



Lobbying Code of Conduct falls well short of expectations

By Becher Townshend

The State Government's Lobbying Code of Conduct falls well short of expectations. It will deliver neither the desired level of transparency to the Tasmanian community, nor confidence in those who deal with government.

Lobbying is a vital element of any democracy, as it ensures that government hears the voices of those who are impacted or may be impacted by its decisions. While often labouring under the misconception of being a corrupt business, mainly due to scandals that undermine its true purpose, at the heart of modern professional lobbying is the serious and valuable process of research, strategy, analysis and importantly, communication of public opinion to decision-makers.

Lobbying allows individuals, community groups and businesses to have a say in the decisions that affect them, while governments deprived of the views of their constituents cannot accurately represent the beliefs of the individuals they stand for.

In August last year I publicly called for a Lobbying Register stating it was a long overdue reform in Tasmania, and was necessary to ensure the integrity and transparency of both government and those who deal with government.

However, on reviewing the Lobbying Code of Conduct, it is clear that the bar has been set well short as it will be subject to political interference, lacks parliamentary rigour and fails to ensure all those who seek to lobby government will be required to register.

For many years in Tasmania there have been no clear boundaries between acting on behalf of an organisation, and attempting to influence the operations of government. This is a small state and people's personal and professional networks often intersect. With this in mind, the introduction of a Lobbyist Register is therefore appropriate and timely to guarantee clarity and accountability.

As it stands though, the Code fails to ensure that all who lobby government will be required to register, as it exempts a raft of organisations and individuals who undertake this activity as part of their regular work activities.

For example, not-for-profit organisations, charities, professional associations, unions, visiting trade delegations and professions such as lawyers and accountants are all exempt from a requirement to register.

This leaves a small handful of organisations and individuals who are required to register and expose their clients' activities to the community, when others are not – thus creating an unfair competitive market situation. Those that wish to not expose themselves under the current code will be able to do so easily by simply exploiting the plentiful exemptions within the code.

Surely a healthier situation for the sake of genuine transparency would be have an 'all-in' approach, whereby all issues activity undertaken with government on behalf of others is registered publicly.

Additionally, the Lobbying Code of Conduct will be subject to political interference. The determination of who can and can't be on the register will be undertaken by the Secretary of the Department of Premier and Cabinet, under the direction of the Premier.

While not wishing to reflect on the integrity of the current Secretary, this is a highly political position and in the past have been used to further the outcomes of the government of the day through any means, both fair and foul.

Having taken a number of matters to the parliament on behalf of clients, my experience is that the government of day, regardless of its colour, will use any means within its power to defeat those that oppose its policies. It is not beyond the bounds of expectation to imagine that an individual or organisation listed on this register could be removed to create damage and further the government's cause.

This issue brings me to the final flaw in the new Code - it lacks legislative rigour and regulatory power. Fundamentally, in its current form, the proposed Lobbyist Register is a Code of Conduct operated by this Government. It is not a document that is required to be abided by the parliament or other members of parliament and therefore it lacks the integrity of the independent oversight of the political process.

Instead, it is subject to the vagaries and political whim of the Government.

Such a document should be endorsed by parliament. It should be oversighted by an independent umpire and should list all those who seek on a professional basis to influence the operations of the parliamentary process.

The Tasmanian community through its advocates has a right to expect that it can share its views and concerns with fairness and equity, and the Lobbying Code of Conduct fails to ensure that all those engaging in professional lobbying including those organisations mandated to effect their member's interests declare this upfront with government and the rest of the community.

This is a great shame and needs to be rectified.

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