

# Political Lobbying Project: Wider Regulatory Issues Meeting

Summary of Ministry of Justice facilitated meeting with academics and think tanks on issues with political lobbying

3 August 2023

## Why we held this meeting

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1. In April 2023 the Prime Minister announced several steps to introduce greater transparency around lobbying at Parliament. As part of this he commissioned the Ministry of Justice to undertake a review of the different policy options for regulating lobbying activities.
2. The Ministry of Justice held a discussion on 3 August 2023 with academics and people from think-tanks to discuss issues related to political lobbying in New Zealand. Discussions with other stakeholder groups were also held in August and September.

## Introduction and presentation of initial scoping work

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3. Karakia, welcome and introductions (see attendee list Appendix 1).
4. Reminder of the Prime Minister's April 2023 announcement to initiate measures to provide greater transparency around lobbying at Parliament, including assisting third-party lobbyists to develop a voluntary code of conduct and undertaking a review of the different policy options for regulating lobbying activities.
5. This meeting aims to explore questions and issues that will need to be addressed as part of the wider regulatory project.
6. Brief introduction of the Ministry of Justice's Electoral and Constitutional team. Outline of the Ministry's approach to the meetings e.g. full transparency, meeting with groups not individuals, summary of meetings to be published online.
7. The Ministry gave a presentation on initial scoping work and summarised points made during the meetings with government relations consultants on a voluntary code (both posted on the Ministry's [webpage](#)).

## Comments on a voluntary code of conduct

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8. Attendees thought that a voluntary code would be ineffective noting that it may be a "window dressing exercise," or "like a fox guarding the chicken coup". They queried if a mandated code would be possible.

9. Clarification was sought about the relationship between the voluntary code and the wider regulatory work. MoJ said that the voluntary code is one piece of work that the Ministry is supporting, but further work is also being undertaken around the different policy options for regulating lobbying activities. Learnings from the work on the voluntary code could be applied to the wider policy development.

## **General comments about the wider regulatory work**

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### *Objectives for this work*

10. Some attendees noted that the objective for this part of the work should be integrity in public policy making. They observed that this was fundamentally different to the objective for the voluntary code which appeared to be to increase public trust in lobbying (based on their reading of the summary of initial voluntary code meetings).

### *Take into previous work into account*

11. One attendee queried as to why the Ministry is starting from first principles rather than looking at work that has gone before. Examples given were Holly Walker's 2012 private member's bill the Lobbying Disclosure Bill, as well as articles and media pieces about the issues around lobbying in New Zealand. One attendee mentioned four projects looking at relationship development and gifting practices, and other work from the Health Coalition, including looking into why it hasn't been possible to change regulations. There are two PhD projects underway as part of this work. Another mentioned books by Nicky Hager. Another said that if the Ministry talked to individuals, it might get more information.
12. The Ministry noted that this is the first time the Government has commissioned a government agency to look at this issue so it is important to start from the beginning. The Ministry is conducting a literature review as part of this process and invited attendees to send relevant papers.

### *Comments on approaches by other countries*

13. Attendees commented that the map in the presentation given by MoJ showed that New Zealand is one of the few democracies globally that doesn't have lobbying legislation. The map could also show the countries that are trying to do something about lobbying. Attendees also commented that the map does not include the EU lobbying legislation. There was a suggestion that the Ministry should look at international agencies' lobbying policies e.g. WHO, OECD.

## **Definition of lobbying and project scope**

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### *Definition narrow or broad?*

14. Attendees agreed that it is important to get the definition of lobbyist right but had different perspectives on what might be included. Some noted that not all who lobby should be considered "lobbyists", while others thought that if the definition is too narrow it will miss a lot of lobbying and lobbyists will find a way around it.

### *Ways to narrow the definition*

15. A number of possible ways to limit the definition to make it workable were discussed:

#### *People who lobby on behalf of others*

- 15.1. There was a common view that any definition of lobbyists should include people who lobby on behalf of others, in addition to specialist government relations consultants. Attendees suggested the following people/entities should be included in a definition:
- **Lawyers:** Attendees thought law firms have a bigger role in lobbying than boutique government relations consultancies. If lawyers are excluded from the definition then a significant amount of lobbying will occur via legal firms.
  - **Trade associations and Council of Trade Unions (CTU):** Attendees also said that the definition should include trade associations that represent the largest commercial interests, e.g. Business New Zealand and Federated Farmers, as well as Council of Trade Unions (CTU).

#### *Paid versus unpaid lobbyists*

- 15.2. There were different views on whether being paid should be a core element of the definition of lobbyists. While some said that this should be key, one attendee commented that in Ireland the definition includes paid employees and both paid and unpaid office holders.

#### *Advocacy versus lobbying*

- 15.3. Some attendees thought there should be a distinction between “commercial” lobbyists (those who lobby to obtain commercial benefit or profit) and “non-commercial” lobbyists (those who lobby for social benefit or public good). Most attendees agreed that those who lobby for commercial gain are a key group to include. However one said it is hard to delineate between lobbying for self-interest vs public interest.

#### *Media as lobbyists*

- 15.4. Some noted that many in the media such as lobbyists who write opinion pieces are key players in lobbying.

#### *Focus on lobbying activities and behaviours*

#### *Lobbying is more about relationships*

- 15.5. One attendee said that their research indicates that lobbying isn't so much about pushing an issue, it's more about developing relationships, especially in New Zealand.

*Indirect lobbying – use of media and other methods to influence decisions*

- 15.6. Attendees wondered whether media/op-ed writing should be included in a definition of lobbying. One person said that including activities like writing op-eds to influence opinion could make the definition too broad.

*Iwi/Māori considerations*

16. An attendee noted that consideration should be given to Māori. They commented that there is a difference between someone who leaves the public service to work on behalf of their Iwi, compared to leaving to be a lobbyist for a commercial entity

*Who are the lobbied*

17. The group suggested the following people could be considered as ‘individuals who are lobbied.’
  - 17.1. People in the current government
  - 17.2. Opposition parties (as a lot of lobbying will be directed to who people think the next government will be.)
  - 17.3. Public officials who influence policy and legislative processes

**The issues for New Zealand**

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18. General comments made during the meeting by attendees included

*Use first principles as a starting point to assess the issue*

19. Attendees noted that agreeing on first principles is important to support the development of a problem definition, focussed on democratic values.

*Is there really a problem with political lobbying in New Zealand?*

20. One attendee noted that it hasn't yet been proven where there is a problem with lobbying in New Zealand, and work will be needed to determine this.
21. The Ministry noted that it's necessary to look at both the past and future with this issue. It's not just about looking for proof of an issue, but also about what could destabilize public trust or perceptions.

*New Zealand is not aligned with other countries*

22. Attendees noted that New Zealand is out of sync with other commonwealth countries and advanced democracies in regard to regulating lobbying.

*Fundamentally freedom of speech is a key issue*

23. One attendee commented that this work fundamentally links to freedom of speech so it is fitting that it sits with the Ministry of Justice.

## **Fair access**

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### *Larger, better resourced organisations get better access*

24. A key issue identified by attendees is capture by commercial interests – particularly in the early stages in policy/legislation development. Attendees said commercial lobbyists have significant influence in the early stages of legislative processes, well before an issue reaches the select committee process.
25. This means that lobbyists could be preventing positive change. An attendee said they had experienced numerous challenges in achieving legislative and policy change due to the chilling effect of lobbying by vested interests in certain sectors.
26. One attendee spoke about the fact that in New Zealand there is an issue of cash for access – giving an example of a law firm charging \$250K as a starting point to work for clients to promote a change a law.

### *New Zealand has a weaker civil society than some other countries*

27. Attendees noted that it's about equal access to power as civil society and interest groups don't have the same access to policy makers as other more well-funded entities like Business NZ. One attendee commented that this is due to economic inequality and that many New Zealanders can't invest in lobbying in the same way as others. This unequal ability to exercise democratic rights results in unequal outcomes.

## **Transparency**

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### *Transparency could be improved*

28. There is not enough transparency and disclosure of information about lobbying.

### *Direct relationships and the “mates ringing mates” culture*

29. Attendees said that commercial interests in New Zealand gain influence through relationships, rather than by hammering t issues. One attendee noted that in interviewing New Zealand politicians they found commercial contacts are often spoken about positively, sometimes referring to them as “mates,” while others, such as health advocates, are spoken about more negatively, e.g. “screaming in our faces”.

## **Integrity**

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### *Revolving door issue*

30. There is a revolving door issue where people move freely between roles in government, lobbying and the media.

### *Conflicts within government departments*

31. An attendee said that some government departments have interests that conflict with one another so are susceptible to lobbying, e.g. MPI has both regulatory and promotional functions around the primary sector.

## **Suggestions for the way forward**

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32. While policy options were not on the agenda for this meeting, attendees suggested several ideas for consideration:
  - 32.1. A tiered system may be beneficial to reflect different types of lobbying rather than a one-size-fits-all approach.
  - 32.2. Use a risk matrix when developing policy and regulation to manage lobbying risks. For example, in a particular policy making process in Canada, one-on-one meetings with certain commercial/vested interests were barred.
  - 32.3. Improve the practice of reporting on ministerial diaries.
  - 32.4. Consider something like an integrity commission to oversee how mechanisms are implemented and to oversee compliance and monitor performance in this area.
  - 32.5. Improve policies around conflicts of interest, specifically in regard to commercial interests. This applies to government appointees, advisory groups, those who are seconded, and people who are employed to do policy work.
  - 32.6. Legislation was considered important (but attendees didn't elaborate on expected content).
  - 32.7. Consider using the power cube tool developed by the University of Sussex as a model for exploring this project (this is a model for understanding power relations).

## **Next steps**

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33. Attendees were invited to send through any relevant resources/literature they think would be helpful to this work.
34. Attendees suggested a number of organisations that could be notified about this project (most were on the Ministry's original contact lists).
35. The summary of notes will be sent out to check for accuracy before being published online.

## Appendix 1: Attendee list

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<b>Name</b>	<b>Organisation</b>
Lisa Sheppard	Ministry of Justice
Elisha Connell	Ministry of Justice
Bryce Edwards	Victoria University of Wellington
Todd Kriebel	New Zealand Institute of Economic Research
Andrew Ecclestone	Victoria University of Wellington
Melissa-Jade Gregan	Auckland University
Max Rashbrooke	Victoria University of Wellington
Boyd Anthony Swinburn	Health Coalition Aotearoa
Timothy Kuhner	Auckland University
Peter Adams	Auckland University