

Political Lobbying Project: Feedback meeting on voluntary lobbying code of conduct

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

25 January 2024

Why we held this meeting

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. A further follow-up meeting was held on 30 August to determine next steps. At the meeting on 30 August attendees agreed that the Ministry of Justice would prepare a first draft of an ethics-based code setting out expectations.
3. In December 2023 the Ministry of Justice shared a first draft of the code with government relations consultants. This meeting was held to discuss feedback on the draft code.

Introduction and background to the code of conduct

4. Karakia, welcome and introductions (see attendee list Appendix 1).
5. Reminder of the key points from initial meetings, update on new government's policy direction and next steps planned.
6. Reminder of the Ministry's approach to the meetings, including full transparency, unattributed notes to be taken and summary of meetings to be published online.
7. The Ministry provided background details on the draft code of conduct (see draft Appendix 2), noting how it was developed and structured, and that the code applies broadly to anyone influencing government decisions.
8. The Ministry advised that one piece of written feedback had been submitted before the meeting and invited the author, who was in attendance, to share their feedback.

Initial comments on the draft voluntary code of conduct

9. Some attendees said they broadly supported the code of conduct, while others thought certain parts used negative language, and recommended that this be amended so lobbying activities were discussed more positively. They added that, in its current form, the code perpetuates some misunderstanding about the government relations sector.
10. Attendees preferred the code have a more high-level format, with fewer specific examples of activities, because this would help to set an expectation of positive behaviours.
11. An attendee also suggested the code could be reframed more positively by noting that it is designed to help maintain New Zealand's comparatively high level of transparency and low level of corruption.
12. Attendees argued that while there had been cases of bribery and corruption in the lobbying sector in other countries, to their knowledge, there is no evidence of this happening in New Zealand, therefore the code should not refer to the sector more positively.
13. Attendees felt that work on a code was seeking to address a problem that does not exist. To identify if there are issues of malpractice in the New Zealand lobbying sector, an attendee requested that the Ministry seek evidence of such activities and report on these findings to the Minister of Justice.
14. Attendees sought clarification about how the code would be publicised, where it would be published and how it would be enforced. The Ministry noted that a communications plan would need to be developed when the code is published, and sought further suggestions from the group about how awareness could be raised about the code. The Ministry noted the code could be published on the Ministry of Justice website, but that consideration could also be given to whether it could be published by another government agency, such as the Public Service Commission. As the code would be voluntary, the Ministry had not envisaged proposing any formal enforcement or sign-up processes.
15. An attendee questioned the code's usefulness, noting that a number of attendees had codes of their own and were committed to working ethically. Another asked how the code relates to their own code of conduct and other existing transparency mechanisms, such as the OIA. The Ministry discussed the background and rationale to this work that had been shared at earlier meetings, noting it had been commissioned to support third-party lobbyists to develop a voluntary code of conduct and that exploration of broader regulatory options was a secondary piece of work.

Review of the draft voluntary code of conduct

Code section: Preamble and Application

16. An attendee noted the preamble indicates the code focuses on the “activity,” rather than who conducts the activity. They suggested adjusting the wording to address this by replacing “lobbyists” with “lobbying” or “lobbying activity.”

Code section: Definitions

17. An attendee thought the term “lobbying” was not clearly defined and could result in a lack of clarity about who the code applies to. However, they pointed out that narrowing the definition could also result in regulating a group of people instead of an activity.
18. Attendees had mixed views on the term, “public officials.” Some questioned whether the scope of the term had been set too broadly and recommended narrowing it to those within the executive branch of government (excluding MPs and maybe local government). Others felt comfortable with how the scope had been defined.

Code section: Fair Access

19. Attendees suggested the draft wording relating to personal relationships (section 7) should be adjusted to better reflect practical considerations faced by government relations consultants. In a small country, government relations consultants will have many personal relationships and they argued it is unrealistic to expect these will not be used for personal or commercial gain. Attendees thought the wording could be more positive and suggested the Public Relations Institute of New Zealand (PRINZ) Code of Ethics may offer an example of suitable wording.

Code section: Transparency

20. Attendees thought the draft wording relating to who is behind lobbying activities (section 9) implied secret or dishonest activities may be occurring. They suggested framing this point more positively.
21. Most attendees expressed that they would not be comfortable in meeting the draft code’s requirements relating to publicly disclosing lobbying activities (section 10). While they are committed to undertaking lobbying activities in good faith and according to best practice, they would not want to publicly disclose their lobbying activities.
22. They noted there are already a number of government-led mechanisms to support transparency, such as the requirement for government to proactively release Ministerial diaries. They added that non-disclosure agreements may prevent government relations consultants from publicly disclosing their activities, and that lawyers may be prevented from doing so, due to lawyer-client privilege. Attendees suggested shortening this section and potentially acknowledging existing government-led transparency mechanisms.

23. Attendees suggested that the draft wording relating to providing accurate information to decision makers (section 11) should be shortened, in line with previous comments.

Code section: Integrity

24. Regarding confidential information (section 12) and conflicts of interest (section 13), attendees had different views; some were comfortable with the draft wording while others thought these sections should be adjusted. Suggested edits included adding a reference to client obligations and writing the section at a higher level.
25. The group discussed stand down periods at length (section 14), noting that this was an important issue that must be addressed, but may require more time and discussion. Attendees thought this was an issue for government to address through government-led mechanisms (such as contracts, the Cabinet Manual and legislation), rather than by the lobbying sector. Another added that it is a bigger issue that is “important to get right” and “doesn’t necessarily sit in a lobbying code of conduct”. A further attendee said it could become a form of punishment that lacks comprehensive policy analysis. Attendees agreed that in the interim, a precautionary approach should be taken and this section should be removed.
26. An attendee further suggested that when the code of conduct is published, the Ministry should encourage the government to implement legislation requiring stand down periods for people moving between public official and lobbying roles.
27. Regarding avoiding improper influence (section 16), attendees commented that some of wording was framed in a way that implied the sector was engaging in illegal activities, such as bribery, and suggested these points could be framed more positively and written at a higher level. One attendee thought the role of existing transparency mechanisms should be considered and potentially referenced. Another thought the PRINZ Code of Ethics could offer suitable wording.

Code section: Accountability

28. Attendees questioned the suitability of the draft wording in this section (section 17), given that the code is intended to be voluntary. They noted that those who may sign up to the code would already be making an effort to operate with integrity and that the wording therefore seemed irrelevant. Another said this section seemed written like a solution looking for a problem. The Ministry noted the draft code has broad application and aims to set good practice expectations for anyone trying to influence government.
29. An attendee further suggested that without an industry association, this section does not seem to naturally fit in a voluntary code. They expressed support for establishing an industry association but recognised that to do so would require time and financial resources beyond the capacity of small firms.

Next steps and closing

30. The Ministry invited attendees to submit further written feedback on the draft code by 19 February 2024.
31. They also advised that a summary of this meeting would be shared with attendees for review with a revised copy of the draft code, before it is circulated more widely to other stakeholders.
32. Karakia

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Appendix 1: Attendee list

Name	Organisation
Hayley Denoual	Ministry of Justice
Elisha Connell	Ministry of Justice
Georgia Shen	Ministry of Justice
Nadja Colic	Ministry of Justice
Alysha MacLean	Acumen NZ
Bridget Service	Anacta
Daniela Maoate – Cox	Awhi
Brian Small	BRG
Clayton Cosgrove	Cosgrove & Partners Ltd
Talani Meikle	GRC Partners + Porter Novelli
Keith Norris	Marketing Association
Susanne Martin	PRINZ
Georgina Lomax-Sawyers	Russell McVeagh
Steven Sutton	Russell McVeagh
Daniel Paul	The PR Company
David Lewis	Thompson Lewis (attended beginning)

Appendix 2: Draft voluntary lobbying code of conduct

Draft Code of Conduct

Good practice expectations for lobbyists

Discussion draft December 2023

Background to this draft code

1. In April 2023, the Prime Minister asked third-party lobbyists to create a voluntary code of conduct. The Ministry of Justice assessed interest in a code through meetings and an online survey between July and September 2023. See the Ministry's [political lobbying webpage](#) for a summary of the discussions.
2. Most people agreed that the code should apply to anyone influencing government decisions and suggested the Ministry draft an ethics-based code as a first step.
3. The Ministry studied over 40 codes from various countries and organisations to develop this draft code. The Ministry also used the Organisation for Economic Co-operation and Development's (OECD) principles for promoting good governance in lobbying to structure the code, framing it around the principles of fair access, transparency, integrity and accountability. The next phase will be to refine it with input from those interested.

A note on the rights of Te Tiriti partners and te ao Māori

4. In meetings with Māori, we heard that the rights of rūnanga to engage as a Te Tiriti partner must not be conflated with lobbying. We also heard that good lobbying practices are already an integral part of te ao Māori. For example, statements made on the marae are heard by everyone. Kawa and tikanga, underpinned by whakapapa guides all connections and processes. Attendees suggested that any good practice expectations for lobbyists could be guided by te ao Māori. Kōrerō on how this could be done will be included in the discussion about this draft lobby code.

Preamble

1. In New Zealand's democracy, open access to public officials is crucial to ensure that good decisions are made. Lobbyists play an important role in this process by promoting public debate, advocating for diverse interests, and highlighting issues in public policy making.
2. This code outlines best practice expectations for lobbying so everyone who aims to influence government decisions understands their role in maintaining public trust in the integrity of government. The Ministry of Justice developed this code with input from government relations consultants and a number of stakeholder groups between 2023-2024.

Application

3. This code applies to anyone trying to influence government policy, process or law. Public officials should also be aware of the code and its expectations.

Definitions

4. **Lobbyist** – Any person or organisation that aims to influence government policy, process or law.
5. **Lobbying activity** – Any direct or indirect method used to influence government policy, process or law.
6. **Public officials** – Any elected representative such as ministers, members of parliament and local politicians, and unelected officials such as public servants and ministerial advisors.

Good practice expectations for lobbying

Fair Access

Use access to public officials responsibly

7. Personal relationships are inevitable in a small country, but public trust can be undermined if people think that a lobbyist has an unfair advantage through a personal relationship:
 - 7.1. Do not seek special treatment from personal relationships or use personal relationships for personal or commercial gain.
 - 7.2. Do not make false claims about connections with public officials.

Play a part in ensuring fair access for all

8. While public officials primarily hold access to decision making processes, lobbyists can take steps to support fair access for all:
 - 8.1. Respect the rights of others to have their say and support the right to free expression.

- 8.2. Be aware of the public interest in an issue and do not misrepresent impact on public services or public good.

Transparency

Be clear about who is behind any lobbying and what it's about

9. When communicating with public officials, full transparency about who you are representing and their intent is important so that public officials know who is behind the approach and why:
 - 9.1. Always disclose the identity of organisations, people or foreign states being represented.
 - 9.2. Clearly state what you are aiming to achieve.

Be transparent about lobbying activities, donations, and conflicts of interest

10. It is good practice to publicly disclose your lobbying activities (for example on a website), as this builds public trust in how you operate. This may include:
 - 10.1. Submissions to government processes, or public officials interacted with.
 - 10.2. Any political donations or gifts given.
 - 10.3. Any government contracts held.
 - 10.4. Membership of special interest, advocacy or industry groups.
 - 10.5. Any previously held public official roles.
 - 10.6. Engagement of lobbying, public relations or legal firms to help influence public officials.
 - 10.7. Campaigns funded to influence political decisions, including “grassroots” appeals designed to persuade the public to contact public officials and opinion pieces in the media.

Provide accurate information to decision makers

11. Decision makers rely on accurate information to make good decisions:
 - 11.1. Ensure all information provided to public officials is accurate. Correct errors or inaccuracies promptly and make robust efforts to verify facts.
 - 11.2. Avoid the use of information obtained unfairly, and reject information obtained dishonestly or fraudulently.
 - 11.3. Do not manipulate or present information in a misleading or dishonest way. This includes omitting, hiding, or minimising important information.
 - 11.4. Do not misuse access to information for personal or commercial gain.

Integrity

Maintain confidentiality

12. Lobbyists need to be respectful of confidential information obtained from public officials in the course of their work.

12.1. Use information as agreed with public officials only for its intended purpose.

Manage conflicts of interest

13. Conflicts of interest need to be disclosed and carefully managed as they can result in actual, or perceptions of, bias or unfair access. This includes:

13.1. Personal or close family interest or financial stake in an issue being discussed.

13.2. Any personal or close family involvement in political parties.

Implement stand-down periods

14. People moving between government and lobbyist roles are susceptible to accusations of using government connections and insider knowledge for personal or corporate gain:

14.1. When moving between public official and lobbying roles avoid lobbying in the subject area previously connected to the public role or with former associates for a period of time appropriate to the situation and influence of the roles.

Uphold a positive reputation for the lobbying industry

15. Lobbying plays an important part in democratic process. Contribute to building a good reputation for the wider lobbying sector:

15.1. Avoid working in a way that harms the reputation of lobbyists and the public officials they interact with.

15.2. Explain the expectations of this code to clients and public officials.

Actively avoid improper influence

16. Improper influence of public officials has a highly corrosive effect on democracy:

16.1. Do not offer gifts or hospitality to public officials that create a sense of obligation.

16.2. Do not demand commitments from, or special access to, public officials.

16.3. Avoid tying payment for services to lobbying success (contingent fees).

16.4. Do not engage in bribery, corruption, or any dishonest or illegal actions.

16.5. Be aware of legal obligations including political donation, anti-bribery and anti-corruption laws.

Accountability

Be accountable for actions

17. Demonstrating how this code is being honoured and its provisions are being met will help build public trust in democratic process and lobbying activities.
 - 17.1. Monitor performance under the code and adjust behaviour if not meeting expectations as indicated in this code.
 - 17.2. Set up a process to monitor lobbying practices or behaviour that breach, dishonour, or do not align with this code, and ensure these are investigated and acted on.

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