

Political Lobbying Project: Wider Regulatory Issues Meeting

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

11 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 11 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. An 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 a voluntary code of conduct

8. Many attendees at the meeting noted that they already have codes of conduct that govern how they behave and operate and did not need to sign up to another code. Some also noted they are already regulated under other legislation, and a lobby code would not apply to much of their work.

9. However, others said that there should be a clear code of conduct which focuses on respect for the democratic process.
10. Some suggestions were made about which organisation could manage a code:
 - 10.1. The Australasian Society of Association Executives (AuSAE) could be a centralised body to consider that could manage a voluntary code of conduct for political lobbyists.
 - 10.2. Set up a government relations association and call it Government Relations Institute of NZ.

Definition of lobbying and project scope

Definition narrow or broad?

11. Many in the group considered that trying to define lobbying narrowly would be difficult. Most agreed that lobbying is a spectrum on which everyone is a lobbyist to some degree if they actively promote policy interests.

Ways to narrow the definition

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

People who lobby on behalf of others

- 12.1. Most attendees thought that a lobbyist should be defined as a person or organisation that represents a known group of people or acts on behalf of a client or firm, as distinct from citizens making submissions on their own behalf. However, even this was not cut and dried; one person questioned where “rich-listers” with influence or connections might fit.

Advocacy versus lobbying

- 12.2. The group discussed whether there is a difference between advocacy and lobbying. They said there is an advocacy-to-lobbying continuum, from lobbying for the public interest through to lobbying for profit or personal gain. Some thought that understanding who truly benefits might be useful.
- 12.3. Others were unsure if this distinction was helpful, noting that trying to separate self and broader interests is “likely futile”. They said that lobbying for commercial interests can often also have public benefits which would be “hard to unpick”. An example given was the dairy industry having primarily commercial interests but also playing a strong role in New Zealand’s wider economy. Another example cited was an organisation that worked with a government agency to address a shortage of auditors during Covid, noting that they could have been perceived to be lobbying, but we were doing it in the public interest. Another said that businesses are now more mindful of social good.

Solicited versus unsolicited interactions with policy makers?

- 12.4. A few attendees said that Ministers and officials often reach out to them to understand issues, and asked how this is captured in a definition of lobbying?

Iwi/Māori considerations

13. One attendee said that iwi should not be defined as lobbyists and that they should have absolute access as Treaty partner. Another thought that Māori can “wear different hats” so it may be useful to look at specific situations. For example, someone who has been working in government and then goes to work for an iwi could be considered differently to someone who works for government and then goes to work for a lobbyist.

Focus on lobbying activities and behaviours

14. Given difficulties in defining lobbyists, most attendees thought that a more fruitful approach might focus on behaviours rather than specific groups.
15. They questioned whether the following activities should be included:

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

- 15.1. The group grappled with the question of whether use of media to influence decisions should be part of a lobbying definition. An example given of indirect lobbying activities was an ad posted on social media to encourage people to contact an MP on a particular matter.

The use of academic research

- 15.2. One attendee queried whether research by academics and health groups should be included in lobbyist definitions, noting that academics are a powerful group of influencers in New Zealand.

The issues for New Zealand

16. General comments made during the meeting by attendees included:

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

17. All attendees agreed that the problem definition is key. One person thought it was about going back to what the problem is in terms of what’s happening that we’re not happy with and whose conduct we’re unhappy with, then working back from there.
18. Attendees agreed that the systems in New Zealand are good and we generally don’t have the same issues as overseas.

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

19. Lack of information about the problem itself was identified by a number of attendees. Some noted that more baseline data and research might be needed to truly understand where the problem might lie for New Zealand.

20. MoJ noted that given the nature of the issue evidence of poor behaviour may be difficult to find. Overseas, the issues that are documented are quite extreme and usually associated with corruption. There are few known similar examples in New Zealand.

The problem is with decision-makers not lobbyists

21. Many attendees said that the issue is not with lobbyists, but instead with decision makers, and noted that it is public officials who have a duty of care to the public, not lobbyists. One person commented: "I think we are starting from the wrong end. It'll be much easier to tackle this from inside than out."
22. Others said that if a particular issue is raised privately by a lobbyist or interest group with a Minister, it is up to the Minister to provide an equal opportunity for others to provide alternative views.

We need to protect the systems we currently have

23. Attendees all agreed that one of the benefits of the New Zealand system is the level of access between citizens and politicians. One attendee highlighted that in the US there are many layers between citizens and politicians. Here, we don't need to erect barriers. We shouldn't make it harder for people to access politicians.

Overseas lobbying

24. One person said that New Zealand is already affected by overseas lobbying. New Zealand adopts many policies from overseas and a lot of those already have the lobbying built into them, even if no lobbying is done within New Zealand. An example given in transport was European policies that have already been affected by lobbying. Another noted that with globalisation outside lobbyists can limit New Zealand voices.

Fair access

Larger, better resourced organisations get better access

25. Many attendees felt that larger, more well-resourced organisations with the ability to hire lobbyists tend to get more attention, while some of the smaller players have difficulty getting the level of attention they ask for. One said that as a small organisation, sometimes they are not included in the consultation process while much larger organisations will be consulted.
26. Most thought it would be helpful to ensure voices are more evenly balanced. An attendee said they feel like an underdog and are treated differently. They added that the bigger organisations have an entrenched position and their experts are seen as being more expert. "So when we come out with conflicting positions they're always given deference, even though their interest might not be seen to be New Zealand's interest."
27. Attendees recognised that even within associations, this balancing act can be difficult. One noted that in their sector there are small and large players and that they have to balance out conflicting views and present that as a coordinated approach when talking to officials.

28. Conversely, some said that being big or well-resourced does not necessarily provide access. One person noted that sometimes being a representative of a big business is harder because politicians hold assumptions about what you want. Any “cosy-matey” relationships with one side can be a disadvantage when there is a change in government. Some thought other groups get better access than industry associations.

Ineffective engagement with citizens impedes fair access

29. Further to the discussion around the responsibility of decision makers, a strong view emerged from all attendees that if consultation processes provided fairer and more balanced and equitable access then there may not be as much of a need to address lobbyists’ behaviour. “It is about coming back to the other side of the lobbying relationship and ensuring that politicians undertake the appropriate consultation.” Others also said that it was the responsibility of government to identify a broader range of people and ensure they are included in processes.
30. Attendees said that if trust is an essential feature of a democracy, then it is necessary to examine the need to strengthen how we involve citizens in decision making. One attendee noted that New Zealand has a democracy that’s relatively sound, but it lacks an enormous amount of opportunity for the broad citizenry to contribute.
31. Attendees spoke about experiences, especially during Covid, where consultation had not been robust because policy makers had relied on their contacts and not undertaken wider consultation. An example given was the immigration green list. An attendee felt there was a lack of consultation due to the speed of the process.
32. Many thought the process and methodologies for engaging the public are not effective. One person said: “It’s the bane of our lives. Ministries come out with consultation processes at the same time which makes it challenging.” Another noted that consultations are often quite time-constrained and this essentially makes them a fait accompli. Another added that sometimes they’re not run at an ideal time, such as around Christmas. It was also noted that sometimes members of the public aren’t even aware there are consultation processes occurring.

Access and influence are not the same thing

33. Attendees thought that access does not always correlate to better influence. One attendee thought that as an industry body with a channel into government this doesn’t mean that they get listened to. Another noted that in New Zealand, the best way to influence is to have an evidence base and work through the middle ground as this is what actually changes the decision.

Transparency

Transparency could be improved

34. Transparency around who was engaging with decision makers was a strong theme. One attendee commented that are meeting with decision-makers and we don’t know who they are.

35. Attendees said that with industry associations, it is clear who is being represented, while with lobbying consultants it may not be clear. Even this was not always clear as industry associations use lobbyist consultants, such as when they want strategic advice.

Lack of clarity on who has influenced consultation

36. Lack of clarity for the public on who has had influence in consultation processes was also identified as an issue. This creates a growing sense of distrust especially when commercial interests are perceived to be able to gain undue influence. One person noted that while this influence may not be improper, New Zealand doesn't have the frameworks for the public to assess what's on the table and make their own assessment.
37. In particular, attendees said that often Official Information Act requests don't provide the information that is needed to explain who had influence, and how decisions have been made.

Direct relationships and the "mates ringing mates" culture

38. Others spoke about the public perception of lobbying being "old mates ringing up old mates". They said that if the public feel shut out of most conversations, they will start to fill the gap with their perceptions, and trust in the system would reduce. Trying to regulate relationships in New Zealand is difficult
39. Points were made about how New Zealand is a small country that relies on a network of relationships and, therefore, trying to legislate around relationships and how they might be used or misused could be very challenging.
40. Some attendees said that the political pendulum actually prevents lobbyists creating relationships that are too friendly because if you are seen to be too connected to one political party, when governments change you will be seen as partisan.
41. Some attendees noted that while positive relationships should be encouraged, the casual way these are conducted in New Zealand was a problem and there may be a need to look at how such relationships can be used ethically and professionally.

Integrity

Lack of common understanding of appropriate lobbying behaviours

42. Some attendees thought that there was no real guidance on expectations for what might constitute ethical or professional behaviour for lobbyists. They suggested that it might be better to reframe the problem definition as the lack of guidelines for all New Zealanders, and to outline expectations of ethical behaviours.

Revolving door issue

43. Most attendees agreed that there may be a problem with politicians moving into lobbying roles (the so-called revolving door). Some indicated they were aware of examples where undue influence has been exerted by people who have moved quickly

from Ministerial to lobbying roles and noted that the issue has been recently highlighted by the media. Overseas there are cool down periods, unlike in New Zealand. Others said that regardless of how much of an issue it actually is, negative public perception (leading to lower trust) on this is enough to warrant action. Another pointed out that in every other industry you have a cooling down period where you can't take secrets to another organisation. Lobbying should be no different.

44. One attendee noted that officials moving from government to private practice was an issue of public service conduct, not lobbying, and could be dealt with through public service codes of conduct and employment agreements.
45. On the question of whether there is also an issue around people moving the other direction from lobbying into government roles, attendees were less sure. One attendee thought that people with knowledge and experience can be helpful in government.

Suggestions for the way forward

46. While solutions were not the main outcome for this meeting, attendees made some suggestions:
 - 46.1. Guidelines for everyone so we all know the parameters of how decision makers can engage. Then the public will respect and respond to it.
 - 46.2. Changes to the OIA are critical and it's been on the back burner for some years.
 - 46.3. Government should commit to better consultation on policy issues.
 - 46.4. A cooling-down period should be introduced for people moving between government and lobbyist roles.
 - 46.5. MPs' diaries could be published online.
 - 46.6. Media capability should be strengthened to more effectively act as watchdogs.

Next steps

47. MoJ invited attendees to email examples of issues around political lobbying to the Lobbying Project Team.
48. 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
Kimberly Crewther	Dairy Companies Association of New Zealand
Greig Epps	Insurance Council of New Zealand
Roz Henry	Cooperative Business NZ
Billy Clemens	Ia Ara Aotearoa Transporting New Zealand
Clare Dobson	New Zealand Telecommunications Forum
Lydia Tsen	Chartered Accountants Australia and New Zealand
Katie Rawlinson	Financial Services Federation
Lyn McMorran	Financial Services Federation
David Boyce	NZ Trucking Association
Graeme Jarvis	Medicines New Zealand Inc.
Dr Lesley Fredrikson	New Zealand Association of Optometrists
Raewyn Bleakley	New Zealand Food and Grocery Council
Janet Carson	GasNZ
Fred Russo	PRINZ
Kit Wilkerson	Imported vehicle industry association
John Pennington	Health Coalition Aotearoa