

Political Lobbying Project: Feedback Summary

Summary of written feedback from consultation on a voluntary code of conduct with government relations consultants

Consultation period: 15 December 2023 – 19 February 2024

Background

1. In April 2023, the Ministry of Justice was asked to support “third-party” lobbyists to develop a voluntary code of conduct as part of the Government’s work to support greater transparency around lobbying at Parliament.
2. We held a series of meetings with government relations consultants to explore the concept of a voluntary code and it was suggested that the Ministry draft an ethics-based code as a first step.
3. In December 2023, the Ministry shared an initial draft with government relations consultants for their review and feedback, followed by a meeting to discuss their feedback on the draft code.
4. From December 2023 to February 2024, government relations consultants were also invited to submit written feedback on the draft code of conduct, and the Ministry revised the code based on the feedback provided.
5. This document summarises the written submissions received by the Ministry of Justice from government relations consultants on the draft code of conduct.

Summary of responses

6. Eight emailed responses were received from companies and associations in the government relations sector.
7. Feedback related to both the approach to a code of conduct and the draft code’s content. Those who commented on the approach to the code discussed various aspects of its development and potential implementation, including whether a code might be necessary, how effective a voluntary code might be and considerations for stand down periods for people moving between public official and lobbying roles. Feedback on the draft content included proposed changes to refine and further consider definitions, roles, application of the code, wider context and language style.

Feedback on the approach to a code of conduct

Problem definition and need

8. Submitters expressed mixed views about whether a code of conduct is necessary. A number indicated strong support for measures that increase public trust in the democratic system and improve the public perception of lobbying. Others felt the problem definition was unclear and that evidence was lacking of any issues that a code could address.
9. Those supporting measures to increase public trust thought the lobbying, or government relations sector, has a role to play in upholding public trust, and that more could be done to ensure those who undertake lobbying activities operate according to best practice.
10. Submitters who thought the problem definition was unclear felt the lobbying industry already operates with integrity, ethics and accountability. They noted a number of existing mechanisms promoting transparency and good practice, such as the Official Information Act (OIA), and a requirement for Ministers to publish their diaries, and they questioned whether further measures were necessary in the absence of clear evidence of malfeasance.

Efficacy of the draft code

11. Some submitters saw value in a code, but questioned if it would be effective in its current form. One submitter noted the importance of setting clear expectations of best practice to encourage transparency and accountability and thought the code did not articulate this clearly. This submitter considered that clear expectations would encourage those who lobby to uphold the principles of the code and enable those procuring lobbying services to better understand the level of service they should expect to receive. They also noted their firm was developing a set of lobbying principles as an alternative to the draft code.
12. Another submitter felt that the revised draft code had evolved into a set of best practice guidelines, resulting from previous feedback. While they felt the document was valuable, they did not think it would affect existing lobbying practices.

Administering the code

13. Several submitters commented about possible approaches to administering a code. Some thought it should be administered by an industry body, but held mixed views about whether it should be carried out by an existing body or if a new entity would be more suitable.
14. A submitter who felt the code should be administered by a new industry body thought its establishment should be industry-led, and that existing industry associations would be unsuitable for meeting the specific needs of government relations firms. They indicated an interest in bringing firms together to explore the possibility of establishing

an industry-led association, and noted the potential benefits that such a body could offer to government and the government relations sector.

15. Another submitter requested a meeting with the Minister of Justice to discuss a potential approach to administering the code. A further submitter did not have a view as to who should administer the code, but did not think it required a new body to manage or enforce it, believing other codes and regulation provide sufficient enforcement measures.

Stand down periods

16. Three submitters gave feedback about including a stand down period in the draft code for individuals moving between public official and lobbying roles. They thought that any stand down period should be government-led and not included in the code of conduct.
17. One felt that provisions relating to stand down periods for former members of the executive or senior staff should not be addressed through the code of conduct, but rather led by Parliament.
18. Another submitter supported a stand down period and emphasised the onus should be on the party “that seeks to protect that confidential or privileged information from exploitation”. They felt that the government should determine the appropriate stand down period and implement it accordingly.
19. A third submitter noted their support for a stand down period for ministers and senior officials, and thought the industry’s role was to comply with regulations determined by the government.

Other codes of conduct

20. One submitter noted that the Public Relations Institute of New Zealand (PRINZ) Code of Ethics had been previously shared and suggested that it could form the basis of a voluntary lobbying code, with minor edits. They also noted that some firms within the government relations sector are members of PRINZ and are bound by its Code of Ethics.

Feedback on specific sections of the draft voluntary code

Code section: Preamble

21. One submitter proposed the following edits to the preamble:
 - 21.1. Paragraph 1: Adding “sharing information” to the roles that lobbying activities promote.
 - 21.2. Paragraph 2: Slightly rewording the first sentence and changing “public sector” to “public life” to encompass an idea wider than just the public sector.

- 21.3. Paragraph 2: Changing “best practice” to “good practice” to maintain consistency with the rest of the document.
- 21.4. Paragraph 2: Adding a non-exhaustive list of New Zealand’s transparency laws and mechanisms to show how the code sits within a wider context.

Code section: Application

22. Three submitters provided the following comments on this section:
 - 22.1. Paragraph 4: Two submitters expressed support for the current wording in the draft code, which focuses on lobbying activities, instead of specific groups or individuals. However, another indicated the code’s application could be narrowed to third-party lobbyists and professional services providers who are engaged in lobbying. Examples given were lawyers, accountants, unions, NGOs and peak bodies.

Code section: Definitions

23. One submitter proposed the following edit to this section:
 - 23.1. Paragraph 7: Narrow the definition of “public official” to decision makers in executive government. They proposed excluding MPs, public servants (other than senior public servants) and local government due to consideration of the distinct role of MPs and scope of the code.

Code section: Promote Fair Access

24. Two submitters proposed edits to this section:
 - 24.1. Paragraph 9: Rewording how the role of public officials is described to articulate that public officials make decisions and advise decision makers (as opposed to holding access to decision making processes).
 - 24.2. Paragraph 9.2: Rewording of “Balance client advocacy with respect for public interest” to take account of:
 - 24.2.1. the hypothetical position of lawyers, where the proposal would sit uncomfortably with Chapter 6 of the Rules of Conduct and Client Care. A lawyer must protect and promote the interests of the client to the exclusion of the interests of third parties, and must not act for more than one client on any matter
 - 24.2.2. the inherent assumption that a discernible and independently identifiable public interest exists. The extent to which an objective public interest exists could vary from issue to issue.
 - 24.3. Paragraph 9: Rewording this section to articulate that “fair access” and “public interest” may be beyond the control of “third party” lobbyists, and as such are matters for government.

Code section: Practise Transparency

25. Two submitters provided the following comments on this section:
- 25.1. Paragraphs 10 and 11: One submitter noted a number of potential concerns regarding the expectations of transparency outlined in the code. They thought this section could be unnecessary on the basis there is already a high degree of transparency in interactions with public officials where the activity is covered by mechanisms such as the OIA and release of Ministers' diaries.
 - 25.2. If the code were to require mandatory disclosure of clients, they felt this would require further discussion due to existing client confidentiality requirements. Additionally, they noted that many organisations to be covered by the code provide services that do not involve engagement with government in the manner described by the code, making it inappropriate to disclose those clients' identities.
 - 25.3. Paragraph 12.1: Remove "if things go wrong" from: "Be accurate and truthful in all communications, and promptly correct errors or omissions, if things go wrong."

Code section: Demonstrate Integrity

26. One submitter proposed the following edits to this section:
- 26.1. Paragraph 13.1: Remove "only" from the following sentence because circumstances over time could render the original intended purpose irrelevant or no longer possible to comply with: "Use information as agreed with public officials only for its intended purpose."
 - 26.2. Paragraph 15: Refer to lobbying activities, instead of lobbying by the sector.
 - 26.3. Paragraph 15.2: Add a clause to recognise that public office holders also have transparency and integrity obligations.