

21 September 2015

Finance and Administration Committee  
Parliament House  
George Street  
Brisbane QLD 4000

By email: [fac@parliament.qld.gov.au](mailto:fac@parliament.qld.gov.au)

Dear Sir/Madam

**Response to the Inquiry into the Report on the *Strategic Review of the Functions of the Integrity Commissioner***

Thank you for the opportunity to provide this submission in response to the Finance and Administration Committee's (the FAC) inquiry into the Strategic Review of the Functions of the Integrity Commissioner under the *Integrity Act 2009* (the Act).

Engagement by the non-government sector with government officials, or "lobbying", is an essential part of Australia's political process and a legitimate undertaking in a free and open democratic society. Professional government relations practitioners provide advice and assistance that enhances the effectiveness and free-flow of information between the corporate/industry/not-for-profit sectors and government. This is not only of benefit to non-government parties but, importantly, exposes government to new ideas and opportunities, which is to the benefit of the broader community. This is broadly recognised in section 6 of the Review.

In Queensland, the Act prescribes a minimum standard of conduct for "professional lobbyists" by regulating contact with state and local government representatives as well as opposition, which is underpinned by the *Lobbyists Code of Conduct 2013*. This system has been successful in providing oversight of government relations activities in Queensland where these are provided by consulting practitioners, ensuring that these activities continue to enhance good decision-making by public officials.

Before commenting on the Report's recommendations as they relate to lobbying regulation function on behalf of its consulting members, the Australian Professional Government Relations Association (APGRA) wishes to provide some background on its recent establishment, the role it will continue to play in supporting the Queensland Government's regulatory framework, and the wide range of activities undertaken by professional government relations practitioners.

**1. About the Australian Professional Government Relations Association**

The APGRA was established in mid-2014 by a number of longstanding public affairs consulting firms and senior practitioners to promote ethical standards, greater transparency and a binding Code of Conduct applicable to all members conducting government relations activity.

The aims of the Association are to:

- Promote the highest standards of government relations practice in Australia through the establishment and maintenance of a robust industry Code of Conduct;

- Complement existing regulation of government relations activity in Australia and provide a basis for regular dialogue between government and the profession; and
- Contribute to greater understanding of professional government relations in Australia, and the legitimate and important role the sector plays.

The centrepiece of the Association is a Code of Conduct (**Appendix A**) that regulates the conduct of members and promotes the highest ethical standards in the government relations profession. It operates alongside Queensland's Lobbyists Code of Conduct, and legislation and codes in place at a federal level and in other states and territories, thereby creating a strong co-regulatory framework to ensure the profession continues to operate in an ethical and transparent manner.

Membership of the Association is open to practitioners across all categories – including consultants, “in-house” practitioners at corporations and peak industry groups – provided they are able to satisfy – and commit to – the Association's Code of Conduct and Membership Rules. Failure by members to adopt and abide by the Code of Conduct and Membership Rules are grounds for declining or cancelling membership of the Association, or other sanctions deemed appropriate.

Over its second year of operation, the Association intends to continue expanding its membership and develop education programs to inform government relations professionals about the Code of Conduct, reinforce expected standards of ethical behaviour, and engage with relevant government policymakers and regulators.

Further information on the APGRA can be found at [www.apgra.com.au](http://www.apgra.com.au).

## **2. APGRA's Response to Review Recommendations**

### ***Recommendation 7: The definition of lobbyists should be expanded to include regulation of in-house lobbyists and other professionals discharging the lobbying function***

The APGRA believes an analogy can be drawn between the advice and assistance government relations practitioners provide organisations and that which is provided by other specialist external or internal advisers. For example, while an organisation can represent itself in court, legal practitioners provide expert judgment and advice on these matters that will assist in furthering the organisation's interests. Similarly, professional government relations practitioners are engaged to provide judgment, insights and expert advice on public policy and government. Of course the APGRA recognises that the activity of most interest to the community is “lobbying” or advocacy, given the importance to the integrity of government that such activities are conducted ethically. That is why we support the need for appropriate regulation to ensure appropriate behavioural standards and transparency in interactions with government officials.

The Integrity Act currently restricts the Integrity Commissioner's regulatory functions to those of “professional lobbyists” only and excludes in-house practitioners – those employed by large corporations, not-for-profit organisations and peak industry associations. The APGRA notes the Report's suggestion that only a relatively small proportion of those who lobby government are captured under the current lobbyist definition.

The APGRA's members – covering both consulting and in-house practitioners – will make their own submissions to the FAC on the appropriate parameters of coverage for regulation as they see it. The Association notes that to date in Australia, the various federal and state systems have focused on regulation of consulting practitioners but with the NSW Government expanding application of applicable ethical standards in 2014 to all those who lobby government.

A related issue concerns members of other professions who provide consulting services to organisations, including assisting with representations to government. This may include members of legal, accounting, business services, town planning and other firms. Where these professionals are providing services that are intrinsically similar to government relations professionals, the

APGRA believes they should be covered by the same regulatory arrangements. In this regard, the APGRA notes that there are some planning and liquor licensing organisations listed on the Queensland register but this does not appear to extend to legal or business services firms.

***Recommendation 8: The Integrity Commissioner should maintain its current role in lobbying regulation and continue to manage the Register of Lobbyists***

The APGRA's consulting practitioner members believe that positioning responsibility for operation of the Register of Lobbyists with the Integrity Commissioner has proven beneficial to supporting the efficient and effective functions of the Code and Register. In this respect, we agree with the Review's recommendation that management of the Register ought to remain with the Integrity Commissioner.

***Recommendation 9: The scope of the Register of Lobbyists should be expanded to include individuals covered by the revised definition of lobbying***

As noted above in the response to Recommendation 7, the APGRA believes that the public policy objectives underpinning the Code would be more effectively achieved if all professional consultants assisting third party clients with representations to government were covered by relevant obligations.

***Recommendation 10: The Integrity Commissioner should seek to more actively educate the relevant professional communities as to what constitutes lobbying activity and the expectations that are attached to such activity***

Following on from the above point, the APGRA agrees that there is an important role for the Integrity Commissioner to proactively engage with other consulting professions to confirm and clarify that where practitioners (e.g. lawyers, accountants, town planners and others) are making representations to government on behalf of clients, there is a requirement to be registered under the Code.

There is an additional educational role that the APGRA's consulting practitioner members believe the Integrity Commissioner should fulfil with government representatives broadly in relation to the Code. There have been numerous instances where government representatives have been reluctant to engage with a registered practitioner due to uncertainty as to the "rules" that apply to lobbying. In those instances, the perverse situation arises where a registered practitioner is disadvantaged by the fact of being registered. The regular provision of information to offices of Director-General, ministerial offices, the Opposition and local government in relation to the purpose of the Code and the legitimacy of contact from those registered under it would serve to dispel any confusion or misunderstanding.

Thank you once again for the opportunity to provide comment and should the FAC have any questions in relation to this submission or the APGRA more generally, please do not hesitate to contact me on 02 8353 0400 or [info@apgra.org.au](mailto:info@apgra.org.au).

Yours sincerely



Les Timar  
**President**  
(CEO & Founding Partner of GRACosway)

# APGRA



Australian Professional Government Relations Association

## Code of Conduct

### Introduction

The individual and firm members of the Association believe that government relations practitioners must be honest, open and transparent at all times in their dealings with government and clients, and are committed to high standards of integrity in the conduct of their businesses and activities.

This Code of Conduct has been developed by the Association to clearly articulate the professional and ethical framework for the way in which members relate to government in Australia. Members' primary obligations are to abide by the relevant legislation and government codes in place around Australia. It is intended that this Code will operate alongside those schemes, but in any and all cases of inconsistency, relevant legislation and government codes will prevail to the extent of that inconsistency.

Membership of the Association is open to any firm or person for whom the making of representations to government in Australia constitutes part of their professional activities, and who is prepared to abide by and implement this Code of Conduct and Membership Rules, and continues to comply with them on an ongoing basis.

This Code of Conduct covers the activities of members in their interaction with Australian governments at all levels. Members can include specialist government relations firms and their staff, professional communications firms that also offer government relations support as part of their services, 'in-house' and individual government relations practitioners as well as any other professionals who make representations to government.

It is a pre-requisite and condition of membership of the Association that members adopt and abide by this Code of Conduct, and that all practitioners involved in providing government relations services and making representations to government observe the duties and principles set out in the Code. Members will be required to renew their commitment to the Code each year as a condition of membership.

Failure to adopt and abide by this Code of Conduct and Membership Rules will be grounds for declining or cancelling membership of the Association, or other sanctions deemed appropriate and proportionate.

### Definitions

**"Consulting Practitioner"** means a Government Relations Practitioner who is engaged as a third party to Make Representations on behalf of an individual, a company or an organisation.

**"Client"** means an individual, association, organisation or business who:

- a) has engaged the Practitioner, or the organisation for whom the Practitioner works, on a professional basis to Make Representations to an Government Representative; or
- b) in relation to an 'in-house' Practitioner, means the Practitioner's employer.

**"Executive Role"** is any leadership, office-bearer, fundraising or decision making role in a registered political party or associated entity but does not include ordinary membership of a political party.

**“Government Institutions”** includes Parliament, local government, the ministry, the bureaucracy, and government owned trading organisations.

**“Government Relations Practitioner”** or **“Practitioner”** is an individual who may be a person, body corporate, unincorporated association, or partnership who Makes Representations.

**“Government Representative”** means a Government Institution or a person elected to be a member of a Government Institution such as a Member of Parliament or local councillor as well as their staff, such as Ministerial staff, staff employed by a Member of Parliament, staff employed by a local or shire council, or staff employed in the public sector.

**“Lobbying Rules”** means rules established by legislation or a Government Institution to regulate lobbying or government relations practitioners or their activities. For an up to date list, see the Association’s website.

**“Making Representations”** includes substantive contact with a Government Representative for the purpose of influencing government decision-making including making or changing legislation, developing or amending policy or programs, the awarding of a tender, a grant or allocation of funding, and meeting or other requests, but does not include non-substantive matters such as requests for publicly available information or modifying logistical arrangements for a meeting.

**“Management Committee”** means the Management Committee of the Association or their designate.

#### Operation of this Code

1. This Code applies in respect of all circumstances in which a Government Relations Practitioner is Making Representations on behalf of a Client.
2. Any breach of this Code of Conduct will be dealt with in accordance with the Membership Rules and it is an obligation of membership that each member (and their relevant staff) is bound by those Rules.
3. This Code commences on 1 July 2014.

#### Professionalism

4. Practitioners will act with honesty and decency at all times towards Government Representatives.
5. Practitioners will not act in a manner detrimental to the reputation of the Association or the professional practice of government relations in general.
6. Practitioners will not engage in any conduct that is corrupt, dishonest or illegal.
7. Practitioners will use reasonable endeavours to satisfy themselves of the truth or accuracy of all statements made or information provided to Government Representatives and will exercise proper care to avoid giving false or misleading information.
8. Practitioners will diligently advance and advocate their Client’s interest.
9. Practitioners will devote time, attention, and resources to the Client’s interests that are commensurate with Client expectations, agreements, and compensation.

### Interactions with Government

10. When interacting with Government Representatives, Practitioners will disclose on whose behalf they are acting, and will not misrepresent their interests.
11. Where the proposed or actual activities of a Client may be illegal, unethical or otherwise contrary to a Lobbying Rule or this Code, Practitioners will advise the Client accordingly and refuse to act in relation to the relevant activity.
12. Practitioners will not make misleading, exaggerated or extravagant claims regarding, or misrepresent, the nature or extent of their access to, or relationship with, Government Representatives, political parties, or members of political parties. This clause extends to claims of 'guaranteed' access to, or outcomes from, particular Government Representatives.
13. Practitioners will not offer or give, or cause a Client to offer or give, any financial or other incentive to any Government Representative that could be construed as a bribe or inducement.

### Personal Political Activity

14. Practitioners will keep strictly separate their professional activities and any personal activity or involvement on behalf, or as a member, of a political party.
15. Practitioners will not serve in an Executive Role with a political party.
16. Practitioners will not play a senior management role in the conduct of an election campaign.

### Employment of Government Representatives

17. Practitioners will not employ, or otherwise commercially engage, any current Government Representative.
18. Practitioners who were formerly elected Government Representatives will not, for a period of 18 months after they ceased to hold office, Make Representations on behalf of a client, with respect to any matter on which they had official dealings in the 18 months prior to leaving that role.
19. Practitioners, who were formerly non-elected Government Representatives will not, for a period of 12 months after they ceased their former role, Make Representations on behalf of a Client, with respect to any matter on which they had official dealings in the 12 months prior to leaving that role.

### Compliance with Laws, Regulations and Rules

20. Practitioners will comply with any relevant Lobbying Rules and with this Code. Where any conflict exists between this Code and a Lobbying Rule, Practitioners must abide by the Lobbying Rule.
21. Practitioners will comply with any legislation, government resolution or rule relating to donations to political parties and any other matter.

22. Practitioners will conduct themselves in accordance with the rules of parliament or any other Institution of Government while within their precincts (including rules relating to any access pass that might have been issued to them).
23. Practitioners will abide by the rules for obtaining, distribution and release of parliamentary and governmental documents.
24. Practitioners will not obtain information from Government Representatives by improper or unlawful means.
25. Practitioners will not cause a Government Representative to breach any law, regulation or rule applicable to them.

*Obligations Only Applying to Consulting Practitioners*

26. Consulting Practitioners will have a written agreement with their Client regarding the terms and conditions for their services, including the amount of and basis for compensation.
27. The fees charged by a Consulting Practitioner will be reasonable, taking into account the facts and circumstances of the engagement.
28. Upon termination of their relationship, Consulting Practitioners will take steps to the extent reasonably practicable to protect a Client's interests, such as giving reasonable notice to the Client, allowing time for employment of another Practitioner, and surrendering papers and property to which the Client is entitled.
29. Consulting Practitioners will indicate to their Clients their membership of the Association, and the existence of obligations under this Code and the Lobbying Rules.
30. Consulting Practitioners will avoid conflicts of interest in Making Representations on behalf of a Client to a Government Representative.
31. Consulting Practitioners will disclose any known conflict of interest to their relevant Clients and resolve the conflict issue promptly.