

Parliament of Victoria

Lobbying in Victoria

Angus Tonkin and Ellie Florence

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Research Note

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Executive summary

While lobbying has a legitimate role to play in a healthy democracy, the risks associated with improper lobbying have led to intense scrutiny of the systems designed to regulate the exercise of influence over government representatives. This research note outlines the Victorian system for regulating lobbying and provides a summary of the issues most often discussed in relation to the risks of unregulated lobbying activity, not least the transparency and integrity of government and public entity decision-making.

Lobbying is a topic of interest across Australia and the world, with numerous jurisdictions having introduced or considering reform. However, recent attention in Victoria can be attributed in part to a string of investigations from the Independent Broad-based Anti-corruption Commission that led it, along with experts and other commentators, to challenge the effectiveness of Victoria's system. Key concerns include—among other things—vulnerability to corruption, a lack of transparency in lobbying contacts and the adverse influence of those with privileged access.

With these discussion points in mind, this paper explains how Victoria's system works now and compares it with a number of other jurisdictions' lobbying frameworks. The paper then outlines some recent developments and reforms proposed for regulating lobbying, before discussing key areas often identified for reform. These include the definitions of 'lobbyist' and 'lobbying activity', 'cooling-off' periods, compliance and enforcement of codes of conduct, and transparency in lobbying registers.

Acronyms and abbreviations

CPI	Centre for Public Integrity
DPC	Department of Premier and Cabinet
GADs	Government affairs directors
IBAC	Independent Broad-based Anti-corruption Commission
ICAC	Independent Commission Against Corruption
OECD	Organisation for Economic Co-operation and Development
VPSC	Victorian Public Service Commission

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Introduction

Lobbying has been identified as both a key aspect of and a threat to democracy. Enabling interest groups to have access to public officials can allow them to advocate for better policy outcomes and encourage a deeper understanding of issues facing governments' constituencies. Lobbying campaigns have led to significant progress in social benefits such as stronger environmental protections, health promotion and road safety.¹ Lobbying has also been considered a useful tool for grassroots and community organisations to advocate directly with government representatives for policy changes.²

Conversely, the intense commercialisation and professionalisation of lobbying has been linked to unfairly privileging some groups over others, particularly those with significant resources and financial capital.³ This can result in policy and outcomes that fail to benefit constituencies, and in the worst cases can contribute to small but powerful groups or interests creating a 'monopoly of influence' over governments.⁴ One review of 300 studies relating to global lobbying laws found that unregulated lobbying led to 'negative health outcomes, inaction on climate policies, excessive regulation to protect incumbents, or insufficient regulation to correct market failures or distortions'.⁵ Many have identified lobbying as a corruption risk,⁶ and the Organisation for Economic Co-operation and Development (OECD) has called for regulatory changes.⁷

The tangible impacts of lobbying on policy and decision-making are difficult to quantify and evidence.⁸ Regulation of the lobbying industry, particularly the growing commercialised industry, is therefore mostly focused on bringing more transparency and accountability to the inevitable and indeed necessary processes through which interest groups seek to promote and guide government policy and decision-making.⁹

In Victoria, several investigations by the state's integrity agencies in recent years have brought the regulation and administration of lobbying into focus. Laws covering lobbying in Victoria have been called 'substantially deficient',¹⁰ and experts have warned they pose 'systemic corruption vulnerabilities' if not soon reformed.¹¹ Although there have been several campaigns to reform Victoria's lobbying laws, law and politics expert Yee-Fui Ng has argued that 'lobbying regulation remains narrowly focussed due to the effective advocacy of lobbyists'.¹²

This research note provides an overview of the administrative system that governs lobbying activity in Victoria. It examines the main legislative, regulatory and administrative instruments available for the monitoring and potential restriction of lobbying, including recent changes announced by the government and likely upcoming changes. The paper then provides a jurisdictional comparison of lobbying regulation across Australia's state, territory and federal jurisdictions, as well as several international jurisdictions. The comparison identifies key attributes of lobbying regulation frameworks and where jurisdictions differ,

¹ OECD (2021) *Lobbying in the 21st Century: Transparency, Integrity and Access*, Paris, OECD Publishing.

² Citizens' Climate Lobby (date unknown) 'Lobbying Playbook: How to Guides, Stories, and Examples', The Commons Social Change Library website.

³ OECD (2021) *Lobbying in the 21st Century: Transparency, Integrity and Access*, Paris, OECD Publishing.

⁴ *ibid.*

⁵ *ibid.*

⁶ Y.-F. Ng (2020) 'Regulating the influencers: The evolution of lobbying regulation in Australia', *Adelaide Law Review*, 41(2), 507–543; Independent Commission Against Corruption (ICAC) (2021) *Investigation into the Regulation of Lobbying, Access and Influence in NSW*, ICAC NSW, Sydney.

⁷ OECD (2012) *Lobbyists, Governments and Public Trust, Volume 1: Increasing Transparency through Legislation*, OECD Publishing, Paris.

⁸ D. Lowery (2013) 'Lobbying influence: Meaning, measurement and missing', *Interest Groups & Advocacy*, 2, 1–26, <https://doi.org/10.1057/iga.2012.20>.

⁹ K. Hong, R. Rosen & A. Chugh (2023) 'Lobbying regulation: a global phenomenon', *Reuters*, 7 November.

¹⁰ The Centre for Public Integrity (CPI) (2022) *Achieving Integrity: A roadmap for transparency, oversight, and accountability in Victoria*, CPI, Canberra.

¹¹ Independent Broad-based Anti-corruption Commission (2022) *Special report on corruption risks associated with donation and lobbying*, IBAC, Melbourne.

¹² Y.-F. Ng (2020) *op. cit.*

including the legal basis of regulation, definitions of lobbying and lobbyists, disclosure requirements, cooling-off periods and compliance and enforcement mechanisms.

The paper then provides a brief overview of major recent developments in the debate surrounding Victoria's lobbying system and proposed changes here and abroad. With reports from the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Ombudsman highlighting potentially improper uses of lobbying and potential corruption vulnerabilities under the current regulatory scheme, there have been several proposed changes in Victoria. These proposed changes include the establishment of a Parliamentary Integrity Commission and the requirement for government ministers to publish their diaries—but lobbying has also been a focus at the federal level and elsewhere.

Finally, the paper outlines aspects of lobbying laws most often identified by integrity advocates for reform. Key areas for reform include expanding the definitions of 'lobbying' and 'lobbyists', making ministerial diaries public, closing the 'revolving door' between government and lobbying roles and strengthening the enforcement capabilities and transparency of the bodies designed to regulate lobbying.

1 | Current laws and regulation in Victoria

What is lobbying?

The definitions of 'lobbying activity' and 'lobbyists' are somewhat contested, not least where they are used in mechanisms designed to regulate lobbying (see 'Key areas for reform'). However, lobbying is broadly accepted as communications with government representatives with a view to changing policy or impacting government decision-making.¹³

In their definitions of lobbying, most regulatory mechanisms in Australia—including Victoria's—only include communications from a third party on behalf of a client.¹⁴ However, in practice, lobbying can also include organisations or individuals directly communicating with government representatives in an effort to affect decision-making. For example, lobbyists are frequently employed in-house to promote the interests of their employer to government representatives. Lobbying can also include Members of Parliament seeking to influence policy within their party by campaigning to a minister for certain outcomes, such as advocating for funding to be directed to a particular area (usually within their constituency).¹⁵

The Centre for Public Integrity (CPI), the OECD, IBAC and others therefore promote a wider definition of lobbying and lobbyist to capture the reality of lobbying activity, considering 'any attempt to influence the decision-making of a government or opposition representative in the exercise of their official functions' as a form of lobbying.¹⁶ IBAC also acknowledges that lobbying is often undertaken by unregistered consultants and other interest groups, in addition to the registered lobbyists and government affairs directors covered by most lobbying administration mechanisms.¹⁷

¹³ Victorian Government (2023) 'The Victorian Government Professional Lobbyist Code of Conduct', Victorian Lobbyist Register website; Australian National Audit Office (ANAO) (2020) op. cit.. The OECD defines lobbying as the act of lawfully attempting to influence public policies and regulations, and IBAC frames lobbying activities as any contact designed to influence government decision-making and parliamentary functions.

¹⁴ Victorian Government (2023) 'The Victorian Government Professional Lobbyist Code of Conduct', Victorian Lobbyist Register website.

¹⁵ Independent Broad-based Anti-corruption Commission (2022) op. cit.

¹⁶ Centre for Public Integrity (2023) *Closing the revolving door: Corporate influence and the need for lobbying reform*, Melbourne, CPI, p. 5, emphasis in original.

¹⁷ Independent Broad-based Anti-corruption Commission (2022) op. cit.

Regulation and administration

In Victoria, lobbying must be conducted under an administrative system managed by the **Victorian Public Sector Commission** (VPSC) (established under the **Public Administration Act 2004**).

The main regulatory mechanisms for lobbying in Victoria are the **Victorian Government Professional Lobbyist Code of Conduct** (the Code) and the **Victorian Register of Lobbyists** (the Register).¹⁸

The Victorian Government Professional Lobbyist Code of Conduct

The Victorian Government Professional Lobbyist Code of Conduct is issued and administered by the VPSC. The Code was introduced in 2009 by then Premier John Brumby¹⁹ and the most recent update was made in November 2013.²⁰

The Code defines lobbying activity as any contact with a **government representative** in an effort to influence government decision-making.²¹ Several activities are excluded from the definition of lobbying in the Code:

- communications with a committee of the Parliament
- communications with a minister, cabinet secretary or parliamentary secretary in his or her capacity as a local Member in relation to non-ministerial responsibilities
- communications in response to a call for submissions
- petitions or communications of a grassroots campaign nature in an attempt to influence a government policy or decision
- communications in response to a request for tender
- statements made in a public forum
- responses to requests by government representatives for information.²²

The Code applies to all lobbyists, ‘government affairs directors’ and government representatives who wish to conduct lobbying activities.

‘Government affairs directors’ (GADs) are defined under section 3.1 of the Code as ‘a person who makes regular enquiries, advocates changes to public policy, or seeks specific assistance from government for a wide variety of reasons, in a paid capacity of an organisation or business or professional or trade association’.²³ GADs can include former ministers, former parliamentary secretaries, former chiefs of staff and senior advisers for ministers and parliamentary secretaries, and people who held the following positions in a registered political party: national or state secretary, director, deputy or assistant secretary, or deputy or assistant director.²⁴

‘Government representatives’ include ministers, cabinet secretaries, parliamentary secretaries, ministerial staff, Members and public officials.²⁵

¹⁸ Victorian Government (2023) ‘[The Victorian Government Professional Lobbyist Code of Conduct](#)’, Victorian Lobbyist Register website; Victorian Public Sector Commission (2024) ‘[The Victorian Register of Lobbyists](#)’, VPSC website.

¹⁹ J. Brumby (2009) *Government introduces a lobbyist code for Victoria*, media release, 29 August.

²⁰ Department of Premier and Cabinet (2013) *Premier’s Circular No. 2013/1: Victorian Government Professional Lobbyist Code of Conduct and Register of Lobbyists*, DPC.

²¹ Victorian Government (2023) ‘[The Victorian Government Professional Lobbyist Code of Conduct](#)’, Victorian Lobbyist Register website.

²² *ibid.*

²³ *ibid.*

²⁴ Victorian Public Sector Commission, (date unknown) ‘[Register of Government Affairs Directors](#)’, VPSC website.

²⁵ Victorian Government (2023) ‘[The Victorian Government Professional Lobbyist Code of Conduct](#)’, Victorian Lobbyist Register website.

‘Lobbyists’ include ‘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’.²⁶ This also includes lobbyists appointed to public entity boards. The definition of lobbyist under the Code has several exceptions, which are explored in the ‘Key areas identified for reform’ section of this paper. Of note, neither the Code nor the Victorian Register of Lobbyists cover ‘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’;²⁷ that is, in-house lobbyists.

Lobbyists and GADs must ensure all lobbying activity occurs in line with the Code, and that lobbying activity is only conducted by lobbyists on the Victorian Register of Lobbyists (see below). The Code requires a lobbyist to disclose that they are a lobbyist or engaged by a lobbyist in all their dealings with government representatives, that they are listed on the Register of Lobbyists, that they are making contact on behalf of a third party, and whether they also work as a lobbyist for any other third parties.

The Code also establishes ‘cooling-off’ periods in which ministers, ministerial advisers and public service executives cannot engage in lobbying activities after they have ceased employment in their government or public service roles. The period is 18 months for ministers and cabinet secretaries and 12 months for parliamentary secretaries, public service executives and ministerial officers employed under the Public Administration Act; further, the cooling off period only applies to ‘any matter with which they had official dealings’ during their last 18 or 12 months in office respectively.²⁸ The Code also requires all individuals comply with the integrity provisions of the Public Administration Act.

Victorian Register of Lobbyists

Lobbyists—as defined in the Code—must be registered on the **Victorian Professional Register of Lobbyists** (the Register). The Register is administered by the VPSC under section 66 of the Public Administration Act.

All lobbyists engaged in ‘lobbying activity’ (as defined in the Code) must apply to the VPSC to be listed on the Register and must be approved before they can conduct lobbying activities. All lobbying activities must be conducted in line with the Code for a lobbyist to remain registered. The VPSC can deregister a person or organisation if they are found to be in breach of the Code.

The VPSC can only register an individual if they satisfy certain requirements: not being sentenced to 30 months or more of imprisonment and not being convicted of an offence involving dishonesty in the last 10 years. Lobbyists also cannot be registered if they receive ‘success fees’, which includes any money or compensation received that is contingent on the tendering or awarding of a contract or project.²⁹ These requirements are determined through statutory declarations and must be renewed once every 12 months.

Register of Government Affairs Directors

All GADs with former affiliations as defined in the Code must be registered in the Register of Government Affairs Directors (the GAD Register) (also managed by the VPSC) in order to contact government representatives for the purposes of lobbying. GADs must provide details of the organisation that is employing them, their position within the organisation, and their former position or affiliations within government, the public sector or a political party.³⁰

The GAD Register ensures former government, public service, or political affiliates follow the Lobbyist Code of Conduct on pain of deregistration from the GAD Register. The FAQ section of the GAD Register states that the onus remains on GADs to ensure they are registered

²⁶ *ibid.*

²⁷ *ibid.*

²⁸ Victorian Government (2023) ‘[The Victorian Government Professional Lobbyist Code of Conduct](#)’, Victorian Lobbyist Register website.

²⁹ *ibid.*

³⁰ Victorian Public Sector Commission, (date unknown) ‘[Register of Government Affairs Directors](#)’, VPSC website.

before contacting government representatives, and suggests government representatives ‘seek assurances’ that a GAD is registered if they are approached.³¹

Public sector codes of conduct

Ministerial Code of Conduct

As well as the Lobbyist Code of Conduct, Victorian ministers and parliamentary secretaries are also obliged to comply with the **Ministerial Code of Conduct**. The Ministerial Code of Conduct details expectations for ministers and parliamentary secretaries and covers accountability, conduct, disclosures, gifts, conflicts of interest and integrity measures. It outlines a Ministerial Register of Interests and a Ministerial Register of Gifts, Benefits and Hospitality. The Ministerial Code of Conduct is administered and enforced by the Premier, who can seek advice on enforcing the Code from the Secretary of the Department of Premier and Cabinet (DPC).

The Ministerial Code of Conduct defers to the Lobbyist Code of Conduct when outlining how ministers and secretaries should deal with lobbyists, and stipulates they must report to the VPSC any lobbyists that are not registered or are not following the Code.³² Lobbying that occurs between ministers and Members of Parliament is not defined as lobbying under the Lobbyist Code of Conduct.

Specifically relating to lobbying, the Ministerial Code of Conduct also covers post-employment for ministers. Former ministers can work with a third-party lobbyist 18 months after leaving Parliament.³³ The Code requires ministers and former ministers to obtain the advice of the Parliamentary Integrity Adviser (PIA) before accepting employment as a lobbyist if the lobbying subject matter relates to portfolios they held within two years of leaving office.³⁴ The PIA may ‘advise against’ the employment, in which case the former minister ‘should not’ accept it. If they accept the position, the PIA must table the advice in Parliament.³⁵

In November 2023, the Ministerial Code of Conduct was expanded to require ministers to publish their diaries, a key mechanism for regulating lobbying and making it more transparent (see ‘Key areas identified for reform’).³⁶ The updated Code came into effect immediately on 1 December 2023 but was not retroactive. Ministers must now publish a summary of their diaries once a quarter, detailing all scheduled meetings with ‘stakeholders, external organisations, third-party lobbyists, government affairs directors and external individuals’.³⁷ Ministers are required to provide the meeting date, the name of the company or organisation met with, individuals who attended and the purpose of the meeting.³⁸ When meeting with lobbyists, ministers are required to include the company name and their client in their published diaries, together with the matter the lobbyist is representing. They are also required to link their entry with the lobbyist’s registration in the Register.³⁹ The first diaries were released in February 2024, covering ministers’ activities between 1 December and 31 December 2023,⁴⁰ but will be released quarterly into the future.⁴¹

Definitions of ‘third-party lobbyists’, ‘stakeholders’ and ‘external individuals’ are not given in the revised Ministerial Code of Conduct, which refers back to the Lobbyist Code of Conduct on lobbying-related matters. Further, the Ministerial Code does not apply to ministerial staff

³¹ Victorian Public Sector Commission, (date unknown) ‘[Register of Government Affairs Directors – Q&A](#)’, VPSC website.

³² Department of Premier and Cabinet (2023) ‘[Ministerial Code of Conduct](#)’, DPC, Melbourne, s 4.2.

³³ *ibid.*, s 4.5.1b.

³⁴ *ibid.*, s 4.5.4.

³⁵ *ibid.*

³⁶ J. Allan, Premier (2023) ‘[Strengthening Integrity in Government](#)’, media release, 1 December.

³⁷ Department of Premier and Cabinet (2023) (2023) ‘[Ministerial Code of Conduct](#)’, DPC website, s 5.3

³⁸ *ibid.*

³⁹ Victorian Government (2023) ‘[Ministerial Code of Conduct](#)’, Victorian Government website.

⁴⁰ Victorian Government (2024) ‘[2023 ministerial diary disclosures](#)’, Victorian Government website.

⁴¹ Victorian Government (2023) ‘[Ministerial Code of Conduct](#)’, Victorian Government website.

or advisors or electorate officers.⁴² Ministerial advisers and officers must follow the Ministerial Staff Code of Conduct (see below).

Ministerial Staff Code of Conduct

The **Ministerial Staff Code of Conduct** states that staff employed by ministers or parliamentary secretaries must comply with the Lobbyist Code of Conduct, including restrictions on post-employment jobs with lobbyists. For 12 months after they conclude their employment, staff are prohibited from engaging in lobbying activities (as defined in the Lobbyist Code of Conduct) relating to matters with which they had official dealings in the last 12 months of their employment.⁴³

Code of Conduct for Victorian public sector employees

The **Code of Conduct for Victorian Public Sector Employees**⁴⁴ (the Public Sector Code) was issued in 2015 under 2014 amendments to the Public Administration Act. The Public Sector Code covers public sector employees and some contractors and consultants, outlining the values of the public sector and offering guidance on behaviour expected of public sector employees. The Public Sector Code is considered binding, and breaches may be considered misconduct. It is designed to guide the heads of public sector bodies in shaping more specific policies and procedures.⁴⁵

Engaging with Lobbyists: Guidance for Victorian Public Sector Employees

Whilst there is no specific mention of lobbying or lobbyists in the Code of Conduct for Victorian Public Sector Employees, in 2019 the VPSC issued Circular 2019-11 **Engaging with Lobbyists: Guidance for Victorian Public Sector Employees** (the Guide).⁴⁶ The Guide acknowledges that public sector employees may come into contact with lobbyists in the course of their work—a key finding in IBAC’s Operation Sandon (see ‘IBAC investigations’)—and outlines how these employees must behave in line with the Lobbyists Code of Conduct and the Code of Conduct for Victorian Public Sector Employees. The Guide also outlines how public sector employees cannot be party to lobbying activities when they are involved in a government tender process.

Code of Conduct for Members of Parliament

The *Members of Parliament (Standards) Act 1978* provides a Code of Conduct for Members of Parliament (the MP Code). The MP Code does not specifically cover lobbying or lobbyists, but it does cover related issues such as post-retirement activities, use of influence and actual or perceived conflicts of interest. The MP Code prohibits a Member from ‘using their status as a former Member to obtain preferential treatment or privileged access to Government after ceasing to be a member of Parliament’.⁴⁷

The proposed new Parliamentary Integrity Commissioner (announced in October 2023 but due to be established by June 2024) will have the authority to investigate potential breaches of the MP Code.⁴⁸ The Members of Parliament (Standards) Act is also due to be amended as part of the changes announced by the Government.

Other codes and guidelines around lobbying

Directors and board members of public entities are also often held to various codes of conduct and integrity provisions that relate to lobbying, such as disclosure requirements,

⁴² Electorate officers are subject to the Code of Conduct for Parliamentary Electorate Officers, however this contains no specific mention of or guidance on lobbying. Parliament of Victoria (2022) [Code of Conduct of Parliamentary Electorate Officers \(no. 7\)](#), Melbourne, Parliament of Victoria.

⁴³ Office of the Premier, (2022) [Ministerial Staff Code of Conduct](#), Office of the Premier, Melbourne, p. 5.

⁴⁴ Victorian Public Sector Commission (2015) [Code of Conduct for Victorian Public Sector Employees](#), VPSC, Melbourne.

⁴⁵ *ibid.*

⁴⁶ Victorian Public Sector Commission (2023) [Guide to engaging with lobbyists in the Victorian Public Sector](#), VPSC, Melbourne.

⁴⁷ [Members of Parliament Standards Act 1987](#), s 15.

⁴⁸ J. Allan, Premier (2023) [Parliamentary Integrity Commission Consultation Begins](#), media release, 17 October.

probity checks, declarations of interests and declarations of directors' connections to lobbyists. Directors of boards of public entities are regulated under the **Code of Conduct for Directors of Public Entities** (managed by the VPSC).⁴⁹ VPSC provides an *Integrity guide for new board directors*,⁵⁰ and the integrity provisions of the Public Administration Act are also included in the Lobbying Code of Conduct.⁵¹

Additionally, public entities are also often governed under legislative provisions in Acts specific to their sector that may indirectly impact lobbying and lobbyists. For example, the Victorian Planning Authority (VPA) is subject to conflict-of-interest provisions in the *Victorian Planning Authority Act 2017*⁵² and, pursuant to that Act, has published the *Conflict of interest policy—board members*, which covers conflicts of interest, but does not specifically cover lobbying.⁵³ As was demonstrated in Operation Clara (see 'IBAC investigations' below), members of public boards are not prohibited from working as a lobbyist for a lobbying firm, and there are no references to lobbying in the government's *Appointment and Remuneration Guidelines*.⁵⁴

2 | Other jurisdictions

The regulation of lobbying in government and the public sector varies greatly across jurisdictions. In recent years, IBAC has described a number of 'vulnerabilities' in Victoria's government and public sector decision-making processes to the influence of unregulated lobbying, throwing light on alternative approaches around the world in the process. Elements of lobbying frameworks in other jurisdictions have been proposed as options for strengthening Victoria against the risks associated with lobbying activity. IBAC, New South Wales's Independent Commission Against Corruption (ICAC) and other experts point to schemes in NSW and Queensland,⁵⁵ which have undergone recent reform, as well as those operating in Scotland, Ireland and Canada.⁵⁶

This section examines some of the key attributes of lobbying regulation schemes and is followed by a series of comparative tables highlighting where jurisdictions differ. Neither the Northern Territory in Australia, nor New Zealand, has a lobbying regulation system, so these jurisdictions are not included in the table. Details of those included may also change in the short term, with Victoria and Tasmania, for instance, both in the process of reforming their lobbying regulation schemes.⁵⁷

Legislated versus administrative systems

Victorian lobbyists and government representatives operate according to an **administrative system**, under which breaches of the Lobbying Code of Conduct can lead only to the lobbyist's deregistration from the Register of Lobbyists.⁵⁸ In the case of code breaches that do not otherwise constitute offences prescribed in legislation, such systems only provide for administrative sanctions such as deregistration. Similar systems also operate in the federal and Tasmanian schemes.

⁴⁹ Victorian Public Sector Commission (2016) *Code of conduct for directors of Victorian public entities*, VPSC, Melbourne.

⁵⁰ Boards Victoria (2022) 'Integrity guidance for board directors', Boards Victoria website.

⁵¹ Independent Broad-based Anti-corruption Commission (2023) *Operation Clara: Special report*, IBAC, Melbourne, p. 21.

⁵² *ibid.*

⁵³ Victorian Planning Authority (2023) *Conflict of Interest Policy—Board Members*, VPA, Melbourne.

⁵⁴ Department of Premier and Cabinet (2023) 'Board appointment, remuneration and diversity guidance', DPC website.

⁵⁵ Independent Broad-based Anti-corruption Commission (2022) *op. cit.*, p. 6; Y.-F. Ng (2020) *op. cit.*

⁵⁶ Independent Broad-based Anti-corruption Commission (2022) *op. cit.*, p. 38; Independent Commission Against Corruption (2021) *Investigation into the regulation of lobbying, access and influence in NSW*, report on Operation Eclipse, ICAC website, p. 21.

⁵⁷ Tasmanian Integrity Commission (2023) 'Reforming lobbying oversight in Tasmania', TIC website.

⁵⁸ Y.-F. Ng (2020) *op. cit.*, p. 535.

Alternatively, many jurisdictions choose a **legislated system** in which reporting obligations, penalties and other provisions are codified in law. As well as stipulating the entity tasked with regulating lobbying behaviour and maintaining a register of lobbyists or lobbying, these laws may also prescribe a code of conduct or provide for the creation of a code. Among Australian jurisdictions, elements of NSW's and Queensland's legislated approaches have been recommended by IBAC for implementation in Victoria, while South Australia and Western Australia also have legislated schemes.⁵⁹

Regulatory entities

Further differences relate to what *kind* of entity regulates lobbying conduct. As Victoria does with the VPSC,⁶⁰ many jurisdictions opt for a statutory body: either a specialist lobbying regulator (like the UK's Registrar of Consultant Lobbyists, which works with the Cabinet Office)⁶¹ or an entity with responsibility for integrity measures generally, but including lobbying, such as the Queensland Integrity Commissioner.⁶² In some jurisdictions, comparative responsibility lies directly with a government department, as in South Australia, where the lobbying register and regulatory responsibility lie with the Department of Premier and Cabinet,⁶³ and at the federal level, where the Attorney-General's Department is responsible.⁶⁴ Still further, some jurisdictions opt to have their parliament regulate lobbying activity, such as in the ACT and Scotland.⁶⁵

'Lobbyists' versus 'lobbying activity'

While a register of lobbyists is a common feature among regulatory frameworks, there is much variation in how they are maintained, including the information required of lobbyists in relation to their lobbying contacts and the scope of lobbying activity captured. Victoria is among the majority of jurisdictions sampled which have a register of third-party lobbyists.

There is, however, a concern that the focus on third-party lobbyists only captures a fraction of the people making lobbying presentations to government. In Queensland in 2013, it was estimated by a former integrity commissioner that third-party lobbyists accounted for only 20 per cent of all those undertaking lobbying activity.⁶⁶ This is something partly addressed in NSW's regulatory expansion to ensure all who engage in lobbying activity with a government official are covered by the Code of Conduct (an approach that mirrors Scotland), even if only third-party lobbyists are required to register on the Lobbyists Register.⁶⁷ Similarly, IBAC has recommended an expansion of the scheme to encompass 'lobbying activity' in Victoria in order to capture in-house lobbyists, local government representatives and other lobbyists not currently regulated (see 'Key areas for reform').⁶⁸ Canada also makes specific provision for the registration of both in-house and third-party lobbyists.⁶⁹

Typically, local government is not included within the scope of lobbying regulation across jurisdictions—the only Australian exception being Queensland.⁷⁰ In Ireland, 'members of local

⁵⁹ *ibid.*, pp. 526–31, 535–36.

⁶⁰ Victorian Public Sector Commission (2024) 'Our role and structure', VPSC website.

⁶¹ Office of the Registrar of Consultant Lobbyists (2024) 'Office of the Registrar of Consultant Lobbyists', ORCL website.

⁶² Queensland Integrity Commissioner (2024) 'What is the Lobbying Register?', QIC website.

⁶³ Government of South Australia (2024) 'Lobbyist registration', SA Department of the Premier and Cabinet website.

⁶⁴ Australian Government (2024) 'Australian Government Register of Lobbyists', Attorney-General's Department website.

⁶⁵ Legislative Assembly for the Australian Capital Territory (2024) 'ACT Register of Lobbyists', ACT Legislative Assembly website; The Scottish Parliament (2024) 'Lobbying Register and regulated lobbying', Scottish Parliament website.

⁶⁶ Y.-F. Ng (2020) *op. cit.*, p. 538.

⁶⁷ Independent Commission Against Corruption (2021) *op. cit.* p. 23–24.

⁶⁸ Independent Broad-based Anti-corruption Commission (2022) *op. cit.* p. 11.

⁶⁹ Office of the Commissioner of Lobbying of Canada (2023) 'Lobbying at the federal level — at a glance', OCLC website.

⁷⁰ Queensland Integrity Commissioner (2024) *op. cit.*

authorities' are also included, but this includes only local council executives such as chief executives, directors of services and heads of finance.⁷¹

Disclosure requirements

In many jurisdictions lobbyists and/or the lobbied (depending on definitions of 'government representative' and comparable terms) are required to disclose details of lobbying activity at regular intervals.

In this area, Victoria's recently introduced requirement in the Ministerial Code of Conduct to publish ministerial diaries brings the state into line with Queensland, NSW, the ACT, the UK and Scotland, which all have comparative transparency obligations, albeit in varying degrees of detail. Ministerial diaries have been made public in NSW since 2015, and have been covered in media reports surrounding several integrity investigations, including the ICAC investigations into the conduct of former NSW Premier Gladys Berejiklian⁷² and former Member of Parliament Eddie Obeid,⁷³ and in relation to a wider review of lobbying laws and anti-corruption measures.⁷⁴ Some jurisdictions may also require departments to disclose lobbying contacts in retrospect, such as in the UK where contacts are required to be published quarterly as required by the Ministerial Code.⁷⁵

On the part of the lobbyists, while there is no obligation in Victoria for lobbyists to record and/or publish their contacts or meetings with government representatives, this obligation does exist in Queensland, NSW, the UK, Scotland, Ireland and Canada. Again, details vary regarding the thoroughness of records. In some jurisdictions, as is the case with NSW's Department of Environment and Planning, lobbyists are required to submit a meeting request in advance, detailing the purpose and time of the meeting proposal.⁷⁶ Canada and Ireland have been identified as having the strongest disclosure practices in their lobbying registers.⁷⁷ In the UK, the process is known as 'quarterly information returns'.⁷⁸

'Cooling-off' provisions

Almost all jurisdictions have provisions to prevent abuse of privileged information held by former government representatives after leaving office. Specific 'cooling-off' periods are designed to prohibit people from lobbying on matters relating to their former portfolio responsibilities. These are also often called 'revolving door' provisions, given the high percentage of former government representatives among lobbyist ranks, highlighting the danger of government connections being used to undermine fair process in public sector decision-making.

With cooling-off periods ranging from 12 to 18 months, Victoria is similar to most other jurisdictions. Time frames typically vary according to the seniority of role: longer for premiers and ministers, and shorter for parliamentary secretaries, ministerial officers and statutory heads, with cooling off periods ranging from 12 months to two years across the sample taken in the table below. The major exceptions to this trend are Scotland, which has no cooling off

⁷¹ Lobbying.ie. (2024) 'Who are the Designated Public Officials (the lobbied)?', Lobbying.ie website.

⁷² C. Fellner (2021) 'The outback Airbnb shack, the dirt highway and Daryl Maguire's meeting with Gladys Berejiklian', *Sydney Morning Herald*, 4 March.

⁷³ K. McClymont (2013) 'Revealed: Eddie Obeid's secret diaries', *Sydney Morning Herald*, 15 March.

⁷⁴ A. Smith (2022) 'New lobbying laws to guard against 'corruption and undue influence'', *Sydney Morning Herald*, 19 July.

⁷⁵ Cabinet Office Transparency Data team (2023) *Guidance: Ministers' gifts (given and received), travel, hospitality received and meetings with external organisations and individuals*, GOV.UK website, 7 December, p. 15.

⁷⁶ NSW Department of Planning and Environment (2023) 'Third Party Lobbyists and Business Contacts Portal', NSW DPE website.

⁷⁷ J. Lacy-Nichols & K. Cullerton (2023) 'Who's lobbying whom? When it comes to alcohol, tobacco, food and gambling firms, we're in the dark', *The Conversation*, 13 November.

⁷⁸ Office of the Registrar of Consultant Lobbyists (2024) 'Quarterly Information Return deadlines', ORCL website.

period, and Canada—by far the most cautious—which stipulates a ‘designated public office holder’ must wait five years before taking a position related to their former position.⁷⁹

Compliance and enforcement

Victoria’s administrative framework has been criticised for a lack of capacity to enforce compliance, holding only the threat of deregistration—a punishment that as of July 2022 had not been imposed on any registered lobbyist since the register’s inception.⁸⁰

Legislated lobbying regulation systems tend to have broader capacity for sanctioning improper lobbying activity, with Queensland, NSW, South Australia and Western Australia including the possibility of fines. NSW has a watch list for lobbyists found in breach.⁸¹ South Australian legislation also raises the possibility of prison time, as does Scottish, Irish and Canadian legislation. However, even in jurisdictions with more comprehensive lobbying regulation, such as Queensland’s and NSW’s, there remain concerns that compliance mechanisms lack the capacity for meaningful enforcement (see ‘Enforcement of the Lobbyist Code of Conduct’ section).

⁷⁹ Office of the Commissioner of Lobbying of Canada (2023) op. cit.

⁸⁰ R. Millar (2023) ‘[Ex-Labor MPs, advisers flock to lobbying roles](#)’, *The Age*, 6 July.

⁸¹ NSW Electoral Commission (2023) ‘[Lobbyists watchlist](#)’, NSW EC website.

Jurisdictional comparison

Table 1: Basic lobbying frameworks for states, territories and select international jurisdictions⁸²

	Form of regulation	Applicable lobbying-specific standards (excl ministerial and other codes)	Responsible entity	Registers
State and territory jurisdictions				
Victoria	Administrative	Lobbying Code of Conduct	Victorian Public Sector Commissioner	Register of Lobbyists; Register of Government Affairs Directors
Queensland	Legislated	Lobbyists Code of Conduct	Queensland Integrity Commissioner	Lobbying Register
New South Wales	Legislated	Lobbyists Code of Conduct	NSW Electoral Commission	Lobbyists Register
South Australia	Legislated	Lobbyist Code of Conduct	Department of Premier and Cabinet	Lobbyist Register
Western Australia	Legislated	Lobbyist Code of Conduct	Public Sector Commissioner	Register of Lobbyists
Tasmania	Administrative	Lobbying Code of Conduct	Integrity Commission	Lobbyists Register
ACT	Administrative	ACT Lobbying Code of Conduct (in Legislative Assembly standing orders)	ACT Legislative Assembly	Register of Lobbyists
National jurisdictions				
Australia	Administrative (third party, domestic); Legislated (foreign)	Lobbying Code of Conduct	Attorney-General's Department	Register of Lobbyists; Foreign Influence Transparency Scheme Public Register
UK (Westminster)	Legislated	Optional codes of conduct through professional lobbying associations	Cabinet Office Office of the Registrar of Consultant Lobbyists Advisory Committee on Business Appointments	Register of Consultant Lobbyists
Scotland ⁸³	Legislated	Code of Conduct for Persons Lobbying MSPs; Optional codes of conduct through professional lobbying associations	Scottish Parliament	Lobbying Register
Ireland	Legislated	Code of Conduct (not mandatory)	Standards in Public Office Commission	Register of Lobbying
Canada	Legislated	Lobbyists' Code of Conduct	Office of the Commissioner of Lobbying (OCL)	Registry of Lobbyists

⁸² References for the following tables are listed at the end of the paper in the 'References' section.

⁸³ The Scottish Parliament is a 'devolved legislature' and has jurisdiction over its lobbying framework.

Table 2: Provisions for success fees, cooling-off periods and sanctions for lobbying breaches

	Success fees	Cooling-off periods	Compliance and enforcement measures
State and territory jurisdictions			
Victoria	Prohibited	18 months for ministers and cabinet secretaries 12 months for parliamentary secretaries, executives and ministerial officers	Deregistration
Queensland	Prohibited	Two years for former senior government and opposition representatives	Deregistration Fines (up to 200 penalty units)
New South Wales	Prohibited	18 months for ministers and parliamentary secretaries	Deregistration Lobbyist watch list Fines (up to 200 penalty units for an individual; up to 500 penalty units for a corporation)
South Australia	Prohibited	Two years for ministers 12 months for parliamentary secretaries 12 months for ministerial officers Not at all while being a member of a government board	Deregistration Fines (up to \$30,000 for a natural person; up to \$150,000 for a body corporate) Imprisonment (up to two years)
Western Australia	Prohibited	12 months for members of parliament, WA MPs in Commonwealth Parliament, senior public sector executives	Deregistration Fines (up to \$10,000)
Tasmania	Not prohibited	12 months for ministers and parliamentary secretaries 12 months for heads of agencies post-departure from appointment	Deregistration
ACT	Not prohibited	18 months for members of the Legislative Assembly 12 months for employees under the LAMS Act 12 months for heads, directors-general and executives under the PSM Act	Deregistration
National jurisdictions			
Australia	Not prohibited	18 months for ministers and parliamentary secretaries; 12 months for agency heads, ministerial advisers and members of the ADF	Deregistration
UK (Westminster)	Not prohibited	Two years for ministers Two years for permanent secretaries and special advisers (may be modified on application)	Deregistration Fines
Scotland	Not prohibited	None	Censure Fines (between levels 3 and 5 on standard scale) Imprisonment (up to three months)
Ireland	Not prohibited	12 months for designated public officials	Fines (class C) Imprisonment (up to two years)
Canada	Prohibited	Five years for 'designated public office holders' (DPOHs)	Public naming Lobbying bans (up to two years) Fines (up to CAD\$200,000) Imprisonment (up to two years)

Table 3: Comparison of regulatory scope and transparency provisions

	Scope of lobbying activity covered		Transparency	
	Lobbying	Government representatives	Publication of ministerial diaries	Public lobbying contact disclosures
State and territory jurisdictions				
Victoria	Third-party lobbyists Ex-government affairs directors	- Ministers; cabinet secretaries - parliamentary secretaries - ministerial officers; - public sector body employees	Yes (pursuant to Ministerial Code of Conduct)	None
Queensland	Third-party lobbyists	- Premiers - ministers and assistant ministers - councillors - public sector officers - ministerial staff	Yes (pursuant to Ministerial Handbook)	Within 15 days after the end of the month, registered lobbyists must provide to the Lobbying Register: date lobbying contact occurred; client of lobbyist; title and name of the government representative; and the purpose of the contact.
New South Wales	Lobbying activity (i.e. third party and in-house)	- Ministers or parliamentary secretaries (and their staff members) - electorate office staff - agency heads - employees of public service, transport service or other Crown service (including contractors) - a statutory body member	Yes (Pursuant to Premier's Memorandum M2015-05)	For the NSW Department of Planning and Environment, third-party lobbyists must submit a pre-meeting request form, details of which are then published on the department's Lobbyist Contact Register.
South Australia	Third-party lobbyists	- Ministers - parliamentary secretaries - ministerial staff - members of, or persons employed, contracted or engaged by, a public sector agency	No	None
Western Australia	Third-party lobbyists	- Ministers - parliamentary secretaries - ministerial officers - public sector employees	No	None
Tasmania	Third-party lobbyists	- Ministers - parliamentary secretaries - Members of Parliament (executive government only) - ministerial advisers - agency heads	No	None
ACT	Third-party lobbyists	- Members of Legislative Assembly - Employee under the <i>LA (Members' Staff) Act 1989</i> and <i>Public Sector Management Act 1994</i>	Yes (pursuant to <i>Freedom of Information Act 2016</i> (ACT))	None

	Scope of lobbying activity covered		Transparency	
	Lobbying	Government representatives	Publication of ministerial diaries	Lobbying contact disclosures
National jurisdictions				
Australia	Third-party lobbyists Foreign entities	- Ministers; parliamentary secretaries - ministerial and parliamentary secretarial staff - agency heads and public servants - members of the Australian Defence Force	No	None
UK (Westminster)	Third-party lobbyists	- Ministers - permanent secretaries (or equivalents specified in lobbying legislation)	Yes (pursuant to Ministerial Code)	Registered consultant lobbyists required to provide quarterly information returns to the Office of the Registrar, including details of: - engagement in lobbying for payment and the client (regardless of whether payment received) - payment for lobbying and the client (regardless of whether lobbying undertaken). They must also declare inactivity if they have not engaged in paid lobbying in that time.
Scotland	Lobbying activity (third-party lobbyists and in-house lobbyists)	- Members of parliament - members of government - junior Scottish ministers - special advisers - permanent secretaries	Yes (pursuant to Scottish Ministerial Code)	Information returns to the Lobbying Register must contain records of: - date of lobbying - publication date - description of meeting - purpose of the lobbying.
Ireland	Lobbying activity (third-party lobbyists, employers, issue-based or representative bodies, any person communicating about zoning or development of land)	‘Designated public officials’, listed by each public body in accordance with the lobbying act, including: - ministers of government and ministers of state - other members of Dáil Éireann and Seanad Éireann - members of the European Parliament for constituencies in Ireland - members of local authorities - certain special advisers and public servants.	No	Quarterly information returns to the Register of Lobbying must contain records including: - prescribed ‘relevant information’ about client - public officials addressed, their position and organisation - subject matter and intended result - type and extent of lobbying activities - primary person conducting lobbying activities - names of designated public officials currently or previously employed by, or who have provided services to, the registered person and who were engaged in lobbying activities.

Canada	Third-party lobbyists	Discussions may be deemed ‘lobbying activity’ if with a ‘public office holder’, including officers of employees of the Government of Canada.	No	Lobbyists engaging in oral of arranged communications with DPOHs must provide monthly reports to the OCL, including: - the name of the DPOH - position or title of the DPOH - the name of the branch or unit, and the name of the department or other governmental organization in which the DPOH is employed - the date of the communication - the subject matter of the communication.
	In-house lobbyists (except for legislative provisions around lobbying activities such as awarding of contracts or arranging meetings)	Within this group is a further classification of ‘designated public office holders’ (DPOH), including: - all parliamentarians - ministerial staff - most senior executives Only communications with DPOHs require reporting to the Office of the Commissioner of Lobbying (OCL).		

3 | Recent debates, reports and proposed legislative changes

Several changes to legislation relating to lobbying have been proposed in Victoria throughout 2023.

In March 2023, Coalition opposition MP David Davis introduced a private member’s Bill in the Legislative Council, the Public Administration and Planning Legislation Amendment (Control of Lobbyists) Bill 2023.⁸⁴ The Bill was designed to implement the recommendations of Operation Clara, namely to ban lobbyists (as defined by the Code) from serving on public entity boards and strengthen requirements for lobbyists to declare any conflicts of interest.⁸⁵ The Bill was passed in the Legislative Council but defeated in the Legislative Assembly.⁸⁶

In October 2023, the Government announced it would introduce ‘sweeping integrity reforms, strengthening the state’s lobbying laws’ and ‘increasing transparency and accountability of lobbying activities at state and council levels’,⁸⁷ accepting in full or in principle nine of the 17 recommendations made by IBAC in its report on Operation Daintree. These reforms included updating the codes of conduct for ministers, ministerial staff and staff in the Victorian Public Sector, and implementing integrity training across the sector. The legislation is expected to be introduced to Parliament before June 2024.

This followed an announcement two weeks earlier to introduce legislation to establish a Parliamentary Integrity Commission (PIC) and a Parliamentary Ethics Committee by June 2024.⁸⁸ While the proposed PIC is mainly being established to investigate allegations of misconduct by Members, ministers and parliamentary secretaries, it also aims to improve public interest disclosure mechanisms, which could have impact on lobbying activities. The new PIC, if established, would have the ability to enforce the MP Code of Conduct, which does not specifically relate to lobbying but does cover related areas such as post-retirement activities, use of influence, and actual or perceived conflicts of interest. The PIC would also,

⁸⁴ [Public Administration and Planning Legislation Amendment \(Control of Lobbyists\) Bill 2023](#)

⁸⁵ D. Davis (2023) ‘Second reading speech: Public Administration and Planning legislation Amendment (Controlling Lobbyists) Bill 2023’, *Debates*, Victoria, Legislative Council, 8 March, p. 617.

⁸⁶ Mr Davis also introduced a private member’s Bill to the Council in May 2023, Operation Daintree Implementation (No. 1) Bill 2023, seeking to amend the Public Administration Act 2004 and other processes to implement recommendations of the Operation Daintree report.

⁸⁷ J. Allan, Premier (2023) [Strengthening Victoria’s Public Sector Integrity](#), media release, 31 October.

⁸⁸ J. Allan, Premier (2023) [Parliamentary Integrity Commission Consultation Begins](#), media release, 17 October.

on referral from IBAC, investigate ‘certain public interest complaints about MPs’, which may include improper lobbying activity.⁸⁹

Publication of ministerial diaries

The Ministerial Code of Conduct was updated in November 2023 in response to recommendations in IBAC and the Ombudsman’s report on Operation Watts and IBAC’s Operation Daintree report.⁹⁰ One of the key changes was the requirement for ministers to publish their ministerial diaries on a quarterly basis. The first release in February 2024 showed ministers meeting with a range of stakeholders during December 2023.⁹¹ Two registered lobbyists were among the attendees to meetings recorded in the February release.⁹²

Federal changes

Changes to lobbying laws have also been proposed and debated at the federal level. In December 2023, Independent Senator David Pocock proposed a select committee to investigate federal lobbying laws, which was referred to the Standing Committee on Finance and Public Administration after its terms of reference were significantly narrowed by the Government. The inquiry will now largely focus on lobbyists’ access to Parliament House with a swipe card, which is also the focus of Independent MP Monique Ryan’s private member’s Bill,⁹³ and which has recently been revoked in New Zealand.⁹⁴ Ryan’s Bill is also aimed at regulating in-house lobbyists by legislating the Code of Conduct and other reforms.⁹⁵

IBAC investigations

A series of reports by IBAC over the past 18 months has intensified public focus on lobbying in Victoria, with investigations examining issues of integrity within Victoria’s public sector and government institutions. Since July 2022, these have included:

- **Operation Watts:** *Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*—a joint report by IBAC and the Victorian Ombudsman (July 2022)
- **Special report on corruption risks associated with donations and lobbying** (October 2022)
- **Operation Clara:** *Special report* (February 2023)
- **Operation Daintree:** *Special report* (April 2023)
- **Operation Sandon:** *Special report* (July 2023)

This section contextualises how these investigations came about, the events investigated, and how these relate to the ongoing debates around Victoria’s lobbying laws.

Operation Watts

Operation Watts encompassed a range of integrity issues, with the effectiveness of the lobbying framework being just one aspect scrutinised. The joint investigation by IBAC and the Victorian Ombudsman related to the alleged misuse of taxpayer money for party-political purposes within the Victorian branch of the Australian Labor Party from approximately 2017

⁸⁹ Department of Premier and Cabinet (2023) *Summary of proposed Bill—Parliamentary Integrity Commission Bill 2024*, Victorian Government, October, p. 3.

⁹⁰ *ibid.*

⁹¹ Victorian Government (2024) ‘[2023 ministerial diary disclosures](#)’, Victorian Government website.

⁹² *ibid.*; Victorian Public Sector Commission (2024) ‘[The Victorian Register of Lobbyists](#)’, VPSC website.

⁹³ M. Ryan (2023) *Dr Monique Ryan Launches National #CleanUpPoliticsAct Campaign For Long-Overdue Lobbying Reform*, media release, 13 November.

⁹⁴ F. Desmarais (2023) ‘[Lobbying in Parliament: New rules announced by Hipkins](#)’, *1news*, 2 April.

⁹⁵ P. Begley (2023) ‘[In Canberra, lobbyists outnumber politicians three to one. Now there are growing calls for stronger regulation](#)’, *ABC News*, 13 November.

to 2020, including reports of ‘industrial-scale’ branch stacking that implicated a number of serving ministers in the Victorian Government.⁹⁶

Among its many findings, the report alleged several lobbyists sought to manipulate the awarding of public agency grants to groups with close factional ties to ministers and MPs.⁹⁷ The report expressed concern with how a particular lobbyist had involved themselves and a ministerial adviser ‘in an arrangement to improperly influence a grant to a factional ally’.⁹⁸ The report stated that any grants subsequently awarded to those organisations ‘inevitably gave rise to perceptions of a conflict of interest and favoured treatment’, given that, regardless of the result, factional allies had had privileged access and opportunity to exert pressure and ‘improperly interfere’ with decision-making processes.⁹⁹ Several of the parties involved disputed the findings through submissions to IBAC.

The report noted the ‘high risks of significant conflicts of interest’ in public office,¹⁰⁰ especially when governments have come to power with the support of ‘a large number of individuals and organisations, many of whom will expect their views and aspirations to be treated sympathetically by the government’.¹⁰¹ In advocating for ‘strong integrity and compliance measures’ to protect the public interest,¹⁰² IBAC and the Ombudsman also outlined what they saw as a flaw with the current lobbying regulation system—that the rules, while also limiting in the scope of lobbying activity covered, are not effective in a preventive sense. They argued that ‘Bare compliance with specific rules and examples is inadequate if no genuine consideration is given to the existence and management of conflicts of interests’.¹⁰³ The joint report was a precursor to future recommendations on lobbying arising from several concurrent IBAC investigations.

Special report on corruption risks associated with donations and lobbying

With IBAC investigating several matters centring on issues of integrity, transparency and potential corruption, the commission released a special report on donations and lobbying in October 2022. This was in part prompted by suggestions that Parliament would be considering reform in this space.¹⁰⁴

With regard to lobbying, recommendations 3 and 4 detailed several avenues—through both legislation and existing administrative lobbying frameworks—for addressing what IBAC perceived as shortcomings in Victorian lobbying regulation.¹⁰⁵ The report also provided a broad analysis of the ways lobbying, while a legitimate part of the democratic process, ‘carries inherent risks that the decision-making process may become distorted or corrupted’.¹⁰⁶ IBAC concluded that the ‘existing regulatory regime does not serve to fully protect the public interest and to restrain, or at least constrain, the disproportionate, excessive and privileged practices of lobbyists’.¹⁰⁷

Matters identified for reform in lobbying regulation are explored further in section 4 of this paper, but issues explored in the IBAC special report—some of which IBAC expanded on in later reports—include the following:

- the ‘narrow’ scope of lobbying regulation¹⁰⁸

⁹⁶ Independent Broad-based Anti-corruption Commission & Victorian Ombudsman (2022) *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*, IBAC & VO, July, p. 8.

⁹⁷ *ibid.*

⁹⁸ *ibid.*, p. 126.

⁹⁹ *ibid.*, p. 154.

¹⁰⁰ *ibid.*, p. 208.

¹⁰¹ *ibid.*, p. 207.

¹⁰² *ibid.*, p. 208.

¹⁰³ *ibid.*, p. 208.

¹⁰⁴ Independent Broad-based Anti-corruption Commission (2022) *op. cit.*, p. 7.

¹⁰⁵ *ibid.*, pp. 11–13.

¹⁰⁶ *ibid.*, p. 37.

¹⁰⁷ *ibid.*, p. 51.

¹⁰⁸ *ibid.*, p. 40.

- the role of lobbying between Members and ministers¹⁰⁹
- the ‘significant gap’ in lobbying regulation that is the local government context¹¹⁰
- the monitoring, reporting and restriction of ‘privileged access’¹¹¹
- the publication of ministerial diaries and recording of lobbying interactions¹¹²
- the use of incentives by lobbyists, such as success fees¹¹³
- the separation of political and lobbying interests when public entity board members are simultaneously employed as lobbyists¹¹⁴
- the use of cooling-off periods.¹¹⁵

Operation Clara

Operation Clara concerned the potential for conflicts of interest when public entity board members simultaneously work as lobbyists.¹¹⁶ The report found that a former board member of the Victorian Planning Authority had sought to advance his lobbying business’s interests by leveraging his position as a VPA board director. Further, IBAC alleged that, in return for the director’s advocacy to the VPA for a lobbying client’s proposal, the director sought and obtained benefits from this client—a client the director had failed to declare on the Lobbyists Register.¹¹⁷ Several of these findings were disputed by the principal party investigated.

Nonetheless, the report identified a number of ‘systemic corruption vulnerabilities’.¹¹⁸ IBAC made recommendations to remedy what it saw as a lack of transparency in current laws, the lobbying framework and regulatory safeguards designed to prevent improper lobbying from circumventing fair decision-making processes.¹¹⁹ The report paid particular attention to the obligations of lobbyists and public entity directors and the potential for conflicts of interest where the board director is required to make decisions on subject matter that relates to the interests of their lobbying clients:

The role of a lobbyist is to influence government decisions in favour of a particular private interest. In contrast, the role of a director on a public entity board is to impartially govern and make recommendations in a manner that advances the public interest.¹²⁰

Operation Daintree

In Operation Daintree IBAC investigated complaints from 2018 when a \$1.2 million health worker safety training contract was granted to a Labor-affiliated union’s training entity.¹²¹ Investigating whether ‘improper influence compromised the procurement process’,¹²² IBAC did not find evidence of corrupt conduct in Operation Daintree with regard to lobbying but did find a range of conduct that, according to the commission, ‘corrode[s] standards of public governance, decision-making in the public interest, and trust in government’ and ‘leaves the public sector vulnerable to significant risks of such conduct’.¹²³

¹⁰⁹ *ibid.*, p. 39.

¹¹⁰ *ibid.*, p. 39.

¹¹¹ *ibid.*, p. 41.

¹¹² *ibid.*, p. 33.

¹¹³ *ibid.*, p. 33.

¹¹⁴ *ibid.*, p. 33.

¹¹⁵ *ibid.*, p. 49.

¹¹⁶ Independent Broad-based Anti-corruption Commission (2023) *Operation Clara: Special report*, IBAC.

¹¹⁷ *ibid.*, p. 8.

¹¹⁸ *ibid.*, p. 21.

¹¹⁹ *ibid.*, p. 31.

¹²⁰ *ibid.*, p. 31.

¹²¹ Independent Broad-based Anti-corruption Commission (2023) *Operation Daintree: Special report*, IBAC.

¹²² Independent Broad-based Anti-corruption Commission (2023) *Operation Daintree special report*, media release, 19 April.

¹²³ Independent Broad-based Anti-corruption Commission (2023) *Operation Daintree: Special report*, op. cit., p. 6.

The government training contract was granted following a period of lobbying by the union.¹²⁴ The Department of Health awarded the contract to the training entity in an uncompetitive tender process on the eve of the 2018 pre-election caretaker period.¹²⁵ There was not ‘sufficient evidence’ to establish corrupt conduct.¹²⁶ However, IBAC did find that, in finalising the contract, a ministerial adviser was influenced by lobbying by the union and the union’s secretary, and ‘improperly influenced and undermined the department’s processes in assessing the proposal and approving the contract’, together with the inappropriate interventions of another adviser.¹²⁷ While IBAC did not dispute the union’s ‘right to lobby the government for policy change’ or the circumstances prompting the proposal, the union could not be considered ‘as merely a routine stakeholder’.¹²⁸ IBAC found that the union held a ‘privileged status relative to other stakeholders’ regarding the proposal.¹²⁹ Some of the featured parties disputed aspects of the report’s findings.

As a result, the report reiterated the recommendations put forward in the commission’s special report on the risks of lobbying and donations (see above),¹³⁰ while also reflecting on Victoria’s lobbying regulatory system in comparison with other jurisdictions, notably Queensland’s.¹³¹ IBAC called Victoria’s current lobbying regulatory regime ‘narrow’ and noted that it does not take account of the range of organisations and people seeking to influence government decision-making.¹³² It also identified issues around the ‘pliability’ of departments to the interference of ministerial offices,¹³³ which in this case were found by IBAC to have been influenced by lobbying interactions.

Operation Sandon

Operation Sandon explored the influence of lobbying in the local government context—identified by IBAC as a significant gap in regulation in the special report released the previous year—focusing on the conduct of several City of Casey councillors and a number of developers, notably John Woodman.¹³⁴ The report detailed a series of planning decisions over several years that required council and/or ministerial approval and the chains of decision-making involved in their success or failure. It also examines ways in which lobbyists may target a range of decision-makers—councillors, Members of Parliament, advisers, electorate officers—and how ‘limitations in the current regulation of lobbyists present corruption vulnerabilities’.¹³⁵

The risks of lobbying influence were particularly noted in regard to several attempts to rezone land in order to increase the land’s value. Among a number of planning decisions scrutinised, one such proposal was an unsuccessful planning amendment (C219) to rezone a parcel of land in Cranbourne East as ‘residential’,¹³⁶ while a separate, successful proposal involving rezoning 108 acres in Cranbourne South within the urban growth boundary facilitated a windfall gain in property value for the owners.¹³⁷ Through these proposals, IBAC found that Woodman advanced his own and his clients’ interests, including through lobbying and engaging lobbyists.¹³⁸ In seeking to influence planning decisions, Woodman allegedly cultivated influence within local government by providing inducements, funds and in-kind support to certain councillors, by donating to political fundraising entities and by supporting

¹²⁴ *ibid.*, p. 4.

¹²⁵ *ibid.*, p. 6.

¹²⁶ *ibid.*, p. 80.

¹²⁷ *ibid.*, p. 80.

¹²⁸ *ibid.*, p. 57.

¹²⁹ *ibid.*, p. 87.

¹³⁰ *ibid.*, p. 9.

¹³¹ *ibid.*

¹³² *ibid.*, p. 89.

¹³³ *ibid.*, p. 7.

¹³⁴ Independent Broad-based Anti-corruption Commission (2023) *Operation Sandon: Special report*, IBAC.

¹³⁵ *ibid.*, p. 1.

¹³⁶ *ibid.*, p. 18.

¹³⁷ *ibid.*, p. 19.

¹³⁸ *ibid.*, p. 19.

election campaigns of state and local government candidates.¹³⁹ IBAC found he also engaged registered lobbyists to gain access to state government politicians and staff and influence ministerial decision-making.¹⁴⁰ Operation Sandon also highlighted the practice of MPs lobbying ministers and other decision-makers and the potential for conflicts of interest to be missed in the current system.¹⁴¹ The report also assesses a number of submissions made disputing the report's findings.

The investigation further entrenched IBAC's view that Victoria's lobbying regulation framework lacked 'transparency' and had 'weak lobbying controls and enforcement mechanisms' in comparison to other jurisdictions.¹⁴² The report notes the susceptibility of electorate officers—impartial officers employed by the Department of Parliamentary Services (DPS)—to the influence of lobbyists when in the absence of their Member, highlighting a perceived need for guidance to be available to electorate staff around interactions with lobbyists.¹⁴³ To ensure that the regulatory framework covered a greater proportion of lobbying behaviour—beyond that conducted by professional third-party lobbyists—IBAC reiterated its call for regulation to be broadened to capture 'lobbying activity, regardless of whether it is a regular part or incidental to the person's profession or business'.¹⁴⁴

4 | Key areas identified for reform

Definition of 'lobbyist' and 'lobbying activity'

One of the key areas identified for reform in Victorian lobbying laws is the narrow definition of 'lobbyist' and 'lobbying activity' in regulations and codes of conduct. Transparency International defines lobbying as 'any direct or indirect communication with public official, political decision-makers or representatives for the purposes of influence public decision-making'.¹⁴⁵ However, lobbyists are only captured in the Victorian Lobbyist Register and the Lobbyist Code of Conduct if they work for third-party lobbying companies, meaning lobbyists working in-house for companies, organisations and consultancy firms are not subject to the Code.¹⁴⁶ The definition of 'government affairs directors' may capture some in-house lobbyists but only if they have previously worked in public offices as defined by the Code of Conduct (see 'Closing the revolving door'). CPI has also called for federal lobbying laws to include in-house lobbyists, senior staff of peak bodies and any 'repeat players' in the lobbyist register.¹⁴⁷ Federal MP Monique Ryan's Bill would regulate in-house lobbyists.¹⁴⁸

Expanding the definition of lobbying activity has been flagged as one way to strengthen lobbying laws and ensure more compliance under the Code of Conduct.¹⁴⁹ CPI has called for the definition of lobbying to focus on the activity itself, rather than the occupation of the 'lobbyist'.¹⁵⁰ Similar broadening of the definition of lobbying activity has been suggested at

¹³⁹ *ibid.*, p. 207

¹⁴⁰ *ibid.*, p. 41.

¹⁴¹ *ibid.*, p. 41.

¹⁴² *ibid.*, p. 24.

¹⁴³ *ibid.*, p. 222.

¹⁴⁴ *ibid.*, p. 213.

¹⁴⁵ S. Mulcahy (2015) *Lobbying in Europe: Hidden Influence, Privileged Access*, Berlin, Transparency International, p. 6.

¹⁴⁶ J. Lacy-Nichols & K. Cullerton (2023) *op. cit.*

¹⁴⁷ Centre for Public Integrity (2019) *Eliminating the undue influence of money in politics*, CPI, Canberra.

¹⁴⁸ P. Begley (2023) *op. cit.*

¹⁴⁹ Transparency International Australia (2021) *Lobbying and revolving doors: Analysis and recommendations*, Transparency International.

¹⁵⁰ Centre for Public Integrity (2022) *Achieving Integrity in Victoria: A roadmap for transparency, oversight, and accountability in Victoria*, CPI website.

the federal level to include ‘any attempt to influence the decision-making of a government or opposition representative’.¹⁵¹

The definition of ‘government representative’ has also been identified as too narrow, and both CPI and IBAC have advocated for its expansion under the Code of Conduct.¹⁵² The Code also does not cover lobbying activity between government representatives. As identified in Operation Clara, this can result in ‘proxy lobbying’, where lobbyists can encourage Members to lobby relevant ministers on their behalf, in turn furthering their clients’ interests.¹⁵³ Regulating this practice can be difficult, as it is often difficult to distinguish between lobbying and advocating on behalf of one’s constituents.¹⁵⁴ IBAC recommended that the definition under the Code ‘should be broadened to include all public officers who may be subject to lobbying activity, including members of parliament and ministers who initiate meetings with a minister or their advisor’.¹⁵⁵

The OECD has also identified that the breadth of digital technologies and social media has meant that ‘mechanisms and channels of influence have become more diverse’ and therefore more difficult to regulate, as definitions used in regulation fail to capture influence outside of formal communications between a lobbyist and a government official.¹⁵⁶

Making ministerial diaries public

The requirement for ministers to publish their diaries, including details of any meetings with lobbyists and consultants, has been identified as a ‘valuable accountability mechanism’.¹⁵⁷ The Victorian Greens have campaigned for the release of Victorian ministerial diaries as a key form of transparency,¹⁵⁸ as have the CPI¹⁵⁹ and IBAC in its special report into corruption risks in 2022.¹⁶⁰

While the December 2023 changes to the Ministerial Code of Conduct requiring the publishing of diaries were welcomed by integrity advocates, many have also pointed out the potential for stronger requirements.¹⁶¹ The CPI, for example, stated that the requirements did not account for all meetings with external stakeholders, only ‘scheduled’ meetings.¹⁶² Under the Lobbying Code of Conduct lobbying is defined only as a third-party lobbyist, and enforcement measures rely on the Department of Premier and Cabinet, rather than an independent body. Labour law expert Joo-Cheong Tham has argued that merely releasing diaries is not sufficient and that they must also be regularly analysed by an independent body.¹⁶³

When the first round of disclosures was released in February 2024, CPI head Catherine Williams said the changes marked a ‘significant milestone on the path to greater transparency and accountability’.¹⁶⁴ However, Williams and others, including the Victorian

¹⁵¹ Centre for Public Integrity (2023) *Closing the revolving door: Corporate influence and the need for lobbying reform*, Melbourne, CPI.

¹⁵² Centre for Public Integrity (2022) *Achieving Integrity in Victoria: A roadmap for transparency, oversight, and accountability in Victoria*, CPI website; Independent Broad-based Anti-corruption Commission (2022) op. cit.

¹⁵³ *ibid.*

¹⁵⁴ Independent Broad-based Anti-corruption Commission (2022) op. cit.

¹⁵⁵ Independent Broad-based Anti-corruption Commission (2023) *Operation Clara: Special report*, IBAC, Melbourne, p. 28.

¹⁵⁶ OECD (2021) op. cit.

¹⁵⁷ Centre for Public Integrity (2023) *Closing the revolving door: Corporate influence and the need for lobbying reform*, Melbourne, CPI, p. 6.

¹⁵⁸ Victorian Greens (2023) *Minister diaries should be made public, advisers accountable in wake of Daintree report*, media release, 31 October.

¹⁵⁹ Centre for Public Integrity (2022) *Integrity inadequacies: Victoria*, CPI, Canberra.

¹⁶⁰ Independent Broad-based Anti-corruption Commission (2022) op. cit.

¹⁶¹ B. Kolovos (2023) op. cit.

¹⁶² *ibid.*

¹⁶³ J.-C. Tham (2019) ‘Democracy before dollars: The problems with money in Australian politics and how to fix them’, *Papers on Parliament*, 70, 23–38.

¹⁶⁴ B. Kolovos (2024) ‘Victorian ministers’ diaries reveal to public for first time in ‘significant milestone’ for transparency’, *The Guardian*, 2 February.

Greens, pointed to the lack of detail in the disclosures, and the need for more widespread integrity reforms.¹⁶⁵

Closing ‘the revolving door’

The ‘revolving door’ between government and public service employment and lobbying jobs has been identified as a key risk of corruption and state capture. There is a common practice of senior government and opposition figures—including ministers and shadow ministers—taking senior roles in industries closely related to their former portfolios shortly after their resignation from politics, often as lobbyists. In 2018 *The Guardian* found that 52.8 per cent of lobbyists on the federal register had worked for government or major political parties;¹⁶⁶ another study in 2019 placed this number at 56 per cent.¹⁶⁷ Another study examining both state and federal registers found ‘48% of in-house tobacco company lobbyists and 55% of lobbyists acting on behalf of tobacco companies held positions in Australian state or federal governments before or after working for the tobacco industry’.¹⁶⁸ Because of the narrow definition of lobbyist in the federal register—i.e. including only those that work for lobbyist firms, not in-house lobbyists—this number is likely considerably higher.

Lengthening cooling-off periods

Taking these roles is permitted under the Code of Conduct provided they are outside of the ‘cooling-off’ periods. Victoria is one of only four states and territories to include information about a lobbyist’s previous government employment on its lobbyist register. The Code does not include the ‘cessation date’ of lobbyists’ employment, which some have argued limits the registers’ ability to assist with policing compliance with the mandated cooling-off periods.¹⁶⁹

Compared with other states, Victoria has the highest percentage of lobbyists with a government background (47 per cent), and the level of detail on this employment has been identified as ‘vague’ (i.e. providing very little information about the specific position, the portfolio, or the dates of employment).¹⁷⁰ Again, because of incomplete and non-transparent data on lobbying, ‘findings about the extent of the revolving door amongst lobbyists ... are almost certainly an underestimation’.¹⁷¹

At the federal level, jobs taken by politicians after they leave politics were the focus of a Senate inquiry after allegations that two members of the Coalition government had broken the Statement of Ministerial Standards by taking roles in consultancy firms after they left politics.¹⁷² The CPI calls the 18-month period before former federal ministers or parliamentary secretaries can engage in lobbying activities ‘not sufficient to allow for the dilution of influence and connections of the regulated person’, and argues that it demonstrates the inadequacy of Commonwealth Codes of Conduct in regulating lobbying activities.¹⁷³

A useful way of ‘closing’ the revolving door has been the instigation of ‘cooling-off’ periods, or periods in which politicians or senior public servants cannot take roles as lobbyists or in

¹⁶⁵ *ibid.*

¹⁶⁶ C. Knaus & N. Evershed (2018) ‘In the family’: majority of Australia’s lobbyists are former political insiders’, *The Guardian*, 17 September.

¹⁶⁷ C. Knaus (2019) ‘More than half of lobbyists have worked within Australian government, study finds’, *The Guardian*, 24 July.

¹⁶⁸ B. Freeman & C. Watts (2023) ‘We worked out how many tobacco lobbyists end up in government, and vice versa. It’s a lot’, *The Conversation*, 11 May.

¹⁶⁹ J. Lacy-Nichols, S. Christie & K. Cullerton (2023) ‘Lobbying by omission: What is known and unknown about harmful industry lobbyists in Australia’, *Health Promotion International*, 38, 1–14.

¹⁷⁰ *ibid.*

¹⁷¹ *ibid.*

¹⁷² Finance and Public Administration References Committee (2019) *Compliance by former Ministers of State with the requirements of the Prime Minister’s Statement of Ministerial Standards*, final report, September, Canberra, The Committee.

¹⁷³ Centre for Public Integrity (2023) *Closing the revolving door: Corporate influence and the need for lobbying reform*, Melbourne, CPI, p. 6.

firms related to their former political roles for a set period. These periods are designed to decrease the contacts and networks formed during a public official's career, rendering them less useful as a lobbyist and therefore leaving them less likely to leverage these contacts in future work. In Victoria, these periods are outlined in the Code of Conduct (see above) as 18 months for ministers and cabinet secretaries and 12 months for parliamentary secretaries, executives, and ministerial officers.

CPI has called for the cooling-off period at the federal level to be much longer,¹⁷⁴ saying these periods are 'too short to be meaningful'¹⁷⁵ and that a longer cooling-off period would 'allow for the dilution of influence and networks'.¹⁷⁶ However, the Australian Professional Government Relations Association—a professional organisation for government advisers and lobbyists—argues that lengthening the cooling-off periods would 'limit the talent pool' of potential government workers, and that better enforcement of the existing periods would be more effective.¹⁷⁷

Disclosure of previous employment

Another mechanism for regulating lobbying is the requirement for lobbyists to disclose their previous employment with government or the public service. The challenges with this approach have been linked to the perceived lack of enforcement of lobbyist codes of conduct and registers (see below). For example, one study found 96 lobbyists on the federal lobbyist register were listed as both having and not having previous government jobs.¹⁷⁸

A federal review of corruption and integrity risks identified conflicts of interest as the second most common source of corruption, as well as 'grooming', or the building of relationships with the aim of utilising the relationships to gain information or make financial gains. The so-called revolving door between governments and industries such as the tobacco, gambling and alcohol industries and their lobbyists has been identified as a particular issue.¹⁷⁹

Enforcement of the Lobbyist Code of Conduct

A key area identified for reform has been for more powerful enforcement of lobbying regulations. The OECD has argued that codes of conduct are insufficient to properly support lobbyists' integrity, saying they 'can lack coherence or leave too much room for interpretation'.¹⁸⁰ The Lobbying Register and the Code of Conduct are administrative only. The VPSC can request more information from a party on the Register or deny a registration, but it has no statutory powers to compel compliance, independently investigate potential breaches or provide any sanction beyond deregistration.¹⁸¹

Operation Sandon found that a failure to enforce the Code of Conduct was one of Victoria's 'corruption vulnerabilities'.¹⁸² Several studies have found that since its establishment in 2013, no entity has been denied registration from the Lobbyists Register, nor been deregistered for

¹⁷⁴ Centre for Public Integrity (2019) op. cit.

¹⁷⁵ Centre for Public Integrity (2022) *Achieving Integrity in Victoria: A roadmap for transparency, oversight, and accountability in Victoria*, CPI website.

¹⁷⁶ *ibid.*

¹⁷⁷ T. Burton (2023) 'Lobbyists rail against 'unfair' federal reforms', *The Australian Financial Review*, 3 May.

¹⁷⁸ J. Lacy-Nichols, S. Christie & K. Cullerton (2023) op. cit.

¹⁷⁹ B. Freeman & C. Watts (2023) op cit.; C. Watts et al. (2023) 'How tobacco companies use the revolving door between government and industry to influence policymaking: an Australian case study', *Public Health Research and Practice*, 33(4), 33122305.

¹⁸⁰ OECD (2021) op. cit.

¹⁸¹ Independent Broad-based Anti-corruption Commission (2022) op. cit.

¹⁸² Independent Broad-based Anti-corruption Commission (2023) *Operation Sandon: Special report*, Melbourne, IBAC.

breaking the Lobbyist Code of Conduct.¹⁸³ Similar findings have been documented in the NSW and federal registers.¹⁸⁴

There are no lobbyists currently listed in the NSW Lobbyists Register as ‘suspended’, ‘ineligible’ or ‘on the watch list’.¹⁸⁵ The few suspensions and cancellations reported between 2021 and 2023 are mostly for administrative reasons, such as failure to confirm registration details.¹⁸⁶ NSW’s ICAC holds that the NSW Electoral Commission’s focus on administrative rather than conduct breaches means that ‘some improper or dishonest lobbying likely goes undetected and unsanctioned’.¹⁸⁷ In Queensland, the government announced in July 2022 that three lobbyists who had worked on Labor election campaigns had been banned from lobbying cabinet ministers until after the 2024 election,¹⁸⁸ but other lobbyists at those firms would still be able to do so.¹⁸⁹ Despite this announcement, the Queensland Integrity Commissioner recorded no suspensions in the 2022–23 financial year.¹⁹⁰

In Victoria, the onus of listing accurate and up-to-date information is placed on the lobbyists and GADs on the Register, as is responsibility for following the Code of Conduct, such as making it clear the lobbyist is representing a third party when approaching a government representative:

While the onus is on the lobbyist to supply the required information, it would be prudent for a Government Representative to check that the details provided are correct...If you have reason to believe that the lobbyist is a former Minister or public servant who is subject to the prohibition on lobbying activities in clause 7 of the Code, it would be prudent to seek an assurance from the lobbyist that the prohibition no longer applies.¹⁹¹

No advice is given on what a representative should do if they find a lobbyist has contravened the rules or is not registered.

The fact that the codes of conduct are administrative, rather than regulatory or legislative, has been identified as a further weakness of the registers.¹⁹² Several integrity bodies and political parties have called for the Victorian Code of Conduct to be enshrined in legislation and for independent bodies to be afforded the statutory authority to enforce them.¹⁹³

CPI has also pointed to the fact that the Ministerial Code of Conduct—including the requirement to publish ministerial diaries—is administered and enforced by the Premier and the Department of Premier and Cabinet. They have called for the establishment of an independent body for enforcement: ‘Where the person enforcing a ministerial code of conduct is the leader of the government, there is inevitably going to be an incentive to minimise perceptions of wrongdoing’.¹⁹⁴ CPI has stressed that any code of conduct must be independently enforced and tied to public funding, identifying the need for a strong electoral body at both the state and federal level and a parliamentary integrity commission to enforce

¹⁸³ *ibid.*

¹⁸⁴ Victorian Government (2023) ‘[The Victorian Government Register of Professional Lobbyists](#)’, Victorian Lobbyist Register website; Australian National Audit Office (ANAO) (2020) *op. cit.*; AAP (2018) ‘[Not one rule-breaking political lobbyist suspended in five years, audit finds](#)’, *The Guardian*, 14 February.

¹⁸⁵ NSW Electoral Commission (date unknown) ‘[The Lobbyists Register](#)’, NSW Electoral Commission website.

¹⁸⁶ NSW Electoral Commission (2022) *Annual report: NSW Electoral Commission 2021–22*, Sydney, NSW Electoral Commission, p. 57; NSW Electoral Commission (2023) *Annual report: NSW Electoral Commission 2022–23*, Sydney, NSW Electoral Commission, p. 59.

¹⁸⁷ Independent Commission Against Corruption (2021) *Investigation into the regulation of lobbying, access and influence in NSW*, *op. cit.*, p. 76.

¹⁸⁸ AAP (2022) ‘[Queensland bans three lobbyists from contacting cabinet ministers](#)’, *The Guardian*, 4 July.

¹⁸⁹ M. Silk (2022) ‘[“Thanks for banning me”: Lobbyist says Premier was right to lock him out](#)’, *In Queensland*, 7 July.

¹⁹⁰ Queensland Integrity Commissioner (2023) *Annual Report 2022–23: Encouraging confidence in public office and public institutions*, Office of the Queensland Integrity Commissioner, Brisbane, p. 13.

¹⁹¹ Victorian Public Sector Commission (date unknown) ‘[Register of Government Affairs Directors – Q&A](#)’, VPSC website.

¹⁹² Y.-F. Ng (2020) *op. cit.*

¹⁹³ B. Kolovos (2023) *op. cit.*; Centre for Public Integrity (2022) *Achieving Integrity in Victoria: A roadmap for transparency, oversight, and accountability in Victoria*, CPI website.

¹⁹⁴ B. Kolovos (2023) *op. cit.*

lobbying regulations and investigate alleged breaches.¹⁹⁵ The soon to be established Victorian Parliamentary Integrity Commission has potential to act as an independent body with powers to enforce lobbying laws.

Another identified weakness in Victoria's lobbying laws and regulations is the lack of sanctions or sufficiently punitive consequences for breaching the code of conduct.¹⁹⁶ Currently, a potential breach of the Code of Conduct cannot be referred to IBAC unless it is considered a criminal offence, another area identified for reform by CPI¹⁹⁷ and by former IBAC Commissioner Robert Redlich.¹⁹⁸ CPI called for concrete and proportionate penalties for breaching the Code of Conduct, such as financial sanctions, confiscating parliamentary access, fines, criminal sanctions, and rendering the offending organisation ineligible for government contracts for a period of time.¹⁹⁹

Transparency of lobbyist registers

Transparency is one of the OECD's recommended principles of lobbying,²⁰⁰ 'a tool that allows for public scrutiny of the public decision-making process'.²⁰¹ In Victoria, a lack of transparency in the Register of Lobbyists and the enforcement of the Code of Conduct has been identified as an integrity weakness. IBAC's report on Operation Clara recommended that registration should require lobbyists to disclose all contact with government representatives, not only details of their clients.²⁰² IBAC's special report on corruption risks similarly found a lack of transparency in how improper lobbying was reported and enforced through the Register. The report recommended several mechanisms for increasing the transparency of lobbyists' access to government representatives and decision-makers, including widening disclosure requirements.²⁰³ Other experts have said there is 'a complete vacuum of knowledge about when lobbyists are contacting government officials and over what policy issues' in Victoria.²⁰⁴

Victoria is part of a wider trend of what many have identified as a lack of transparency in lobbyist registers across the country. The federal register has been called a 'tepid gesture towards transparency',²⁰⁵ and another study found that 'Australian lobbyist registers do not provide enough information to understand the full extent of lobbying activities taking place'.²⁰⁶ The federal register has been criticised for being over-reliant on reports to the Department of Prime Minister and Cabinet for enforcement, with these reports being solely the initiative of lobbyists and government representatives.²⁰⁷ These registers have also been called too narrow, not capturing the full extent of lobbying activity (see above), and posing the risk of misleading the public and policy-makers about the nature and extent of corporate influence on public decision-making.²⁰⁸

One study estimated that in 2021 only 20 per cent of lobbyists in Australia were on the federal register, and that there 'is little clarity as to precisely how many lobbyists there are,

¹⁹⁵ Centre for Public Integrity (2019) op. cit.

¹⁹⁶ Centre for Public Integrity (2022) *Integrity inadequacies: Victoria – Discussion paper*, CPI, Canberra.

¹⁹⁷ Centre for Public Integrity (2022) *Achieving Integrity: A roadmap for transparency, oversight, and accountability in Victoria*, CPI, Canberra.

¹⁹⁸ A. Ore (2023) 'Former Ibac commissioner says watchdog has been stifled by legislative powers', *The Guardian*, 31 July.

¹⁹⁹ Centre for Public Integrity (2023) *Closing the revolving door: Corporate influence and the need for lobbying reform*, Melbourne, CPI, p. 6.

²⁰⁰ OECD (2010) 'Recommendation of the Council on Principals for Transparency and Integrity in Lobbying', OECD legal instruments website.

²⁰¹ OECD (2021) op. cit.

²⁰² Independent Broad-based Anti-corruption Commission (2023) *Operation Clara: Special report*, IBAC, Melbourne.

²⁰³ Independent Broad-based Anti-corruption Commission (2022) op. cit., pp. 11-12

²⁰⁴ T. Burton (2023) 'Call for lobbying reforms to fix 'dismal' disclosure rules', *Australian Financial Review*, 9 January.

²⁰⁵ J.-C. Tham (2019) op. cit.

²⁰⁶ Lacy-Nichols et al. (2023) op. cit., p. 1.

²⁰⁷ Australian National Audit Office (ANAO) (2020) op. cit.

²⁰⁸ Lacy-Nichols et al. (2023) op. cit., p. 2

how they are structured, and how they operate'.²⁰⁹ Overall, the lobbying registers across Australia, including Victoria's, do not give a complete picture of lobbying activity or the amount and type of lobbyists, their clients and their work.²¹⁰ The limited definition of 'lobbyist' has led one expert to estimate that 'eighty per cent of lobbyists remains unregulated'.²¹¹

Other areas frequently identified for reform

It has been argued that particularly powerful industries should be singled-out when regulating lobbying activity,²¹² with the tobacco, gambling, mining, and alcohol industries being identified as both powerful lobbyists and industries that pose significant health risks to the population.²¹³ Political donations have also been identified as a related risk to democracy, allowing access and influence over policy. Current weaknesses in Australia's political donation laws (including poor disclosures)²¹⁴ have also been identified as posing a risk of state capture by private interests,²¹⁵ potentially leading to 'clientelism', where client-like relationships develop between governments and private interests, in which 'political support is exchanged for privileged access to public goods'.²¹⁶ Some commentators have also identified that while lobbying is an important and legitimate part of the democratic process, imbalances in funding and resourcing provide some groups with more opportunity for lobbying and advocacy than others.²¹⁷

There have also been calls for more transparency in government decision-making, including the release of statements that detail the reasons for decisions and the disclosure of lobbyist meetings held on the subject.²¹⁸ Finally, there have been calls to ban lobbyists or former lobbyists from public entity boards,²¹⁹ a major recommendation of Operation Clara.²²⁰

²⁰⁹ Y.-F. Ng (2020) op. cit.

²¹⁰ Lacy-Nichols et al. (2023) op. cit.

²¹¹ T. Burton (2023) op. cit.

²¹² Joint Standing Committee on Electoral Matters (2023) *Conduct of the 2022 federal election and other matters*, final report, Canberra, The Committee, November.

²¹³ P. Miller et al. (2019) 'Politicians who become lobbyists can be bad for Australians' health', *The Conversation*, 25 September; N. Evershed & C. Knaus (2019) 'Mining sector met NSW minister almost every week over four years', *The Guardian*, 22 March; Lacy-Nichols et al. (2023) op. cit.

²¹⁴ Australian Centre for Corporate Responsibility (ACCR) (2023) *Benchmarking for change: corporate political expenditure and climate lobbying in Australia*, ACCR, Canberra.

²¹⁵ K. Griffiths et al. (2018) 'Influence in Australian politics needs an urgent overhaul – here's how to do it', *The Conversation*, September 23.

²¹⁶ Centre for Public Integrity (2023) *Big Four Donations, Contracts and APS Capability: Briefing paper*, CPI, May.

²¹⁷ Tham J.-C. (2019) op. cit.

²¹⁸ Centre for Public Integrity (2019) op. cit.

²¹⁹ Y.-F. Ng (2023) 'How can Victorian Labor justify stonewalling improved lobbying laws?', *Crikey*, 26 June.

²²⁰ Independent Broad-based Anti-corruption Commission (2023) *Operation Clara: Special report*, IBAC, Melbourne.

Conclusion

In Victoria, lobbying has become a touchpoint for discussions on integrity in recent years, but it is also part of a broader debate over the effectiveness of integrity systems in Victoria and elsewhere. Lobbying can and does play a valuable role in a functioning democracy, with Transparency International explaining that lobbying:

allows for various interest groups to present their views on public decisions that may come to affect them. It also has the potential to enhance the quality of decision-making by providing channels for the input of expertise on increasingly technical issues to legislators and decision makers.²²¹

At the heart of debate, however, are concerns about transparency in government and public sector decision-making processes, together with the risks posed to fair process and responsible government by those with privileged access and conflicts of interest—particularly those engaged in professional lobbying activity.

Victoria's system has been criticised for its compliance and enforcement of lobbying regulations and what has been described as a narrow scope of coverage, with only a fraction of lobbying activity being effectively regulated. IBAC's investigations since July 2022 raised the profile of these discussions, assessing in various ways the limitations posed by the current lobbying regulation framework. Further, the Commission's recommendations for reform have shed light on both the vulnerabilities of the current system and alternative approaches that could help to mitigate the risks associated with improper lobbying.

Amid these investigations and concurrent calls for reform from a range of bodies, some change is already underway. The Victorian Government's new Ministerial Code of Conduct, for example, updated in November 2023, compels the publication of ministerial diaries. Legislative reform is also coming. In 2024, the Government will introduce what it has described as 'sweeping integrity reforms', including amendments to lobbying laws and the establishment of a Parliamentary Integrity Commission.²²² Details have yet to emerge regarding how the proposed legislation will seek to amend lobbying regulation. However, with legislation to come and the release of reports relating to the Government's independent review of the electoral and political donations system, integrity—and lobbying with it—has been flagged as a key electoral issue.

²²¹ Transparency International (2015) *Lobbying in Europe: Hidden influence, privileged access*, Transparency International, p. 6.

²²² J. Allan, Premier (2023) *Strengthening Victoria Public Sector Integrity*, media release, 31 October.

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Enquiries

Victorian Parliamentary Library & Information Service
Parliament House, Spring Street
Melbourne VIC 3002
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