisation as a client.

7. A non-profit organisation is engaged by a company that is not a member of that organisation to make representations on behalf of the company to Government representatives.

A non-profit organisation is only exempt from the need to register as a lobbyist if its lobbying activities are confined to the making of representations on behalf of members of the organisation. In this situation, therefore, the non-profit organisation is required to register as a lobbyist and list the company as its client.

## 6. What are lobbying activities?

“Lobbying activities” means any oral, written or electronic communications with a Government representative in an effort to influence 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 or the allocation of funding.

There are a number of exceptions to this rule, as set out below:

- a. communications with a committee of the Parliament
- b. communications with a Minister or Parliamentary Secretary in his or her capacity as a local Member or Senator in relation to non-ministerial responsibilities
- c. communications in response to a call for submissions
- d. petitions or communications of a grassroots campaign nature in an attempt to influence a Government policy or decision
- e. communications in response to a request for tender
- f. statements made in a public forum, or
- g. responses to requests by Government representatives for information.

#### **7. Is a simple request for publicly available information a lobbying activity?**

A simple request for information would not normally amount to a lobbying activity, which is defined in the Code to mean a communication in an effort to influence a Government decision. However, a lobbyist seeking advice or opinion, for example, about the likely response of a Government agency to a particular course of action proposed by a client may well be engaged in lobbying activities for the purposes of the Code.

#### **8. What about routine contact on behalf of a third party client with the ATO and/or with regulatory agencies such as ASIC and ACCC?**

Routine contact with the ATO seeking, for example, a private ruling is not regarded as a lobbying activity, provided that the purpose of the contact is to obtain information from, or provide information to the ATO so that the client's obligations under relevant legislation can be ascertained and clarified.

Routine contact with ASIC seeking, for example, a waiver or a clarification of the operation of the Act, regulations, or class orders as it affects their client in order to ensure that the client's obligations can be ascertained and clarified, would not be regarded as a lobbying activity.

Routine contact with the ACCC seeking, for example, approval of an undertaking, or responding to inquiries from the ACCC or providing information to the ACCC to assist the ACCC to clarify a client's obligations under relevant legislation, would not be regarded as a lobbying activity.

An approach to the ATO or to a regulator on behalf of a third party client that is intended to persuade the ATO or the regulator to change existing policies and practices or support a change in legislation would amount to a lobbying activity, and the person making the approach should be registered as a lobbyist.

#### **9. What is the definition of a client?**

A client of a lobbyist is an individual, association, organisation or business who:

- a. has engaged the lobbyist on a retainer to make representations to Government representatives, or
- b. has, in the previous three months, engaged the lobbyist to make representations to Government representatives, whether paid or unpaid.

#### **10. What is the definition of a Government representative?**

A Government representative can be:

- a Minister or Parliamentary Secretary

- a person employed or engaged by a Minister or a Parliamentary Secretary under the *Members of Parliament (Staff) Act 1984*, including the electorate staff of the Minister or Parliamentary Secretary
- an Agency Head or a person employed under the *Public Service Act 1999*
- a person engaged as a contractor or consultant by an Australian Government agency whose staff are employed under the *Public Service Act 1999*, or
- a member of the Australian Defence Force.

A list of Australian Government agencies whose staff are employed under the *Public Service Act 1999* can be found at [www.apsc.gov.au/apsprofile/agencies.htm](http://www.apsc.gov.au/apsprofile/agencies.htm)

#### **11. By what date will lobbyists need to be registered?**

The Register will be fully operational from 1 July 2008. Lobbyists can submit their applications for registration now (go to <https://lobbyists.pmc.gov.au>).

Lobbyists who are not on the Register at 1 July 2008 will not be able to meet Government representatives in their capacity as a lobbyist until they have registered.

#### **12. What does a lobbyist need to do before contacting a Government representative?**

From 1 July 2008, lobbyists who wish to communicate with a Government representative about a client's business must, when they contact a Government representative:

- identify themselves as lobbyists
- confirm that they are currently listed on the Register of Lobbyists
- identify the client that they represent, and
- state the nature of the matter the client wishes them to raise with the Government representative.

In the interests of transparency, it would be prudent for lobbyists to advise Government representatives if they are subject to any prohibition on their lobbying activities as set out in Clause 7 of the Code.

The Register will allow Government representatives to check that lobbyists and their clients are properly registered before agreeing to meet them.

#### **13. What does a Government representative need to do if approached by a lobbyist?**

Clause 4.1 of the Code states that a Government representative shall not knowingly and intentionally engage in lobbying activities with a lobbyist who is not on the Register, or with a lobbyist who fails to observe any of the requirements of clause 8(1)(e) of the Code.

Clause 8.1(e) sets out the following requirements for lobbyists when they make initial contact with a Government representative:

- they must inform you that they are a lobbyist or an employee of, or a contractor or a person engaged by a lobbyist
- they must advise you whether they are currently listed on the Register of Lobbyists
- they must advise you of their relevant client or clients, and
- they must advise you of the matters that their client wishes them to raise with you.

A lobbyist who fails to meet the above requirements would be in breach of the Code and you should decline to meet with

them. Clause 9.1 of the Code requires you to report any breaches of the Code to the Secretary of the Department of the Prime Minister and Cabinet.

You can check that the lobbyist and client are listed on the Register by accessing the Register at <https://lobbyists.pmc.gov.au> and clicking on 'Who is on the Register'. While the onus is on the lobbyist to supply the required information, it would be prudent for a Government representative to check that the details provided are correct, particularly if you have had no previous dealings with that lobbyist in relation to the particular client. If you have reason to believe that the lobbyist is a former Minister or public servant who is subject to the prohibition on lobbying activities in Clause 7 of the Code, it would be prudent to seek an assurance from the lobbyist that the prohibition no longer applies.

If you are satisfied that the lobbyist and his or her client are properly listed on the Register of Lobbyists and the other requirements of clause 8(1)(e) of the Code have been met, you can decide whether to participate in the lobbying activity.

There is no obligation to meet lobbyists. Being on the Register does not give a lobbyist a greater right of access to Government representatives than any other person.

#### **14. What if an approach is made at an informal occasion?**

Lobbyists and Government representatives will frequently attend the same functions. Lobbyists wishing to engage in lobbying activities in such situations will need to comply with the requirements of clause 8(1)(e) of the Code – that is, they will need to confirm that they and their client are on the Register and advise the nature of the matter they want to raise on behalf of their client.

It will obviously be impractical for Government representatives to check the Register of Lobbyists if they are not in their office. However, Government representatives are entitled to accept statements by lobbyists that they and their clients are properly registered, particularly if they have had previous dealings with the lobbyist in question. On that basis, Government representatives would not be in breach of the Code if they participated in discussions with lobbyists about their client's affairs.

If the Government representative does not wish to participate in discussions with the lobbyist at a function outside the office, he or she can invite the lobbyist to make an appointment.

#### **15. How do lobbyists become registered on the Register?**

A lobbyist can apply online to be included on the Register. To do so, go to the website <https://lobbyists.pmc.gov.au> and click on 'How to register'.

Each individual who engages in lobbying activities must complete a statutory declaration confirming the matters set out in Clause 10.1 of the Lobbying Code of Conduct before he or she will be included on the Register. The original of each statutory declaration is required before registrations can be finalised. Copies or faxed versions will not be accepted.

Completed statutory declarations should be mailed to:

Register of Lobbyists  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

In the initial registration period, the Department of the Prime Minister and Cabinet expects to finalise all applications for registration within five business days of receiving the original statutory declarations. The Department expects to finalise

subsequent applications for registration within two business days of receipt of statutory declarations.

**16. Will any applications for registration be refused?**

The Secretary of the Department of the Prime Minister and Cabinet will not register as a lobbyist a person if he or she:

- has ever been sentenced to a term of imprisonment of 30 months or more, or
- has been convicted, as an adult, in the last ten years, of an offence, one element of which involves dishonesty, such as theft or fraud.

Individuals must provide statutory declarations in respect of these matters before they can be included on the Register.

In addition, the Secretary of the Department of the Prime Minister and Cabinet must not register a lobbyist, a person who is an employee of a lobbyist or a contractor or person engaged by a lobbyist if the Cabinet Secretary directs the Secretary not to register the lobbyist or the individual. Before issuing such a direction to the Secretary, the Cabinet Secretary must give the individual concerned an opportunity to state why the proposed direction should not be issued.

**17. Is the Register publicly accessible?**

Yes. The Register is available online to the public at <https://lobbyists.pmc.gov.au>. Click on 'Who is on the Register' to see the list of registered lobbyists.

**18. What information is on the Register?**

The Register contains the following information:

- the business registration details and trading names of the lobbyist including, where the business is not a publicly listed company, the names of owners, partners or major shareholders, as applicable
- the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activities, and
- the names of clients on whose behalf the lobbyist conducts lobbying activities.

**19. How up to date is the information on the Register?**

Lobbyists are required to update their details as they change and to confirm their details at the end of each year. Lobbyists are required confirm that their details are up to date within 10 business days of 30 September, 31 January and 30 March each year. Lobbyists are required to confirm that their details are up to date and provide statutory declarations for all persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activities on behalf of a client within 10 business days of 30 June 2009 and each year thereafter.

**20. How quickly can the Register be updated if I need to make representations urgently on behalf of a new client?**

Requests to update your client information can be submitted using the online registration system. In the normal course of events, the Register will be updated within two business days of the request being made. However, if the Register needs to be updated urgently, you should advise the Department by email ([lobbyistsregister@pmc.gov.au](mailto:lobbyistsregister@pmc.gov.au)) and phone (02 6271 5717). The Department will expedite the processing of the request and advise you of the outcome by email.

**21. Who should a lobbyist nominate as the responsible officer in their application for registration?**



The responsible officer is a key position for email communications between the Department of the Prime Minister and Cabinet and the lobbyist. These communications will include advice that an application for registration has been received, advice that registration has been approved or not approved, ongoing quarterly reminders that lobbyists' details must be confirmed as being up to date and other matters that might arise in connection with continuing registration.

In nominating a person as the responsible officer, it is in your interest to ensure that the person is at a level that he or she can deal with any communications from the Department as appropriate. In the event of a change to the responsible officer, you will need to update their details, including their email address, to ensure that you continue to receive emails relating to the Register of Lobbyists.

**22. What will happen if a lobbyist fails to confirm that his or her details are up to date as required by clauses 5.5 and 5.6 of the Code?**

To ensure that the information on the Register is current, lobbyists must confirm that their details are up to date within 10 business days of 30 September, 31 January and 30 March each year. Lobbyists must also provide new statutory declarations for each individual lobbyist who engages in lobbying activities within 10 business days of 30 June each year.

A lobbyist who does not confirm that his or her details are up to date within the period specified in clauses 5.5 and 5.6 may be removed from the Register.

The Department of the Prime Minister and Cabinet will remind all lobbyists of these requirements before the due date.

**23. How do I report a breach of the Code?**

All breaches of the Lobbying Code of Conduct should be reported to:

The Secretary  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

The Secretary will investigate any statement reporting an alleged breach of the Code. If he or she considers that a breach has occurred and that it is sufficiently serious to warrant the possible removal of the lobbyist from the Register, the Secretary will advise the individual concerned of the reasons why he or she proposes to remove him or her from the Register and give the lobbyist an opportunity to state why the proposed course of action should not be followed. The Secretary will take any response into account before making his or her decision.

**24. What should I do if I become aware that a Government representative has been a party to lobbying activities with a lobbyist who is not on the Register?**

A Government representative who knowingly and intentionally participates in lobbying activities with a person who is not on the Register will have breached the Lobbying Code of Conduct, as would the lobbyist. You should report the details of the alleged breach to the Secretary of the Department of the Prime Minister and Cabinet. In relation to an alleged breach of the Code by the lobbyist, the Secretary will follow the course of action outlined in the Question and Answer above. The Secretary will refer an alleged breach of the Code by a Government representative to the appropriate authority for consideration and appropriate action.

**25. How can I get further information on the Register or ask questions about the operation of the Register or the Code?**

If you require further information, wish to make a comment or ask a question about the Register or the Code, please contact the Department of the Prime Minister and Cabinet using the online [Feedback and Queries](#) form or by writing to:

Register of Lobbyists

Department of the Prime Minister and Cabinet

PO Box 6500

CANBERRA ACT 2600

Fax: (02) 6271 5776

You can also contact us by sending an email to [lobbyistsregister@pmc.gov.au](mailto:lobbyistsregister@pmc.gov.au).

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