

# Political Lobbying Project: Wider Regulatory Issues Meeting

Summary of Ministry of Justice facilitated meeting with transparency interest groups on issues with political lobbying

10 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 10 August 2023 with interest groups (with a specific interest in political transparency) 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 on a voluntary code (both posted on the Ministry's [webpage](#)).

## **Comments on a voluntary code of conduct**

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8. An attendee queried if there will be a public consultation on the voluntary code of conduct and noted that if the scope is going to be wide, then other people need to be involved. MoJ responded that its focus was on facilitating the process, and as it is a

voluntary code, it is up to third-party lobbyists to decide how they wish to engage others. One more meeting is planned with the initial group of government relations consultants and then if they agree that the scope for the code should be broad, MoJ would encourage broader engagement.

9. Some felt that a voluntary code is not an effective way to protect public trust.
10. Some commented that the lobbying industry should have already been thinking about integrity codes, and that it has not led on these matters.
11. There was discussion on the approaches to developing a code. One person suggested that a voluntary code based on international standards/best practice could be developed by the Ministry (rather than leaving it to lobbyists) and then it's up to people whether or not they sign up to it.
12. Attendees also commented on the concerns raised by government relations consultants around disclosure of clients, noting that in other countries this is a standard part of lobbyist codes of conduct.
13. 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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#### *Comments on the approaches by other countries*

14. Attendees thought there is a lack of knowledge around what is in place overseas and what's working and what's not.
15. They also said that NZ is quite far behind other countries, for example some are on their third round of lobbying policy/regulation. Some said that enough has been done overseas so NZ doesn't need to invent its own individually developed system. Instead, New Zealand could look at other international models that have been developed and follow what has been done elsewhere, particularly in Canada and Australia. MoJ noted that work was underway to look at these models.
16. Responding to the information slide showing the small number of countries with legislation, attendees suggested that efforts to regulate lobbying overseas might have been stopped because politicians there don't want constraints.

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

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#### *Definition narrow or broad?*

17. There were differing perspectives on whether the definition of lobbyist should be narrow (e.g. only paid, consultant lobbyists) or broad (e.g. everyone who aims to influence government). Some were concerned that if the definition is broad, it could water the

issues down and move the discussion away from where the issues are. It could also slow the process down because there's more to think about. They said a narrower scope is better because you can get some measures in place. They also said that there is no harm in starting small and building over time.

18. However, others disagreed, noting that broad activities, in particular "public grooming" by vested interest groups working through other organisations, mean that the scope should be kept broad.

#### *Ways to narrow the definition*

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

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

- 19.1. Whether it was clear who the lobbyist was speaking on behalf of. As an example, one pointed out that it is clear who Beef and Lamb are speaking on behalf of, but it is not clear who law firms or government relations consultants might be representing.

- 19.2. One attendee suggested that there are particular considerations around protection of identities of clients for some activities by the legal profession that would need to be explored.

##### *Paid versus unpaid lobbyists*

- 19.3. Some attendees suggested whether a lobbyist was paid or unpaid was relevant.

##### *Industry associations versus professional lobbyists*

- 19.4. Attendees discussed some groups that could be included in the definition. They agreed that in addition to paid consultants, there are also a large number of industry associations, peak bodies and interest organisations who should be included.

##### *Advocacy versus lobbying*

- 19.5. Some suggested that lobbying for commercial interests (as opposed to lobbying for the wider public good).

##### *Individual citizens*

- 19.6. Another noted that it would be important to exclude individual citizens who want to lobby on an issue as part of their democratic rights.

## **The issues for New Zealand**

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20. General comments made during the meeting by attendees included:

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

21. Attendees agreed that a definition of the problem is critical and thought that it is important to understand where/what the “mischief” is.

*We don't have enough data on political lobbying harms in New Zealand*

22. Attendees thought that the lack of data and information, including measures to assess the problem is one of the problems. “It is hard to measure when there’s been nothing there in the past.”

*New Zealanders are too complacent*

23. An attendee said that New Zealand has a complacency around behaviour that elsewhere is considered criminal/corruption. “We think it doesn’t happen here.”

*We need to protect the systems we currently have*

24. Attendees also noted that in New Zealand, accessibility to decision makers is very good and we have historic privilege between a citizen and their MP that we should not lose.

## **Fair access**

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*Larger, better resourced organisations get better access*

25. “The heart of the issue is that it’s easier if you have resources.” The difference in funding between consumer/third sector groups and industry groups is affecting access to the decision-making process. Some attendees thought that change is blocked by vested interests and “this is the underlying concern about democracy - that it’s been captured.”

26. They said “Look where the money is”. In areas where there is money to be made, corruption can occur. Also look at the “sugar daddy situations” where there is a funder of entities behind the scenes.

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

27. Attendees spoke of a power imbalance due to the fact that NZ has a weak civil society compared to other countries as there are not many organisations with paid positions. There are also concerns that charities have been muzzled by interpretations of the Charities Act.

28. They also noted that there is a “collective action” problem. As examples one noted that in a number of sectors, including in banking, construction and the grocery sector, lobbyists have pushed back good legislation and regulation due to a power imbalance in our communities.

### *Ineffective engagement with citizens impedes fair access*

29. The processes used by government were considered major issues by attendees.

Lobbying will occur regardless, so the lack of a strong policy and democratic system is the issue. The following items were noted by attendees as key concerns:

- 29.1. The policy process and how the information is analysed.
- 29.2. Our decision makers have a conflict of interest in making the decisions.
- 29.3. There is exclusion of some groups in decision making. If people continue to be excluded, situations such as the mass shooting in Christchurch or the riots outside Parliament may continue to occur. Often better results are achieved when all voices are included.
- 29.4. It is the political system itself that is the problem. Our current decision-making infrastructure with a unicameral parliament isn't delivering. One of the problems is that it used to be a lot more bipartisan, there's less of that now, and lobbyists are reacting by shifting their focus to a particular part of the political spectrum. Larger party membership has decreased and small political parties tend to attract ideologs and that's part of the problem.

### **Transparency**

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#### *Transparency could be improved*

30. Sometimes decision makers/politicians don't know who the lobbyist is speaking on behalf of. This means the general public also will never know.

#### *Lack of clarity on who has influenced consultation*

31. It's not about stopping entities that have too much power and influence, but about making conversations between decision makers and lobbyists more transparent.

#### *Indirect lobbying techniques*

32. "Grooming" of public opinion by well-funded industry organisations. One example was given in which a digital marketing company made a website about "saving our dairies" that was underwritten by a vaping/nicotine company.

33. Attendees thought that media platforms also contribute to the issue.

### **Integrity**

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#### *Lack of common understanding of appropriate lobbying behaviours*

34. Attendees thought ethical practices around lobbying aren't well identified or established in NZ. Many lobbyists don't know what's going on overseas and are not well informed on best practice.

### *Revolving door issue*

35. The revolving door issue (movement between decision making roles and lobbying roles) was identified by the group as a key problem.

### **Suggestions for the way forward**

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36. A range of issues were suggested by the group during the meeting, including:

- 36.1. Having a register of lobbyists is a first step in the right direction.
- 36.2. Some attendees wanted legislation but others suggested caution around regulation which was likened to “the ambulance at the bottom of the cliff”.
- 36.3. Most attendees wanted to look at ways to get better participation from civil society. Ideas included the Irish Citizens Assembly as an approach where everyone is in the room together, and the use of a deliberative mini public (random selection of citizens) that goes through a learning process and makes a call about what the public interest is. Others added that it’s important not to invalidate people and their views and to bring everyone into the process.
- 36.4. Look at tax deductibility for political donations.
- 36.5. The Fair Trading Act could offer a model to assist with misleading and deceptive behaviour.
- 36.6. Access to diaries could be extended from Ministers to the wider public sector.
- 36.7. MoJ noted how some academics who had attended the previous engagement session had suggested there doesn’t need to be a one-size-fits-all model. It’s a question whether there should be quick wins now or look to address issues in the longer term.

### **Next steps**

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37. The summary of notes will be sent out to check for accuracy before being published online.

38. Attendees were invited to send any further information they felt would be useful to the Lobbying Project Team at [electoral@justice.govt.nz](mailto:electoral@justice.govt.nz).

## Appendix 1: Attendee list

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<b>Name</b>	<b>Organisation</b>
Lisa Sheppard	Ministry of Justice
Elisha Connell	Ministry of Justice
Fleur Keys	Ministry of Justice
Julie Haggie	Transparency International New Zealand Inc
Maureen Gillon	Trust Democracy New Zealand
Jordan Williams	New Zealand Taxpayers' Union Incorporated
Simon Wright	Trust Democracy New Zealand
Tex Edwards	Monopoly Watch