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Dear Sir

Response to the Review into culture and accountability in the Queensland public sector

Thank you for the opportunity to provide this submission in response to the independent review into culture and accountability in the Queensland public service.

We understand the intention of the review is to broadly assess the existing cultural and accountability framework of the Queensland Government. On behalf of its consulting members, the Australian Professional Government Relations Association (APGRA) wishes to offer its perspective on issues relating to the adequacy and appropriateness of existing systems designed to encourage integrity, accountability and ethical behaviour as intended in *The Integrity Act 2009*.

By way of background, the APGRA was established in 2014 to promote high standards of government relations practice, underpinned by a binding Code of Conduct applicable to all members; to provide a basis for regular dialogue between government and the profession; and to contribute to a greater understanding of professional government relations in Australia.

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 of benefit to non-government parties and importantly, exposes government to new ideas and opportunities, which benefits the broader community.

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 operates in an ethical and transparent manner.

APGRA membership is open to both third party (i.e. consulting) and “in-house” government relations practitioners – provided they are able to satisfy and commit to – the Association’s Code of Conduct and Membership Rules. Failure to do so is grounds for declining or cancelling membership or other sanctions deemed appropriate.

Further information on the APGRA’s position on key issues is outlined in the attached submission. Thank you once again for the opportunity to provide comment. Should you have any questions please do not hesitate to contact APGRA on the contact details below.

Yours sincerely

Executive Committee - Australian Professional Government Relations Association

APGRA's Response to the terms of reference

The APGRA continues to support the Queensland Government's regulatory framework which is known to be among the most stringent and transparent in the country. As it stands, the Integrity Act prescribes a minimum standard of conduct for "professional lobbyists" by regulating contact with state and local government representatives as well as opposition, underpinned by the *Lobbyists Code of Conduct 2013*. This system has been successful in providing oversight of government relations activities and the integrity of this contact within Queensland, ensuring that these activities continue to enhance good decision-making by public officials.

APGRA notes recent concerns raised in the public domain regarding the work of 'unregistered or incidental lobbyists' who are not captured under the existing regulatory framework. The APGRA notes the existing frameworks in place could be supported further with the following changes:

Recommendation 1: The definition of lobbyists should be expanded to include other professionals discharging a lobbying function.

The Integrity Act currently restricts the Integrity Commissioner's regulatory functions to those of "professional lobbyists". A related issue concerns members of other professions who provide consulting services to organisations, including assisting with representations to government, such as members of legal, accounting, business services, town planning, other firms and former public servants. Where services provided are intrinsically similar to those provided by government relations professionals, the APGRA believes they should be covered by the same regulatory arrangements to improve transparency and accountability.

Recommendation 2: The Queensland Government should more actively educate the relevant professional communities as to what constitutes lobbying activity and the expectations that are attached to such activity.

There is an additional educational role that the APGRA's members believe would help support the integrity of the Queensland public service. 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 and compliant under the Lobbyists Code. We recommend that regular briefings of relevant office-holders confirming the purpose of the Code would serve to dispel any confusion or misunderstanding and avoid well-intentioned public servants and officials from declining contact with practitioners who are complying with regulation.

Recommendation 3: We also note as part of the public debate there have been calls to ban political donations by 'lobbyists'. We recommend further consultation take place prior to legislative changes.

A core element of the APGRA code of conduct is to ensure there is no room for conflicts of interest among its members. Therefore, we require practitioners to strictly separate their professional activities with political party involvement. Practitioners do however on occasion, as part of their work, need to attend functions hosted by political entities. As specified under the Act, the purchase of a ticket to these events is defined as a 'political donation' and is required to be disclosed. Changes to political donation laws could have unintended consequences to the ability of individuals to attend such events.

Recommendation 4: Consistent with the APGRA Code of Conduct, practitioners must not serve in an executive role with a political party or play a senior management role in the conduct of an election campaign.

Another way that the APGRA Code of Conduct serves to ensure separation between practitioners' professional activities and political party involvement is through requiring that members will not serve in an Executive Role with a political party or play a senior management role in the conduct of an election campaign. The APGRA sees this as a reasonable way to create appropriate lines of separation between practitioners' professional activities and their political party involvement. It also contributes to members of the public having trust and confidence in the activities of professional government relations practitioners.

Appendix A: APGRA 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.