



Lobbying

In this advisory:

This advice highlights the risks and offences connected with lobbying within a public authority.

It covers:

- Legislative requirements
- Risk factors
- Corruption offences
- Strategies to prevent corruption
- Further information and resources

This advisory applies to:

- the Premier, ministers, assistant ministers and ministerial staff members
- former senior government representatives and Opposition representatives
- Local Government councillors
- CEOs and employees of any government entity including:
 - Departments
 - Government-owned corporations
 - local governments
 - courts and tribunals, and
 - any other entity that is assisted by public funds.

Introduction

Our democratic system of government relies on officials having adequate and reliable information on which to base their decisions and actions. The principle of open and equal access to government for all individuals and communities is fundamental to this flow of information.

Information reaches the government from individuals, potential suppliers and contractors, developers, community organisations and other organisations or interest groups. They may approach the government on their own behalf or through specialist lobbyists with skills in presenting persuasive cases. They may also mount public campaigns or seek other ways to influence the thinking and the decisions of public officials. Consistent with the [Integrity Act 2009](#), (the Act) this advisory only deals with third party lobbyists and not with entities lobbying on their own behalf.

Third party lobbyists most commonly try to influence ministers, councillors and senior public servants in a position to make statutory, monetary or policy decisions that can benefit or disadvantage individuals or sections of the community. However, lower ranking officers, particularly those making purchasing decisions or evaluating eligibility for various grants and benefits, may also be subjected to persuasive pressure.

The Queensland Government has measures in place to:

- ensure the flow of information remains as open and transparent as possible
- ensure it can accurately identify the sources of information and the special interests that may motivate its dissemination
- reduce the risk of officials being unduly or unfairly influenced by biased or distorted viewpoints presented to them.

Legislative requirements

The Queensland Integrity Commissioner is an independent officer of the Queensland Parliament who, amongst other things, is responsible for maintaining the [Queensland Register of Lobbyists](#) and monitoring compliance by lobbyists and government with the Act and the [Lobbyists Code of Conduct](#). Further information about lobbyists and lobbying can be found on the Integrity Commissioner's website (www.integrity.qld.gov.au/lobbyists.aspx).

Under the Act:

- Lobbyists who act on behalf of a third party client must be registered with the Integrity Commissioner before they contact a state or local government representative for the purpose of lobbying activities.¹
- Lobbyists who act on behalf of a third party must comply with the [Lobbyists Code of Conduct](#).²
- Lobbyists must document their lobbying activity and contact³ with government and Opposition representatives.⁴
- It is an offence to offer or pay a lobbyist any fee that depends on the outcome of the lobbying activity, whether or not lobbyists are paid for their services.⁵
- Former senior government representatives and former Opposition representatives (i.e. the Premier, ministers, assistant ministers, parliamentary secretaries, councillors, chief executives, senior executives or senior executive equivalents, ministerial staff members or members of a parliamentary secretary's staff) are prohibited from carrying out lobbying activities related to their official dealings as a government representative for two years after ceasing employment.⁶
- Government representatives* must not knowingly meet with anyone who is not a registered lobbyist, if that person (or organisation) intends to carry out a lobbying activity on behalf of a third party.⁷ If any approach has been made, the government representative must decline further contact and provide the details to the Integrity Commissioner.⁸
- Government representatives* and Opposition representatives must formally report any breach of the [Lobbyists Code of Conduct](#) to the Integrity Commissioner — this includes any improper approach from a person acting as a lobbyist or seeking to unduly influence an official.⁸

*"Government representatives" includes: the Premier, ministers, assistant ministers, councillors, ministerial staff members, and CEOs and employees of any government entity including departments, government owned corporations, local governments, courts and tribunals, and any other entity that is assisted by public funds.⁹

The Act does not limit the activities of people or organisations lobbying on their own behalf, representing the interests of their members (e.g. unions or professional bodies) or carrying out incidental lobbying activities.

1 *Integrity Act 2009*, s. 71

2 *Ibid*, s. 68(5)

3 *Ibid*, s. 42

4 Lobbyists code of conduct

5 *Integrity Act 2009*, s. 69

6 *Ibid*, s. 70

7 *Ibid*, s. 71(2)

8 *Ibid*, s. 71(3)

9 *Ibid*, ss. 44–47B

Risk factors

Loss of public confidence

Public perception that an official has been improperly influenced to favour an individual or group erodes confidence in both the agency and the government as a whole.

Business or financial loss

If contracts or other benefits are inappropriately bestowed:

- the agency can incur financial costs associated with failure to obtain the best value for money and be subject to investigations into allegations of corrupt conduct
- other organisations or people who miss out on benefits they should have obtained on merit are financially disadvantaged
- the community fails to benefit from efficient and economical use of public money
- the business community suffers loss of confidence in the agency which may result in them withdrawing from future contract bids with the agency or the government generally. This “withdrawal of service” may result in an overall lower standard of service being provided through lower levels of participation from suppliers.

Conflicts of interest

Conflicts of interest arise when a public sector officer’s private interests conflict with their duty to serve the public interest.

Any actual, potential or perceived conflict of interest can damage the reputation and performance of the organisation. Public sector officers must behave ethically, and must also be seen to be doing so.

Close relationships between lobbyists and public sector officers can create the potential for the organisation to become unwittingly “captured” by that relationship, resulting in a cascading series of biased decisions.

In order to avoid an actual or perceived abuse of office, conflicts of interest must be properly identified, formally declared, and then managed transparently and effectively.

Biased decision making

Public officials must ensure that their decision-making is fair, objective and impartial. Even if the lobbying activity is not illegal, indiscriminate contact with a particular interest group may create the perception that the organisation is favouring that group and that its decision-making is tainted by bias. This is particularly so when one group is granted more access to the decision maker than others.

Allegations of bias can follow if promises are made to an interested party before any official decision has been made (e.g. if a councillor promises a developer a favourable decision before the planning officers responsible have considered all the relevant material). Public sector officers should be careful to avoid unwittingly creating perceptions or expectations of favourable treatment when discussing matters with interested parties.

The following strategies have been developed from advice provided by the Integrity Commissioner, the CCC and the State Archivist to public sector agencies on appropriate ways to manage government interaction with lobbyists to ensure a high level of integrity and transparency.

Corruption offences

- Government representatives will be in breach of the Act if they knowingly deal with unregistered or restricted lobbyists. Such breaches reflect poorly on both the integrity of the staff involved and the organisation itself.¹⁰
- Lobbyists may also breach the Act if they fail to meet registration requirements or breach the [Lobbyists Code of Conduct](#).¹¹
- The organisation or person who engaged the lobbyist is also in breach of the Act (and liable to a maximum penalty of 200 penalty units = \$23,380) if they offer the lobbyist a success fee.¹²
(As at 1 July 2016 1 Penalty Unit = \$121.90. The *Penalties and Sentences Act 1992* provides an annual mechanism to revise this figure, and users are advised to review the value of a penalty unit each year.)
- Under the [Criminal Code Act 1899](#), anyone who promises to reward a public sector officer for acting improperly, or any public sector officer who accepts such promises, is liable to incur serious penalties. It does not matter that nothing is done in return for the reward — offering or accepting a reward is an offence.¹³

Strategies to prevent corruption

- Develop a clear policy and provide it to all staff who are likely to encounter third party lobbyists. The policy should:
 - set out a process for ensuring that any contact with your staff which appears to be lobbying is not continued until a decision is made about whether the Act applies to the contact
 - set out a process for managing all contacts between officials and registered third party lobbyists, including a convenient method for checking the currency and completeness of their registration
 - require that officials refuse to have any contact with a third party lobbyist who is not registered on the Integrity Commissioner's [Register of lobbyists](#)
 - require officials to report any attempted contacts by unregistered or inaccurately registered third party lobbyists — staff should report improper contacts through their chief executive officer, and ministers and councillors can report directly to the Integrity Commissioner if they prefer to do so
 - set out a process for ensuring that all contacts with registered third party lobbyists are properly recorded in the agency's register of contacts with lobbyists, and that the register is available for appropriate scrutiny
 - detail a process for preventing, managing and recording any contacts by former government representatives who, under s. 45 of the Act, are restricted from lobbying government on any matter with which they had dealings as an official for a period of two years after leaving government service
 - provide clear instructions for effectively managing any conflicts of interest that may arise — for example, by cross-reference to another policy or relevant legislation (e.g. a code of conduct or the [Public Sector Ethics Act 1994](#)).

10 *Integrity Act 2009*, s. 71(3)

12 *Ibid.*, s. 69(1)

11 *Ibid.*, s. 68(5)

13 *Criminal Code*, s. 442BA

- Document the key components of the decision-making process including:
 - the names of all officials involved in assembling or assessing information relevant to the decision, how the decision was made, and by whom
 - any contact with any party with an interest in the outcome of the matter. These contacts are to be recorded in your “*Register of contacts with lobbyists*” (examples of “any party” include: registered third party lobbyists or any person or organisation making representations in its own interests, such as developers, applicants, submitters, charities, community groups and overseas lobbyists who are not required to register under the Act)
 - the reasons for making a particular decision (under the [Judicial Review Act 1991](#), decision makers may at any time be required to provide a statement of these reasons).
- Hold all dealings with interested parties in official locations, preferably with more than one official representative in attendance (ministers and councillors should avoid one-on-one meetings).
- Manage all records (such as diary entries, file notes, meeting agendas and minutes) in accordance with the [Public Records Act 2002](#) and in a way that connects the records to the decision-making process and makes it easy for anyone authorised to enquire into the process to identify and access them.
- Develop a mandatory process for officials to declare any conflict of interest in relation to a decision, record the conflict, document how the conflict will be managed, and ensure the ongoing management of the conflict is done in a transparent manner until it is resolved.
- Require that anyone entering into contracts with the agency promptly declares any conflict of interest they are aware of.
- Carry out a risk analysis of processes your agency uses to assess the level of transparency necessary to satisfy the public interest, and document as appropriate. Pay special attention to:
 - grant applications
 - licence applications, renewals and variations
 - zoning, rezoning or other regulatory applications
 - development applications
 - tenders
 - contracts
 - “preferred supplier” arrangements.
- Ensure that staff are fully aware of their responsibilities under the agency’s policy on receiving gifts or other benefits and that even accepting them as permitted under your policy may still result in improper influence, or the perception of improper influence, on their decisions.
- Provide staff, especially those in vulnerable roles, with regular training on managing contacts with interested parties as part of their code of conduct training; culture of awareness and integrity is the best defence against undue influence.
- Make it publicly known that your agency uses an ethical decision-making process and will not tolerate improper lobbying attempts.

Further information and resources

- [Crime and Corruption Act 2001](#)
 - [Criminal Code Act 1899](#)
 - [Integrity Act 2009](#)
 - [Judicial Review Act 1991](#)
 - [Libraries Act 1988](#)
 - [Local Government Act 2009](#)
 - [Public Records Act 2002](#)
 - [Public Sector Ethics Act 1994](#)
 - [Right to Information Act 2009](#)
 - [Lobbyists Code of Conduct](#)
 - [Queensland Register of Lobbyists](#)
 - Queensland Integrity Commissioner website: www.integrity.qld.gov.au
 - General Retention and Disposal Schedule for Local Government, Queensland State Archives
- All Queensland legislation is available at www.legislation.qld.gov.au



Please contact us if you would like further detailed guidance and information on any aspect of this advisory.

Crime and Corruption Commission

Level 2,
North Tower Green Square
515 St Pauls Terrace,
Fortitude Valley QLD 4006

GPO Box 3123, Brisbane QLD 4001

Phone: 07 3360 6060
(Toll-free outside Brisbane: 1800 061 611)
Fax: 07 3360 6333
Email: mailbox@ccc.qld.gov.au
www.ccc.qld.gov.au

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