



Public Health Association
AUSTRALIA

Lobbyists and their access to Parliament House

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The **Public Health Association of Australia** (PHAA) is Australia's peak body on public health. We advocate for the health and well-being of all individuals in Australia.

We believe that health is a human right, a vital resource for everyday life, and a key factor in sustainability. The health status of all people is impacted by the social, commercial, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the root causes of poor health and disease. These determinants underpin the strategic direction of PHAA. Our focus is not just on Australian residents and citizens, but extends to our regional neighbours. We see our well-being as connected to the global community, including those people fleeing violence and poverty, and seeking refuge and asylum in Australia.

Our mission is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Our vision is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society, underpinned by a well-functioning ecosystem and a healthy environment.

Traditional custodians - we acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

Introduction

PHAA welcomes the opportunity to provide input to the Senate Standing Committee on Finance and Public Administration *inquiry into Access to Australian Parliament House by lobbyists*.

It is timely that the Senate is inquiring into the appropriateness of lobbyists' conduct. Parliament has a responsibility to improve the unacceptably low levels of trust in which our political institutions are held. The conduct of lobbyists, and the extent to which Parliament and governments permit inappropriate conduct, are a major driver of that mistrust.

As we finalise this submission, a new report from Transparency International highlights that perceptions of corruption in Australia are significantly worse in 2023 than they were a decade earlier. According to Transparency International Australia, *"Australia has maintained its score [a rating of 75/100] from last year but still lags woefully behind where we were (85/100) just a decade ago. If we are to continue to climb back up the ladder, anti-corruption reform must be a priority for the Albanese Government in 2024."*¹

A comprehensive review of the platform for operation of professional lobbyists in their relations with the Australian Parliament and Government is urgently required. This inquiry can only be a beginning, as the present stated inquiry's terms of reference have an unusually narrow focus on the arrangements governing lobbyists who are granted security passes to enter Parliament House. The issue of Parliament House pass access is only part of a much wider issue of how lobbying is regulated at the federal level in Australia, and what transparency systems apply.

In regard to that wider issue of lobbying regulation, we note that much more robust systems of regulation have already been established at the state level, particularly in NSW – which has benefited from many years of revelations overseen by the NSW Independent Commission Against Corruption, and in Queensland, where robust reforms in recent years now suggest that Queensland is the leading model of lobbying regulation in Australia.² In the past year Victoria has also enhanced its Code of Conduct. Strong legislated lobbyists regulation exists in Ireland, Canada and the United States.

But there is no adequate regulation at the Commonwealth level in Australia. As is the case with political donations regulation, the Commonwealth level of government is remiss in achieving reforms which other jurisdictions have implemented without any great difficulty.

PHAA's position on lobbying regulation

The subject of lobbying regulation is a key concern to PHAA in respect of our charter to advocate for policies that advance the public health of all in Australia. There are innumerable instances where lobbying by unhealthy product industries and their associates has led to policies that are damaging to the health of individuals and the population as a whole.³

PHAA had developed a formal position on the role of lobbying and its regulation in affecting public health outcomes, through our [Unhealthy Political Influence statement](#) (2021). We argue that public policy decisions should be made for the public good, and in the interests of the public's health. Regulation of the activity of many industrial, commercial, and retail businesses is essential to protect public health, in terms of control of unhealthy products brought to market, promotion of unhealthy behaviours, and unhealthy effects of many manufacturing and resource-use activities. Institutional guiderails such as ministerial accountability, transparent and timely political donations declarations and election campaign financing, transparency of public decision-making, auditing and investigation systems, and effective integrity agencies, are all necessary to ensure public policy integrity.

To that end, we urge the Government and the Parliament to remedy the clearly defective state of lobbying regulation at the federal level, which consists of little more than an ineffective voluntary Code of Conduct administered by the Attorney-General's Department. This Code applies to only a small proportion of the lobbying forces at work, and has no apparent effect on public interest outcomes.

We would like to see created, as soon as possible, a regime of lobbying regulation which:

- covers not only professional lobbyists in specialist lobbying firms, but also 'in-house' employees of corporations whose activities amount to lobbying, as well as lobbyists working for industry associations
- establishes a thorough public register of lobbyists, their clients and their activities, updated regularly and quickly (noting that even the current Code seeks updates to the register within 10 days of events)
- is complemented by official action to publish details of meetings between ministers, senior officials and advisors, and lobbyists.
- is complimented by a system for transparency, and timely 'real time' declaration, of all financial donations linking lobbyists and their clients with political parties and campaigns
- enforces restrictions relating to the 'revolving door' of former officials taking employment in lobbying activities.

For these reasons we are supportive of the Bill presented to Parliament by Member for Kooyong Dr Monique Ryan in late 2023, the *Lobbying (Improving Government Honesty and Trust) Bill 2023*. We urge all members of Parliament to support this Bill, or alternatively that the Government sponsor a similar bill.

Parliament House lobbyists access

The current inquiry relates specifically to the presence within the Parliament House precinct of individuals pre-approved to be granted security passes. That there is no available register of who has such passes, and that apparently even members of the Parliament cannot get access to such information, is totally unsatisfactory.

There are several categories of such passholders, including parliamentary staff, journalists, public servants, and others, all distinguished by the colour of the pass lanyard. The terms of reference of the current inquiry relate clearly to lobbyists, and thus the inquiry focused on the category generally known as 'orange' passholders, which (we assume) includes all those persons who are engaged in lobbying activity, whether for commercial entities or for civil society and other not-for-profit organisations.

It appears that there may be some other classes of individuals to whom orange passes have been issued, such as relatives and other associates of members of Parliament. This raises the issue that the current 'lanyard colour' system is not distinguishing with adequate clarity who has a pass for lobbying purposes.

Most Australians are highly sceptical and mistrustful of our political system and its culture, and the resulting need to address drivers of community mistrust is a very strong. Lobbying attracts particular odium, and is widely assumed to be inherently improper and lead to results contrary to the public interest. Yet it is important to note that not all activity to make representations to ministers, members of parliament or other officials is necessarily improper. There is a legitimate place for commercial interests to have opportunities to present their cases to policy makers and public officials. PHAA takes issue with commercial interests pushing policy positions that are not evidence-based, and are damaging to the public's health, but we do not dispute an underlying need in an open society for all legitimate voices to be able to raise issues with government. The challenge is to properly *regulate* the practice of lobbying so that corrupt or dishonest conduct is prevented or, where it occurs, is identified, investigated and prosecuted.

There is likewise a very proper place for not-for-profit civil society to have access to advocate to ministers, members of parliament or other officials for public interest policies. PHAA, along with thousands of other registered charities and not-for-profit organisations, engages in such advocacy as a proper and essential part of our charter. PHAA staff have been orange pass holders at Parliament House for many years. Understanding as we do the nature of the operation of Parliament House and the elected officials who work within it, we broadly support the current system of access to the public's Parliament building. We do, however, propose major improvements to the regulation and the transparency of what takes place.

The presence of lobbying within Parliament House is controversial even among the members of Parliament. The arrival of orange-pass holders at the door of an MP's office is rarely welcome. However most (but not all) Members and Senators grudgingly accept the presence of orange-pass lobbyists within the building as a necessary part of access to government on policy matters. Many Members and Senators would likely welcome improvements in the clarity of the system of access to the building, and easy identification of the character of those presenting themselves within the building.

Issues

The practice where every orange pass is 'sponsored' by one Member or Senator is problematic. This practice makes sense in relation to Members and Senators' family members and close associates, but it is problematic regarding passes for commercial lobbyists and for civil society advocates.

Firstly, sponsorship implies endorsement and association. This suggests that only voices which are already approved of by current members of Parliament can achieve access. There may well be voices, especially in civil society, which lack affiliation with any existing MP, who are being excluded.

A second problem is that a sponsoring member may feel embarrassed by the association, should they not agree with the public positions of any advocate. There are innumerable instances where a Member of Parliament may broadly support the work of an organisation whose employees they sponsor to have a pass, but disagree about a particular issue. The existence of a sponsoring association may therefore lead to misunderstanding.

A third and more important problem arises from the secrecy that is inherent in the current system, which allows controversial industry representatives (the tobacco industry being a well-known example) to achieve access without transparency. This arrangement has a potentially corrupting effect, where MPs are motivated to keep secret an endorsement, thereafter compromising them.

In particular, we raise for your inquiry's consideration the recent situation surrounding two pass holders, representatives of commercial interests prominently involved in the sale of tobacco products, who gave evidence to a hearing of the Senate Community Affairs Committee in late 2023. At least one witness was an orange pass holder. The issue of the extent of their association with the tobacco industry was a live and important issue before the Committee, and was a very legitimate issue in terms of committee members ascertaining the facts and determining their recommendations on important policy issues. Specifically, Australia is a signatory to the *WHO Framework Convention on Tobacco Control*, which international treaty requires that government officials specifically prevent influence by representatives of the tobacco industry in policy-making processes. As such the Committee was very properly concerned to identify whether any such influence was present. Despite this formal treaty obligation, and the inherent right of parliamentary committees to have their questions answered, the witnesses were clearly reluctant to reveal the extent of tobacco industry financial support for their organisations and their campaigns, in defiance of committee members' clear and repeated requests for specific information. Despite attention to the issue in the Senate

and in the media, the witnesses also avoided revealing which Member or Senator had sponsored their passes, and no Member or Senator publicly volunteered the information that they were the relevant sponsor(s).

The problem here is that once Members of Parliament are under pressure to conceal facts or situations (for example they were the sponsor of a pass holder who becomes in some way controversial), they become compromised. This scenario can be avoided both by proper and transparent conduct by Members and Senators, and by prudent redesign of the systems by which parliamentary passes are administered.

The issue of pass-sponsoring secrecy raises a further issue of concern, in that parliamentary access passes have a very real commercial value to many professional lobbyists and employees of industry associations. This creates an incentive for such commercial lobbyists to make gifts of value – whether in the form of financial donations, public political support, or other considerations – in return for provision of pass sponsorship. Such a scenario can be considered a form of corruption. This scenario appears not to be explicitly prohibited and ought to be vigorously prevented by appropriate design of the pass administration system.

Proposed reforms

In undertaking this inquiry and reporting we urge this Committee to be mindful that the real public issue here is the broader need for comprehensive reform of regulation of lobbying, political and election finance, and transparency in political campaigning in Australia, especially at the national level. The recommendations arising from this highly specific inquiry should anticipate and support the achievement of wider reforms.

Taking these issues into account, we propose a simple, easily implemented suite of changes to the current system, as follows.

Greater distinction about categories of pass-holder

First, the categorisation of those with ‘orange’ passes should be made clearer. There should be a distinction between lobbyists (of any kind) for commercial interests, as distinct from civil society and not-for profit advocates. In particular, the category of professional working lobbyists (often former politicians or political staffers) should be specifically identifiable, including by lanyard colour. Members and Senators should be able to immediately recognise whether they are being approached by lobbyists with a profit-motive interest. We suggest a visual distinction, via the lanyard colour system, between commercial lobbyists (including employees of industry associations) and civil-society/charity/not-for profit advocates.

At the same time, any individuals who are family and other associates of Members and Senators should also be separated out from the ‘orange’ category.

Replace ‘sponsorship’ with a simpler approach to approval

Secondly, we propose that the system of ‘sponsoring’ of all orange passes by one Member or Senator be replaced by an alternative simple and efficient rule-based approval procedure. The legitimate provision of passes to civil society advocates, industry association representatives, and well-regulated professional lobbyists should still occur. Other security clearance checks presently in place should of course continue. Oversight by the parliamentary departments should be sufficient.

Greater transparency

Finally, regarding transparency, we propose that transparent registration of Parliament House access passes (in both the ‘commercial’ and ‘civil society’ categories discussed above) for all individuals (also identifying their employer or other associated organisations) should form part of the overall publicly accessible register of lobbyists and lobbying activities.

However the pass issue must be addressed as part of a wider reform that improves transparency about all lobbying activity. Such improved transparency practices should be further aligned with robust reforms to transparency of donations to political parties and the entities associated with them.

Conclusion

The Parliament House pass access issue is important, but it does not exist in isolation, and we urge the Committee to recommend a coordinated suite of regulatory and transparency reforms which will minimise pressures on public policy-making, and hopefully reduce the drivers of public mistrust in our political system.

We acknowledge that these matters may appear to be outside the specific terms of reference of this inquiry, but we firmly believe the pass issue cannot be addressed in isolation, and urge you to make recommendations supporting wider reform of lobbying regulation for the Commonwealth.

We are also aware that many other public-interest organisations, including Transparency International, the Australian Democracy Network, the Accountability Roundtable, the Human Rights Law Centre, the Centre for Public Integrity, the Australia Institute, and many others are also calling urgently for reform.

The public's trust will not be enhanced, and may even be diminished, if the Committee *fails* to lend support to real reform.

We therefore highlight the following points:

- The overriding need to improve public trust in our institutions of government, and to bring to account instances where inappropriate conduct has been occurring
- The need for comprehensive reform of the entire lobbying system at the Commonwealth level
- The need for improvements to current Parliament House orange pass practices, specifically designed to support such wider reform

The PHAA appreciates the opportunity to make this submission. If we can further assist the Committee through an appearance, or other supplementary information, we are most willing to do so.



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References

- 1 <https://transparency.org.au/australias-corruption-fight-is-at-the-crossroads/>
- 2 Lacy-Nichols J and Cullerton K (2023), *Baby steps in lobbying reform: opportunities and challenges in Queensland*, Medical Journal of Australia December 2023, <https://onlinelibrary.wiley.com/doi/10.5694/mja2.52187>
- 3 Lacy-Nichols J, Christie S, Cullerton K. (2023) Lobbying by omission: what is known and unknown about harmful industry lobbyists in Australia *Health Promotion International*. <https://doi.org/10.1093/heapro/daad134>