



Crime and Corruption Commission

QUEENSLAND

Influence and transparency in Queensland's public sector

Minimising the corruption risks associated with
improper influence on government decisions

January 2023



ISBN: 978-1-876986-96-4

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Foreword

The public expects government decisions to be made in the best interests of the community, and that their state and local governments will be open to ideas and advocacy that enhance the quality of those decisions. For all views to be properly considered, access to decision-makers must be equitable and transparent. This will give the public confidence that no improper influence has affected the outcome, and will reduce the potential risk of corruption.

In 2010, the then Crime and Misconduct Commission recommended the introduction of a Lobbyists Code of Conduct for Queensland. Designed to ensure that no unfair advantage could be taken of insider knowledge or existing relationships, the code continues to be an important element in the state's regulatory framework for lobbying.

That framework is already one of the strongest in Australia, and current recommendations from the Strategic review of the *Integrity Commissioner's functions* (Yearbury Review)¹ and the *Review of culture and accountability in the Queensland public sector* (Coaldrake Review)², together with the reforms announced by the Queensland Government for legislative and policy changes in relation to lobbying³, will ensure even greater transparency and equity.

Unfortunately, the risk of improper influence on government decisions does not occur only in the context of lobbying. In recent years, the Crime and Corruption Commission (CCC) has identified other areas of vulnerability to improper influence and associated corruption risks.

Last year, we asked the public to tell us their concerns about current practices, their perceptions of risks, and what more they felt could be done to give them confidence in public sector decisions. We thank those who made submissions for sharing their views with us. We also sought the views of agencies who are involved in this space, and those responsible for progressing the existing recommendations and reforms.

This corruption prevention report summarises key themes and concerns about influencing practices, incorporating the views expressed in submissions, as well as the CCC's ongoing examination into these issues. The CCC has proposed seven reforms for consideration by the Queensland Government to close the gaps identified, and further strengthen Queensland's integrity and accountability framework.



Bruce Barbour
Chairperson
Crime and Corruption Commission

1 Yearbury K (2021) *Strategic review of the Integrity Commissioner's functions*, accessed January 2023.

2 Coaldrake P (2022) *Let the sunshine in. Review of culture and accountability in the Queensland public sector*, accessed January 2023.

3 Premier and Minister for the Olympics, *New rules for lobbyists*, Media statement, 27 June 2022.

| Key terms and definitions

Government and public sector

Government representative*⁴ means the Premier or another Minister, an Assistant Minister, a Councillor, a public sector officer, a Ministerial Staff Member or an Assistant Ministerial Staff Member.

Former senior government representative* means a Premier or another Minister, an Assistant Minister, a Councillor, a public sector officer (who was a chief executive, senior executive or senior executive equivalent), a Ministerial Staff Member or an Assistant Ministerial Staff Member who is no longer a government representative and is not an Opposition representative.

Opposition representative* means the Leader of the Opposition, the Deputy Leader of the Opposition or a Staff Member in the office of the Leader of the Opposition.

Ministerial diary contains information about all portfolio-related meetings and activities. Ministerial diaries are published retrospectively, with the diary for one month being published at the end of the following month. For example, July diaries are published on the last day of August. They are accessible online via [The Queensland Cabinet and Ministerial Directory](#).

Public sector employee refers to employees of a unit of public administration (as defined in section 20, *Crime and Corruption Act 2001*). This includes public service departments, local councils, statutory bodies and government owned corporations (as defined by the *Government Owned Corporations Act 1993*).

Public sector officer* is the chief executive of, or a person employed by, one of the following entities—

- a. a department
- b. a public service office
- c. a registry or other administrative office of a court or tribunal
- d. a local government
- e. a corporate entity under the *Local Government Act 2009*
- f. the parliamentary service
- g. a government owned corporation
- h. an entity, prescribed by regulation, that is assisted by public funds.

Lobbying and lobbyists

Lobbying activity* means contact with a government representative in an effort to influence state or local government decision-making, including the making or amendment of legislation; the development or amendment of a government policy or program; the awarding of a government contract or grant; the allocation of funding; and the making of a decision about planning or giving of a development approval under the *Sustainable Planning Act 2009*.

4 Definitions marked * have been summarised from the *Integrity Act 2009* and the Queensland Lobbyists Code of Conduct.

However, it does not include:

- a. contact with a committee of a Legislative Assembly or a local government
- b. contact with a member of the Legislative Assembly, or a Councillor, in his or her capacity as a local representative on a constituency matter
- c. contact in response to a call for submissions
- d. petitions or contact of a grassroots campaign nature in an attempt to influence a government policy or decision
- e. contact in response to a request for tender
- f. statements made in a public forum
- g. responses to requests by government representatives for information
- h. incidental meetings beyond the control of a government representative, or
- i. contact on non-business issues e.g. issues not relating to a client of the lobbyist or the lobbyists' sector.

Lobbyist* means an entity that carries out a lobbying activity for a third-party client or whose employees or contractors carry out a lobbying activity for a third-party client.

However, the term "lobbyist" does not include:

- a. a non-profit entity
- b. an entity constituted to represent the interests of its members (e.g. an employer group, a trade union or a professional body such as the Queensland Law Society)
- c. members of trade delegations visiting Queensland
- d. an entity carrying out incidental lobbying activities, or
- e. an entity carrying out a lobbying activity only for the purpose of representing the entity's own interests.

Third-party client* is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.

In-house lobbyist refers to an employee of an organisation that is not a registered lobbying company who carries out lobbying activities for that organisation.

The Lobbyists Register* is a publicly available list of professional lobbyists who wish to lobby government representatives. The Queensland Integrity Commissioner is responsible for maintaining the Lobbyists Register in Queensland and it is accessible through the website of the [*Integrity Commissioner*](#).

The Contact log* records details of all registered lobbying contacts, including the date the lobbying contact occurred, client of lobbyist, title and name of the government representative and the purpose of the contact. Lobbyists are required to enter this information via the [*Integrity Commissioner's*](#) website no later than 15 days after the end of every month.

Introduction

Influencing government decision-making

Advocacy to government is a legitimate and necessary part of modern democracies. However, some practices used to influence government decisions may carry inherent corruption risks. As the Organisation for Economic Co-operation and Development (OECD) has stated:

Information from a variety of interests and stakeholders helps policy makers understand options and trade-offs, and can lead, ultimately, to better policies. Nevertheless, sometimes public policies may be influenced only by specific interest groups or through covert and deceptive evidence, resulting in sub-optimal outcomes and undermining citizens' trust in democratic processes.⁵

Recent research has shown that levels of trust and confidence in government have been declining. According to the 2022 Edelman Trust Barometer, only 52 per cent of Australians trust government to do the right thing.⁶ The perception that money and personal relationships unfairly buy special access and influence over the decisions made by government has been identified as a contributing factor to the declining trust environment.⁷

Well-resourced interests – such as big business, unions and not-for-profits – use money, resources and relationships to influence policy to serve their interests, at times at the expense of the public interest. Even if they are only sometimes successful, it's not the “fair go” Australians expect.⁸

People can seek to influence government decisions in many ways, including through leveraging political and personal associations, political donations, providing gifts or benefits, or engaging the services of well-connected individuals or organisations such as registered lobbyists. Influence can also arise through members of the private sector “grooming” or developing relationships with elected officials and public sector employees to position themselves to obtain information or to benefit from that person’s favourable view of them. Current or former government representatives may also be able to exert influence by using their associations, or the knowledge obtained through their government roles, to influence decisions in favour of private interests.

The CCC has for some time identified improper influence as a corruption risk and it is a current area of focus for the Commission. Like other integrity agencies across Australia, the CCC has been raising awareness about the corruption risks associated with some of the practices used by organisations and individuals seeking to influence government policy, legislation, or the awarding of contracts and grants.

The recommendations made by recent reviews are an important step towards increasing transparency of decision-making and interactions with individuals or groups seeking to influence government decisions. The CCC fully supports these measures and believes they will help allay legitimately held public concerns about improper influence.

The CCC looked more broadly at examples and patterns of lobbying influence, decision-making and transparency across both state and local government. Our focus was on identifying the corruption risks posed by certain influencing practices and was informed by our information holdings, analysis of the results of our corruption investigations, and the views and concerns expressed to the CCC by members of the public through complaints and in written submissions.

This corruption prevention report is intended to raise awareness across the public sector of what could be considered “improper” attempts to influence decision-making, and how to prevent risk behaviours escalating into possible corrupt conduct. It sets out proposals designed to close some gaps identified by the CCC in the course of its examination of these issues.

5 OECD (2021) *Lobbying in the 21st century: Transparency, integrity and access*, OECD, accessed January 2023.

6 Edelman Trust Barometer (2022) *Trust barometer 2022 Australia*, Edelman Australia, accessed January 2023.

7 OECD (n.d.) *Integrity and influence in policy-making*, OECD, accessed January 2023.

8 Wood D, Griffiths K and Chivers C (2018) *Who's in the room? Access and influence in Australian politics*. Grattan Institute, accessed January 2023.

| The integrity framework in Queensland

Queensland's integrity and accountability framework is comprehensive and has continued to mature following reviews in recent years. The framework promotes and supports high standards of conduct across the public sector.

Some key components of this framework in relation to influence, decision-making and transparency include:

- The *Public Sector Ethics Act 1994* which references ethical conduct within the Queensland public sector, including four principles fundamental to good public administration: integrity and impartiality; promoting the public good; commitment to the system of government; and accountability and transparency.
- The *Queensland Ministerial Handbook* sets out the common policies, practices and procedures to be adopted in Ministerial Offices with respect to a broad range of operational and policy issues in relation to the functioning of the Ministerial Office.
- The *Public Records Act 2002* establishes requirements for making, managing, keeping and preserving public records in Queensland.
- The *Public Sector Act 2022* sets out the work performance and personal conduct standards expected of public sector employees, including their obligations to declare and manage conflicts of interest. The Act is due to commence on 1 March 2023 and will replace the current *Public Service Act 2008*.
- The *Electoral Act 1992* establishes the framework for conducting elections, electoral donation disclosure thresholds, and establishes the Electoral Commission of Queensland as an independent statutory authority which is responsible for the impartial conduct of state and local government elections in Queensland.
- The *Integrity Act 2009* establishes the role of the Integrity Commissioner to facilitate the giving of advice to Ministers, Chief Executives and others on ethics or integrity issues to ensure they appropriately manage conflicts of interest, and to establish a register of lobbyists and set standards for registered lobbyists. The Act prohibits payment of success fees and restricts the professional lobbying activities a former government representative or Opposition representative can undertake for two years after leaving their government or parliamentary role.

Elected officials and public sector employees across all levels and sectors are obliged to act in the public interest. The independence of the public sector from improper influences — be they political, cultural or commercial — is a fundamental principle of good democratic government.⁹

Without proper controls and safeguards, some influencing practices can lead to, or increase the risk or perception of, improper influence, resulting in biased decision-making.

The recent focus on lobbying

Lobbying is one influencing practice that has attracted widespread media attention and given rise to public concerns about the integrity and transparency of government decisions in recent years.

Recent reviews — the *Strategic review of the Integrity Commissioner's functions* (the Yearbury Review [September 2021]) and the *Review of culture and accountability in the Queensland public sector* (the Coaldrake Review [June 2022]) — examined lobbying and its influence in Queensland. Both reviews made recommendations to improve the transparency of government decisions and increase the independent regulation and oversight of lobbying activities.

⁹ CMC (2010) *Report on an investigation into the alleged misuse of public monies, and a former ministerial adviser*, CMC, accessed January 2023.

Also around the time of these reviews, the Queensland Government announced additional proposed reforms designed to ensure greater openness in relation to lobbying and restrict the influence of political donations.

The CCC welcomes these recommendations and reforms and the way in which these additional measures will:

- expand the definition of who is required to register as a lobbyist
- increase the level of detail to be publicly disclosed by lobbyists, Ministers and Ministerial Offices
- ensure greater transparency of the purpose of meetings with lobbyists and the outcomes being sought
- require greater disclosure of conflicts of interest arising from lobbyists being engaged as political advisors or undertaking consultancy work for the government, and
- limit informal access to Cabinet Ministers at political fundraising events.



Status of reviews and reforms

Following the Coaldrake Review, the Queensland Government announced it would accept and implement all of the recommendations made in that review. Since then, the Queensland Government has announced that the recommendations made in the Yearbury Review would be considered in conjunction with those made in the Coaldrake Review.

A taskforce has been established to implement the recommendations, and on 30 November 2022 the *Integrity and Other Legislation Amendment Bill 2022* was passed by the Queensland Parliament. The Bill amends the *Auditor-General Act 2009*, *Ombudsman Act 2001*, *Integrity Act 2009* and the *Public Sector Act 2022* to “to better promote the independence and authority of the Queensland Auditor-General, the Queensland Ombudsman and the Queensland Integrity Commissioner”.

This legislation is the first tranche of reforms arising from these reviews, with further legislation expected to be introduced into Parliament in 2023.

Improper influence and corrupt conduct

There remain gaps in Queensland's integrity framework which allow for continued risk of corrupt practices (or the perception of them). These risks may be heightened in situations where:

- former elected officials (including government or Opposition representatives) leverage their associations or the information obtained from their previous office to influence government decisions
- members of the private sector receive privileged access to decision-makers based on their personal or political relationships
- there is a lack of openness about the interactions between members of the private and public sectors or when these meetings occur in secret, or when records are not kept of these interactions.

The CCC has seen evidence of the vulnerability of elected officials and public sector employees to improper influence, resulting in conduct that has amounted to or involved "corrupt conduct", as defined by section 15 of the *Crime and Corruption Act 2001*, including:¹⁰

- undeclared or inadequately managed conflicts of interest
- nepotism or favouritism in recruitment
- acceptance of bribes, gifts or other benefits in exchange for a favourable outcome
- misappropriation of public resources or funds
- unauthorised release of sensitive information or falsification of records to advantage a particular individual or organisation
- perceived or actual bias in relation to public sector agencies' and public sector officers' decisions.

A broader examination of influence and transparency

Recent integrity reviews have largely focused on interactions at the state government level. The CCC decided to look more broadly at examples and patterns of lobbying influence, decision-making and transparency across both state and local government. In June 2022 the CCC released a discussion paper inviting submissions on a range of topics related to influence, decision-making and transparency in Queensland.¹¹

Since that time, the CCC has examined:

- public perceptions of influence and transparency on government decisions
- whether certain roles and activities are more vulnerable to improper influence, and
- the regimes used in other jurisdictions, both Australian and international, to regulate influence.

¹⁰ See for example: [Operation Ebulus](#), [Operation Yardage](#), [Operation Turnover](#), [Operation Acrid](#), [Operation Windage](#), [Operations Moonlight and Spoke](#).

¹¹ ['Influencing practices in Queensland: Have your say'](#) was published on the CCC's website.

Given the importance of these issues, and their associated corruption risks, the CCC has decided to make public the key themes identified through its consideration of influencing practices in Queensland. This work has not focused on identifying particular incidents of undue influence or access, or the individuals involved. Rather it sought, from a prevention perspective, to understand and examine the practices that may cause or contribute to corruption risks and pinpoint potential vulnerabilities in existing processes which could enable or facilitate improper influence on government decisions.

This corruption prevention report summarises the key themes and observations from the CCC's work examining influencing practices and sets out:

1. the views and concerns expressed in public submissions about how influence may affect government decisions and the importance of transparency
2. information from the CCC's analysis of its corruption investigations and information holdings relating to influencing practices
3. relevant aspects of Queensland's integrity framework, and the steps taken by other agencies to prevent improper influence
4. potential opportunities and reforms for the Queensland Government to consider to further strengthen integrity and transparency of government decisions.



Key themes from the CCC's examination of influence in Queensland

The CCC has considered Queensland's integrity framework and has identified areas for further improvement based on our information holdings and input from the public.

Both Yearbury and Coaldrake consulted publicly to inform their recommendations. The CCC sought to inform itself of the possible corruption risks associated with influencing practices and invited the public to share their views on:

- how access to, and influence of, decision-makers is obtained
- whether more should be done to strengthen Queensland's integrity framework in respect to these practices.

The CCC received 54 submissions from community members, professional associations, advocacy groups, industry bodies, lobbying companies, and private sector organisations in response to its public discussion paper.

Theme 1 — Improper influence can occur at all levels of government

Examples were provided in submissions of suspected or alleged improper influence on both state and local government decisions. This included concerns that elected officials and public sector employees were being improperly influenced through personal or political relationships, money or the activities of trade unions. Examples were also provided of elected officials and public sector employees attempting to leverage their role and associations for either their own personal benefit or the benefit of others.

In relation to local government, submissions referred to perceptions of a lack of transparency of interactions and decisions, including:

- Councillors having direct personal interests in property and infrastructure development
- the impact of personal associations on local government decisions, particularly in smaller communities
- the extent to which influence and associations were being used to determine the outcomes of planning decisions.

At present there is no requirement for local government elected officials to publish their diaries or make public information about contact with members of the community seeking to influence decisions.

Issues identified at the state government level may also relate to local government. Information available to the CCC suggests that elected officials and employees of local government may be at increased risk of improper influence given their closer direct interaction with the community and the broad functions and roles they undertake. This may be further heightened in smaller or more remote councils or in situations where local government elected officials or employees have family or personal connections to local business, which can leave them susceptible to actual or perceived conflicts of interest and improper influence. As one community member noted in their submission to the CCC, these private interests and associations "seem like a perfect situation for undue influence and corruption".¹²

¹² Public submission 2. Submissions were assigned a number from 1 to 54 based on the order they were received by the CCC.

Theme 2 — There is a perception that government decisions are not always fair or transparent

Several submissions raised concerns about the limited visibility of the interactions between the public and private sectors and the difficulties assessing the extent to which influencing practices result in, or contribute to, improper or preferential decisions.

While submitters recognised the value in government seeking input and guidance from the community and private sector, they also expressed concerns that such interactions and associations with the private sector could potentially influence decisions about:

- the awarding of contracts
- property development and land-use approvals
- government policy relating to taxes and subsidies imposed on particular industries or sectors.

Concerns primarily related to government not seeking alternative viewpoints and the lack of transparency about interactions and the specific outcomes being sought.

Theme 3 — There are concerns that influence is leading to poor outcomes

Concerns were expressed that political donations and lobbying were potentially leading to government decisions that were not well-informed and not in the interests of the broader community.

Several submissions discussed examples where it was believed decisions had been improperly influenced, resulting in poor outcomes for the community. These included decisions about property development and land-use approvals, the awarding of contracts, and industry reforms.

Some submissions expressed a view that any attempt by the private sector to advocate their views or interests means they are exerting undue influence, especially when this involves engaging a lobbyist or in a situation where those involved have made political donations or previously worked in a political or public sector role.

In the CCC's view, although such practices may influence or persuade a government decision or policy, it does not mean the decision was not well-informed or was not made in the public interest. Rather, it may be indicative of limited transparency in relation to how a particular decision was reached (such as a lack of adequate information about the individuals and/or groups that made representations to government).

Theme 4 — Concerns were expressed that money and connections buy access and influence

Information collected by the CCC demonstrates that influence can be obtained in a variety of ways, including by people “grooming” or developing relationships with government or Opposition representatives to position themselves to exert influence over government decisions.

As has previously been stated by the CCC, “while there may be no overt quid pro quo, a person who has ingratiated themselves to a decision-maker over a long period of time may benefit from that person’s favourable view of them”.¹³ Similar views were expressed in submissions, with several submitters commenting on the perceived influence of people with connections to government decision-makers:

These friendships are so strong and intertwined, that when it comes to a professional setting, the people on both sides of the fence cannot see/fail to see this conflict issue. To know how “strings get pulled”, you have to fully understand the significant sphere of influence of these strong social connections and the “wink and a nod” concept of doing business.¹⁴

Some submitters highlighted concerns that well-resourced or well-connected individuals, large organisations and trade unions may receive privileged access to government representatives and preferential outcomes because of their associations or ability to influence decision-makers. This includes through financing political campaigns or engaging people with the ability to connect to decision-makers, such as registered lobbyists.

It is a business decision for companies to invest in lobbying and political donations. Businesses do not spend money without the expectation of a business return. The fact that many organisations keep making these expenditures year after year, suggests that they certainly think they deliver good business outcomes for them.¹⁵

A number of submitters spoke of the challenges they experienced accessing decision-makers to communicate their viewpoints or policy perspectives. This was a particular concern among community and advocacy groups who commented on the difficulties they faced securing meetings with Ministers.

Several submissions also highlighted the perceived or actual imbalance that can arise through close personal and political associations. There was a prevailing view that lobbyists and other influential or well-connected people, particularly those who had previously worked in a government or political role (see Theme 5 below), received privileged access to government decision-makers and were able to circumvent reporting and transparency frameworks for their benefit or the benefit of the individuals or organisations they are representing.

Theme 5 — There is a perception that former government representatives have an unfair advantage

Another concern raised in the submissions was the perceived risk associated with individuals moving between the public and private sectors, often referred to as the “revolving door”. It was suggested that individuals who moved between the public and private sectors, including into registered lobbying roles, might leverage their existing associations or knowledge obtained through their former employment to further their own interests or that of a client:

13 CCC (2022) *Influencing practices in Queensland: Have your say*, CCC, accessed January 2023.

14 Public submission 8.

15 Public submission 43.

This creates a strong culture of disproportionate access to elected officials and public sector decision-makers, which can enhance their ability to exert improper influence with the aim of affecting or encouraging a particular outcome in their or their employer's interest.¹⁶

It was also suggested that former government representatives who moved to the private sector might be in a position to exert improper influence on government decisions due to the access and information they were privy to during their former employment. The risk may be further heightened when those individuals are engaged by government as consultants, contractors or appointed to government boards or bodies (see pages 28-30).

Theme 6 — There are concerns that there is no oversight of post-separation obligations

The *Integrity Act 2009* and Lobbyists Code of Conduct impose restrictions on the lobbying activities that can be undertaken by former government and Opposition representatives:

- For two years after leaving office or the public service, former senior government representatives and former Opposition representatives must not carry out a lobbying activity relating to official dealings they had in the two years before leaving office or the public service (s. 70(1)); and
- A government representative or Opposition representative must not knowingly permit the carrying out of a lobbying activity that breaches that standard (s. 70(2) and (3)).

The reason for the two-year restriction period “is to ensure that former senior government representatives are unable to gain inappropriate personal benefit by using information gained through previous employment in areas for which they previously had some official responsibility”.¹⁷

Failure to comply with these standards of conduct may provide grounds for refusing an application for registration as a lobbyist (s. 55), cancelling a lobbyist's registration (s. 62 and s. 66), or alternatively, the Integrity Commissioner may issue a warning to the registrant, or suspend the registration for a reasonable period (s. 66A).

Additionally, the Queensland Government's *Post separation employment provisions* policy establishes the relevant quarantine periods for business meetings between employees of Queensland Government departments and former senior government representatives.¹⁸ The policy imposes an obligation on departmental employees to not have a meeting of a commercial focus with a former senior government representative while a quarantine period applies.

Queensland's two-year post-separation restriction period is one of the strongest in Australia. However, although the publicly available Lobbyists Register includes information about whether a lobbyist is a former senior government representative and their cessation date, it does not provide any information that would help ensure these restrictions are complied with, such as details of the former government role/s the lobbyist was employed in. Instead, it relies on former senior government or Opposition representatives accurately representing and declaring their previous official dealings.

Based on the information currently contained in the Lobbyists Register, it is not possible for government or Opposition representatives to identify whether lobbyists who approach them are complying with their post-separation obligations, unless the representatives already have (or have sought out) knowledge of the lobbyist's previous employment history.

16 Public submission 26.

17 Integrity Bill 2009, *Explanatory notes*.

18 Queensland Government (2011, current) *Post separation employment provisions*, accessed January 2023.

Information collected by the CCC has identified examples where former senior government representatives, typically former Ministerial Office employees, have registered as a lobbyist or established their own lobbying company within a very short period after leaving their government role. While this is in accordance with existing regulations, corruption risks or the perception of corruption may still arise — including risks associated with conflicts of interest and the misuse of confidential information.

The CCC recognises that this is a challenging policy area and requires careful consideration in balancing the competing priorities relating to post-separation constraints.

Theme 7 — Gaps in Queensland's regulatory framework enable “lobbyists” to operate under other names

Under current Queensland legislation, only entities that carry out a lobbying activity for a third-party client or whose employees or contractors carry out a lobbying activity for a third-party client are required to register and disclose their contacts with government or Opposition representatives. Lobbying activities by in-house lobbyists, trade unions and industry associations, non-profit entities and other special interest groups, and lobbying that is incidental or not for a fee or other reward (such as *pro bono* lobbying), are not strictly captured under the existing Queensland legislation and reporting frameworks (s. 41).

Several submissions, and particularly those from registered lobbying companies, raised concerns about the limited visibility of lobbying undertaken by individuals or groups such as those referred to above. It was suggested that the current regulation “covers only a small minority of overall lobbying activity”.¹⁹

It was also suggested that the current heightened attention on registered lobbyists in Queensland has created opportunities for firms and individuals who are not currently subject to this regulation to market themselves to current or potential clients of registered lobbying firms. It was suggested these firms or individuals may be seeking to recruit clients by marketing themselves as being exempt from existing transparency frameworks.

The direct employment of lobbyists (known as in-house lobbyists) or other influential or well-connected people was a further loophole identified by the CCC. In some cases, there is a concern that individuals may be arranging employment with a private sector company to avoid them having to register as a lobbyist and disclose their interactions with government or Opposition representatives.

At present, in-house lobbying or these direct employment arrangements are exempt from transparency obligations. As stated by the CCC Chairperson at the public hearing of the inquiry into the report of the *Strategic review of the Integrity Commissioner's functions*, this gap may be exploited to avoid public scrutiny and limit visibility of the private interests seeking to influence government decisions:

....it is important to include in any new regulatory scheme lobbying activities by in-house lobbyists and those employed in incidental lobbying. While there may be regulatory costs associated with this, we believe it addresses an important corruption risk. In our view there is an obvious corruption risk posed by the in-house lobbyist arrangement. An entity which wishes to avoid lobbying restrictions may simply engage a lobbyist in what may be categorised as a sham employment arrangement in order to circumvent lobbying laws.²⁰

¹⁹ Public submission 53.

²⁰ Economics and Governance Committee (2022) *Public hearing — Inquiry into the report of the Strategic review of the Integrity Commissioner's functions, Transcript of proceedings*, Queensland Parliament, accessed January 2023.

Theme 8 — Submissions suggest that more can be done to improve transparency

As in other reviews into lobbying across Australia, there was a high level of support expressed in the submissions to expand the definition of who is required to register and disclose lobbying or influencing activities. While there was strong support for ensuring the regulation includes all individuals and companies who lobby government representatives, several submissions warned of the unintended consequences that additional regulation may have on “driving lobbying activity underground” or the risk of this engagement occurring through informal channels, such as political parties or fundraising events, which are not currently captured within existing regulation.²¹

In addition to broadening the scope of Queensland’s regulations, suggestions were made to increase transparency of interactions between the public and private sectors to improve public confidence in government decisions, including:

- **Introduce parallel reporting obligations.** It was suggested that dual reporting obligations on government representatives as well as lobbyists would improve the transparency of these interactions and allow more efficient and effective auditing of contacts. This is consistent with a suggestion made by the CCC in its submission to the *Inquiry into the report on the strategic review of the functions of the Integrity Commissioner* for the lobbyist register to take a similar approach to the Electronic Disclosure System for political donations.²²
- **Aim for consistent national standards.** Similar to submissions made to other Queensland and interstate reviews, registered lobbyists voiced their concerns about the various codes of conduct, reporting obligations, disclosure requirements and timeframes for providing documentation across jurisdictions. This is consistent with a recommendation made by the New South Wales Independent Commission Against Corruption (ICAC), which supported lobbyists providing registration documents filed with other jurisdictions to reduce administrative burden.²³

Theme 9 — There is an opportunity for education about what constitutes “improper” influence

For government to have the confidence of the community, it is important for the community to be able to differentiate between appropriately conducted advocacy and improper influence.

Some submissions suggested that regular briefings or training for government and Opposition representatives on the Lobbyists Code of Conduct and their reporting obligations would help address any concerns or confusion they may have about engaging with lobbyists. It was also suggested that lobbyists would benefit from more education and advice from the Integrity Commissioner to ensure that the rules and requirements applying to them are understood and complied with:

....this approach would help to dispel any confusion or misunderstanding and avoid well-intentioned government and Opposition representatives and public sector officers from declining contact with registered practitioners who are complying with regulations.²⁴

21 Public submission 39.

22 CCC (2022) *CCC submission: Inquiry into the Report on the Strategic Review of the Functions of the Integrity Commissioner*, Queensland Parliament, accessed January 2023.

23 ICAC (2021) *Investigation into the regulation of lobbying, access and influence in NSW*, ICAC, accessed January 2023.

24 Public submission 39.

How Queensland compares to other jurisdictions

Queensland has a strong transparency framework but there is room for improvement

Queensland's transparency framework, especially its framework to regulate lobbying activities, is one of the strongest in Australia, with other jurisdictions taking steps in recent years to introduce similar disclosure requirements. Once the recommendations announced in recent reviews have been introduced, Queensland's approach to regulating lobbying activities and restricting other types of influence will be further strengthened.

However, our work, together with a review of regimes in overseas jurisdictions, such as Canada, Ireland and Scotland, as well as recent reforms announced in New South Wales and Victoria, has identified opportunities for further improvements to Queensland's framework in relation to:

- ensuring transparency and visibility of all influencing interactions at both the state and local levels of government
- better controls over the influence of former government and Opposition representatives
- education about what constitutes improper influence on decisions.

What are other integrity agencies doing to prevent improper influence?

Integrity agencies across Australia have expressed concerns about the risks of improper influence and have taken steps in recent years to prevent this from occurring.

- In October 2022, Victoria's Independent Broad-based Anti-corruption Commission (IBAC) published a report examining corruption risks associated with political donations and lobbying. The report identified weaknesses in Victoria's regulation of donations and lobbying and made recommendations to improve its regulatory mechanisms, including that the Victorian government introduce legislation that regulates lobbying in a way that "captures any contact with government representatives" and focuses on the activity being undertaken rather than the specific individuals or organisations involved.²⁵

Prior to the release of this report, in June 2022 IBAC launched a campaign, *Speak up to stop it*, encouraging Victorian public sector employees to speak up and stop improper influence. The campaign was prompted by several recent and ongoing investigations in Victoria into government decisions influenced through political donations, gifts *pro bono* services or other hospitality.²⁶

- In July 2022, the New South Wales Premier announced support for a range of recommendations made by the ICAC to reform lobbying regulations, including the requirement for all third-party and in-house lobbyists to register and disclose information about their contact with a government official.

²⁵ IBAC (2022) *Special report on corruption risks associated with donations and lobbying*, IBAC, accessed January 2023.

²⁶ IBAC (2022) *Speak up to stop improper influence*, IBAC, accessed January 2023.

- In May 2022, the Tasmanian Integrity Commission announced a public consultation process and called for community input into its lobbying oversight system. This consultation aligns with the oversight of lobbying activities transferring from the Department of Premier and Cabinet to the Tasmanian Integrity Commission in July 2022. In October 2022, the Tasmanian Integrity Commission published a summary of submissions received. Overall, the submissions demonstrated support for strengthening and broadening Tasmania’s regulatory framework to bring it into line with other jurisdictions.²⁷



Establishment of National Anti-Corruption Commission

On 30 November 2022, the federal parliament passed legislation to establish the National Anti-Corruption Commission (NACC). The Commission will have powers to investigate the conduct of public officials as well as third parties, including lobbyists.

In respect to lobbying and improper influence, the NACC will have powers to investigate this activity only in situations where the conduct could adversely affect the honesty or impartiality of the performance of a public official’s functions:

...a person who merely vigorously lobbies a public official to present the merits of the person’s position or those of their client would not be covered by the concept of corrupt conduct, where nothing in the conduct or the relevant circumstances could be expected to induce or influence a public official to exercise a power dishonestly or partially. On the other hand, a person offering a payment or benefit conditional on a decision-maker exercising a power in a particular way would likely be considered to adversely affect the honest and impartial exercise of that decision-maker’s power.²⁸

The powers of the NACC, along with its corruption prevention and education functions, may provide an opportunity to consider a national approach to understanding and tackling significant corruption risks, such as improper influence.

²⁷ Tasmania Integrity Commission (2022) *Interim report: Overview of submissions received for Integrity Commission consultation process: Reforming lobbying oversight in Tasmania*, Tasmania Integrity Commission, accessed January 2023.

²⁸ National Anti-Corruption Commission Bill 2022, *Explanatory memoranda*.

Preventing improper influence: risk and response

Members of the public expect that government decisions will be made in the best interests of the community and that both state and local government will be open to ideas and advocacy from the community. Input from the community and private sector is important to ensure innovative and cost-effective solutions and that the best outcomes are prioritised.

In some situations, influence which occurs in secret or is not visible to the public (through disclosure of diaries, public registers or other reporting mechanisms), may contribute to perceptions of inequity or favouritism. The challenge is to make sure government has the right safeguards and processes in place to ensure the strategies used to influence decisions are transparent, and the decisions made are free from bias or favouritism.

In this chapter, we identify some potential risk scenarios to illustrate circumstances in which the current safeguards, while of a high standard, may not prevent elected officials (including members of parliament, government and Opposition representatives) and senior public sector employees from perceptions of corrupt conduct potentially leading to corruption allegations. The scenarios are hypothetical, and based on potential situations that could arise, and are not intended to represent any real-life situations that have come to the attention of the CCC.

We then suggest some reforms that the Queensland Government may wish to consider implementing. The CCC sought comment on the proposed reforms outlined in this chapter from the Queensland Integrity Commissioner, Department of the Premier and Cabinet, Department of Justice and Attorney-General, Department of State Development, Infrastructure, Local Government and Planning, Public Service Commission and Queensland Audit Office.

Limited visibility of some types of influence

Queensland's lobbying framework may be limiting visibility and public scrutiny of the full picture of influence, especially where the current definitions do not cover the type of person or organisation doing the lobbying, or the type of person or position who is likely to be approached.

In-house lobbyists

The recommendations made by Yearbury and Coaldrake, together with the reforms announced by the Queensland Government, will result in greater visibility of lobbying by professional services firms and employees of registered lobbying companies. If all of these reforms are implemented, transparency of influencing in Queensland will nonetheless continue to be limited as not all forms of influence and not all lobbying of government and Opposition representatives will be captured, as the following scenario shows.



Risk scenario

A Minister and their Chief of Staff meet with representatives from an organisation that is seeking a government grant. The organisation employs an in-house government relations specialist who makes representations to government in the course of their employment, including meeting with the Minister and Chief of Staff on two occasions.

Current disclosure requirement: The Minister and Chief of Staff are required to record this meeting in their diaries, including the purpose of the meeting.

Gap: As an in-house lobbyist, the government relations specialist is not required to register as a lobbyist or to publicly disclose the contacts with government or Opposition representatives described above.

Our work over recent years, together with the views raised through submissions to the CCC and recent recommendations made in New South Wales and Victoria, provide support for Queensland broadening the scope of its transparency requirements to include in-house lobbyists and other groups and individuals seeking to influence government decisions.

Lessons can be drawn from international models (such as those in Canada, Ireland and Scotland) which require in-house lobbyists and other groups seeking to influence government decisions to register and make entries in their lobbyists' registers.

Members of Parliament and electorate employees are not included in the definition

Members of Parliament promote and advocate the interests of their constituents and they are regularly approached by members of the community seeking to advance their special interests. This is a legitimate process and fundamental to informing and enhancing government policy. However, the close connections of Members of Parliament to the community and their advocacy role can place them at increased risk of being susceptible to improper influence — particularly in situations where they have received a benefit from the community member who is seeking their assistance and advocacy.

Despite this, not all Members of Parliament or their electorate employees are subject to the same transparency obligations as other government or Opposition representatives, and are not required to make public details of their meetings. (The same applies to local council representatives – for further discussion on this point, see pages 23-24)

Members of Parliament (who are not Ministers, Assistant Ministers, the Opposition Leader or the Deputy Opposition Leader) and electorate employees are not explicitly included in the definition of a government or Opposition representative or public sector officer (*Integrity Act 2009*, s. 44, s. 47 and s. 47A). Although lobbyists are not currently required to disclose contact with Members of Parliament or electorate employees, the CCC's analysis of lobbying activities has identified examples of this contact being disclosed.²⁹

As recently proposed in Victoria, extending the definition of a government representative to include all Members of Parliament and electorate employees would help to increase the openness and transparency of all types of influence in Queensland.³⁰

29 CCC analysis of lobbying activity recorded on the Queensland Integrity Commissioner's contact log.

30 IBAC (2022) *Special report on corruption risks associated with donations and lobbying*, IBAC, accessed January 2023.



Risk scenario

A local Member of Parliament (who is not a Minister, Assistant Minister, the Opposition Leader or the Deputy Opposition Leader) and electorate employees meet with an organisation that is making representations to the government to receive a grant. The organisation engages the services of a registered third-party lobbyist to make representations on their behalf.

Current disclosure requirement: None.

Gap: The Lobbyists Code of Conduct states that lobbying activity does not include, among other things, “contact with a member of the Legislative Assembly ... in his or her capacity as a local representative on a constituency matter”.

Reform 1 — Amend definitions to capture all types of influence

Transparency of influence is currently limited by narrow definitions and reporting requirements.

To ensure Queensland continues to have one of the strongest transparency frameworks in Australia, the Queensland Government should consider broadening the scope of who is required to register and disclose lobbying activities by:

1. amending the definition of a “lobbyist” to ensure it focuses on the activity of influencing rather than the particular individuals or organisations, or the frequency of that behaviour (including removing exemptions for in-house lobbyists, trade unions and other interest groups)
2. expanding the definition of a “government representative” and “Opposition representative” to explicitly include all Members of Parliament and electorate employees.

The need for greater transparency

Details of interactions at personal, electorate or party political meetings do not need to be disclosed

In Queensland, there is no requirement for elected officials or their employees to record in their public diaries information about interactions for party political purposes. As suggested in some public submissions, this loophole may be leveraged to potentially avoid public scrutiny:

...for the really smart ones the real lobbying takes place at informal/private settings at functions, dinners, parties, social events, via phone calls, or more likely via casual informal meeting where there is no trace about was discussed/what was said.³¹

³¹ Public submission 8.

The absence of a requirement to disclose information about all influencing interactions, including those for party political purposes, may be limiting the public's visibility of influence and who is accessing government decision-makers. Further, it may also provide an opportunity for individuals who are so inclined to leverage these gaps to avoid transparency, as shown in the scenario below.



Risk scenario

A Minister attends a dinner party of a personal associate. The event is also attended by registered lobbyists and other members of the private sector who are mutual associates of the host. During the dinner party, the Minister has a conversation with the registered lobbyist about one of their clients who is a large company seeking to enter the Queensland market.

Current disclosure requirement: None.

Gap: Personal, electorate or party political meetings or events, media events and interviews are not required to be disclosed in ministerial diaries.³²

On 1 July 2022, the Queensland Government announced reforms to restrict the influence of political donors in Queensland, including restricting cabinet members from participating in the party's Queensland Business Partnership Network.³³ While these reforms seek to level the playing field and allay public concerns about unequal access, there are opportunities for further reform through stronger and more transparent disclosure requirements at the state and local government levels.

To give the public greater confidence and insight into government decisions, the publicly available diaries of elected officials and their employees should include all contacts (apart from those that are cursory or extraneous) with lobbyists, the business community, advocacy groups and union officials.

Visibility of influence is especially limited at the local government level

Recent recommendations and reforms in Queensland have predominantly focused on strengthening integrity and transparency within state government by introducing enhanced disclosure requirements for Ministers and their employees, and more comprehensive recordkeeping by state government departments.

There is currently no requirement for elected officials in local government to publish their diaries or make public information about contact with members of the community seeking to influence decisions.

³² Department of the Premier and Cabinet (2022) *The Queensland Ministerial handbook*, Queensland Government, accessed January 2023.

³³ Premier and Minister for the Olympics, *Nation leading electoral reforms commence today*, Media statement, 1 July 2022.



Risk scenario

A local government Councillor meets with a property developer who has received council approval to develop a housing estate. The developer is planning to submit a new development application to council to significantly increase the number of dwellings that can be built on the lot.

Current disclosure requirement: None.

Gap: Councillors are not required to publicly disclose their diaries or details of meetings.

A requirement in Queensland for all elected officials, including Mayors and Councillors, to publish their diaries, including the purpose or reason for the contact and who was present at the meeting, would provide increased transparency of who is seeking to influence government and for what outcome or purpose.

Reform 2 — Ensure greater visibility of influence at state and local government level

In line with proposed reforms in New South Wales, the Queensland Government, in conjunction with representatives from the local government sector, should consider ways to improve transparency of influencing interactions in a way that ensures visibility and public scrutiny of all interactions aimed at influencing government decisions — at state and local government levels.

This should include, but not be limited to, requiring that all elected officials — including all Members of Parliament and local government Councillors — make public information about their meetings with the private sector, including details of the purpose or reason for the contact and who was present at the meeting.

No mechanism to ensure compliance with post-separation periods

The CCC and other integrity agencies have raised concerns over the management of the use of information and influence by former public servants representing private interests and have highlighted the need to establish strong conflict of interest procedures to promote transparency.³⁴

Although former senior government and Opposition representatives are prohibited from lobbying on matters relating to their former employment for a period of two years, there is no restriction on them registering as a lobbyist or their firm representing clients that relate to their previous official dealings.

While this is currently permitted, the movement between government and lobbying or other influencing roles within a short period of time can lead to a perception that former government or Opposition representatives are leveraging their associations or knowledge gained through their previous employment for their interests or the commercial interests of their employer or clients. As one submitter commented:

*This creates a strong culture of disproportionate access to elected officials and public sector decision makers, which can enhance their ability to exert improper influence with the aim of affecting or encouraging a particular outcome in their or their employer's interest.*³⁵



Risk scenario

A registered lobbying company represents clients from a range of sectors. One of their employees is a former Ministerial Office employee who had worked across several portfolios. While working for a Minister, the former employee had dealings with a company from one of those sectors.

That company is a third-party client of the lobbying company that now employs the former Ministerial Office employee. Another lobbyist at that company is making representations to government on their behalf.

Current: As a former Ministerial Office employee, the lobbyist is prohibited from lobbying on matters they personally had official dealings with in the two years prior to leaving office for a two-year period after leaving their government role.

Gap: At present, there is no mechanism to ensure compliance with this standard or way for a government or Opposition representative to satisfy themselves a lobbyist is complying with their post-separation restrictions.

Further, although the former Ministerial Office employee cannot make representations that relate to their previous official dealings on behalf of a client, other lobbyists at the same company can. The risk is that former government or Opposition representatives may provide confidential information or guidance based on their previous employment to their lobbying colleagues, employer or client.

34 CMC (2008) *Public duty, private interests: Issues in pre-separation conduct and post-separation employment for the Queensland public sector*, CMC, accessed January 2023.

35 Public submission 26.

Other jurisdictions have sought to increase oversight and transparency of post-separation restrictions through giving their lobbying regulator the power to request specific information about the engagements undertaken by lobbyists or by prohibiting former government representatives from registering as a lobbyist for a specified period of time:

- In 2021, New South Wales ICAC recommended that New South Wales' lobbying legislation be amended to improve oversight of post-separation employment provisions by providing the lobbying regulator with the ability to request information about the terms of lobbyists' employment and any engagements they have undertaken in the cooling-off period.³⁶
- In Western Australia, former state government elected officials, senior public sector executives and other select government positions are not able to register as a lobbyist for 12 months after leaving office.³⁷

Reform 3 — Introduce better controls over the influence of former government or Opposition representatives

Work undertaken by the CCC and others has demonstrated the risks that can arise through government representatives moving between sectors, resulting in conflicts of interest, partial decisions and the misuse of confidential information.

Given the well-known corruption risks associated with access to and use of confidential information, it is important to reinforce to all public sector employees and government and Opposition representatives, both current and former, that confidential government information is and remains the property of the government. It is not to be exploited for personal profit or for the commercial benefit of third parties.

To further strengthen Queensland's framework and give the public greater confidence that government decisions are protected from improper influence, the Queensland Government should consider:

1. introducing a ban on former senior government and Opposition representatives registering as a lobbyist for a specified period after leaving office, similar to the approach in Western Australia
2. requiring lobbying activity recorded on the contact log to include details of the individual/s who undertook the lobbying activities (that is, the name of the lobbyist making the representations)
3. introducing a requirement for former government or Opposition representatives who undertake lobbying activities to provide details of their former government or Opposition roles in the two years prior to separating (including their position title and the name of the agency or office they were employed in)
4. requiring such lobbyists to make records confirming the lobbying representation did not relate to dealings they had in the two years prior to leaving office
5. requiring government or Opposition representatives approached by lobbyists who formerly worked in a government or Opposition role to make entries in their relevant lobbying register (or, if implemented, a dual reporting platform) declaring they have satisfied themselves that the lobbying activity does not breach post-separation restrictions.

³⁶ ICAC (2021) *Investigation into the regulation of lobbying, access and influence in NSW*, ICAC, accessed January 2023.

³⁷ [Western Australia Lobbyist Code of Conduct](#).

Reform 4 — Audit compliance with post-separation restrictions

To reduce the risk of improper influence by former government and Opposition representatives, the Queensland Government should consider ways to ensure lobbyists and government and Opposition representatives are taking adequate steps to comply with their requirements under the Lobbyists Code of Conduct relating to post-separation restrictions, including but not limited to:

1. encouraging public sector agencies, Ministerial Offices and the Office of the Leader of the Opposition to undertake regular internal audits of their lobbying control frameworks, including consideration of:
 - a. the adequacy of policies, procedures and recordkeeping systems
 - b. compliance with recordkeeping and other requirements
 - c. the training provided to employees about engaging with lobbyists, their recordkeeping obligations and conflicts of interest management.

The CCC also supports the concept of the Queensland Audit Office considering an assessment of compliance with post-separation restrictions as part of any proposed future performance audit of lobbying requirements.³⁸

Reform 5 — Introduce a dual reporting platform

A reporting platform which requires both lobbyists and government and Opposition representatives to disclose contacts would provide a central public repository of lobbying contacts and help detect non-reporting, underreporting and discrepancies in what is reported.

In line with the proposed refresh of the register, consideration should be given to ensuring the register has the ability to:

1. flag or report information that is suspected of being inaccurate
2. send any information entered on the register to the government representative or an area within their agency or office for cross-checking, similar to the register used in Scotland.

³⁸ The Coaldrake Review recommended the Queensland Government encourage the Auditor-General to carry out performance audits of the lobbying register, ministerial diaries and public records to ensure recordkeeping obligations are being complied with.

Risks associated with government boards and bodies

In Queensland, there are more than 300 government boards and bodies which provide strategic direction and oversight of government organisations and the delivery of critical government services, such as energy, health, water, rail and investment. Board appointees are typically sought out for their diverse views and practical industry experience.

In certain circumstances, the experience and ongoing industry involvement or union affiliation of board appointees can introduce the risk of actual or perceived conflicts of interest or situations where board members may be seeking to influence the same government they are employed by for their own private or commercial interests.

Appointees to government boards may be particularly vulnerable to improper influence as they:

- can hold simultaneous roles on both a government board and a private sector company board which could give rise to an actual conflict with their government board appointment
- may be engaged in other secondary employment (for example, as consultants), which could conflict with their government board roles.

Similar risks have been identified by the Victorian IBAC, who warned that:

...when board members have private interests in the resource or organisation being managed by the board, this could improperly influence, or be seen to influence, their decisions or actions. Integrity issues arise and the potential for corruption exists when there is a failure to properly identify, declare and manage the conflict of interest.³⁹

In May 2022, the Queensland Audit Office published a report on its audit into the appointing and renewal of government boards. The audit highlighted several deficiencies in the recruitment and remuneration of government board appointments. These included a weakness in the recruitment process which resulted in applicants being unable to check if they have potential conflicts of interest until after they are appointed to a board “when it may be too late”.⁴⁰

To address these deficiencies, the Queensland Audit Office has recommended the Queensland Government develop a whole-of-government approach to the appointment process for large boards that aligns with better practice standards outlined by the ASX Corporate Governance Council and the Australian Institute of Company Directors. It has also recommended involving the chairs of government boards more closely in the appointment and renewal process to allow prospective appointees to conduct their own due diligence and discuss potential conflicts of interest.

The risks in relation to conflicts of interest and the misuse of confidential information as a result of possible multiple concurrent roles undertaken by appointees to government boards are highlighted in the scenario below.

³⁹ IBAC (2019) *Corruption risks associated with public sector boards*, IBAC, accessed January 2023.

⁴⁰ Queensland Audit Office (QAO) (2022) *Appointing and renewing government boards*, QAO, accessed January 2023.



Risk scenario

A former Member of Parliament is appointed to a government board. They also sit on the board of private sector companies which make representations to government Ministers and departments.

Their multiple board appointments mean that they are, or could potentially be, involved in discussions of sensitive confidential information about upcoming government priorities and investments which are directly relevant to their private sector employment.

Appointees to Queensland government boards, committees and authorities play an important role providing leadership, governance and strategic direction to government bodies and act as a conduit between government and the private sector. Without seeking to restrict who can be appointed to a government board, the CCC considers more needs to be done to ensure conflicts of interest arising from the private interests, industry involvement and secondary employment of board members are appropriately declared and managed.

The Department of the Premier and Cabinet has developed a guide, *Welcome aboard: A guide for members of Queensland Government Boards, committees and statutory authorities*, to assist the establishment and operation of government boards and help appointees in the performance of their duties. The guide includes some limited advice and guidance about avoiding conflicts of interest:

*Members of Government Boards should avoid actual or potential conflicts between their duties to the Government Board and their personal interests or their duties to others. Members of Government Boards should also be aware of possible perceived conflicts of interest.*⁴¹

In some circumstances, government board appointees are company directors or are often in similar positions to a company director. As such, they may be subject to specific fiduciary obligations. As outlined in the guide, company directors and other government board members have an obligation to “act honestly and to exercise powers for their proper purposes, avoid conflicts of interests, act in good faith, and exercise diligence, care and skill” (p. 11).

The Queensland Cabinet Handbook provides guidance on assessing a person’s suitability for appointment to a government board.⁴² The handbook outlines that Departments are to ask proposed nominees to “declare whether there are any reasons why they should not be appointed to the relevant government body”, and “whether, if successful, there would be any conflicts of interests (i.e. any private interests) that may affect or appear to affect the appointee’s public duty” (section 5.1.7).

To help reduce the risk of improper influence, or the perception of it, among government board appointees, the CCC is of the view that conflicts of interest should be declared and considered as early as possible and prior to a person being nominated or appointed to a board. One way identified by the CCC to strengthen the current approach is to require the nominating person (including the Minister) to confirm in writing that all potential, perceived or actual conflicts have been declared and considered, and that they either do not prevent the nomination or there is a plan in place to manage them appropriately.

41 Department of the Premier and Cabinet (2010) *Welcome aboard: A guide for members of Queensland Government Bodies, committees and statutory authorities*, Queensland Government, accessed January 2023.

42 Department of the Premier and Cabinet (2021) *Queensland Cabinet Handbook*, Queensland Government, accessed January 2023.

Reform 6 — Manage the risks associated with government board appointments

To ensure transparency in the operation and decisions of government boards, it is vital that board members are aware of their obligations to declare conflicts of interest and that appropriate action is taken to manage and resolve these conflicts. The Queensland Government may wish to consider:

1. introducing a requirement for all prospective board appointees to declare conflicts of interest, including details of their affiliations to any trade unions or other interest groups, prior to being nominated or appointed so those conflicts can be carefully considered during the selection process and prior to being nominated or appointed to a role
2. introducing a requirement that the nominating person (including the Minister) confirm in writing that that all potential, perceived or actual conflicts have been declared and considered, and that they either do not prevent the nomination or there is a plan in place to manage them appropriately
3. enhancing training and guidance for board appointees about declaring and managing conflicts of interest and avoiding improper influence, including the addition of a specific section on declaring and managing conflicts of interest in the *Welcome aboard* guide
4. strengthening obligations for boards to proactively manage conflicts declared by board members
5. introducing a process for requiring board members to report conflicts of interest and their conflict of interest management strategies to their responsible entity (such as the responsible Minister)
6. introducing a requirement for board appointees to publicly disclose on the register of appointees to Queensland Government Bodies if they were a former government or Opposition representative (similar to the Lobbyists Register).

Reducing the risks of improper influence requires ongoing education and collaboration

The work undertaken by the CCC, and the views expressed through public submissions, demonstrate the need to ensure that government and Opposition representatives are appropriately informed about the behaviours that may indicate improper influence and know what action to take to prevent or report these behaviours.

Reform 7 — Deliver education about transparency requirements and how to prevent improper influence

The Queensland Government, in partnership with the Queensland Integrity Commissioner and representatives from relevant public sector agencies, should consider ways to ensure public sector employees:

1. understand the types of behaviours that can lead to, or increase the risk of, improper influence and what to do if they experience or witness it
2. are aware of their recordkeeping requirements and obligations in relation to interactions with the private sector, including registered lobbyists.

Additionally, the Queensland Government, in partnership with the Queensland Integrity Commissioner, should consider providing regular education to lobbyists about the expected standards of conduct and their transparency and disclosure obligations, including ways to manage post-separation restrictions.

Ensuring public confidence in government decisions

Public confidence does not just depend on corruption prevention – it also requires the public sector to take a positive, proactive stance on transparency and accountability. The following additional opportunities have been identified to strengthen transparency and improve public trust and confidence that government decisions are free from improper influence.

Improve public confidence through consultation

Common to submissions received was the perception that large corporations and those who can afford to finance political parties or engage the services of a lobbyist receive privileged access to decision-makers which results in outcomes that are distorted towards select groups and private interests. Opportunities can be seen where other jurisdictions have taken steps to address similar concerns:

- In Scotland, the Lobbying Code of Conduct requires that members of Parliament should “consider whether a meeting with one group which is making representations on an issue should be balanced by offering another group with different views an opportunity to make representations”.
- In New South Wales, it has been recommended that public officials make “all reasonable efforts to seek the views of all parties whose interests are likely to be affected by the adoption of a lobbying proposal”. It has also been recommended that public officials discourage lobbying relating to proposals where there are formal assessment procedures in place for determining the merits of the proposal (for example, those relating to development applications, tenders or grants).

Enhance the code of conduct

The Lobbyists Code of Conduct outlines a series of principles that lobbyists must observe when engaging with government and Opposition representatives, including the requirement they will not “engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment”. It also specifically states that lobbyists “shall not place government representatives or Opposition representatives in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on them”.

However, it does not provide any specific examples or further guidance about what is meant by improper influence, corrupt or dishonest behaviours. The approach taken in Ireland, and the proposed new approach in New South Wales, may be worth considering to strengthen Queensland’s Lobbyists Code of Conduct:

- Ireland’s Lobbyist Code of Conduct specifically requires lobbyists to avoid improper influence, including that “a person carrying on lobbying activities should not seek to influence an elected or appointed public official other than by providing evidence, information, arguments and experiences which support their lobbying activities.”
- New South Wales has recommended their Lobbyists Code of Conduct be renamed the “Lobbying Code of Conduct” and impose standards and obligations on public officials (as well as lobbyists) with regard to how lobbying proposals are received, considered and determined. Further, it has been recommended that the code of conduct include a specific prohibition on “preferential treatment of a lobbyist on the basis of any existing or former relationship”.

Harmonise lobbying regulation

Similar to the approach taken to align work health and safety laws, consideration should be given to harmonising lobbying regulation and disclosure requirements across Australian jurisdictions. Several recent reviews have commented on the different models used throughout Australia and the administrative burden this causes lobbyists. A nationally consistent approach to lobbying regulation would help address concerns raised by lobbyists and other members of the public and could help ensure a focus remains on aligning these frameworks with emerging best practice standards.

| Conclusion

Queensland has a strong framework to ensure transparency and public scrutiny of influence in the making of government decisions. Once implemented, the recently announced recommendations and reforms will further strengthen this framework and provide greater assurance to the public that the decisions made by government align with the public's expectations and are free from bias or favouritism.

However, opportunities exist to learn from other jurisdictions, both in Australia and overseas, to further strengthen transparency in relation to influence and decisions.

The CCC's examination of influencing practices has identified areas of continuing risk and opportunities for reform to further improve confidence and transparency across both state and local government in the public interest.

The opportunities identified in this corruption prevention report seek to increase transparency, align Queensland's practices with best practice in other jurisdictions, and help ensure the decisions made by government are, and are seen to be, in the best interests of the community.

| Appendix: Collated list of proposed reforms

The CCC has proposed seven reforms for consideration by the Queensland Government to close the gaps identified and further strengthen Queensland’s integrity and accountability framework.

Reform 1 — Amend definitions to capture all types of influence

Transparency of influence is currently limited by narrow definitions and reporting requirements.

To ensure Queensland continues to have one of the strongest transparency frameworks in Australia, the Queensland Government should consider broadening the scope of who is required to register and disclose lobbying activities by:

1. amending the definition of a “lobbyist” to ensure it focuses on the activity of influencing rather than the particular individuals or organisations, or the frequency of that behaviour (including removing exemptions for in-house lobbyists, trade unions and other interest groups)
2. expanding the definition of a “government representative” and “Opposition representative” to explicitly include all Members of Parliament and electorate employees.

Reform 2 — Ensure greater visibility of influence at state and local government level

In line with proposed reforms in New South Wales, the Queensland Government, in conjunction with representatives from the local government sector, should consider ways to improve transparency of influencing interactions in a way that ensures visibility and public scrutiny of all interactions aimed at influencing government decisions — at state and local government levels.

This should include, but not be limited to, requiring that all elected officials — including all Members of Parliament and local government Councillors — make public information about their meetings with the private sector, including details of the purpose or reason for the contact and who was present at the meeting.

Reform 3 — Introduce better controls over the influence of former government or Opposition representatives

Work undertaken by the CCC and others has demonstrated the risks that can arise through government representatives moving between sectors, resulting in conflicts of interest, partial decisions and the misuse of confidential information.

Given the well-known corruption risks associated with access and use of confidential information, it is important to reinforce to all public sector employees and government and Opposition representatives, both current and former, that confidential government information is and remains the property of the government. It is not to be exploited for personal profit or for the commercial benefit of third parties.

To further strengthen Queensland’s framework and give the public greater confidence that government decisions are protected from improper influence, the Queensland Government should consider:

1. introducing a ban on former senior government and Opposition representatives registering as a lobbyist for a specified period after leaving office, similar to the approach in Western Australia

2. requiring lobbying activity recorded on the contact log to include details of the individual/s who undertook the lobbying activities (that is, the name of the lobbyist making the representations)
3. introducing a requirement for former government or Opposition representatives who undertake lobbying activities to provide details of their former government or Opposition roles in the two years prior to separating (including their position title and the name of the agency or office they were employed in)
4. requiring such lobbyists to make records confirming the lobbying representation did not relate to dealings they had in the two years prior to leaving office
5. requiring government or Opposition representatives approached by lobbyists who formerly worked in a government or Opposition role to make entries in their relevant lobbying register (or, if implemented, a dual reporting platform) declaring they have satisfied themselves that the lobbying activity does not breach post-separation restrictions.

Reform 4 — Audit compliance with post-separation restrictions

To reduce the risk of improper influence by former government and Opposition representatives, the Queensland Government should consider ways to ensure lobbyists and government and Opposition representatives are taking adequate steps to comply with their requirements under the Lobbyists Code of Conduct relating to post-separation restrictions, including but not limited to:

1. encouraging public sector agencies, Ministerial Offices and the Office of the Leader of the Opposition to undertake regular internal audits of their lobbying control frameworks, including consideration of:
 - a. the adequacy of policies, procedures and recordkeeping systems
 - b. compliance with recordkeeping and other requirements
 - c. the training provided to employees about engaging with lobbyists, their recordkeeping obligations and conflicts of interest management.

The CCC also supports the concept of the Queensland Audit Office considering an assessment of compliance with post-separation restrictions as part of any proposed future performance audit of lobbying requirements.⁴³

Reform 5 — Introduce a dual reporting platform

A reporting platform which requires both lobbyists and government and Opposition representatives to disclose contacts would provide a central public repository of lobbying contacts and help detect non-reporting, underreporting and discrepancies in what is reported.

In line with the proposed refresh of the register, consideration should be given to ensuring the register has the ability to:

1. flag or report information that is suspected of being inaccurate
2. send any information entered on the register to the government representative or an area within their agency or office for cross-checking, similar to the register used in Scotland.

43 The Coaldrake Review recommended the Queensland Government encourage the Auditor-General to carry out performance audits of the lobbying register, ministerial diaries and public records to ensure recordkeeping obligations are being complied with.

Reform 6 — Manage the risks associated with government board appointments

To ensure transparency in the operation and decisions of government boards, it is vital that board members are aware of their obligations to declare conflicts of interest and that appropriate action is taken to manage and resolve these conflicts. The Queensland Government may wish to consider:

1. introducing a requirement for all prospective board appointees to declare conflicts of interest, including details of their affiliations to any trade unions or other interest groups, prior to being nominated or appointed so those conflicts can be carefully considered during the selection process and prior to being nominated or appointed to a role
2. introducing a requirement that the nominating person (including the Minister) confirm in writing that that all potential, perceived or actual conflicts have been declared and considered, and that they either do not prevent the nomination or there is a plan in place to manage them appropriately
3. enhancing training and guidance for board appointees about declaring and managing conflicts of interest and avoiding improper influence, including the addition of a specific section on declaring and managing conflicts of interest in the Welcome aboard guide
4. strengthening obligations for boards to proactively manage conflicts declared by board members
5. introducing a process for requiring board members to report conflicts of interest and their conflict of interest management strategies to their responsible entity (such as the responsible Minister)
6. introducing a requirement for board appointees to publicly disclose on the register of appointees to Queensland Government Bodies if they were a former government or Opposition representative (similar to the Lobbyists Register).

Reform 7 — Deliver education about transparency requirements and how to prevent improper influence

The Queensland Government, in partnership with the Queensland Integrity Commissioner and representatives from relevant public sector agencies, should consider ways to ensure public sector employees:

1. understand the types of behaviours that can lead to, or increase the risk of, improper influence and what to do if they experience or witness it
2. are aware of their recordkeeping requirements and obligations in relation to interactions with the private sector, including registered lobbyists.

Additionally, the Queensland Government, in partnership with the Queensland Integrity Commissioner, should consider providing regular education to lobbyists about the expected standards of conduct and their transparency and disclosure obligations, including ways to manage post-separation restrictions.



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