



## Government of South Australia

### Lobbyist Code of Conduct <sup>1</sup>

Effective 1 December 2009

#### 1. Preamble

The Government of South Australia recognises that free and reasonable access to Ministers of the Crown, their staff and the institutions of Government is a vital element of our democratic process.

In regulating contact and the conduct of relations with those seeking access, including those external to Government Ministers of the Crown are obliged to observe their obligations under the Ministerial Code of Conduct including, but not limited to:

1. Compliance with codes, laws and orders
2. Honesty
3. Fairness and diligence in decision making
4. Disclosure of actual, potential or apparent conflicts of interest
5. The proper handling of conflicts, potential conflicts or apparent conflicts of interest

Staff employed by the Premier to assist Ministers of the Crown in their work are obliged to comply with the Code of Conduct applying to public sector employees promulgated by the Commissioner for Public Employment under the Public Sector Management Act 1995.

Lobbyists can contribute to the strength of our democracy by assisting individuals and organisations with advice on public policy processes and facilitating contact with relevant Government Representatives.

In performing this role, there is a public expectation that lobbying will be carried out ethically, transparently and according to the highest standards of professional conduct.

The Government has established the South Australian Government Professional Lobbyist Code of Conduct to ensure that contact between Lobbyists and Government Representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

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<sup>1</sup> This Code was prepared in consultation with the Government of Victoria, which has adopted its own Lobbyist Code of Conduct. While each State's Code contains fundamental provisions that are common to both States, the Codes have been drafted to reflect the circumstances applying in the respective State. For example, the South Australian Code recognises the continuing application of relevant State legislation and the Ministerial Code of Conduct.

## **2. Application**

- 2.1 The South Australian Government Professional Lobbyist Code applies to Ministers and Parliamentary Secretaries by direction of the Premier and to Ministerial Staff Members and other public sector staff through its publication as a Department of the Premier and Cabinet Circular. It also applies in conjunction with other relevant codes, particularly the Ministerial Code of Conduct and the Code of Conduct for Public Sector Employees, and any other statutory provisions that are in effect from time to time.
- 2.2 This Code is intended to prevail over the Ministerial Code of Conduct to the extent of any inconsistency.
- 2.3 The South Australian Government Professional Lobbyist Code creates no obligation for a Government Representative to have contact with a particular Lobbyist or Lobbyists in general.
- 2.4 The South Australian Government Professional Lobbyist Code does not serve to restrict contact in situations where the law requires a Government Representative to take account of the views advanced by a person who may be a Lobbyist.

## **3. Definitions**

“Government Boards and Committees” means any board, committee, tribunal, trust, commission, council, authority, panel, taskforce, forum, reference group, working group, advisory group, steering group or other like body or group created by or under a South Australian Act or by the Governor or a Minister and to which one or more appointments are made by the Governor or a Minister.

“Lobbying activities” means communications with a Government Representative in an effort to influence Government decision-making, including the making or amendment of legislation, the development or amendment of a Government policy or program, the awarding of a Government contract or grant or the allocation of funding, but does not include:

- (a) communications with a committee of the Parliament
- (b) communications with a Minister or Parliamentary Secretary in his or her capacity as a local Member in relation to non-ministerial responsibilities
- (c) communications in response to a call for submissions
- (d) petitions or communications of a community campaign nature in an attempt to influence a Government policy or decision
- (e) communications in response to a request for tender
- (f) statements made in a public forum, or
- (g) responses to requests by Government Representatives for information.

“Lobbyist” means any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client, but does not include:

- (a) charitable, religious and other organisations or funds that are endorsed as deductible gift recipients
- (b) non-profit associations or organisations constituted to represent the interests of their members that are not endorsed as deductible gift recipients
- (c) individuals making representations on behalf of relatives or friends about their personal affairs
- (d) members of trade delegations visiting Australia
- (e) persons who are registered under an Australian Government scheme regulating the activities of members of that profession, such as registered tax agents, customs brokers, company auditors and liquidators, provided that their dealings with Government representatives are part of the normal day to day work of people in that profession
- (f) members of professions, such as doctors, lawyers or accountants, and other service providers, who make occasional representations to Government on behalf of others in a way that is incidental to the provision to them of their professional or other services. However, if a significant or regular part of the services offered by a person employed or engaged by a firm of lawyers, doctors, accountants or other service providers involves lobbying activities on behalf of clients of that firm, the firm and the person offering those services must register and identify the clients for whom they carry out lobbying activities, and
- (g) representatives of other Governments, or Government agencies or inquiries.

For the avoidance of doubt, this Code does not apply to any person, company or organisation, or the employees of such a company or organisation, engaging in lobbying activities on their own behalf rather than for a client, and does not require any such person, company or organisation to be recorded in the Register of Lobbyists unless that person, company or organisation or its employees also engage in lobbying activities on behalf of a client or clients.

"Lobbyist's Details" means the information described under clause 5.1.

"Government Representative" means a Minister, Parliamentary Secretary, Ministerial Staff Member or person employed, contracted or engaged by a public sector agency.

"Ministerial Staff Member" means a person employed under section 69 of the *Public Sector Management Act 1995*; a person seconded to a Ministerial office; or a person otherwise placed, contracted or engaged in a Ministerial office.

the *Public Sector Management Act 1995* includes its replacement.

#### **4. Contact between Lobbyists and Government Representatives**

4.1 A Government Representative shall not at any time knowingly and intentionally be a party to lobbying by:

- (a) a Lobbyist who is not on the Register of Lobbyists;
- (b) any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist's Details noted on the Register of Lobbyists in connection with the Lobbyist;
- (c) any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government Representative, has failed to observe any of the requirements of clause 4.3.

4.2 Contact with a Government Representative for the purposes of lobbying activities by a Lobbyist includes:

- (a) telephone contact;
- (b) electronic mail contact;
- (c) written contact; and
- (d) face to face meetings.

4.3 When making an initial contact with a Government Representative about a particular issue on behalf of a third party for whom the Lobbyist has provided paid or unpaid services, the Lobbyist must inform the Government Representative:

- (a) that they are a Lobbyist or employee, contractor or person otherwise engaged by the Lobbyist;
- (b) whether they are currently listed on the Register of Lobbyists;
- (c) that they are making the contact on behalf of a third party;
- (d) the name of the third party; and
- (e) the nature of that third party's issue.

4.4 A Lobbyist who holds an appointment to any Government Board or Committee must ensure that they comply with the honesty and integrity provisions and the conflict of interest provisions of the *Public Sector Management Act SA 1995*.

#### **5. Register of Lobbyists**

5.1 There shall be a Register of Lobbyists established by the Chief Executive, Department of the Premier and Cabinet which shall contain the following information:

- (a) the business registration details of the Lobbyist, including names of owners, partners or major shareholders as applicable;
- (b) the names and positions of persons employed, contracted or otherwise engaged by the Lobbyist to carry out lobbying activities;
- (c) the names of third parties for whom the Lobbyist is currently retained to provide paid or unpaid services as a Lobbyist; and
- (d) the names of persons for whom the Lobbyist has provided paid or unpaid services as a Lobbyist during the previous three months.

5.2 A Lobbyist wishing to have contact with a Government Representative for the purposes of lobbying activities shall apply to the Chief Executive, Department of the Premier and Cabinet to have their Lobbyist's Details recorded in the Register of Lobbyists.

5.3 A person seeking registration as a Lobbyist must supply a statutory declaration:

- (a) attesting that the information supplied for the purposes of clause 5.1 is true and correct to the best of their knowledge and belief; and
- (b) setting out details of any conviction imposed or finding of guilt recorded by a court against the applicant in respect of any offence of dishonesty or any indictable offence.

5.4 The Lobbyist must provide to the Chief Executive, Department of the Premier and Cabinet, within 10 business days of 30 June each year, a statutory declaration renewing the information required under clause 5.3.

5.5 The Lobbyist shall submit updated Lobbyist's Details to the Chief Executive, Department of the Premier and Cabinet, in the event of any change to the Lobbyist's Details as soon as practicable, but no later than 10 business days after the change.

5.6 The registration of a Lobbyist shall lapse if a confirmation is not provided to the Chief Executive, Department of the Premier and Cabinet, by the date referred to under clause 5.4.

## **6. Access to the Register of Lobbyists**

6.1 The Register of Lobbyists is a public document that is published on the website of the Department of the Premier and Cabinet.

## **7. Prohibition on Lobbying Activities**

7.1 Persons who, after 1 December 2009, retire from office as a Minister, shall not, for a period of two years after they cease to hold office, engage in professional lobbying activities relating to any matter with which they had official dealings in their last 18 months in office.

7.2 Persons who, after 1 December 2009, retire from office as a Parliamentary Secretary, shall not, for a period of 12 months after they cease to hold

office, engage in professional lobbying activities relating to any matter with which they had official dealings in their last 12 months in office.

- 7.3 Persons who were, after 1 December 2009, employed in the Offices of Ministers or employed under the *Public Sector Management Act 1995* as an Executive (or equivalent), shall not, for a period of 12 months after they cease their employment, engage in professional lobbying activities relating to any matter with which they had official dealings in their last 12 months of employment.

## **8. Principles of Engagement with Government Representatives**

- 8.1 Lobbyists shall observe the following principles when engaging with Government Representatives:

- (a) Lobbyists shall not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment;
- (b) Lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to parties whom they represent, the wider public, governments and agencies;
- (c) Lobbyists shall not make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions; and
- (d) Lobbyists shall keep strictly separate from their duties and activities as Lobbyists any personal activity or involvement on behalf of a political party.

## **9. Registration**

The Chief Executive, Department of the Premier and Cabinet may at his or her discretion:

- 1) refuse to accept an application to be placed on the Register of Lobbyists; and
- 2) remove from the Register of Lobbyists the details of a Lobbyist if, in the opinion of the Chief Executive, Department of the Premier and Cabinet,
  - (a) any prior or current conduct of the Lobbyist or his employee, contractor or person otherwise engaged to provide lobbying services for the Lobbyist has contravened any of the terms of this Code; or
  - (b) any prior or current conduct of the Lobbyist or association of the Lobbyist with another person or organisation is considered to be inconsistent with general standards of ethical conduct; or
  - (c) the registration details of the Lobbyist are

- (i) inaccurate; or
- (ii) not confirmed in accordance with the requirements of clause 5.4; or
- (d) there are other reasonable grounds for doing so.

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