

30 June 2022

Mr Greg Melick AO SC
Chief Commissioner
Integrity Commission Tasmania
GPO Box 822
Hobart TAS 7000

By email: prevention@integrity.tas.gov.au

Dear Sir

Response to the review of lobbying oversight in Tasmania

Thank you for the opportunity to provide this submission in response to the Review of lobbying oversight in Tasmania.

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 Tasmania’s Lobbying 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 consultation paper

APGRA supports the public policy principles underpinning the Tasmanian Government's regulatory framework in regard to lobbying. As it stands, the Lobbying Code of Conduct prescribes a minimum standard of conduct for lobbyists and APGRA is of the view that since its inception, the Lobbying Code of Conduct and public register have helped to ensure effective oversight and transparency over lobbying activities.

This submission provides specific comments on several of the consultation questions raised in the consultation paper. These are outlined below:

Who or what is a lobbyist?

The current framework in Tasmania excludes in-house lobbyists acting on behalf of the company they are employed by, and as a result the Code of Conduct only applies to third-party lobbyists. APGRA believes that the definition of 'lobbyist' should be expanded to include other third-party professionals discharging a lobbying function. Specifically, 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.

APGRA notes that other jurisdictions have adopted an approach of increasing regulation to capture the activities of in-house lobbyists and consultancies. Currently in NSW, the Lobbyists Code of Conduct¹ applies to third-party lobbyists and to all other individuals and bodies that communicate with NSW Government officials, i.e. any person who is lobbying or engaging with government. Despite the code covering all engagement with the NSW Government, only third-party lobbyists must be listed on the register for lobbyists, which has a number of additional requirements for these entities.

Standards of conduct

APGRA supports the standards of professional behavior and conduct outlined in the Tasmanian Lobbying Code of Conduct. APGRA's Code of Conduct also provides complementary professional standards for our member practitioners, and APGRA believes these clearly set out the ethical standards of conduct to be observed by those undertaking government lobbying, in the interests of transparency, integrity and honesty. APGRA also supports the extension of professional behavior and conduct obligations to apply to anyone who engages with government, including in-house lobbyists (as is the case in NSW).

APGRA also notes the question raised in the consultation paper about gifts from lobbyists. A related matter is political donations, and we note that there has been public debate in other jurisdictions about banning political donations by lobbyists. A core element of APGRA's Code of Conduct is to ensure there is no room for conflicts of interest among its members. The Code requires practitioners to strictly separate their professional activities with political party involvement. However, practitioners do on occasion, as part of their work, need to attend functions hosted by political entities.

'Revolving door' bans

APGRA notes the consultation paper's reference to the 'revolving door' where former government representatives move into lobbying roles. APGRA supports a 'cooling off' period before an elected

¹ Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014 [NSW] Schedule 1 NSW Lobbyists Code of Conduct. [LINK](#)

official or public officer can become a lobbyist. APGRA's Code of Conduct includes specific rules on 'cooling off' periods for former government representatives:

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.*

APGRA sees these 'cooling off' periods as a reasonable way to create appropriate lines of separation between practitioners' professional activities and their political party involvement. These measures also contribute to members of the public having trust and confidence in the activities of professional government relations practitioners. We note that the Tasmanian Lobbying Code of Conduct does include some similar restrictions for former government representatives.

Thank you once again for the opportunity to provide comment. As the peak body representing government relations practitioners, we would like to continue to support the Integrity Commissioner with education of key stakeholders about lobbying and the work that senior executives in our industry do.

Representatives of APGRA are also available to meet, should you wish to find out more information about the key policy positions that we have outlined in this submission.

Yours sincerely

Executive Committee - Australian Professional Government Relations Association

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 a 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.