



Victorian Government Professional Lobbyist Code of Conduct

Effective 01 November 2013

1. Preamble

- 1.1 Free and open access to the institutions of government is a vital element of our democracy.
- 1.2 Lobbyists and Government Affairs Directors can enhance the strength of our democracy by assisting individuals and organisations with advice on public policy processes and facilitating contact with relevant Government Representatives.
- 1.3 In performing this role, Lobbyists and Government Affairs Directors have a duty to act ethically, transparently, according to the highest standards of professional conduct and in accordance with probity requirements.
- 1.4 The Government has established the Victorian Government Professional Lobbyist Code of Conduct to ensure that contact between Lobbyists and certain Government Affairs Directors and Government Representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

2. Application

- 2.1 This Code has application to Ministers, Cabinet Secretaries, Parliamentary Secretaries, Ministerial Staff Members and public officials through the Premier's Circular on Professional Lobbyists and public sector Codes of Conduct.
- 2.2 This Code applies in conjunction with other relevant codes and practices, particularly the Victorian Government Purchasing Board (VGPB) procurement policies, in accordance with the longstanding probity requirements for competitive tender processes which do not permit lobbying activities, and any other statutory provisions that are in effect from time to time. For the avoidance of doubt, VGPB procurement policies and any statutory requirements take precedence over this Code.
- 2.4 This Code creates no obligation for a Government Representative to have contact with a particular Lobbyist or Lobbyists in general, or with a particular Government Affairs Director or Government Affairs Directors in general.

- 2.5 This Code does not serve to restrict contact in situations where the law requires a Government Representative to take account of the views advanced by a person who may be a Lobbyist or Government Affairs Director.

3. Definitions

- 3.1 **Government Affairs Director** means a person who makes regular enquiries, advocates changes to public policy, or seeks specific assistance from government for a wide variety of reasons, in a paid capacity of an organisation or business or professional or trade association.

- 3.2 **Government Representative** means a:

- (a) Minister;
- (b) Cabinet Secretary;
- (c) Parliamentary Secretary;
- (d) Ministerial officer employed under s98 of the *Public Administration Act 2004*;
- (e) person seconded or otherwise placed, contracted or engaged in a Ministerial office;
- (f) person employed, contracted or engaged by a public sector body as defined in the *Public Administration Act 2004*.

- 3.3 **Lobbying activity** means any contact (including telephone contact, electronic mail contact, written mail contact, or face to face meetings) 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, but does not include:

- (a) communications with a committee of the Parliament;
- (b) communications with a Minister, Cabinet Secretary or Parliamentary Secretary in his or her capacity as a local Member 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.

3.4 **Lobbyist** means any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client, but does not 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 relatives 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
- (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 by them of their professional or other services. However, if a significant or regular part of the services offered by any 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 offering those services must register and identify the clients for whom they carry out lobbying activities, and
- (g) representatives of other Governments, or Government agencies or Inquiries.

For the avoidance of doubt, a Lobbyist does not include any person, company or organisation, or the employees of such a company or organisation, engaging in lobbying activities on their own behalf rather than for a client, and this Code does not require any such person, company or organisation to be recorded in the Register of Lobbyists unless that person, company or organisation or its employees also engage in lobbying activities on behalf of a client or clients.

3.5 **Lobbyist's details** means

- (a) in relation to a Lobbyist – the information described in clause 5.1;
- (b) in relation to a Government Affairs Director – the information described in clause 5.1(e)

3.6 **Success fee** means an amount of money or other valuable consideration, the receipt of which is contingent on the tendering or awarding of a public project from the Victorian Government or a public sector body as defined in the *Public Administration Act 2004*.

4. Contact between Lobbyists and Government Representatives

4.1 A Government Representative shall not at any time knowingly and intentionally be a party to Lobbying activity by:

- (a) a Lobbyist who is not on the Register of Lobbyists;
- (b) any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist's Details noted on the Register of Lobbyists in connection with the Lobbyist;
- (c) any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government Representative, has failed to observe any of the requirements of clause 4.2;
- (d) a Government Affairs Director who is required by this Code to have their Lobbyist's Details recorded on the Register of Lobbyists but has failed to do so.

4.2 When making an initial contact with a Government Representative about a particular issue on behalf of a third party for whom the Lobbyist has provided paid or unpaid services, the Lobbyist must inform the Government Representative:

- (a) that they are a Lobbyist or employee, contractor or person otherwise engaged by the Lobbyist;
- (b) whether they are currently listed on the Register of Lobbyists;
- (c) that they are making the contact on behalf of a third party or parties;
- (d) the name of the third party or parties;
- (e) the nature of the third party's issue; and
- (f) whether they also act for any other third party which is currently involved in a Government tender process.

4.3 When making an initial contact with a Government Representative about a particular issue, the Government Affairs Director must inform the Government Representative whether they are a Government Affairs Director who is required by this Code to have their Lobbyist's Details recorded on the Register of Lobbyists, and whether they have complied with this requirement.

4.4 A Lobbyist or a Government Affairs Director who holds an appointment to any Government Board or Committee must also ensure that they comply with the integrity provisions of the *Public Administration Act 2004*, public sector codes of conduct and take guidance from the Public Sector Standards Commissioner's Conflict of Interest Framework.

5. Register of Lobbyists

- 5.1 There shall be a Register of Lobbyists that contains the following information:
- (a) the business registration details of the Lobbyist, including names of owners, partners or major shareholders (as applicable);
 - (b) the names and positions of all persons employed, contracted or otherwise engaged by the Lobbyist to carry out lobbying activities;
 - (c) the names of third parties for whom the Lobbyist is currently retained to provide paid or unpaid services as a Lobbyist; and
 - (d) the names of persons for whom the Lobbyist has provided paid or unpaid services as a Lobbyist during the previous twelve months; and
 - (e) the name, employer and any former affiliations detailed below of a Lobbyist, or a Government Affairs Director, who:
 - (i) has held the position of National or State Secretary/Director or Deputy or Assistant Secretary/Director of a registered political party;
 - (ii) is a former Minister or Parliamentary Secretary of a State or Commonwealth Government; or
 - (iii) has been a Chief of Staff, Senior Adviser or Adviser in the private office of a Commonwealth or State Minister, or Parliamentary Secretary.
- 5.2 A Lobbyist or Government Affairs Director wishing to engage in Lobbying activity shall apply to the Public Sector Standards Commissioner to have their Lobbyist's Details recorded in the Register of Lobbyists. A Government Affairs Director is not required to have their Lobbyist's Details recorded in the Register of Lobbyists if they have no former affiliations as described in clause 5.1(e)
- 5.3 A Lobbyist shall submit updated Lobbyist's Details to the Public Sector Standards Commissioner in the event of any change to the Lobbyist's Details as soon as practicable, but no later than 10 business days after the change.
- 5.4 A Lobbyist shall provide to the Public Sector Standards Commissioner within 10 business days of 30 June each year:
- (a) written confirmation that their Lobbyist's Details are up to date; and
 - (b) statutory declarations as required under paragraph 9.1.

A certified copy of a statutory declaration sworn for the purposes of annual confirmation of details for the Commonwealth Government Lobbyist Register can be used to meet the requirements of this clause.

5.5 The registration of a Lobbyist shall lapse if a confirmation and updated statutory declarations are not provided to the Public Sector Standards Commissioner within the timeframes referred to under clause 5.4.

5.6 A Government Affairs Director who is required to have their Lobbyist's Details recorded in the Register of Lobbyists shall provide to the Public Sector Standards Commissioner within 10 business days of 30 June each year written confirmation that their Lobbyist's Details are up to date, failing which the registration of the Government Affairs Director shall lapse.

6. Access to the Register of Lobbyists

6.1 The Register of Lobbyists is a public document that is published on the website of the State Services Authority.

7. Prohibition on Lobbying Activities and success fees

7.1 Persons who cease to hold office as a Minister or Cabinet Secretary, shall not, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter with which they had official dealings in their last 18 months in office.

7.2 Persons who cease to hold office as a Parliamentary Secretary, shall not, for a period of 12 months after they cease to hold office, engage in lobbying activities relating to any matter with which they had official dealings in their last 12 months in office.

7.3 Persons employed as Executives (or equivalent) or Ministerial Officers under the *Public Administration Act*, shall not, for a period of 12 months after they cease their employment, engage in lobbying activities relating to any matter with which they had official dealings in their last 12 months of employment.

7.4 Persons on the Register of Lobbyists who receive success fees on or after 1 January 2014 shall be removed from the Register, subject to the discretion of the Public Sector Standards Commissioner.

8. Principles of Engagement with Government Representatives

8.1 Lobbyists and Government Affairs Directors shall observe the following principles when engaging with Government Representatives:

- (a) not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment;
- (b) use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to parties whom they represent, the wider public, governments and agencies;

- (c) not make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions; and
- (d) keep strictly separate from their duties and activities as Lobbyists any personal activity or involvement on behalf of a political party.

9. Registration

9.1 The Public Sector Standards Commissioner is to keep and maintain the Register. The Public Sector Standards Commissioner shall not include on the Register the name of an individual, including any particular employee, contractor or person otherwise engaged by a Lobbyist, unless the individual, provides a statutory declaration to the effect that he or she:

- (a) has never been sentenced to a term of imprisonment of 30 months or more;
- (b) has not been convicted, as an adult, in the last ten years, of an offence, one element of which involves dishonesty, such as theft or fraud; and
- (c) has not received success fees on the tendering or awarding of a public project from the Victorian Government or State public sector body on or after 1 January 2014.

9.2 The Public Sector Standards Commissioner may at his or her discretion:

- 1) refuse an application to be placed on the Register of Lobbyists including any particular employee, contractor or person otherwise engaged; and
- 2) remove from the Register of Lobbyists a Lobbyist, or any particular employee, contractor or person otherwise engaged by a Lobbyist if, in the opinion of the Public Sector Standards Commissioner,
 - (a) any prior or current conduct of the Lobbyist or his or her employee, contractor or person otherwise engaged to provide lobbying services for the Lobbyist has contravened any of the terms of this Code; or
 - (b) any prior or current conduct of the Lobbyist or association of the Lobbyist with another person or organisation is considered to be inconsistent with general standards of ethical conduct; or
 - (c) the registration details of the Lobbyist or Government Affairs Director are:
 - (i) inaccurate; or
 - (ii) not confirmed in accordance with the requirements of clause 5.4 or 5.6; or

(d) there are other reasonable grounds for doing so.

01 November 2013