

Political lobbyist code of conduct meetings

Summary of Ministry of Justice facilitated meetings on a voluntary code of conduct for third party lobbyists

11, 13, 18 July 2023

Why we held these meetings

1. In April 2023 the Prime Minister announced several steps to introduce greater transparency around lobbying at Parliament. As part of this he invited third-party lobbyists to develop a voluntary code of conduct and commissioned the Ministry of Justice to help draft the code and to provide research on overseas practices and guidance.
2. The Ministry of Justice held initial discussions on 11, 13 and 18 July 2023 with government relations consultants to discuss the invitation. Further discussions are planned with wider stakeholder groups in August and September 2023.

Summary of key points

3. Key points from the meetings include:
 - 3.1. There is a mixed reaction to the idea of a voluntary code. On balance, attendees thought that a code may help improve public understanding of, and trust in the work lobbyists do. However, they also questioned how effective a code is likely to be, as in their view, New Zealand does not have the same problems with lobbying as other countries. They also thought the issue is more about public trust in government.
 - 3.2. Attendees also said that there are a lot of activities and behaviours that can be considered 'lobbying'. Many of these activities (such as helping people to access and navigate government processes) are helpful to good democratic process.
 - 3.3. Most agreed that the code should aim to improve public trust in any organisation that tries to influence decision-making rather than singling out any one group. They thought that the code could also include industry and union bodies, interest groups, academics and businesses.
 - 3.4. Attendees also discussed the different forms a code could take. It could be a simple code of ethics or engagement expectations through to a code that sets enforced rules and requirements for registration. Many attendees favoured a higher-level code of ethics as a starting point.

- 3.5. From a practical perspective, attendees noted that even a simple code based on ethical standards could be challenging to implement if it applied to a wide range of lobbyists because there is no industry organisation able to administer it.
- 3.6. Suggestions for developing and administering a code included; industry creating a group to develop a code, inviting an existing industry association, or using a central agency such as the Ministry of Justice or the Public Service Commission.
4. Based on this initial feedback, the Ministry of Justice is developing options for a voluntary code and will continue discussions with the government relations consultants and a wider group of stakeholders on the way forward over the coming months.

Introduction and presentation of initial scoping work

5. The Ministry of Justice introduction included:
 - 5.1. Karakia, welcome and introductions (see attendee list Appendix 1).
 - 5.2. Reminder of the Prime Minister's invitation to third party lobbyists to develop a voluntary code and wider regulatory project.
 - 5.3. Brief introduction of the Ministry of Justice's Electoral and Constitutional team leading the Lobbying Project and the team's role. Outline of the Ministry's approach to the meetings e.g. full transparency, meeting with groups not individuals, unattributed notes taken instead of formal minutes but with a combined summary from the three meetings posted online (this summary).
 - 5.4. The main outcomes the Ministry is seeking from the initial meetings i.e. getting to know the sector better; connecting people working as government relations consultants; and working out a way forward with a voluntary code of conduct.
 - 5.5. The Ministry is starting by engaging with government relations consultants (people who contract their lobbying services to clients) as a group that could be described as 'third-party' lobbyists. Other stakeholder groups may be added going forward.
 - 5.6. Meetings on the wider regulatory project to scope issues will be held separately in August and September 2023. Invitations have been sent to people who have registered their interest in this work.
6. The Ministry gave a presentation on initial scoping work. This is posted on the Ministry of Justice political lobbying webpage.

Understanding what lobbying activities government relations consultants do

7. Attendees were invited to describe the nature of their work, to give the Ministry a better idea of the things they do day to day.
8. Attendees consider "lobbyist" a loaded word that carries certain connotations, noting that 'lobbying' activities are often depicted negatively in entertainment media.

9. They noted that government relations consultants come from a range of backgrounds. Their work contributes to the effective functioning of democracy because they work with a wide range of clients to facilitate access to government processes. Services include:
 - 9.1. Advocacy and facilitating connections so clients can put their case to decision makers.
 - 9.2. Translating, navigating and explaining government process to make it more accessible. Government can be confusing for many clients.
 - 9.3. Providing information to government office holders to improve decision making. Attendees thought they make decision-making better by preventing unintended consequences and providing information that decision-makers don't have.
 - 9.4. Providing information to clients about what is happening in government. Keeping clients up to date with changes in government and helping them understand who best to talk to.
 - 9.5. Assisting with government relations strategies. Helping clients develop engagement and other strategies to get their messages across.
 - 9.6. Research and report writing for clients. Many conduct research into issues and policies to provide clients with information about issues that might affect them.
 - 9.7. Support for public processes such as drafting submissions and attending select committee hearings.
 - 9.8. Communications and public relations. Some help clients to develop media and communications materials, including opinion pieces. They highlighted a difference between public relations and government relations.
 - 9.9. Work could either be project based (focused on a particular issue), or relationship based (e.g. helping to connect with the right people).
 - 9.10. Most have a wide range of clients ranging from small NGOs, iwi clients and community groups to larger organisations and industry associations. Some clients are government agencies. Some do pro-bono work.
10. Attendees noted that many of these activities were also carried out, to a greater or lesser extent, by a range of other people and groups, including professional advisors (lawyers, accountants), peak bodies, industry associations, community groups and NGOs.

What to consider when designing a voluntary code of conduct

11. The Ministry team provided a handout summarising some initial work the Ministry had done to identify different approaches to a voluntary code based on an initial review of other codes. The Ministry noted that the information presented was not Ministry recommendations or suggestions, but provided as a prompt for questions and discussion. See Appendix 2.

Definition of lobbyists

12. Attendees noted that the definition of lobbying is wide, and there is no internationally agreed definition. Previous attempts in New Zealand to regulate lobbying in 2012 failed because it was seen as too broad and chilling to democratic process.

Is there an issue with political lobbying?

Attendees think New Zealand doesn't have an issue with lobbying

13. Attendees wondered whether a code is a solution in search of a problem – noting that they couldn't think of a case in New Zealand related to third-party lobbyists' behaviour. They noted existing transparency measures, including through publication of Ministers' diaries and Official Information Act (OIA) releases.

New Zealand is different from other countries and doesn't have the same issues

14. Attendees noted that New Zealand is small with significant access to Ministers, politicians and officials, so other countries' issues with lobbying should not be translated to the New Zealand situation. Corruption is also a very small problem here compared to other countries.

Perceptions of lobbyists is the main issue

15. Attendees agreed that negative perceptions of lobbying is an issue they might need to address. Many commented that the public has a limited understanding of the work they do, so improving the understanding of the role they play in the political and policy process could go some way to addressing issues associated with political lobbying. A few commented that working on the perception issue may nullify the need for a code.

The issue is not with lobbyists it is with public officials and their decision making

16. Some thought the focus should be on Ministers, politicians and the officials who advise them, because lobbyists are not the ones making decisions. They noted that if work was to be done to improve access, integrity and transparency then many of these things are public officials' responsibility.

Wider issues to consider

Use of media to influence decisions

17. Attendees had mixed views on whether the use of media platforms to influence decision making should be within the scope of the lobbying work. Some write op-ed pieces based on their particular expertise or insights on a matter. They may also use other communication methods to support their clients to support their clients to put different perspectives into the public arena. They noted that regulating the use of media as a way of influencing decision makers would make the project much bigger. However, some noted they were aware of situations where media pieces were prepared for certain interests that were not made transparent to the reader.

Donations to political parties

18. Attendees noted that there are existing disclosure requirements regarding political donations to parties or candidates already and that political donations are not a part of lobbying in NZ. An individual or a company might make a donation to a political party or candidate they supported, which would be declared as such under the donations rules. Some said that they usually discourage their clients from making political donations as a means to influence decision making.

The 'revolving door' issue – mixed views

19. Some attendees noted there had been issues in New Zealand with the transition from Minister or advisor to lobbyist, and that this could be examined in this work, including in the development of a code of conduct. Some pointed out that simply because you had been a Minister didn't automatically give you access, in fact sometimes it could be a hindrance due to perception fears. Others said this was a challenging problem for New Zealand given its size and the limited number of roles that require this skill-set.

Take care not to create barriers to democratic process

20. Attendees noted that government relations consultants played an important role in democratic process, so the project would need to be cognisant of this.

Need to be clear about how this code fits into the wider regulatory work

21. Attendees wanted more clarity about what the regulatory project would cover and how this would connect to the voluntary code of conduct. The Ministry noted that the process was separate, but initial meetings planned for August and September 2023 could explore this question further.

On balance – support to progress the idea of a voluntary code of conduct

22. Most attendees were either ambivalent about or supportive of a voluntary code of conduct.
23. Those who were supportive noted that addressing the public perception of the industry was important, and that they could put in writing what they already do. Some said that if done well, a code could help to create better outcomes and that it was less about solving a problem and more about taking the opportunity to improve public understanding and perception.
24. Those who were ambivalent were not opposed, noting that they didn't think it would do any harm, but couldn't see that a code would make much difference.
25. A few attendees were against the idea because they do not consider there is an issue that would be resolved by a code.

Options for a voluntary code

26. Options proposed during the meetings included:

- 26.1. **Do nothing:** A few attendees favoured this option because they didn't see an issue to address.
- 26.2. **Code based on ethical principles and professional standards:** Most attendees favoured a high-level code based on ethical principles and ethical standards.
- 26.3. **Full Code with ethical principles, registration process and enforced rules:** There was little discussion about options for a code that included enforceable rules and/or a registration process. Some cautioned that a complex code would take a lot of work and resources, with no industry body in place to lead it.
- 26.4. **Alternative option – public education only:** Public education on the role and actual level of influence of third-party lobbyists could also be an option, if public perception was the key issue.

Points made about the content of a code

Coverage - the code should focus on lobbying activities and behaviours of all kinds of lobbyists and not a particular group

27. At all meetings, attendees noted that rather than focusing on a particular type of group (e.g. paid consultants) the code should address the activity and behaviour of all people who attempted to influence political decision making. Most attendees agreed that any code should therefore cover a wide range of groups, including peak bodies and industry associations, trade unions, interest groups, non-government organisations (NGOs), businesses and other types of consultants such as law firms

But if coverage is too broad, a voluntary code might be unworkable

28. In response, some pointed out that a code with scope this broad could be unworkable, so an alternative was to keep it narrow and to focus on what the government relations consultants wanted out of it. Others noted that even with a broad scope there would still be issues with setting boundaries e.g. individuals, informal meetings (bumping into people at a barbeque etc.) and people who lobby only very occasionally.

We could adopt/modify an existing voluntary code of conduct

29. In discussing the potential content of a code, attendees made a number of suggestions for existing models, including the Public Relations Institute of NZ Code of conduct, codes that some of the attendees already have for their own businesses, and the APGRA (Australian Professional Government Relations Association) code. Some noted that the northern European associations' models could be useful.

Should there be a registration process?

30. This issue was not canvassed widely but attendees noted that any formal registration process included in a code would require an organisation to administer it. That in turn put in issue which organisation and who would fund registrations.

Disclosure of clients – some concerns raised

31. There were mixed opinions about the inclusion of any requirement to disclose clients. Some considered that any requirements around disclosure of clients could create a competitive disadvantage to those who sign up to the code. Some thought that disclosure should be kept to direct disclosure between clients and decision makers.
32. Others said that declaration of material interest on behalf of a client should be “up front and centre” of the code, and that there should be requirements for everyone engaging with politicians to be transparent about who they are representing. The Ministry also noted that there might need to be some consideration of transparency around foreign interests using domestic lobbying pathways to influence decision making.
33. Some pointed out that if there was to be disclosure requirements, special consideration would need to be given to the position of legal advisors (including in regard to legal privilege), and the non-disclosure agreements that some companies have that could impact ability to disclose information about clients. What might be defined as "lobbying" is also a normal part of client advocacy for lawyers. Attendees from legal firms noted that lawyers were already regulated under the New Zealand Law Society's Client Care and Conduct Rules 2008 which, among other things, imposes ethical obligations on lawyers and certain obligations of confidentiality. How two regimes would be reconciled could prove important.

Who would develop and administer the code

34. Attendees agreed there was currently no industry association in place to drive and administer a code. During discussions a range of options were suggested:

New group formed to develop a code on behalf of industry – mixed views

35. Some attendees offered to own and drive the process, noting that as a voluntary industry code it was up to the industry to take responsibility-so the Ministry of Justice did not need to be involved. Some who suggested this option noted they could draw on the code by the Australian Professional Government Relations Association (APGRA), given their existing relationship with this association. Others did not agree that a small group should develop a code on behalf of the rest of the industry. They also noted this option would only work if a code focused solely on government relations practitioners.

Public Relations Institute of NZ (PRINZ) – mixed views

36. Some suggested that the Public Relations Institute of New Zealand (PRINZ) could take on a role as the most closely connected industry association, and that the PRINZ code could be a model for government relations consultants. However, others disagreed, noting a difference between government relations and public relations activities. They said that some signatories might be put off by having to sign up to PRINZ.

Business NZ

37. One suggestion that Business NZ, as the peak body for many associations and many of the larger businesses, could be approached to drive the process and be a repository for the code. This option may exclude wider interest groups from joining.

Ministry of Justice

38. Many attendees agreed that the Ministry could continue to facilitate the process. Some said that they didn't have the time or resources otherwise. Some pointed out that the Ministry website could be a suitable repository for a code of ethics and could be a neutral option if the code was to cover a full range of lobbying organisations.

Public Service Commission

39. The Public Service Commission was also suggested as an alternative option to the Ministry of Justice given its role to set guidance for public officials.

Engagement with other stakeholders

40. Attendees generally agreed that if the scope for the voluntary code of conduct was to encompass a range of lobby groups then this process would need to consider how to engage with wider groups. The Ministry noted that it had upcoming meetings with other stakeholder groups where this question could be discussed.
41. When asked how they might want to engage wider stakeholders interested in democratic transparency, some said that if this was to be a voluntary industry code these groups could be kept informed or be consulted, but they should not have a role in approving content.

What next?

42. Suggestions included for next steps were:
 - 42.1. The Ministry could do more research to examine the issues and present options for discussion.
 - 42.2. The Ministry could also develop a straw-person for people to react to.
 - 42.3. More thinking is also needed on how to engage with other organisations who might be interested in participating.
43. The Ministry of Justice team undertook to report back with a summary of all meetings and suggested next steps. They also said that a further meeting (or meetings) was likely to be needed to discuss the options.

Appendix 1: Attendee list

Name	Company
Hayley Denoual	Ministry of Justice
Lisa Sheppard	Ministry of Justice
Elisha Connell	Ministry of Justice
Nadja Colic	Ministry of Justice
Adelle Keely	Acumen NZ
Bronwyn Millar	Acumen NZ
Alysha MacLean	Acumen NZ
Bridget Service	Anacta Consulting NZ
Daniela Maoate-Cox	Awhi
Holly Bennett	Awhi
Jesse Thompson	Awhi
Chris Wikaira	BRG
Neale Jones	Capital
Ben Thomas	Capital
Clayton Cosgrove	Cosgrove and Partners
David Cormack	Draper Cormack Group
Talani Meikle	GRC Partners + Porter Novelli
Mark Watts	GRC Partners + Porter Novelli
Tim Groser	Groser and Associates
Phil O'Reilly	Iron Duke
Tex Edwards	KLR International
Kenny Clark	Lillis Clark
Erika Harvey	Lobby for Good Limited
Denise McKay	PRINZ
Susanne Martin	PRINZ
Fred Russo	PRINZ
Georgina Lomax-Sawyers	Russell McVeagh
Steven Sutton	Russell McVeagh
Charles Finny	Saunders Unsworth
Mark Unsworth	Saunders Unsworth
Spiro Anastasiou	SenateSHJ
Marg Joiner	SenateSHJ
Jo Coughlan	Silvereye
Kevin Murray	The Advocate Limited
David Lewis	Thompson Lewis
Sifa Taumoepeau	Thompson Lewis
Clint Smith	Victor Strategy and Communications

Appendix 2: Handout provided by the Ministry of Justice to prompt discussion

Voluntary lobbying code of conduct workshops – handout materials

Facilitated by the Ministry of Justice: 11, 13 and 18 July 2023

Lobbying codes of conduct in comparable overseas jurisdictions



Content included in other lobbyist codes of conduct

Objectives of the Code	<p>The majority of the Lobbying Codes of Conduct have similar objectives e.g. to:</p> <ul style="list-style-type: none"> • foster transparent and ethical lobbying • respect the independence of the public decision – making process • respect democratic processes • promote high professional standards and good practice.
Ethical behaviour principles	<p>The majority of the Lobbying Codes of Conduct are underpinned by principles such as:</p> <ul style="list-style-type: none"> • promoting trust in the integrity of the government processes • ensuring that lobbying is conducted in accordance with public expectations of transparency, integrity and honesty. • Acting with openness and professionalism. • maintaining loyalty to their client’s interest and maintain their independence.
Rules	<p>Examples of rules that might be included in Codes of Conduct are:</p> <ul style="list-style-type: none"> • Prohibition on improper influence, bribery, acting corruptly and obtaining information in an unfair, untruthful or other fraudulent manner. • Prohibitions on gifts and hospitality. Some codes allow a token of appreciation up to a certain monetary value (e.g. Canada). • Prohibition on taking advantage of the presence on the register/ access to information, misinforming public officials and decision makers and refraining from disclosing information obtained for commercial and publicity purposes. • Requirements for lobbyists to respect confidentiality and avoid conflicts of interests. • Requirements for lobbyists to disclose their obligations, identity and interests under the law and inform the public official of their registration status. • Requirements to demonstrate respect for public bodies and democratic processes • Australian code of conduct contains a provision on lobbyist abstaining from making “exaggerated claims about the nature of their access to Government representatives”
Register	<ul style="list-style-type: none"> • The majority of jurisdictions that regulate lobbying have a lobbying register where lobbyists are required sign up to a register if they wish to conduct lobbying activities. • Varying levels of disclosure required
Benefits	<ul style="list-style-type: none"> • Often, compliance with a regulated code enables access to decision makers. E.g. in the EU lobbyists are required to sign up to the code of conduct to be granted access to the European Parliament to conduct lobbying activities. Lobbyists in Israel are required to wear a unique identification badge stating their name and name of the corporation, when conducting lobbying activities in the Knesset. In Australia, Government representatives are advised to only deal with lobbyists who have registered to the voluntary code. • Codes also have intangible benefits around reputation and trust
Sanctions	<ul style="list-style-type: none"> • Sanctions depend on whether the code is regulated or voluntary • Suspension and deregistration which results in the lobbyist being prohibited to lobby public officials or access certain premises. • Reporting to the Parliament / negative publicity • Criminal sanctions (United States, Canada) • Civil penalties and fines
Reviews	<p>Some Codes of Conduct/ Lobbying Acts are subject to reviews every three to five years.</p>

Practical considerations when developing a voluntary code

1. **Objectives and Scope:** What are the objectives of the code and the scope of its application.
 - What do you aim to achieve with the code?
 - What specific activities with the code cover? What decision makers?
 - Who will be subject to the code?
2. **Content:** What elements will you need in the code:
 - Principles?
 - Rules?
 - Requirement to register?
 - Other?
3. **Registration Process:** What registration process will you need for people to sign up to the code – what does this look like?
 - How will you encourage lobbyists and organizations to voluntarily adopt the code?
 - Do you need guidelines and procedures for lobbyists to register their compliance, including the submission of relevant information and documentation.
 - Will you use an online registration system?
 - How will you keep this up to date?
4. **Benefits of joining:** Any tangible benefits of joining? e.g.
 - Reputational/public trust improvement?
 - A quality mark to differentiate?
 - Recognition and Incentives: Will you have incentives such as awards or endorsements to encourage ongoing compliance and promote a culture of ethical lobbying?
5. **Compliance and Enforcement:** How will compliance monitored and enforced.
 - Will there be consequences for violations, such as warnings, public censure, or removal from a registry of compliant lobbyists?
 - Do you need an independent oversight body responsible for verifying compliance, investigating complaints, and imposing sanctions for violations?
6. **Education and Training:**
 - Do you need a programme to train people who sign up to the code?
7. **Review and Revision:**
 - How will you periodically assess its implementation (e.g. benchmarks, indicators, and reporting mechanisms to assess compliance rates and achievement of objectives)
 - How will you assess compliance rates, identify areas for improvement, and gather feedback from stakeholders
8. **Public Awareness:** Do you want to foster public awareness and engagement in the lobbying process? How would you do this?
9. **Resourcing:** How will all of this be resourced? Initially? Ongoing? Who will look after it?

High level questions for discussion

1. Is there general support for development of a voluntary code?
2. If so - what do you want to achieve with a voluntary code?
3. What are the issues we will need to address in this process?
 - Scope/Coverage
 - New code or use another model?
 - Other?

Code development process

4. How to set up to do the work? E.g. options could be:
 - Regular meetings with all parties to go through each of the areas?
 - A sub-committee nominated to work with MoJ and come up with a draft, and report back to regular meetings?
 - Series of groups looking at different elements of a code?
5. Who else should be part of the development of the code (e.g. who else is likely to be interested in signing up – how will you involve them?)
6. Wider Stakeholder Involvement: Involving relevant stakeholders in drafting and refining the code is likely to increase buy-in and legitimacy. Who has an interest and how will you involve them?
7. What support do you need from MoJ?

What are the next steps

8. What should happen next?