

Political Lobbying Project: Wider Regulatory Issues Meeting

Summary of Ministry of Justice facilitated meeting with industry and professional associations on issues with political lobbying

17 August 2023

Why we held this meeting

1. In April 2023 the Prime Minister announced several steps to introduce greater transparency around lobbying at Parliament. He commissioned the Ministry of Justice to undertake a review of the different policy options for regulating lobbying activities.
2. The Ministry of Justice held a discussion on 17 August 2023 with industry and professional associations to discuss issues related to political lobbying in New Zealand. Discussions with other stakeholder groups were also held in August and September.

Introduction and presentation of initial scoping work

3. Karakia, welcome and introductions (see attendee list Appendix 1).
4. Reminder of the Prime Minister's April 2023 announcement to initiate measures to provide greater transparency around lobbying at Parliament, including assisting third-party lobbyists to develop a voluntary code of conduct and undertaking a review of the different policy options for regulating lobbying activities.
5. This meeting aims to explore questions and issues that will need to be addressed as part of the wider regulatory project.
6. Brief introduction of the Ministry of Justice's Electoral and Constitutional team. Outline of the Ministry's approach to the meetings such as full transparency, meeting with groups not individuals, summary of meetings to be published online.
7. The Ministry gave a presentation on initial scoping work and summarised points made during the meetings on a voluntary code (both posted on the Ministry's [webpage](#)).

Comments on the approaches by other countries

8. Attendees were interested in the experience of other countries. One asked if MoJ had a sense of why many other countries' attempts to regulate lobbying had failed. MoJ noted that it had not analysed this deeply, but often there were concerns that interfering with access could have a chilling effect on democracy. MoJ also noted that the New Zealand Lobbying Disclosure member's Bill failed largely because the scope was too wide.
9. One attendee observed that Scandinavian countries don't tend to have regulation, yet they have high trust systems. MoJ noted that Scandinavian countries often have stronger civil society organisations than in New Zealand. MoJ added that in Europe, some associations have compulsory membership, and in Germany, the government funds some democratic groups. Another attendee noted that in the US, the requirement for lobbyists to be registered doesn't prevent senator funded campaigns.

Comments on a voluntary code of conduct

10. A number of attendees were in support of some form of voluntary code of conduct. One noted that a key aspect to consider is how to demonstrate compliance with a code because there can be a perception that even though one might exist, people may not follow it.
11. Others pointed out that they were already bound by their own codes of ethics and already had regulation in place and didn't need another code. Some expressed concern about a code that has compliance and reporting costs.

Definition of lobbying and project scope

Definition narrow or broad?

12. The group generally agreed that everyone could be considered a lobbyist, but this is a complex area, so keeping the scope clearly defined would be important. Attendees discussed the following:

Ways to narrow the definition

13. A number of possible ways to limit the definition to make it workable were discussed:

Paid versus unpaid lobbyists

- 13.1. In response to the question about whether there should be a distinction between paid and unpaid lobbyists (a feature of many overseas regimes), attendees said that using a definition that focussed on professional/paid versus unpaid could be difficult. For example, one said they rely on expert volunteers for support.

Industry associations versus professional lobbyists

- 13.2. Some of the industry associations noted that while they might be paid, they are different from corporate and consultant lobbyists. They said that industry

associations are open and transparent, have codes and are answerable to their membership, with lots of checks and balances as incorporated societies. They thought that corporate lobbyists do not have the same checks and balances. They are also generally advocating for a whole business sector rather than individual firms

- 13.3. An example given was the difference between a firm, law firm or consultant acting on behalf of a specific client versus an industry association working for a member. The former has less transparency (often due to legal privilege).

Advocacy versus lobbying

- 13.1. A number of attendees said that the nature of the issues they represent are aligned with wider public interest, rather than more specific issues around commercial interests or those of individual companies or entities. They suggested that lobbying for self-interest or for vested interests was the issue, not lobbying for the public interest.

Focus on lobbying activities and behaviours

14. Attendees agreed that the term lobbyist is not helpful and that maybe the project should focus on being clear about the harms associated with particular behaviours or lobbying activities. One person noted that the focus should be on the harm or perceived harm. Another thought that it could be worth looking more at the desired outcome such as transparency.

Indirect lobbying – use of media and other methods to influence decisions

- 14.1. MoJ sought attendees' views on some of the wider methods that people might use to conduct lobbying activities, such as grassroots lobbying (influencing change through influencing public opinion) or the use of media (such as through opinion pieces and social media). Attendees agreed that these were important considerations and one commented that thinking forward we have to be very aware that the digital world will be a key force and may have more influence than lobby organisations. Another added that we need to consider AI and potential for those mechanisms to change the face of lobbying.
- 14.2. One attendee agreed that they were also struggling to deal with the issues raised by digital technologies but cautioned that the project should not set unrealistic expectations or it may not succeed.
- 14.3. Some acknowledged that op-eds are a big part of the work their members undertake, but that their code of ethics requires them to disclose who their clients are. They thought that as long as there is transparency, there isn't an issue.
- 14.4. MoJ noted that consideration of foreign interference could be a part of this discussion where foreign groups use domestic lobbying pathways to influence decision making, and which nowadays includes digital pathways.

Who are the lobbied

15. The group suggested the following people could be considered as ‘individuals who are lobbied.’
 - 15.1. Ministers
 - 15.2. Senior officials
 - 15.3. Local Government representatives
 - 15.4. Members of Parliament
 - 15.5. Officials in MPs and Ministers’ offices.

The issues for New Zealand

MoJ asked if there were any particular behaviours or harms that should be focused on as part of this work and whether these are currently occurring in New Zealand.

Is there really a problem with political lobbying in New Zealand?

16. Many attendees didn’t really consider there is a problem with lobbying in New Zealand, and made the following points:
 - 16.1. Industry groups that want to influence widely are already very transparent and operate ethically.
 - 16.2. Existing systems already provide transparency. Everything that’s written down becomes part of the public record. Will a new system achieve anything more than what is already available through having Cabinet ministers’ diaries published?
 - 16.3. New Zealand rates very well internationally in terms of transparency and corruption so there isn’t a problem that warrants attention.
 - 16.4. There is a formal transparent process to access Ministers already. Typically, in a meeting with a Minister there will also be officials involved and it is not often that a meeting with the Minister will be one-on-one.
 - 16.5. Most people who lobby have the country’s best interests at heart and that’s one of the good things about New Zealand. “If it isn’t broken don’t fix it.”
 - 16.6. Generally, when people tell falsehoods or engage in dishonest behaviour, that comes out in the media, and this will cause brand damage. This is already an incentive to behave ethically.
17. However, attendees did note that something was needed, but were unsure what form this might take.

We don't have enough data on political lobbying harms in New Zealand

18. Generally, attendees agreed that there was an absence of information about lobbying issues in New Zealand and more information would be helpful.

We have a perception problem

19. Many attendees discussed the idea that even if there is not a problem, perception of a problem can be equally damaging. They agreed that trust in MPs and institutions is important, that perception and trust are intertwined, and that it might be important to unpack what is driving the negative perception.
20. One attendee thought that if perception and trust were connected that it would be worth looking at whether trust is actually decreasing. Another said they had seen data in a [Public Service Commission survey](#) that indicated people's trust in public services had decreased since a high in December 2020, but were still higher than pre-covid. Trust in business was also higher than pre-Covid. After the meeting an attendee sent in [another survey by Acumen](#) that showed trust in business was higher than trust in Government with trust in Government generally reducing – both in New Zealand and world-wide. This survey also showed that trust in media, particularly social media, was lower than both government and business.

The problem is with decision-makers not lobbyists

21. Attendees strongly agreed that looking at the role of decision-makers is critical to address access issues associated with lobbying, and made the following points:
22. The principles around fair access can only be ensured by policy makers, not lobbyists.
 - 22.1. One attendee commented that it might be about putting in place a bit more of a robust process around how our politicians operate to ensure the transparency principles.
 - 22.2. The importance of hearing a wide range of perspectives was also noted and that Ministers, Members of Parliament and senior officials need to ensure that they hear a range of voices and enable equal access.
 - 22.3. The importance of politicians' conduct was also discussed; for example one attendee gave a (historic) example of a Minister implying that donations to their party from the members of an association could assist with getting changes implemented. The message was not passed to members. "What matters is that politicians are doing the right thing."
 - 22.4. It is important to look at the power relationship between Ministers and officials as it is not easy to be a whistleblower if a Minister is not following appropriate process.

22.5. Another quoted former Prime Minister Sir Geoffrey Palmer, in his appearance before a 2022 Select Committee, saying “we can’t afford to have amateur MPs anymore.”

23. One attendee noted that there is already a robust framework around senior public officials.

Watch cost and unintended consequences

24. Similarly, attendees cautioned that this work should not impose unnecessary burden on participants in the democratic process. Comments on this topic included: “None of the industry groups in New Zealand are that big. Don’t implement reporting costs and burdens on industry groups.” “We are not flush with cash, so imposing another layer of heavy-handed regulation will probably only stifle debate.” “Be careful not to drive discussions underground.”

Fair access

Larger, better resourced organisations get better access

25. While attendees generally agreed that New Zealanders have good access to politicians, they questioned whether this was equal or fair access.

26. In particular, there were many comments that vested or commercial interests were getting more attention because they had money and resources to pay for lobbying. Attendees said they had a lot of examples of vested interests getting what they want. “In our sector we’ve got nothing, so perception of favouritism is something that exists for us.”

Access to politicians in New Zealand is very good, but not well funded

27. Attendees agreed that New Zealand has good access to politicians due to our size. One attendee shared that they had been to many select committee hearings where people from anywhere can contribute their perspectives, either online or in person. People also have access to their electorate MPs. One said that they didn’t think there is much separation between people and the political class.

28. Another thought that there should be more funding of public officials’ offices and having had no increase for years is reducing the quality of public access.

29. Lack of funding for access to politicians through select committees was also identified, particularly for dealing with increased numbers of public submissions.

Access and influence are not the same thing

30. Attendees pointed out that access does not automatically equal influence. “Just because you get a meeting doesn’t mean that you get what you want.”

Critical to maintain access that we have

31. A strong view emerged that we should not jeopardise the access New Zealanders have to politicians, summarised by the comment: “We have remarkable access in New Zealand, this is a real strength, let’s not jeopardise this.”
32. An attendee noted that freedom of expression is at the core of this issue and should be protected.

Transparency

Transparency could be improved

33. Attendees discussed the fact that transparency is an important outcome. They thought that transparency is if there is potential harm.

Integrity

Revolving door issue

34. Attendees agreed that there is not much scrutiny of people moving between political and lobbying roles. One person commented that people who leave political positions have many connections which enables them to influence in ways that people who don’t have that would be able to.
35. Another person noted that the issue is not just Ministers or senior officials who then become third-party lobbyists, but also MPs who move straight to businesses and organisations that benefit from their previous role. They added that this includes organisations and businesses that contract to government.

Suggestions for the way forward

36. While solutions were not the main outcome for this meeting, participants suggested:
 - 36.1. More transparency around different levels of access to government. Making Ministers’ diaries even more transparent would support this. It may also be good to extend the diary transparency to MPs. Senior public officials could also publish their diaries.
 - 36.2. Better rules and requirements are needed for public office holders around the revolving door issue.
 - 36.3. There should be a bigger focus on decision makers and MPs.
 - 36.4. In regard to the code of conduct, a broad set of principles or expectations should be considered that all people could use to engage with government.
 - 36.5. Resourcing access to MPs should be independently examined, including through select committees and other processes.

36.6. Media capability should be strengthened to enhance their ability to act as watchdogs.

37. Attendees were also clear about what they didn't want. They noted that the style of regulation applied in the US where only certain organisations can lobby would be unsuitable. They also thought "full blown regulation" would be a step too far.

Next steps

38. MoJ invited attendees to email examples of issues around political lobbying to the Lobbying Project Team.

39. A summary of the notes from the meeting would be circulated for review prior to publishing online.

Appendix 1: Attendee list

Name	Organisation
Lisa Sheppard	Ministry of Justice
Elisha Connell	Ministry of Justice
Nadja Colic	Ministry of Justice
Lindsay Mouat	Association of New Zealand Advertisers (ANZA) (apology)
Brett Jeffery	Australasian Society of Association Executives (AuSAE)
Guy Beatson	New Zealand Institute of Directors
Bev-Anne Jennings	New Zealand Institute of Directors
Catherine Beard	BusinessNZ
Aimee Bryant	Te Kāhui Ture o Aotearoa New Zealand Law Society
Nilu Ariyaratne	Te Kāhui Ture o Aotearoa New Zealand Law Society
Susanne Martin	Public Relations Institute of New Zealand - PRINZ
Nick Clark	Federated Farmers of New Zealand
James Doolan	Hotel Council Aotearoa (apology)
Kevin Hart	NZ Wind Energy Association
Terry Taylor	New Zealand Institute of Medical Laboratory Science (NZIMLS)
John Harbord	New Zealand Shipping Federation (apology)
Kirsten Windelov	Te Pūkenga Here Tikanga Mahi New Zealand Public Service Association
Ingrid Sage	Bus and Coach Association NZ (apology)