

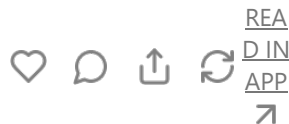
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The Govt's lobbying reforms are at a crossroads

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Corporate lobbying in New Zealand politics involves some very serious money. In my research on the lobbying process, I've discovered that one lobbyist tells new clients that anything a government wants to do can be stopped for \$250,000, whether that's a new tax, a spending cut or a regulatory change. That lobbyist says that making governments back

new ideas is harder and can never be guaranteed – it usually costs a seven-figure sum, including fees and other expenses.

I was also told by someone in the industry that their annual “personal profit” of about \$400,000 meant they earned more than a Cabinet Minister but not quite as much as a prime minister. And, of course, their influence is sometimes on a similar level.

The Booming lobbying industry

Unsurprisingly, numerous politicians and public officials move straight from the Beehive into professional lobbying jobs, taking their contacts and inside information with them.

Infamously, numerous Cabinet Ministers have shifted into the lobbying game in recent years.

Other political insiders are also involved – especially public servants and journalists. Neale Jones, who runs Capital Government Relations alongside former National Party Beehive staffer Ben Thomas, left his job as Chief of Staff for Jacinda Ardern for better pay, lobbying her instead. Top journalists are increasingly swapping sides, too. TV political editor Jessica Mutch has recently gone straight from TVNZ into a corporate “government relations” role.

It’s easy to understand why corporate lobbying is a popular career for political insiders. It involves lots of money, plenty of influence, little scrutiny, and no regulation. And the industry is booming at the moment. Lobbyists say they have more business than ever.

This boom is partly due to the change of government—and there was a similar lift in lobbying activity when Ardern became prime minister in 2017—as business interests wish to cultivate influence given all the new reforms being rolled out. The boom could also be because the new coalition's three parties especially welcome business input to their extensive reform programme.

The Wild West of lobbying has lost its social license

The problem is that New Zealand’s lobbying industry is akin to the “Wild West”, in which “anything goes”. No other country in the West has such lax rules about how vested interests can operate through professional lobbyists.

This isn't sustainable. New Zealand politics has now reached a point where there are signs that people are losing faith in the policy-making process and politics in general, with the well-founded suspicion that wealthy vested interests can buy government policy via an array of connections, donations, and clever lobbyists. A public backlash is growing about a professional lobbying sector with no industry oversight, no transparency, and endless scandals about conflicts of interest.

A culmination of lobbying scandals forced politicians to crack down on professional lobbyists last year. Across the political spectrum, parties realised that lobbyists were losing their social licence to operate and needed to be reined in.

As Prime Minister at the time, Chris Hipkins was most impacted by this. His administration had been troubled by several scandals involving lobbyists, and the integrity of his government was severely questioned. Therefore, he announced in April last year that he was asking the Ministry of Justice to undertake a reform programme to better regulate the industry.

The then Prime Minister instructed officials to carry out two processes: 1) Help the lobbying industry develop its own voluntary code of conduct, and 2) Develop the options for significant regulation of lobbying by the state.

This Ministry of Justice reform programme, the "[Political Lobbying Project](#)", is now at a crossroads. This week, it has essentially finished the first task of assisting lobbyists in creating a voluntary code of conduct.

Now, the question is how—or if—the Ministry will proceed with the much more important second task of recommending ways for the Government to rein in the unregulated lobbying industry. Therefore, it's worth reviewing how the first lobbying reform task has gone and what could now happen with the second Ministry of Justice task.

Reform Part One: Voluntary Code of Conduct for Political Lobbyists

When the Ministry of Justice took on the job of reforming lobbying last year, it was instructed to first give the lobbying industry a chance to clean up its own house. Officials were told to assist professional lobbyists in developing a voluntary code of conduct.

The point of this exercise was essentially to allow the lobbying industry to find a way to regulate itself, potentially avoiding the need for the state to step in to regulate lobbyists.

Producing a code of conduct wasn't a bad idea. Other countries have these. In contrast, in New Zealand, the lobbying industry has no agreement on ethical standards. This means that lobbyists have no rules about integrity, accountability, or transparency. In ordering this, the then prime minister Chris Hipkins suggested the code of conduct "would enhance transparency by, for example, including the names of the clients they represent on their websites."

It is not unusual for those in private sector industries like the legal sector to have rules and restrictions for their profession – this is part of what having a "social licence" to operate requires. The problem is that secrecy is a central part of lobbyists' business model. Therefore, every lobbyist has opposed providing a full public disclosure of their clients and the details of their lobbying operations.

Therefore, the Ministry of Justice held numerous meetings and consultations with professional lobbyists. Attendees at various meetings included some of the most prominent firms involved in lobbying:

- Neale Jones and Ben Thomas (representing Capital Government Relations)
- Thompson Lewis (headed by GJ Thompson, who took a brief break from lobbying to be Chief of Staff for Prime Minister Jacinda Ardern)
- Tim Groser (Groser and Associates, a former National Cabinet Minister)
- Clayton Cosgrove (former Labour Cabinet Minister)
- David Cormack (Draper Cormack Group, and former Green Party staffer)
- Lillis Clark (lobbyists who used to work in John Key's administration)
- Holly Bennett (Awhi company lobbyist, previously a National Party staffer)
- Anacta Consulting (previously led in New Zealand by Andrew Kirton, who was also Chris Hipkins' Chief of Staff in the Beehive)
- Mark Unsworth and Charles Finny (Saunders Unsworth)
- Clint Smith (former strategist for Phil Twyford, and the Greens)
- Simpson Grierson
- Russell McVeagh

It has also been reported that “Large companies that met with the ministry to talk about the draft code included ANZ, Suncorp, Rio Tinto, Z Energy, and IAG” – see yesterday’s report by The Post’s Rob Stock: [‘Meaningless’ political lobbying code plan unravels \(paywalled\)](#)

With the input of the above lobbyists and other relevant professionals, the Ministry of Justice put together various draft code of conduct statements. The final version, published in mid-March this year (but is no longer on the Ministry of Justice website), was an incredibly bland document with very little substance.

The code of conduct defined “lobbyists” in an extremely wide sense, which would capture just about anyone involved in politics: “Any person or organisation that aims to influence government policy, process or law.” It contained platitudinous and wishy-washy directives such as “Act honestly and fairly,” “Acknowledge that others may wish to have their say,” and “Be accurate and truthful.”

This draft went out for consultation. Now, the Ministry of Justice has reported their feedback and says they will soon submit a final proposed code of conduct to the government. The Ministry has essentially finished its job of helping lobbyists draw up a voluntary code of conduct. You can read about this in their just-published [Progress update on a voluntary code for political lobbyists](#)

The Ministry of Justice has also published details of the feedback that they have received on the draft code of conduct. Below are the three PDF documents:

- 1) [Summary of written feedback from consultation on a voluntary code of conduct with government relations consultants](#)
- 2) [Summary of written feedback from wider public consultation on a voluntary code of conduct](#)
- 3) [Collation of written submissions received from wider stakeholder groups](#)

The gist of these reports is that the professional lobbyists are very happy with the draft voluntary code, but those wanting reform are exasperated by how weak the proposed code is. Here are the key points from the Ministry of Justice: “Most submitters thought that the voluntary, self-regulating nature of the draft code makes it ineffective with no enforcement or accountability, and does nothing to address areas of significant public concern; does not

promote public trust in the system; undermines democracy and encourages corruption; is inadequate in relation to fair access and practising transparency; is window-dressing; and will not change the behaviour of lobbyists or improve the public's impression of lobbyists.”

Much of the negative feedback appears to blame the Ministry of Justice for the draft code of conduct's weakness. This, however, misses the point, which is that the code of conduct isn't what the Ministry officials are proposing; it's what the lobbying industry wants. This is exactly what then Prime Minister Chris Hipkins asked officials to do—to get the industry to develop the code of conduct.

Nonetheless, critics are correct in pointing out that the code of conduct is a debacle, which means the lobbying industry has failed to develop its own self-regulation. This means that the industry now needs to be more heavily regulated. So the Ministry of Justice's second part of the lobbying reform programme – coming up with regulatory proposals – is now vital. This point is made well by Transparency International New Zealand – the anti-corruption watchdog has responded to what the lobbyists have come up with, saying, “Their aversion to even voluntary and non-binding ethical behaviours makes the case stronger for mandatory lobbying regulation.”

Reform Part Two: Develop the options for significant regulation of lobbying by the state

The most substantive element of the Ministry of Justice's “Political Lobbying Project” is its second part, where they have been tasked with “leading a substantive review of the policy options for regulating lobbying activities”. For this, officials are consulting with a broader range of stakeholders about how to rein in lobbyists. Having already conducted some consultations, the Ministry is working on an “issues paper” to present to the government.

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This part of the Ministry's reform will include proposals and options for “stand down periods” for lobbyists and political insiders to prevent them from going back and forth through the “revolving door” in the way that people like Kris Faafoi and Stuart Nash have been able to.

It will also consider a mandatory register for lobbyists, with the possibility that lobbyists will have to disclose clients and meetings with politicians and officials publicly. Plenty of other such mechanisms can be considered. These sorts of regulations have the genuine possibility of taming New Zealand's "wild west" political lobbying industry.

However, there are some signs that the new Government is getting cold feet on this part of the reform agenda. The new Minister of Justice, Paul Goldsmith, shows little interest in fixing the problem and hasn't been willing to commit to directing his Ministry to continue with the planned substantive work on regulatory options. Responding to questions about this earlier in the year, Goldsmith said the lobbying reform work was just "one of many priorities the Government must consider, and specifically in the Justice portfolio where it has a heavy work programme".

Therefore, It is notable that the lobbying reform work wasn't even mentioned in the Justice Ministry's Briefing for the Incoming Minister. And deadlines that were supposed to occur on some of this work have now passed without apparent progress. For example, the Ministry previously stated that a paper on "policy options for addressing issues with lobbying activities in New Zealand and proposals for substantive public consultation" would be delivered "by 28 February 2024". Nothing has been seen of this.

It could well be that National is, therefore, quietly killing off the more substantive part of the lobbying reform programme. If so, this will be unacceptable to those who want to see New Zealand's democracy bolstered and vested interests defeated.

Moreover, when lobbying problems led to the Labour Government launching the Ministry of Justice review, National was right behind this. Commendably, National's deputy leader Nicola Willis went even further than Hipkins, promising her government "would impose a 12-month stand down period for former ministers and introduce a compulsory register of lobbyists, rather than a voluntary code of conduct." She also promised to introduce "a transparent, publicly accountable register of who's doing the lobbying and who they're lobbying for".

Pressure will, therefore, need to be applied to the Government. There are good reasons that National will want to proceed with reining in lobbyists. Any step away from delivering the promised reform will endanger the reputation of the new Government, which is already vulnerable to allegations that it is too close to lobbyists and other vested interests.

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