FINANCE AND ADMINISTRATION COMMITTEE

Report No. 26
Oversight of the Queensland Integrity Commissioner 2012 and Review of Lobbyists Code of Conduct
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Report No. 26
Finance and Administration Committee
March 2013
# Finance and Administration Committee

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**Deputy Chair**  
Mr Curtis Pitt MP, Member for Mulgrave

**Members**  
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Dr Bruce Flegg MP, Member for Moggill (from 27 November 2012)  
Mr Reg Gulley MP, Member for Murrumba  
Mr Ian Kaye MP, Member for Greenslopes (to 27 November 2012)  
Mr Tim Mulherin MP, Member for Mackay (to 12 February 2013)  
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## Contents

### Abbreviations

### Glossary

### Chair’s Foreword

### Recommendations

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Introduction</strong></td>
</tr>
<tr>
<td>1.1</td>
<td>Recommendations in this report</td>
</tr>
<tr>
<td>1.2</td>
<td>Role of the Committee</td>
</tr>
<tr>
<td>1.3</td>
<td>Integrity Commissioner’s responsibilities</td>
</tr>
<tr>
<td>1.4</td>
<td>Committee’s responsibilities regarding the Integrity Commissioner</td>
</tr>
<tr>
<td>1.5</td>
<td>Conduct of the inquiry</td>
</tr>
<tr>
<td>2</td>
<td><strong>Review of Lobbyists Code of Conduct</strong></td>
</tr>
<tr>
<td>2.1</td>
<td>Background</td>
</tr>
<tr>
<td>2.2</td>
<td>Revised Lobbyists Code of Conduct</td>
</tr>
<tr>
<td>2.3</td>
<td>Publication of information about lobbying activities</td>
</tr>
<tr>
<td>2.4</td>
<td>Committee Comments – publication of information about lobbying activities</td>
</tr>
<tr>
<td>2.5</td>
<td>Integrity Commissioner’s response</td>
</tr>
<tr>
<td>2.6</td>
<td>Committee Recommendations – publication of information about lobbying activities</td>
</tr>
<tr>
<td>2.7</td>
<td>Definition of ‘Lobbyist’</td>
</tr>
<tr>
<td>2.8</td>
<td>Committee Recommendations – definition of ‘lobbyist’</td>
</tr>
<tr>
<td>2.9</td>
<td>Provision of information</td>
</tr>
<tr>
<td>2.10</td>
<td>Sanctions for section 71 breaches</td>
</tr>
<tr>
<td>2.11</td>
<td>Definition of ‘lobbying activity’</td>
</tr>
<tr>
<td>2.12</td>
<td>Committee Recommendations – amendments to the Integrity Act 2009</td>
</tr>
<tr>
<td>3</td>
<td><strong>Oversight of Queensland Integrity Commissioner 2012</strong></td>
</tr>
<tr>
<td>3.1</td>
<td>Issues considered by the Committee</td>
</tr>
<tr>
<td>3.2</td>
<td>Annual Report</td>
</tr>
<tr>
<td>3.3</td>
<td>Advice to designated persons</td>
</tr>
<tr>
<td>3.4</td>
<td>Post separation and employment restrictions</td>
</tr>
<tr>
<td>3.5</td>
<td>Annual meetings with Members of Parliament</td>
</tr>
<tr>
<td>3.6</td>
<td>Ministerial Code of Ethics</td>
</tr>
<tr>
<td>3.7</td>
<td>Public Awareness of Ethics or Integrity Issues</td>
</tr>
<tr>
<td>3.8</td>
<td>Estimates</td>
</tr>
<tr>
<td>3.9</td>
<td>Committee Comments – Estimates</td>
</tr>
<tr>
<td>4</td>
<td><strong>Appendix 1 – Proposed Lobbyists Code of Conduct with tracked changes</strong></td>
</tr>
</tbody>
</table>

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Finance and Administration Committee
Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANZSOG</td>
<td>Australia and New Zealand School of Government</td>
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<td>APSAC</td>
<td>Australian Public Sector Anti-Corruption Conference</td>
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<td>DPC</td>
<td>Department of the Premier and Cabinet</td>
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<td>LNP</td>
<td>Liberal National Party</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>RTI</td>
<td>Right to Information under the <em>Right to Information Act 2009</em></td>
</tr>
</tbody>
</table>

Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acts</td>
<td>All Acts referred to in this report refer to Queensland Acts unless otherwise specified.</td>
</tr>
<tr>
<td>The Act</td>
<td><em>Integrity Act 2009</em></td>
</tr>
<tr>
<td>The Bill</td>
<td><em>Right to Information and Integrity (Openness and Transparency) Amendment Bill 2012</em></td>
</tr>
<tr>
<td>The Code</td>
<td>Lobbyist Code of Conduct</td>
</tr>
<tr>
<td>The Committee</td>
<td>Finance and Administration Committee</td>
</tr>
</tbody>
</table>
Chair’s Foreword

The Committee has oversight responsibilities with respect to the Integrity Commissioner and his office under the Integrity Act. The Integrity Commissioner is also required to consult with the Committee regarding the Lobbyists Code of Conduct. The purpose of this report is to inform the Parliament regarding these responsibilities.

The Integrity Commissioner has made a number of changes to the Lobbyists Code of Conduct subsequent to the passage of the Right to Information and Integrity (Openness and Transparency) Amendment Bill 2012 through the Parliament. The Integrity Commissioner has included additional provisions relating to the publication of the information provided to him. The Committee disagreed with some aspects of this proposal and is seeking his reconsideration of these issues.

The Committee is also concerned that the definition of ‘lobbyist’ is too narrowly focused and does not include up to 80 per cent of those who lobby government. The Committee considers that the definition of who is a lobbyist needs to be expanded to incorporate paid in-house lobbyists of both corporations and associations, including industry and non-profit organisations.

The Committee found that there are a number of additional areas that require review in order to ensure that the Act is best practice. The Committee has recommended that a review of the Act be completed.

On behalf of the Committee, I would like to thank the Integrity Commissioner and his office for their assistance. I would also like to thank those who provided submissions to the Integrity Commissioner regarding his review of the Lobbyists Code of Conduct. The Committee appreciates their willingness to allow the Committee to consider their comments as part of the review process.

Finally, I would like to thank the other Members of the Committee for their valuable contribution and their continuing hard work in undertaking the work of the Committee.

Michael Crandon MP
Chair
Recommendations

The Committee makes the following recommendations:

Recommendation 1

The Committee recommends that the Integrity Commissioner reconsider his proposal to publish the client names and the purpose of the meetings, as part of the review of the Lobbyists Code of Conduct. The Committee is of the view that either the client names or the purpose of the meeting be published, but not both.

Recommendation 2

The Committee recommends that the Integrity Act 2009 be amended to include paid in-house lobbyists of both corporations and associations.

Recommendation 3

The Committee recommends that a review of the Integrity Act 2009 be completed and include examination of the following topics:

- Sanctions for section 71 and code of conduct breaches
- Investigative powers for the Integrity Commissioner
- Definition of lobbyist
- Definition of lobbying activity
- Post-separation and employment restrictions
- Definition of designated persons
- Sanctions for non-provision of information under the Public Records Act
1 Introduction

1.1 Recommendations in this report

The recommendations in this report are addressed to the Premier as the responsible minister.¹

1.2 Role of the Committee

The Finance and Administration Committee (the Committee) is a portfolio committee established by the Parliament of Queensland Act 2001 and the Standing Orders of the Legislative Assembly on 18 May 2012.² The committee’s primary areas of responsibility are:

- Premier and Cabinet; and
- Treasury and Trade.

In relation to its areas of responsibility, the Committee:

- examines bills to consider the policy to be enacted and the application of the fundamental legislative principles set out in the Legislative Standards Act;
- examines the estimates of each department;
- considers the lawfulness of subordinate legislation;
- assesses the public accounts of each agency within the areas of responsibility in regard to the integrity, economy, efficiency and effectiveness of financial management by:
  - examining government financial documents; and
  - considering the annual and other reports of the Auditor-General;
- consider the public works of each agency within the areas of responsibility in light of matters including, but not limited to the:
  - suitability of the works for the purpose;
  - necessity for the works;
  - value for money of the works;
  - revenue produced by, and recurrent costs of, the works, or estimates of revenue and costs;
  - present and prospective public value of the works;
  - procurement methods used for the works; and
  - the suitability of the works in meeting the needs and achieving the stated purposes of the works.

Section 92(2) of the Parliament of Queensland Act 2001 provides that a portfolio committee is to also deal with an issue referred to it by the Assembly or under another Act, whether or not the issue is within its portfolio area.

The Committee also has oversight functions in relation to the Auditor-General and the Integrity Commissioner.

¹ Parliament of Queensland Act 2001, s107
² Parliament of Queensland Act 2001, s88 and Standing Order 194
1.3 Integrity Commissioner’s responsibilities

The Integrity Commissioner’s functions include:

- giving written advice to designated persons on ethics or integrity issues;
- meeting with, and giving written or oral advice to members of the Legislative Assembly;
- maintaining the lobbyists register and registering new lobbyists; and
- raising public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Integrity Commissioner’s functions.

1.4 Committee’s responsibilities regarding the Integrity Commissioner

In addition to the jurisdiction conferred by the Parliament of Queensland Act 2001, the Integrity Act 2009 (the Act) provides that the Committee is required to:

- monitor and review the Integrity Commissioner’s performance of the functions conferred by the Act;
- report to the Legislative Assembly on any matter concerning the Integrity Commissioner, the Integrity Commissioner’s functions or the performance of the Integrity Commissioner’s functions that the Committee considers should be drawn to the Assembly’s attention;
- examine each annual report tabled in the Legislative Assembly under the Act and, if appropriate, comment on any aspect of the report and to make recommendations;
- to examine each strategic review report tabled in the Legislative Assembly and if appropriate, to comment on any aspect of the report and to make recommendations;
- report to the Legislative Assembly any changes to the functions and procedures of the Integrity Commissioner the Committee considers desirable for the more effective operation of the Act; and
- other functions conferred on the Committee by the Act.

The Act (s74) requires that the Committee be consulted on the selection process and the appointment of the Integrity Commissioner. However, the current Integrity Commissioner was appointed in June 2009, which was prior to the commencement of the Act on 1 January 2010.

The Committee has a role in the strategic reviews of the Integrity Commissioner. The Act (s86) requires a review to be conducted at least every five years of:

- the Integrity Commissioner’s functions; and
- the Integrity Commissioner’s performance of those functions to assess whether they are being performed economically, effectively and efficiently.

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1. (a) a member of the Legislative Assembly; (b) a statutory office holder; (c) a chief executive of a department of government or a public service office; (d) a senior executive or senior officer; (e) a chief executive of, or a senior officer equivalent employed in, a government entity who is nominated by the Minister responsible for administering the entity; (f) a ministerial staff member who gives, or a person engaged to give, advice to a Minister; (g) a parliamentary secretary staff member who gives, or a person engaged to give, advice to a Parliamentary Secretary; (h) without limiting paragraph (f) or (g), a person, or a person within a class of person, nominated by a Minister or Parliamentary Secretary.

2 Integrity Act 2009, section 7
3 Integrity Act 2009, section 89
4 Integrity Act 2009, section 74
5 Integrity Act 2009, section 74
6 Integrity Act 2009, section 86(8)
After consultation with the Committee and the Integrity Commissioner, the Governor in Council will appoint a strategic reviewer and decide the terms of reference for the strategic review. Each review must be undertaken by an appropriately qualified person, who is to provide a report on the review.

The Act requires that a strategic review of the Integrity Commissioner’s functions is conducted within four years after the commencement of that section of the Act. The first strategic review must be conducted by January 2014. Once tabled, the strategic review report is deemed to be referred to the Committee.

The Act (s82) also requires agreement from a majority of members of the Committee, other than a majority consisting of government members, before the Integrity Commissioner may be removed from office.

1.5 Conduct of the inquiry


2 Review of Lobbyists Code of Conduct

2.1 Background

On 27 November 2012, the Attorney-General and Minister for Justice, the Hon Jarrod Bleijie MP, introduced the *Right to Information and Integrity (Openness and Transparency) Amendment Bill 2012*. The Bill was declared urgent and was debated and passed in the Legislative Assembly on 29 November 2012. The Bill was not referred to a parliamentary committee for consideration.

The explanatory notes identified that the policy objectives included amending the *Integrity Act 2009* to:

- extend the application of the lobbying provisions of the Act to the Leader of the Opposition, the Deputy Leader of the Opposition and staff members of the office of the Leader of the Opposition;
- clarify the meaning of ‘third party client’ of a lobbyist; and
- make it clear that the Lobbyists’ Code of Conduct must specify that lobbyists report to the Integrity Commissioner on their lobbying activity.

Section 68 of the Act stipulates that the Integrity Commissioner may, after consultation with the parliamentary committee, approve a Lobbyists Code of Conduct which must be published on the Integrity Commissioner’s website. Lobbyists are required to comply with the Code of Conduct.

The purpose of the Lobbyists Code of Conduct is to provide standards of conduct for lobbyists designed to ensure that contact between lobbyists and government representatives and opposition representatives is carried out in accordance with public expectations of transparency and integrity.

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9 *Integrity Act 2009*, section 86(6)
10 *Integrity Act 2009*, section 86(4)
11 *Integrity Act 2009*, section 86
12 *Integrity Act 2009*, section 88
13 *Integrity Act 2009*, section 82
The Bill amended the Act to include that the Lobbyists Code of Conduct may impose obligations on lobbyists to give the Integrity Commissioner information about lobbying activities carried out by them.

The Committee met with the Integrity Commissioner subsequent to the introduction of the Bill but prior to its passage through the Parliament. He advised that the current legislation permits the Integrity Commissioner to change the Lobbyists Code of Conduct to impose obligations on lobbyists to give the Integrity Commissioner information about lobbying activities carried out by them.14

Dr Solomon indicated that he would like to consult briefly with lobbyists before preparing material to provide to the Committee for consultation purposes.15

2.2 Revised Lobbyists Code of Conduct

The Integrity Commissioner advised that, subsequent to meeting with the Committee in November 2012, he published on the Integrity Commissioner’s website a notice informing readers of the proposed changes. The Integrity Commissioner emailed all registered lobbyists outlining the prospective changes and inviting submissions to close on 4 January 2013. Some asked for, and were given, an extension of time and the deadline was later extended to 25 January 2013. The Integrity Commissioner received nine submissions.16 Copies of these submissions were provided to the Committee with the permission of the submitters.17

On 5 February 2013, the Integrity Commissioner wrote to the Committee providing a copy of the proposed Code of Conduct and copies of the submissions received. Appendix 1 contains a copy of the proposed Code of Conduct, including tracked changes.

The Integrity Commissioner noted that he is aware that most of the lobbyists are opposed to the government’s new policy, however, he has prepared an amended Lobbyists Code of Conduct to give effect to it.18

In mid-December 2012, the Integrity Commissioner outlined in his letter to registered lobbyists the amendments he proposed to make at that time to the Lobbyists’ Code of Conduct.19 The Integrity Commissioner proposed to seek the following information from lobbyists:

(a) The date of the lobbying contact;
(b) The name of the registered lobbyist;
(c) Lobbyists present20
(d) The client of the lobbyist;
(e) Client’s representatives present
(f) The title and name of the government or Opposition representatives present;
(g) Other government representatives present
(h) Method of contact
(i) Purpose of contact
(j) Brief description of main issues

14 Dr Solomon, Transcript 28 November 2012: 1
15 Dr Solomon, Transcript 28 November 2012: 1
16 Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 5 February 2013: 1
17 Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 5 February 2013: 1
18 Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 5 February 2013: 1
20 Has been clarified, in the current draft before the Committee, to mean “the listed persons of the lobbyist entity who were present”; a listed person is defined as “a person whose name is entered in the register as a person employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activity.”
Subsequent to the consultation phase during January 2013, the Integrity Commissioner drafted a further version of the Lobbyists’ Code of Conduct on 1 February 2013.

The Integrity Commissioner advised the Committee that it is his proposal that the finalised draft come into operation on 1 April 2013.\textsuperscript{21}

2.3 Publication of information about lobbying activities

The Integrity Commissioner proposes to insert a new Section 4 – Information about lobbying activities (s68(4) as follows\textsuperscript{22}:

\begin{table}[h]
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\begin{tabular}{|l|}
\hline
4. Information about lobbying activities (s68(4))
\hline
Lobbyists must provide the Integrity Commissioner with information about lobbying activities carried out by them. The information will be made public by the Integrity Commissioner by publishing it on the Integrity Commissioner’s website.

Lobbyists must file, no later than 15 days after the end of every month, information for a register of lobbyists contact with Government and Opposition representatives, reporting on each and every lobbying contact by them, during that month, with a government or Opposition representative.

The information that is to be provide for each lobbying contact is:

(a) the name of the registered lobbyist;

(b) whether in arranging the contract, the lobbyist complied with the requirements of 3.2 of the Lobbyists Code of Conduct and, if relevant, 3.3;

(c) the date of the lobbying contact;

(d) the listed persons of the lobbyist entity who were present;

(e) the client of the lobbyist;

(f) the title and name of the government or Opposition representatives present;

(g) the purpose of contact [drop down menu] making or amendment of legislation, development or amendment of a government policy or program, awarding of government contract or grant, allocation of funding, making a decision about planning or giving of a development approval under the Sustainable Planning Act 2009, commercial-in-confidence, other].
\hline
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Numerous submissions expressed deep concerns about the interaction of the new Integrity Act provisions with a range of existing privacy and information legislation including the \textit{Right to Information Act 2009 (RTI)}, the \textit{Information Privacy Act 2009} and the \textit{Corporations (Queensland) Act 1990}. Several of the submissions also noted that they were in the process of seeking independent legal advice on the implications for their businesses.

Under the \textit{Information Privacy Act 2009}, there are procedures and protections in place to protect commercially confidential information from being subject to Right to Information (RTI) requests. The submitters indicated their concerns that the operation of the Lobbyist Code of Conduct as proposed would potentially obviate or diminish existing third party rights.\textsuperscript{23} In addition, the RTI provisions provide that a number of those pieces of information (e.g. names of representatives, nature and outcome of the meeting) would not be released or would be subject to a series of tests and consultation before being released.\textsuperscript{24} The submitters queried what the relative obligations are for the lobbyist between its current contracted confidentiality requirements and the Commissioners’ power to seek additional information and whether the third party is willing to waive their rights to confidentiality.\textsuperscript{25}

\textsuperscript{21} Dr Solomon, Transcript 13 February 2013: 6
\textsuperscript{22} Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 5 February 2013: Attachment 1 – Proposed Code – Draft 1 – 1 February 2013: 4-5
\textsuperscript{23} Submission 9: 4
\textsuperscript{24} Submission 5: 11
\textsuperscript{25} Submission 5: 9
The Committee asked the Integrity Commissioner to clarify how privacy and commercial confidentiality information can be protected under the proposed changes. The Integrity Commissioner advised that he does not consider information that he is requiring be published would be in conflict with this. He advised that the drop down menu will only require broad categories to be identified including the option for commercial-in-confidence.26

He also advised the Committee that he considers that a client cannot really refuse to be named as a client to be covered by confidentiality. He advised that the client is going to have to be named to the government representative who is being contacted, otherwise there can be no meeting. He confirmed that one of the requirements already in the Act is that the government representative has to be told who the client is.27

All submissions questioned the rationale for the public disclosure of the lobbying register information28,29 with the apparent lack of ‘evidence in the legislation nor the reading speeches that it needs to be made public.’30 Other submissions made the observation that the Commissioner’s proposed implementation of the legislation ‘goes beyond the intention of the recent legislative amendments’ and should only prescribe the minimum information requirements necessary to satisfy the Commissioner’s duties under the Act.31

Generally, submitters understood the rationale for the provision of information to the Commissioner and but did not support the information being more broadly disclosed with one submitter recommending that two databases should be generated – the Commissioner’s Register and the Public Register.32

The greatest concern for all submitters was the likely impact upon their businesses of the proposed public disclosure of their lobbying information, much of which they consider to be commercial-in-confidence.33 All submissions expressed concerns about the anti-competitive impact of the implementation leaving firms open to ‘corporate ambush marketing and client poaching’34.

Strong concerns were expressed about the potential for the new provisions to subvert the right of one class of entity to protections and exemptions afforded other classes of entities under the RTI Act and in effect impose restraints of trade and anti-competitive restrictions on third parties. One submitter stated:

_We contend, prima facie, that (this outcome) is not only NOT the intent of the Act and the amendments, but, perversely would ...impose an advantage that is the antithesis of the purpose to improve the integrity of decision-making – by providing an advantage to one party over another for undisclosed access to government._35

Several submissions stated that the outcome of this implementation would be to drive more organisations to seek to avoid disclosure by shifting from regulated lobbying to unregulated lobbying.36 37
Oversight of Qld Integrity Commissioner

Submissions generally commented on the types of information proposed to be required but most concerns were expressed about the requirement to identify the names of government and client representatives\textsuperscript{38,39} and the purpose of a lobbying contact and main issues discussed.\textsuperscript{40,41,42} Several submissions also noted that the information requested appears to be beyond what is required to fulfil the Act stating that:

\textit{...the information proposed to be collected is more extensive that is required or appropriate and should be limited to the information generally collected under the existing scheme.}\textsuperscript{43}

A number of submissions also expressed concerns about the increased red-tape burden being imposed on small to medium scale organisations by the Commissioner’s proposed implementation and further noted that the proposed approach would also introduce a significant amount of red-tape to the operation of the Office of the Integrity Commissioner.\textsuperscript{44, 45} One submitter recommended that reports should be submitted quarterly, rather than monthly to alleviate the burden.\textsuperscript{46, 47}

The Integrity Commissioner agreed that the registered lobbyists are going to be put under a burden, which he considers to be fairly minor, that other lobbyists will not. However, he considers that the publication of ministerial diaries will capture these other types of contacts. He acknowledged that this publication will not capture contacts with ministers’ offices or with departments.\textsuperscript{48} He also indicated his belief that the contribution to openness and accountability outweighs the minor degree of extra red tape.\textsuperscript{49}

Several submissions noted that, with information being disclosed from several sources (Ministers’ diaries, lobbyists register etc.), the potential for conflicting information (e.g. understanding of outcomes from lobbyist contact\textsuperscript{50}) and significant misinterpretation increases greatly. The submitters requested clarification on how the multiple sources of information will be reconciled.\textsuperscript{51}

The Integrity Commissioner advised the Committee that he considers that this concern would be most unlikely because the information to be provided is factual in nature. The Integrity Commissioner confirmed that any outcome from those meetings is not required to be included in the material required to be collected.\textsuperscript{52}

The Integrity Commissioner acknowledged that most of the lobbyists with whom he consulted disapproved of the proposed changes, although some have provided helpful suggestions which he has adopted and incorporated into the consultation draft.\textsuperscript{53}

\textsuperscript{38} Submission 1
\textsuperscript{39} Submission 2: 1
\textsuperscript{40} Submission 1
\textsuperscript{41} Submission 2: 1
\textsuperscript{42} Submission 4: 2
\textsuperscript{43} Submission 8: 1
\textsuperscript{44} Submission 4: 2
\textsuperscript{45} Submission 7: 1
\textsuperscript{46} Submission 2: 1
\textsuperscript{47} Submission 7: 1
\textsuperscript{48} Dr Solomon, Transcript 13 February 2013: 6
\textsuperscript{49} Dr Solomon, Transcript 13 February 2013: 6
\textsuperscript{50} Submission 6: 4
\textsuperscript{51} Submission 3: 1
\textsuperscript{52} Dr Solomon, Transcript 13 February 2013: 4
\textsuperscript{53} Dr Solomon, Transcript 13 February 2013: 2
The Committee noted that the amendments to the Integrity Act did not stipulate lobbying activity was to be publicly disclosed and asked the Integrity Commissioner to explain his reasons for wanting to publish this information on the Integrity Commissioner’s website. The Integrity Commissioner stated that the Act says that the purpose in regulating lobbying is so that lobbying is conducted in accordance with public expectations of transparency and integrity. He considers that publishing the information provided by the lobbyists will contribute to achieving this aim.\textsuperscript{54}

The Integrity Commissioner also identified that some of the information will be made public in any event when Ministers begin publishing extracts from their diaries detailing their meetings with people outside government, including lobbyists.\textsuperscript{55} He acknowledged, however, that contact with other government representatives would not be captured under this process.\textsuperscript{56}

He also stated that it is likely that in the future there will be more requests made under the Right to Information Act by the media, interest groups and others for continuing disclosure of the details of meetings and it is certain that the Integrity Commissioner would be required to disclose such information.\textsuperscript{57}

Dr Solomon advised the Committee that the primary object of the Right to Information Act is to give a right of access to information in the government’s possession or under the government’s control unless on balance it is contrary to the public interest to give that access. The Act encourages those holding information to make it public without resorting to the processes of the Act. He advised that he had consulted with the Acting Information Commissioner and the Acting Privacy Commissioner about the proposed changes to the code and they have no objection to them and they think that the system would work.\textsuperscript{58}

The final reason identified by the Integrity Commissioner was that the explanatory notes to the amendment state that the costs associated with compliance are expected to be minimal and will be met from within the existing budget allocations. He explained that the proposed scheme will make this possible. He advised that this would not be the case if his office had to cope with innumerable RTI applications on an ongoing basis.\textsuperscript{59}

2.4 Committee Comments – publication of information about lobbying activities

Dealing with government can be a complicated process particularly for small business and foreign firms where cultural differences may be apparent. The Committee considers that lobbyists play a valid part in facilitating understanding of the structures and requirements of government. Lobbyists can also play an important role in facilitating interaction between government and relevant interest groups who may have an intimate understanding of the impact of various policies and legislation being considered.
The Integrity Commissioner referred to the scheme used in Canada as being a template for the disclosure requirements he proposes. The Committee noted that the preamble to the Canadian Lobby Act states that:

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- A system of registration of paid lobbyists should not impede free and open access to government.\(^{60}\)

The Committee concurs with these ideals. The Committee also noted that the purpose of the Canadian Code is to assure the Canadian public that lobbying is done ethically and with the highest standards with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision-making.\(^{61}\) The Committee considers that this is also the purpose of the Queensland Lobbyists Code of Conduct. The purpose of the Integrity Act, is to encourage confidence in public institutions by helping Ministers, Members of the Legislative Assembly, and others to deal appropriately with ethics or integrity issues; and to regulate contact between lobbyists and State or local government representatives so that lobbying is conducted in accordance with public expectations of transparency and integrity.\(^{62}\)

Whilst the Committee acknowledges the Integrity Commissioner’s arguments that the proposed changes place a small burden on registered lobbyists, it notes that the Canadian scheme, on which the proposal is based, covers a broader range of lobbyists. The Canadian Commissioner of Lobbying also has investigation powers.

In Queensland, under the current provisions of the Act, 80 per cent of lobbying is undertaken by non-registered lobbyists. In the interest of fairness to registered lobbyists, to which the code applies, the Committee did not consider that the client information should be published. It considered that publication of this material could give an unfair advantage to non-registered lobbyists.

The Committee wrote to the Integrity Commissioner outlining its concern that proposed section 4 is outside the scope of the amendments and may have the unintended detrimental consequence of clients seeking to influence government in other ways.

The Committee noted that it was satisfied that the information the Integrity Commissioner intended to collect will not be particularly onerous on registered lobbyists and is necessary in the interests of accountability. However, the Committee was not convinced that all of this information needed to be published on the Integrity Commissioner’s web site.

In analysing the proposed changes, the Committee sought to attain a balance between transparency and fairness. The Committee was also cognisant of the fact that registered lobbyists encompass only a small proportion of those who lobby government.

The Committee considered that the requisite transparency would be achieved by revealing that the contact took place rather than the intimate details of that contact. The Committee therefore recommended that section 4 be amended to state that only item numbers (a), (b), (c), (f) and (g) will be published on the Integrity Commissioner’s web site.

The Committee also recommended that the other information be available to be accessed via the RTI process in order to ensure that the release of this information is both in the public interest and records are kept of those who have accessed the information.


\(^{62}\) Integrity Act 2009, section 4
The Committee advised the Integrity Commissioner that it understood his concerns regarding the impact on his office to consider RTI requests and recommended that he negotiate with the Attorney-General regarding additional resources to accommodate anticipated requests.

The Committee provided the Integrity Commissioner with the opportunity to comment on these recommendations.

2.5 Integrity Commissioner’s response

The Integrity Commissioner responded to the Committee’s recommendations in a letter dated 14 March 2013.

He agreed that item number 4(d), which seeks the listed persons of the lobbyist entity who were present, whilst being of interest, is not essential or of any real consequence and he is therefore prepared to remove this requirement. 63

However, he advised that he has a number of difficulties with the recommendation to remove item number 4(e), which requires the name of the client of the lobbyist. These difficulties are identified as follows: 64:

First. Unfortunately the Committee appears not to have taken fully into account how the RTI system now operates. The Committee argued that the RTI process should be used “in order to ensure that the release of this information is both in the public interest and records are kept of those who have accessed the information” (emphasis added). The Committee appears to accept that disclosure of the name of the client would occur under RTI, it being in the public interest. However while the name of the person who used RTI to access the name of the client would be made public under recent changes to the RTI Act, the identity of the client would also be posted on the Integrity Commissioner’s website in its disclosure log, at the same time the information was provided to the RTI applicant. The disclosure log can be accessed by anyone. It would be impossible to discover who, other than the original requester, had accessed the information. It is published to the world.

Second. I accept and agree with the Committee’s view that disclosing the identity of the lobbyist’s client is in the public interest. That being so there are two reasons, endorsed by the Parliament in legislation, why that information should be made public without recourse to the procedures in the RTI Act. The first is in the purpose clause of the Integrity Act which says “the Act is to encourage confidence in the public institutions by … regulating contact between lobbyists and … government representatives … so that lobbying is conducted in accordance with public expectations of transparency and integrity” (emphasis added). The second is contained in the RTI Act. Its primary purpose “is to give a right of access to information in the Government’s possession or under the Government’s control unless, on balance, it is contrary to the public interest to give the access”. The Act encourages those holding government information to make it public without resort to the access arrangements detailed in the Act.

63 Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 14 March 2013: 1
64 Correspondence to FAC from Dr D Solomon, Queensland Integrity Commissioner, dated 14 March 2013: 2-4
Third. The philosophy of the RTI Act was explained by the Attorney-General and Minister for Justice in answer to a question from you, Mr Crandon, on 7 March 2013, about Ministerial diaries. The Attorney said in part:

We believe as a government in the push model. We want to push information out of government and not have people in Queensland trying to extract it from government and not have people in Queensland not get the information they desire. So we believe in the push model.

(On a personal note, this answer resonates with me as a co-author of the report on which the new RTI Act was based.)

Fourth. The Ministerial diaries, mentioned above, reveal details of contacts between Ministers and organisations lobbying them directly, without the use of registered lobbyists as intermediaries. For example, the diary of the Premier for January 2013 shows that he had meetings with, among others, representatives of Mount Isa Mines, BHP, Rio Tinto, Xstrata Coal, Anglo American Coal and Virgin Australia. It would be extraordinary if the names of clients could be concealed from general view through the device of hiring a lobbyist.

Fifth. The Committee’s proposal would discriminate between those registered lobbyists with many clients and those with few. While the average number of clients for each registered lobbyist on the Queensland Register is about 14, there are 33 (out of 163 registered lobbyists, i.e. about 20 per cent) who list only one client. This means if one of those 33 lobbyists records are lobbying meeting the identity of the client is immediately apparent. Another 12 lobbyists have only 2 clients. It may be easy to establish, from the identity of the government representative they have met, the name of the client they were representing. The Committee’s proposal would therefore be very damaging, potentially, to the smallest (in terms of numbers of clients) lobbyists.

Sixth. The Committee’s proposal would generate unnecessary red-tape and expense, both for those seeking information and for my office. While the Committee has suggested I might negotiate with the Attorney-General about additional resources (actually the Minister responsible for the Integrity Commissioner’s budget is the Premier) I would find it difficult to argue for what would probably be a doubling of my staff (currently 3) plus additional accommodation and on-costs to meet a need that can be satisfied simply by following the Government’s preferred “push model” of dealing with the release of this information.

Seventh. On the subject of red-tape and expense I draw attention to the statement in the explanatory notes accompanying last November’s amendments to the Integrity Act that the costs associated with compliance were expected to be minimal “and will be met from within existing budget allocations”. To achieve this end I had some changes made to the Integrity Commissioner’s website to allow lobbyists to enter directly on that website the details required by the changes in the new s.4 of the Lobbyists Code of Conduct of their lobbying activities. Staff in my office would oversee this and take regular “snapshots” from the website of the activities of lobbyists, but there would be a relatively small demand on their time.
However if the Committee’s proposal were to be adopted this would require (a) that lobbyists, as well as filling out the proforma on the website, would also have to send a written (or emailed) version of their monthly returns that included the additional requirement to name the client they represented at each of their meetings with government representatives, and (b) that my staff would have to process this material and get it ready for the inevitable RTI requests, which, as noted above, could result in a doubling of the size of my staff, if they were to be handled appropriately and in a timely manner as required by the RTI Act.

Finally I am aware of (and sympathetic with) the concerns of the Committee about the apparent unfairness of the fact that these measures will impact only on registered lobbyists who constitute “only a small proportion of those who lobby government”. As noted above, the publication of Ministerial diaries will mean that the names of large companies and organisations that lobby Ministers directly will now be made public. It would be highly desirable, and a major contribution to "public expectations of transparency and integrity" (to quote the Integrity Act again) if government departments also published on their websites records of lobbying contact with such companies and organisations.

As the Committee is aware I have made a number of submissions to government urging that the scope of the lobbying provisions of the Act be extended, in part to overcome the "unfairness" issue that concerns the Committee. For the moment, however, I am required by the Act to develop and put into effect proposals that advance the objects of the Act and I consider that my proposed amendments to the Lobbyists Code of Conduct will do this.

2.6 Committee Recommendations – publication of information about lobbying activities

The Committee considered the Integrity Commissioner’s response and respectfully disagrees with some aspects of his response. The Committee considers that the publication of client information will impact on registered lobbyists and their clients and may lead to clients seeking to influence government in other ways. The Committee was also concerned that additional pressures may be placed on clients as a result of the publication of this material. The Committee noted that the Integrity Commissioner acknowledged that it is possible that other lobbyist firms may go through the list and put a proposal to a firm that they could do a better job. He advised the Committee that he has been told that a bit of poaching goes on as a result of the clients being listed.65

The purpose of the lobbyists’ code of conduct is to ensure that any lobbying is done in an open and transparent manner. If those ‘lobbying’ are not required to abide by the code of conduct then this purpose is negated.

The Committee acknowledges the Integrity Commissioner’s argument that the publication of minister’s diaries may lead to this disclosure anyway. The Committee offers the suggestion that the material published by the Integrity Commissioner, for registered lobbyists only, should not require disclosures beyond that required of other types of lobbyists. It suggests that if the client’s name is to be published, then the information should mirror that required in Ministerial diaries and not include the purpose for the contact.

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65 Dr Solomon, Transcript 28 November 2012: 6
Having given further consideration to the matter, the Committee is of the view that the purpose of the meetings should remain confidential if the client name is to be published.

**Recommendation 1**

The Committee recommends that the Integrity Commissioner reconsider his proposal to publish the client names and the purpose of the meetings, as part of the review of the Lobbyists Code of Conduct. The Committee is of the view that either the client names or the purpose of the meeting be published, but not both.

2.7 Definition of ‘Lobbyist’

The definition of a lobbyist in the Integrity Act is as follows:

41 Meaning of lobbyist and third party client and related concepts

1. A lobbyist is 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.

2. A 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.

3. However, none of the following entities is a lobbyist—

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

4. Also—

   (a) an employee or contractor of, or person otherwise engaged by, an entity mentioned in subsection (3)(a) to (d) is not a lobbyist in relation to contact carried out for the entity; and
   (b) an employee of an entity mentioned in subsection (3)(e) is not a lobbyist in relation to contact carried out for the entity.

5. A non-profit entity is an entity that is not carried on for the profit or gain of its individual members.

   Examples of entities that may be non-profit entities—
   • a charity, church, club or environmental protection society

6. An entity carries out incidental lobbying activities if the entity undertakes, or carries on a business primarily intended to allow individuals to undertake, a technical or professional occupation in which lobbying activities are occasional only and incidental to the provision of professional or technical services.

   Examples of entities for subsection (6)—
   • an entity carrying on the business of providing architectural services as, or by using, a practising architect under the Architects Act 2002
   • an entity carrying on the business of providing professional engineering services as, or by using, a registered professional engineer under the Professional Engineers Act 2002
   • an entity carrying on the business of providing legal services as an Australian legal practitioner or a law practice under the Legal Profession Act 2007
   • an entity carrying on the business of providing accounting services as, or by using, an accountant who holds a practising certificate issued by CPA Australia, the Institute of Chartered Accountants in Australia or the National Institute of Accountants

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66 Integrity Act 2009, section 41
The Integrity Commissioner has previously expressed his concern regarding the current provisions contained within the Act. He considers that the scheme is too narrowly focussed on relatively few lobbyists. He has previously advised the Committee that the first issue that needs to be addressed is the question of whether it is sufficient to limit the regulation of lobbyists to the comparatively few lobbyists who are third party professional lobbyists. He advised the Committee that these lobbyists constitute a relatively small proportion of those who lobby government and lobbyists who work in-house for large corporations or who work for industry associations, constitute a far greater proportion of the lobbying industry.67

The Integrity Commissioner advised the Committee that in the interests of openness and accountability, some of the people who are not counted as lobbyists should similarly have details recorded of contact, including large firms who have their own built-in lobbyist function.68

When considering the proposed revision of the Lobbyists Code of Conduct, the Committee found that all submissions, except one, also expressed serious concerns about the existing definition of ‘lobbyist’ which currently precludes ‘in house’ lobbyists.69 The Integrity Commissioner also expressed concerns about the current scope of the Integrity Act 2009 stating:

> In relation to the definition of a lobbyist, I think there are a lot of things wrong with it. The present definition, as I have complained, really catches only about 20 per cent of the people who actually lobby and I do not think that that provides the accountability that the Act seeks to give. I note that there is a change to the definition of a third-party client in the bill that is before the House which should improve things a bit but, as I say, I think the whole system really needs to be expanded to catch lobbyists.70

One submitter stated that:

> There is no difference between an external government relations consultant or other professional adviser and those who are engaged ‘in house’ by companies and other organisations (such as industry peak bodies and not-for-profit groups), yet the Code currently applies to only a small proportion of government’s engagement with government relations professionals.71

Submissions agreed that all professional lobbyists, whether external or in-house, should be required to operate in the same transparent environment governed by the same set of regulations.72 One submitter stated that:

> A robust and transparent system for regulating lobbying would apply the rules to all who lobby, including in-house lobbyists, lawyers, town planners and others who represent their employers or third-parties to government.73

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68 Dr Solomon, Transcript 20 June 2012: 3
69 An in-house lobbyist is a person directly employed by companies to make representations to Government on behalf of the company that employs them, or staff employed in peak industry bodies or trade unions who make representations to Government on behalf of their industry or their members; http://lobbyists.pmc.gov.au/faq.cfm [8 February 2013]
70 Dr Solomon, Transcript 28 November 2012:.6
71 Submission 2: 1
72 Submission 4: 2
Dr Solomon identified that the main complaint of registered lobbyists is that the proposed changes will only affect third party lobbyists. He advised that based on what happens in Canada, the third-party lobbyists represent about a fifth of all the lobbying that actually goes on.\textsuperscript{74}

The Canadian Lobbying Act applies to individuals who are paid to lobby. People who lobby on a voluntary basis are not required to register. The Canadian Act identifies three types of lobbyists as follows:

- Consultant Lobbyist – a person who is hired to communicate on behalf of a client. This individual may be a professional lobbyist but could also be any individual who, in the course of his or her work for a client, communicates with or arranges meetings with a public office holder.
- In-House Lobbyist (Corporations) – a person who works for compensation in an entity that operates for profit.
- In-House Lobbyist (Organisations) – a person who works for compensation in a non-profit entity.\textsuperscript{75}

The Integrity Commissioner advised the Committee that he has made detailed submissions to the Department of the Premier and Cabinet (DPC) who began reviewing the Act in 2010 suggesting that expansion of the definitions so that it covers other types of lobbyists. These include large firms who employ in-house lobbyists and industry groups, such as the Property Council or the Mining Industry Council. He indicated that he strongly argued for the extension of the definition.\textsuperscript{76}

Dr Solomon advised that his idea is that these types of lobbyists should also register or at least be required to observe the same conditions as other lobbyists.\textsuperscript{77}

The Committee queried whether it was possible to include non-registered lobbyists without amending the legislation. The Integrity Commissioner suggested that if government were to adopt a policy whereby Ministers, their offices and departments will not see any lobbyist, whether they are registered or not, unless they subscribe to the code of conduct, would be a huge contribution to making the whole system much more open. However, he confirmed that he cannot impose the code on anyone except registered lobbyists.\textsuperscript{78}

The Integrity Commissioner has stated that:

\begin{quote}
Respect for the institutions of government depends to a large extent on public confidence in the integrity of Ministers, their staff and senior government officials. Ethical lobbying is a legitimate activity and an important part of the democratic process. Lobbyists can help individuals and organisations communicate their views on matters of public interest to the Government and, in doing so, improve outcomes for the community as a whole.

In performing this role, there is a public expectation that lobbying activities will be carried out ethically and transparently, and that Government representatives who are approached by lobbyists can establish whose interests they represent so that informed judgments can be made about the outcome they are seeking to achieve.

While some lobbyists work directly for a single client to advance the interests of that client, others lobby on behalf of a number of different clients.
\end{quote}

\textsuperscript{74} Dr Solomon, Transcript 13 February 2013: 2
\textsuperscript{75} Office of the Commissioner of Lobbying of Canada http://www.ocl-cal.gc.ca/eic/site/012.nsf/eng/h_00008.html [19 March 2013]
\textsuperscript{76} Dr Solomon, Transcript 13 February 2013: 3
\textsuperscript{77} Dr Solomon, Transcript 13 February 2013: 3
\textsuperscript{78} Dr Solomon, Transcript 13 February 2013: 6
The purpose of the Register of Lobbyists is to provide information to the both the Government and the public about whom lobbyists represent in their dealings with government, and to ensure that contact between lobbyists and government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. 79

The Committee considers that these ideals should apply equally to all lobbyists.

2.8 Committee Recommendations – definition of ‘lobbyist’

The Committee considers that the definition of who is a lobbyist needs to be expanded to incorporate in-house lobbyists of both corporations and associations, including industry and non-profit organisations. The Committee considers that the definitions included in the Canadian legislation would be suitable in achieving these aims.

The Committee is aware that the Queensland arrangements, with respect to who is defined as a lobbyist in the Act, are similar to the arrangements in other Australian jurisdictions. However, the Committee considers that this should not prevent Queensland from altering its definition to capture various types of lobbyists.

The reason for this recommendation is to ensure that all lobbyists comply with the Code of Conduct in order to meet public expectations of transparency and integrity.

<table>
<thead>
<tr>
<th>Recommendation 2</th>
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<tr>
<td>The Committee recommends that the Integrity Act 2009 be amended to include paid in-house lobbyists of both corporations and associations.</td>
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2.9 Provision of information

The Integrity Commissioner advised the Committee that there has been some misunderstanding about who is required to do what and what his role is in these things. He advised that the requirement to keep records of contact with lobbyists arises under the Public Records Act, not under the Integrity Act. The Queensland State Archivist has issued a notice about this to all government representatives as to how this can and should be done. There is also a requirement by the Crime and Misconduct Commission that records be kept in a particular way. He confirmed that he does not have a direct role. 80

He advised that publication of this information is a question of being open and accountable. The meetings that government representatives have with lobbyists should be accessible. He confirmed that under the Act he is entitled to ask people who keep these records for a copy of them from time to time and he has been trying to do that to get a full picture of the extent of lobbying in Queensland. He advised that local government has not been very forthcoming in their provision of information. He confirmed that the Act does not require people to give him information. It only enables him to ask for it and allows for them to provide it if they wish. He confirmed that if he does not receive the information then the picture he gets of lobbying is incomplete. 81

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80 Dr Solomon, Transcript 28 November 2012: 4
81 Dr Solomon, Transcript 28 November 2012: 4
2.10 Sanctions for section 71 breaches

The Integrity Commissioner has previously advised the Committee that under the Act, the only people who can be penalised directly are registered lobbyists who do not obey the Code.\(^{82}\) He advised the Committee that at present compliance depends on government representatives making sure that, when they see lobbyists, lobbyists behave in the fashion that is described in the code of conduct. He confirmed that his office has no policing function.\(^{83}\)

The Committee previously reported that:\(^{84}\)

Section 71 provides that:

- an entity that is not a registered lobbyist must not carry out a lobbying activity for a third party client;
- a government representative must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third party client with a government representative;
- if a government representative is aware that an entity seeking to carry out a lobbying activity for a third party client with the government representative is not a registered lobbyist, the responsible person for the government representative must give the entity’s details to the Integrity Commissioner as soon as practicable;
- the responsible person for a government representative may delegate the obligation to give details under subsection 71(3).\(^{85}\)

The Act does not provide sanctions for a breach of section 71. The Commissioner told the Committee that Crown Law has issued several legal updates concerning public sector obligations for dealing with lobbyists. The Commissioner, citing Crown Law advice, stated:

\textit{The Integrity Act does not make it an offence for a person to fail to comply with the obligations in sections 71(2) and (3). However, government representatives and responsible persons could still be prosecuted for a criminal offence under section 204 of the Criminal Code 1899 (disobedience to statute law). This section makes it an offence for a person without lawful excuse to do any act the person is forbidden to do, or not to do any act the person is required to do, under the provisions of any public statute in force in Queensland.}\(^{86}\)

The Commissioner also confirmed that the LGAQ and the Queensland Police Service support the introduction of a section 71 sanctions regime.\(^{87}\)

The Integrity Commissioner advised the Committee that he considers that the prohibition against unregistered lobbying as contained in section 71(1) has no teeth. He advised that some unregistered lobbyists can, and do, ignore its provision so long as they are not refused access by government representatives.\(^{88}\)

The Commissioner stated that:

\textit{I have had several such cases brought to my notice and all I can do is write to lobbyists urging them to register, or raise the matter with the local government, urging them not to deal with the unregistered lobbyists.}\(^{89}\)

\(^{82}\) Dr Solomon, Transcript 30 November 2011: 2
\(^{83}\) Dr Solomon, Transcript 20 June 2012: 3
\(^{84}\) Finance and Administration Committee, Report No 13, Oversight of the Queensland Integrity Commissioner 2011, February 2012: 13-14
\(^{85}\) Integrity Act 2009, section 71(1)-(4)
\(^{86}\) Correspondence from Dr Solomon AM, Queensland Integrity Commissioner, to FAC dated 9 December 2011: Attachment – Response to Issues Paper – Review of the Integrity Act 2009: 11
\(^{87}\) Correspondence from Dr Solomon AM, Queensland Integrity Commissioner, to FAC dated 9 December 2011: Attachment – Response to Issues Paper – Review of the Integrity Act 2009: 11
\(^{88}\) Correspondence from Dr Solomon AM, Queensland Integrity Commissioner, to FAC dated 9 December 2011: Attachment – Response to Issues Paper – Review of the Integrity Act 2009: 11
\(^{89}\) Correspondence from Dr Solomon AM, Queensland Integrity Commissioner, to FAC dated 9 December 2011: Attachment – Response to Issues Paper – Review of the Integrity Act 2009: 12-13
The Committee also remains concerned that breaches of the code are occurring, particularly in the area of lobbyists identifying themselves as lobbyists at meetings. The Integrity Commissioner confirmed that the code of conduct requires lobbyists to identify themselves as lobbyists before the contact takes place and he is aware that this does not always happen. However, he has never had a complaint from a government representative about it. He advised that, under the Act, he has the power to warn, to suspend or to remove a lobbyist from the register. The Committee considers that if additional sanctions were to apply to breaches of the code then this would be an additional incentive for compliance.

DPC commenced a review of the Act in October 2011. The then Premier tabled an issues paper in the Parliament on 12 October 2011 which invited submissions by 19 December 2011. The issues paper indicated that a final report would be prepared by March 2012. The Integrity Commissioner provided three submissions to this review. Copies of these submissions are available on the Integrity Commissioner’s website.

In his response to the Committee’s Report No 13, the current Premier advised the Committee that the review was continuing and the issues raised by the Committee in its report would be considered as part of that review. The results of that review have not yet been published. The Integrity Commissioner also confirmed that he has not received any feedback from the review.

2.11 Definition of ‘lobbying activity’

The issue of the ‘definition of a lobbying activity’ was discussed at length with the Integrity Commissioner at its meetings in November 2012 and February 2013.

At least five of the submissions sought greater clarification around the definition of what does not constitute ‘lobbying activities’. Lobbyists believe phone calls and emails of an administrative nature (i.e. seeking or altering time of meeting) should not be considered ‘lobbying contact’. Another submitter observed that:

There exists considerable confusion already with respect to what constitutes a lobbying contact and what was to be recorded under the Act and government guidelines.

The Integrity Commissioner confirmed that lobbying activity is defined in the Act and it means ‘contact with a government representative in an effort to influence state or local government decision making, including making or amendment of legislation’. He advised that the key to it is an ‘effort to influence’. He advised that lobbying contact does not include contact solely for the purposes of arranging, changing or cancelling a meeting or meetings where no lobbying occurred. The actual fixing of a meeting is not a lobbying contact in the act. He advised that the Act of fixing a meeting is not an effort to influence.
The Integrity Commissioner also confirmed that providing details of the purpose of the meeting is also not considered to be a lobbying contact.\(^{101}\) He further advised that organising an event where lobbyists are in attendance is also not considered a lobbying contract unless lobbying takes place.\(^{102}\) Dr Solomon reiterated his position that a meeting with a lobbyist, including a registered lobbyist, can occur without lobbying taking place. He confirmed that the Act deals with realities and perception is a separate problem which is not dealt with in the Act.\(^{103}\)

The Integrity Commissioner expressed the view that he considers that the current definition is satisfactory. He advised that lobbyists do other things and are paid to do other things that are not relevant to the definition and are not the sorts of activities that the act seeks to regulate.\(^{104}\)

The Integrity Commissioner advised the Committee that the definition of a lobbying activity is included in the code of conduct. He advised that he is adding to it another paragraph which is expressed in a negative way – ‘Lobbing contact does not include contact solely for the purpose of arranging, changing or cancelling a meeting or meetings where no lobbying occurred.’\(^{105}\) He also confirmed that contact, including phone calls and emails, of an administrative nature are not lobbying activities because they are not contact in an effort to influence decision making. They are a contact to arrange a meeting at which, at a later stage, lobbying may take place. But the actual fixing of a meeting is not lobbying as per the definition in the Act.\(^{106}\)

The Integrity Commissioner also confirmed that organising a function where a group of lobbyists is present does not of itself constitute a lobbying contact.\(^{107}\) He advised that lobbying could occur in the room but the act of putting them in the room does not amount to lobbying.\(^{108}\)

The Committee also considered the issue of incidental lobbying. The Integrity Commissioner advised the Committee that local government is concerned about the fact that many town planners and engineers fall within the definition of a lobbyist. The Gold Coast City Council has decided that, whilst any lobbying they may do might be incidental to the provision of professional or technical services, it occurs regularly and therefore their legal advice supports the approach that they not be exempt from registering. He advised that he has made recommendations that there are sufficient systems open under the Planning and Local Government Acts to ensure that contact between people seeking a development approval and councillors or council officers is sufficiently open and accountable and that it should not be necessary for town planners and engineers to register as lobbyists.\(^{109}\)

The Committee considers that the areas of lobbying activity and incidental lobbying should be included in the review of the Integrity Act.

### 2.12 Committee Recommendations – amendments to the *Integrity Act 2009*

The Committee is concerned that whilst the Act states what non-registered lobbyists should not do, it contains limited penalties for breaches for non-compliance with these provisions. The Committee is also concerned that the review of the *Integrity Act 2009* which was designed to examine a number of these provisions has not as yet been completed.

The Committee considers that there are number of matters that need to be thoroughly considered before further amendments are made to the Act.

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\(^{101}\) Dr Solomon, Transcript 13 February 2013: 4
\(^{102}\) Dr Solomon, Transcript 13 February 2013: 5
\(^{103}\) Dr Solomon, Transcript 13 February 2013: 8
\(^{104}\) Dr Solomon, Transcript 13 February 2013: 5
\(^{105}\) Dr Solomon, Transcript 13 February 2013: 4
\(^{106}\) Dr Solomon, Transcript 13 February 2013: 4
\(^{107}\) Dr Solomon, Transcript 13 February 2013: 5
\(^{108}\) Dr Solomon, Transcript 13 February 2013: 7
\(^{109}\) Dr Solomon, Transcript 20 June 2012: 4
The Committee would be willing to undertake this review should the Parliament consider this to be appropriate.

**Recommendation 3**

The Committee recommends that a review of the *Integrity Act 2009* be completed and include examination of the following topics:

- Sanctions for section 71 and code of conduct breaches
- Investigative powers for the Integrity Commissioner
- Definition of lobbyist
- Definition of lobbying activity
- Post-separation and employment restrictions
- Definition of designated persons
- Sanctions for non-provision of information under the Public Records Act

### 3 Oversight of Queensland Integrity Commissioner 2012

#### 3.1 Issues considered by the Committee

The Committee considered the following issues during the oversight process for 2012:

- Annual Report 2011-12
- Advice to designated persons
- Post separation and employment restrictions
- Annual meetings with Members of Parliament
- Ministerial Code of Ethics
- Public Awareness of Ethics or Integrity Issues
- Estimates

#### 3.2 Annual Report

The Integrity Commissioner tabled the Annual Report for 2011-12 on 30 October 2012. The Integrity Commissioner is required under the *Integrity Act 2009* (s85) to give to the Speaker and the parliamentary committee a written report about the performance of the commissioner’s functions for the financial year as soon as practicable after the end of each financial year. The Speaker is required to table the report on the next sitting day after it has been given to the Speaker.\(^\text{110}\)

The Act requires that the report must include the following information:

- Details of compliance by statutory office holders with requirements to give the integrity commissioner statements and written advice section 72C;

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\(^{110}\) *Integrity Act 2009*, section 85
Details of compliance by chief executives of departments with requirements to give the integrity commissioner statements and written advice under the *Public Service Act 2008*, section 101;

Details of the other matters prescribed under a regulation;

Identification of a statutory officer holder who has not complied with section 72C; and

A chief executive who has not complied with the *Public Service Act 2008*, section 101.\(^\text{111}\)

The Integrity Commissioner is not permitted to disclose information likely to identify a specific request for the integrity commissioner’s advice on an ethics or integrity issue, including information likely to identify an individual who requested the advice or about who the advice was requested.\(^\text{112}\)

The annual report complies with the above requirements and provides a summary of the activities undertaken by the Integrity Commissioner’s office during the financial year.

For reasons of economy and efficiency, funding for the Office of the Integrity Commissioner is included within the appropriation for the Public Service Commission.\(^\text{113}\)

Office of the Integrity Commissioner financial position is summarised as follows\(^\text{114}\):

<table>
<thead>
<tr>
<th></th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total revenue from ordinary activities</td>
<td>$626,458</td>
<td>$678,273</td>
</tr>
<tr>
<td>Total employee expenses</td>
<td>$437,808</td>
<td>$461,866</td>
</tr>
<tr>
<td>Total supplies and services</td>
<td>$188,650</td>
<td>$216,407</td>
</tr>
<tr>
<td>Total expenses from ordinary activities</td>
<td>$626,458</td>
<td>$678,273</td>
</tr>
<tr>
<td>Operating surplus/(deficit)</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>


It should be noted that the financial statement contained in the Annual Report is not subject to audit. The Integrity Commissioner confirmed that the Act does not require them to be audited.\(^\text{115}\)

### 3.3 Advice to designated persons

The Integrity Commissioner noted that the state election in March 2012 helped generate a record number of requests for advice from designated persons. He also noted that he received requests for advice that were not ‘advice on ethics or integrity issues’ as specified in the Integrity Act. The requests included advice about lobbying issues and proposed amendments to legislation.

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\(^{111}\) *Integrity Act 2009*, section 85  
\(^{112}\) *Integrity Act 2009*, section 85  
\(^{113}\) *Public Service Commission, Annual Report* 2011-12, September 2012: 45  
\(^{114}\) Queensland Integrity Commissioner, *Annual Report* 2011-12: 20  
\(^{115}\) Dr Solomon, Transcript 28 November 2012: 4
The Integrity Commissioner received the following requests for advice in the 2011-2012 year:

<table>
<thead>
<tr>
<th>Ethics and Integrity Issues:</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premier and other Ministers</td>
<td>Labor Govt</td>
<td>LNP Govt</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>Parliamentary Secretaries/Assistant Ministers</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Other MPs</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Other designated persons</td>
<td>23</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total – Designated persons</strong></td>
<td><strong>40</strong></td>
<td><strong>30</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>65</strong></td>
<td><strong>39</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other issues</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lobbying – formal advice</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>81</strong></td>
</tr>
</tbody>
</table>


Most requests for advice concerned the topic of conflicts of interest including:

- Conflicts of interest about post separation employment
- Conflicts of interest arising from the interests of relatives
- Conflicts of interest arising from share holdings
- Conflicts of interest of staff
- Conflicts of interests arising from MP’s constituency interests

There were also a significant number of requests for advice about restrictions that apply when people cease to hold their current positions and move to other, private, employment. Ministers in the new government also sought advice about their compliance with requirements of the Ministerial Code of Ethics.

The Integrity Commissioner advised the Committee that his office has seen an increase in advice to designated persons. He advised that before the Integrity Act came into force the Integrity Commissioner was limited to providing advice on conflict of interest issues only.118

The Integrity Commissioner advised that this increase has impacted on the time he has spent on integrity issues. He advised that subsequent to the election until mid-November 2012, 95 per cent of his time was being spent on integrity issues.119

The Integrity Commissioner confirmed that short ad hoc verbal requests for information are not included in his annual report. He advised that these are not formal advice and he makes it clear to people that he can only give formal advice in writing.120

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116 Queensland Integrity Commissioner, Annual Report 2010-11: 14
117 Queensland Integrity Commissioner, Annual Report 2011-12: 17
118 Dr Solomon, Transcript 20 June 2012: 1
119 Dr Solomon, Transcript 28 November 2012: 3
120 Dr Solomon, Transcript 28 November 2012: 3
Oversight of Qld Integrity Commissioner

Section 15(3) of the Integrity Act requires the a signed authority from the chief executive of the department, public service office or government office to enable the Integrity Commissioner to provide advice to a relevant officer.\(^\text{121}\)

The Integrity Commissioner advised that, in his view, the Integrity Commissioner should be given the option of providing advice if the Chief Executive Officer refuses to give permission, because he has seen instances where it really would have been import to the individual to get advice and for the particular agency that the individual act in accordance with that advice.\(^\text{122}\)

The Committee has previously recommended that the Act be amended to allow the Commissioner to provide advice in circumstances where the chief executive has not given the necessary authority to the officer.\(^\text{123}\)

The government did not support this recommendation on the basis that a review was being undertaken and as part of that review the government would consider whether the objectives of the recommendation in obtaining timely approvals from chief executives for requests for advice are best achieved administratively or legislatively.\(^\text{124}\)

Whilst the Integrity Commissioner indicated that, to date, this section has not been misused,\(^\text{125}\) the Committee considers that this issue needs to be reconsidered. The Committee considers that providing the Integrity Commissioner with the discretion to respond to requests from officers who do not have the signed authority of their chief executive ensures that those that require advice are not prevented from obtaining that advice. The Integrity Commissioner has previously advised the Committee that increasing the number of designated persons in this way would be unlikely to significantly affect the workload of the Integrity Commissioner.\(^\text{126}\)

3.4 Post separation and employment restrictions

The Integrity Commissioner reiterated to the Committee that one of the areas he is seeking to have changed relates to the fact that the Integrity Commissioner can only give advice to designated persons. He advised that once a person ceases to be a designated person, they cannot ask for advice. However, one of the areas where advice has been sought is in relation to post-separation employment. The Integrity Commissioner considers that it would be desirable that people who have been designated persons should be allowed to continue to seek advice in relation to that area for a period of 18 months to two years.\(^\text{127}\)

The Integrity Commissioner also advised that due to an issue that arose during the election campaign, he considers that declared or endorsed candidates for parliamentary office should be able to seek advice from the Integrity Commissioner in a general way. He advised that he considers that eligibility period should commence from the period when the person has declared that they will be standing if they are an independent or when a person is endorsed by a major party.\(^\text{128}\)

The Committee considers that is an area that requires further consideration and recommends that it be included as part of the review of the Act.

\(^\text{121}\) Integrity Act 2009, section 15
\(^\text{122}\) Dr Solomon, Transcript 20 June 2012: 4
\(^\text{123}\) Finance and Administration Committee, Report No 13, Oversight of the Queensland Integrity Commissioner 2011, February 2012: 6
\(^\text{124}\) Correspondence to Clerk of the Parliament from Hon C Newman MP, Premier of Queensland, Final Government Response to the Finance and Administration Committee’s Report No. 13, Oversight of the Queensland Integrity Commissioner 2011, dated 14 August 2012: 1
\(^\text{125}\) Dr Solomon, Transcript 20 June 2012: 4
\(^\text{126}\) Finance and Administration Committee, Report No 13, Oversight of the Queensland Integrity Commissioner 2011, February 2012: 6
\(^\text{127}\) Dr Solomon, Transcript 20 June 2012: 5
\(^\text{128}\) Dr Solomon, Transcript 20 June 2012: 5
3.5 Annual meetings with Members of Parliament

The former Premier required each Labor Member of Parliament (MP) to meet annually with the Integrity Commissioner to discuss the Members’ pecuniary interests and how the Member intends to manage any potential conflicts of interest.\(^{129}\)

The Integrity Commissioner noted in his annual report that Premier Newman indicated to the LNP MPs after the election that they too should arrange to meet individually with the Integrity Commissioner to discuss their declarations of interest and any possible conflicts of interest. He noted that many Ministers also arranged meetings to discuss their compliance with the provisions of the Ministerial Code of Ethics.\(^{130}\)

The Integrity Commissioner advised that from the date of the election to the end of November 2012 he had met with 59 MPs, including 26 Ministers and Assistant Ministers.\(^{131}\)

The Integrity Commissioner advised the Committee that his annual meetings with MPs allows Members to discuss their declarations of interest to see whether the Integrity Commissioner considers that any possible conflict of interest might arise as a result of the material in the declarations of interest. He advised that annual meetings may not be necessary, but once in every parliamentary term would be appropriate. He also advised that if declarations change then it is desirable that they be reviewed.\(^{132}\)

3.6 Ministerial Code of Ethics

The Committee considered the issue of the review of the Ministerial Code of Ethics and what is appropriate conduct given various scenarios at its first meeting with the Integrity Commission on subsequent to the election. The Integrity Commissioner confirmed that the Ministerial Code of Ethics developed by the previous government was the code being followed and the one on which he has been basing his advice.\(^{133}\)

3.7 Public Awareness of Ethics or Integrity Issues

The Integrity Commissioner notes in his annual report that one of the functions of the Integrity Commissioner is to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Integrity Commissioner’s function. He advises that whilst this is not a mandate to comment at large on matters it is a reasonably broad mandate.\(^{134}\)

The Integrity Commissioner advised the Committee that he has made presentations to the Sunshine Coast Regional Council, the Rockhampton Regional Council, the Western Downs Regional Council, Australia and New Zealand School of Government (ANZSOG), the Institute of Public Affairs, an integrity road show for government officers in Mount Isa, the Mount Isa City Council, the Banana Shire Council, the Australian Public Sector Anti-Corruption Conference (APSAC), the Institute of Arbitrators and Mediators, the Institute of Judicial Administration, the University of Queensland Business School, the induction for new MPs and the Australian National University. He also attended a number of conferences.\(^{135}\)

\(^{129}\) Queensland Integrity Commissioner, Annual Report 2011-12: 13
\(^{130}\) Queensland Integrity Commissioner, Annual Report 2011-12: 13
\(^{131}\) Correspondence from Dr D Solomon AM, Queensland Integrity Commissioner to FAC dated 12 December 2012: 1
\(^{132}\) Dr Solomon, Transcript 20 June 2012: 3
\(^{133}\) Dr Solomon, Transcript 20 June 2012: 5
\(^{134}\) Queensland Integrity Commissioner, Annual Report 2011-12: 18
\(^{135}\) Dr Solomon, Transcript 20 June 2012: 4
The Integrity Commissioner also confirmed that he has had meetings with a number of individual lobbyists and organisations concerning lobbying.\textsuperscript{136}

3.8 Estimates

The Integrity Commissioner wrote to the Committee suggesting that the Committee’s biannual meetings provide the Committee with an adequate opportunity to question him about the budget and that there is no real need for him to appear at the Estimates Hearings for DPC.\textsuperscript{137}

He has asked the Committee if he could be excused from attending the DPC Estimate’s hearings. It should be noted that the Committee is not responsible for identifying which officers attend Estimates hearings. These officers are listed in Schedule 7 of the Standing Orders.\textsuperscript{138}

The Integrity Commissioner advised the Committee that he has been at the Estimates hearings for the last three years and they amount to wasting half a day each time. He advised that he did not think very many Members of the Committee are interested in questioning the Integrity Commissioner when they have the Premier and other people to question instead. He advised that the Committee has the opportunity to question him about Estimates at other meetings.\textsuperscript{139}

The Integrity Commissioner also stated in his correspondence that he finds it somewhat embarrassing, as an Officer of the Parliament, to be required to provide a brief though DPC.\textsuperscript{140}

The Committee sought the Auditor-General’s views on this issue as he is also an Officer of the Parliament. The Auditor-General advised the Committee that this is an issue that has vexed Auditors-General around Australia. He provided both a pragmatic answer and a principled answer as follows:

\begin{quote}
Pragmatically, we understand that we are part of the public sector notwithstanding our independent status as an officer of the parliament and there are mechanisms for appropriating moneys and for making submissions accordingly. So the pragmatist in me says that, as long as it is not compromising or impairing my independence—and I do not necessarily think that it is... I really focus on whether or not I think it is impairing my independence.

We have some safeguards, because the Treasurer must consult with this committee on my appropriation. So I think that gives me a safeguard there.

The principled answer that all Auditors-General... would prefer... is that our appropriation is not under a department but comes from the parliamentary appropriation in terms of that kind of higher order principle. That reflects again that I am a servant of the parliament and that it should be rightly, I believe, the parliament that funds me rather than the first minister’s office, or the Treasurer’s office.\textsuperscript{141}
\end{quote}

The Committee asked the Integrity Commissioner whether he is satisfied with the current funding available for his office. He advised that he is satisfied and confirmed that his office is small and therefore has been excluded from the cuts that affected most other agencies.\textsuperscript{142} He confirmed that currently the finances for his office are managed via the Public Service Commission and this works well and he does not see any need for change.\textsuperscript{143}

\textsuperscript{136} Dr Solomon, Transcript 28 November 2012: 5
\textsuperscript{137} Correspondence from Dr D Solomon AM, Queensland Integrity Commissioner to FAC dated 8 November 2012: 1
\textsuperscript{138} Correspondence from Dr D Solomon AM, Queensland Integrity Commissioner to FAC dated 8 November 2012: 1
\textsuperscript{139} Dr Solomon, Transcript 28 November 2012: 2
\textsuperscript{140} Correspondence from Dr D Solomon AM, Queensland Integrity Commissioner to FAC dated 8 November 2012: 1
\textsuperscript{141} Mr Greaves, Transcript 28 November 2012: 4
\textsuperscript{142} Dr Solomon, Transcript 28 November 2012: 3
\textsuperscript{143} Dr Solomon, Transcript 28 November 2012: 3
3.9 Committee Comments – Estimates

The Committee respectfully suggested to the Integrity Commissioner that it is only part of one day that is required and there are a number of chief executives officers and senior people across government who make themselves available for the hearings. Not all are asked to speak or contribute as part of the hearings, but they are on call and available if required. The Committee considers that this is an important part in providing transparency to the process of Estimates in Queensland.

The Committee agrees with the Auditor-General’s assessment that if the independence of the office is not impaired by the process then the current position is acceptable. The Committee considers that the Integrity Commissioner is able to call on the Committee for its assistance should he consider that his independence is being compromised.
Appendix 1 – Proposed Lobbyists Code of Conduct with tracked changes
Lobbyists Code of Conduct

[Integrity Act 2009, s 68]

Preamble

Free and open access to the institutions of government is a vital element of our democracy.

Lobbying is undertaken by many people in the community in relation to a broad range of matters. In effect, lobbying can be any communication by a member of the community seeking to express their views or interests to a government representative on a matter that is subject to a decision of the Government.

Professional lobbyists are a legitimate part of, and make a legitimate contribution to, the democratic process by assisting individuals and organisations to communicate their views on matters of public interest to the government, and so improve outcomes for the individual and the community as a whole.

The public has a clear expectation that lobbying activities will be carried out ethically and transparently, and that government representatives who are approached by lobbyists are able to establish whose interests the lobbyists represent so that informed judgments can be made about the outcome they are seeking to achieve.

The Integrity Act 2009 (the Act) and this code ensure that contact between lobbyists, as defined by the Act, and government representatives (including local government) and Opposition representatives is conducted in accordance with public expectations of transparency and integrity, and in the public interest.

1. Application

This code applies in conjunction with the Act and the Ministerials’ Code of Ethics Conduct and other relevant codes, including departmental and ministerial staff codes of conduct.

2. The Act

This code operates in addition to the Act. The Act defines “lobbyist” and “third party client” in s. 41 and “lobbying activity” in s. 42 – see definitions, below. The Act sets out a number of conditions and prohibitions with which lobbyists are required to comply. This code provides for standards of conduct with which lobbyists must comply. It also imposes obligations on lobbyists to provide information about some lobbying activities carried out by them – see s. 68(4).
Under the Act, the integrity commissioner keeps a register of lobbyists, and publishes the register on the commissioner's website (see s 49(1)).

The Act also provides that:

(a) success fees must not be paid to, or received by, lobbyists (see s 69);

(b) 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 (see s 70(1));

(c) a government representative or an Opposition representative must not knowingly permit the carrying out of a lobbying activity of the kind described in paragraph (b) (see s 70(2) and (3));

(d) an entity that is not a registered lobbyist must not carry out lobbying activity for a third party client (see s 71(1)); and

(e) a government representative and an Opposition representative must not knowingly permit a lobbying activity of the kind described in paragraph (d) (see s 71(2)).

Regard should be had to the Act itself for further information about the operation of these provisions, and to ensure compliance with the Act.

3. Standards of Conduct for Lobbyists

3.1 Lobbyists shall observe the following principles when engaging with government representatives and Opposition representatives.

(a) Lobbyists shall conduct their business to the highest professional and ethical standards, and in accordance with all relevant law and regulation with respect to lobbying.

(b) Lobbyists shall act with honesty, integrity and good faith and avoid conduct or practices likely to bring discredit upon themselves, government representatives, their employer or client.

(c) Lobbyists shall not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment.

(d) Lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to parties whom they represent, the wider public, governments and agencies.
(e) If a material change in factual information that the lobbyist provided previously to a government or Opposition representative causes the information to become inaccurate and the lobbyist believes the government or Opposition representative may still be relying on the information, the lobbyist should provide accurate and updated information to the government or Opposition representative, public official, as far as is practicable.

(f) Lobbyists shall not knowingly make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions.

(g) Lobbyists shall keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party.

(h) Lobbyists shall indicate to their client their obligations under the Integrity Act, and their obligation to adhere to the Lobbyists Code of Conduct.

(i) Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, or disclosure is required by law.

(j) Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

(k) Lobbyists shall advise government representatives and Opposition representatives that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

(l) 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, a government representative.

(m) Lobbyists should inform themselves of the policies of the Queensland Government and local governments restricting the acceptance of gifts by officials.

3.2 When making an initial contact with a government representative or Opposition representative about a particular issue on behalf of a third party client, for whom the lobbyist has provided paid or unpaid services, the lobbyist must inform the government representative or Opposition representative that they are:
(a) a lobbyist currently listed on the register of registered lobbyists, or

(b) a listed person for a lobbyist who is currently on the register of registered lobbyists;

(c) that they are making the contact on behalf of a third party;

(d) the name of the third party;

(e) the nature of that third party's issue; and

(f) the reasons for the approach.

3.3 When making an initial contact with a government representative or Opposition representative about a particular issue on behalf of a third party client, for whom the lobbyist has provided paid or unpaid services, a lobbyist who became a former senior government representative or former Opposition representative less than two years earlier must indicate:

(a) that they are a former senior government representative or a former Opposition representative,

(b) when they became a former senior government representative or a former Opposition representative, and

(c) that the matter is not a "related lobbying activity", an activity prohibited under the Act.

3.4 Failure to comply with these standards of conduct may provide grounds under the Act for:

(a) refusing an application for registration as a lobbyist (s 55(b)) and

(b) cancelling a lobbyist's registration (s 62(b)).

(c) Alternatively, the Integrity Commissioner may issue a warning to the registrant, or suspend the registration for a reasonable period (s. 66A(2)).

4. Information about lobbying activities (s 68(4))

Lobbyists must provide the Integrity Commissioner with information about lobbying activities carried out by them. The information will be made public by
the Integrity Commissioner by publishing it on the Integrity Commissioner’s website.

Lobbyists must file, no later than 15 days after the end of every month, information for a register of lobbyists contact with Government and Opposition representatives, reporting on each and every lobbying contact by them, during that month, with a government or Opposition representative.

The information that is to be provided for each such lobbying contact is:

(a) the name of the registered lobbyist;

(b) whether in arranging the contact, the lobbyist complied with the requirements of 3.2 of the Lobbyists Code of Conduct and, if relevant, 3.3;

(c) the date of the lobbying contact;

(d) the listed persons of the lobbyist entity who were present;

(e) the client of the lobbyist;

(f) the title and name of the government or Opposition representatives present;

(g) the purpose of contact [drop down menu] making or amendment of legislation, development or amendment of a government policy or program, awarding of government contract or grant, allocation of funding, making a decision about planning or giving of a development approval under the Sustainable Planning Act 2009, commercial-in-confidence, other).

54. Definitions

For ease of reference, the following definitions are summarised from the Act:

“Contact” includes telephone contact, email contact, written mail contact and face-to-face meetings (s 42(3)).

“Government representative” means the Premier or another Minister, a parliamentary secretary, a councillor, a public sector officer, a ministerial staff member or a parliamentary secretary staff member (s 44). [“Public sector officer” is defined below.]

“Listed person”, for an entity currently registered on the register of registered lobbyists, means a person whose name is entered in the register as a person employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activity (s 49(3)(b)).
"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 (s 41(1)). However, "lobbyist" does not include (s 41(2)):

(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.

Also, an employee or contractor of, or person otherwise engaged by, an entity mentioned in paragraphs (a) to (d) above is not a lobbyist in relation to contact carried out for the entity (s 41(3)(a)). An employee of an entity mentioned in paragraph (e) above is not a lobbyist in relation to contact carried out for the entity (s 41(3)(b)).

"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 (s 42(1)). However, it does not include (s 42(2)):

(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.

“Lobbying contact” does not include contact solely for the purpose of arranging, changing or cancelling a meeting, or meetings where no lobbying occurred.

“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 (s. 47A).

“Public sector officer” is the chief executive of, or a person employed by, 1 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. (s 47)

“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. (s. 41(2))

15 March 2010

1 April 2013