

6 February 2025

Lobbying Reform team
Department of Premier and Cabinet

By email only: lobbying.reform@dpc.vic.gov.au

Dear Lobbying Reform team,

Thank you for the opportunity to provide a submission to the Department of Premier and Cabinet's (DPC) consultation on lobbying reform within Victoria.

The Office of the Victorian Information Commissioner (OVIC) is an independent integrity body with responsibility for information privacy, information security and freedom of information (FOI) for the Victorian public sector, administering both the *Privacy and Data Protection Act 2014* (Vic) and *Freedom of Information Act 1982* (Vic) (FOI Act).

OVIC's role includes upholding, and advocating for, the privacy rights of the Victorian community, uplifting information security practice across the Victorian public sector, and promoting public access to government-held information.

OVIC understands that the reform of lobbying regulations would improve transparency of government decision making. OVIC is broadly supportive of enhancing transparency and integrity in lobbying practices. This submission provides comments on information access considerations in relation to the need for reform.

Access to information in Victoria

The FOI Act creates a legally enforceable right for any person to request access to documents in the possession of Victorian Government agencies and official documents of Victorian Government Ministers. The right to access information is recognised as essential to building effective, accountable and participatory democracy at all levels of government.¹

¹ For more information on the right and its purposes and benefits, see [OVIC's submission to the Integrity and Oversight Committee's Inquiry into the operation of the Freedom of Information Act 1982 \(Vic\)](#); United Nations Sustainable Development Goal 16.10: 'Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements'; United Nations Office of the High Commissioner for Human Rights, [Freedom of opinion and expression: Report of the Office of the United Nations High Commissioner for Human Rights](#), 10 January 2022, A/HRC/49/38, res 44/12.

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The number of FOI requests made in Victoria in 2023-24 was 53,159. This is an increase of 10.5% from the previous financial year and is a record high for FOI requests made in a single year in Victoria.² Given the increasing workload for FOI units embedded within agencies, OVIC promotes the practice of releasing government-held information proactively and informally where possible.

Proactive release of information involves an agency making information publicly available, without an individual making an FOI request or other requests for information.³ For example, agencies may share information about upcoming activities, their functions and organisational structure or reports. Under the FOI Act, agencies are required to make public the maximum amount of government information promptly and inexpensively and are authorised to release information outside of the FOI Act.⁴

Informal release of information, also known as administrative release, involves an agency releasing information in response to a request for documents, outside of the FOI Act.⁵ For example, the agency may provide the requested information to a member of the public directly, without them having to make an FOI request.

Victorian agencies facilitating proactive and informal release of information may find their FOI requests drop in number, thereby reducing the burden on their FOI units. However, there are numerous other benefits to both the public and agencies of releasing information outside the FOI Act. OVIC encourages DPC to enliven proactive release in any reforms that are made to lobbying regulation in Victoria.

Importance of transparency

Lobbying has traditionally been viewed as an activity that occurs without general visibility, where influence on government decision making is made available only to a small segment of society. Left unchecked, this may lead to flawed and inappropriate decision making and erode the public's trust in government.

OVIC is of the view that public access to information leads to a more transparent and open government. Publicly available information enables the public to understand and participate in government decision making.

For certain groups within the community, accessing information about government activities, such as lobbying, may not be as easy as for others. For example, culturally and linguistically diverse communities may find it difficult to understand or access information relevant to government decision making due to language barriers, mistrust in government agencies and other issues. To aid transparency, OVIC recommends that all publicly available information is presented in a manner that is easily understandable and accessible by the public.

² [OVIC 2023-24 annual report](#), page 107.

³ See OVIC's [Proactive Release Practice Note](#).

⁴ Section 16, FOI Act.

⁵ See OVIC's [Informal Release Practice Note](#).

However, as referenced in the supporting transparency and integrity in lobbying consultation paper (**consultation paper**), OVIC acknowledges that transparency of government decision making will need to be balanced with other considerations, such as confidentiality and national security.⁶

Expanding the scope of lobbying regulation

The consultation paper poses questions around the types of activities that should be captured by lobbying regulation, and whether the scope of individuals who are lobbied should be expanded.

OVIC supports the recommendation made by the Independent Broad-based Anti-corruption Commission (**IBAC**) to expand the definition of 'Government Representatives' in the Lobbyist Code of Conduct to include Members of Parliament, electorate officers, local government councillors and council officers.⁷ OVIC encourages DPC to consider including any individuals that make decisions, or have the ability to influence a government decision maker, in the definition of 'Government Representatives'.

OVIC is of the view that local government should release information proactively and informally, where appropriate.⁸ This extends to lobbying activities. Significant government decisions are made at the local level, and expanding the definition to include local government officials will enable local residents to understand the impact of lobbying on their community and improve public trust in local government.

OVIC also supports expanding the definition of 'lobbyist', to capture parties that are currently excluded from the Lobbyist Code of Conduct, such as charities, religious organisations and not for profit organisations.⁹ These types of organisations can have a significant influence on government decision making, and their exclusion is inconsistent with transparency objectives.

The consultation paper notes that the expansion in the scope of lobbying regulation may impose an administrative burden disproportionate to the potential corruption risks.¹⁰ OVIC is of the view that the requirements for reporting lobbying activities should be consistent regardless of who is undertaking the lobbying activity, and who is lobbied. This approach will achieve greater transparency and integrity in lobbying practices than one that varies depending on who is involved.

Lobbyist Code of Conduct

The Lobbyist Code of Conduct sets out the requirements for communication between lobbyists and government officials. It is critical that lobbyists operate in an ethical and transparent manner, and relevant information is disclosed to government officials when conducting lobbying activities.

⁶ Consultation paper, page 4.

⁷ This recommendation was made in IBAC's Special report on corruption risks associated with donations and lobbying, referenced in the consultation paper on pages 7-8.

⁸ See OVIC's Framework for releasing Council information proactively and informally under the Local Government Act 2020 (Vic) and the Freedom of Information Act 1982 (Vic).

⁹ Consultation paper, page 5.

¹⁰ Consultation paper, page 8.

OVIC notes that enshrining reporting requirements in legislation may assist in providing effective oversight of lobbying activities in Victoria, such as disclosure requirements, publication schedules and recordkeeping mandates.

Lobbyist Register

OVIC supports the recommendation to update the information on the Victorian Lobbyist Register, to expand what is required to be published.¹¹ Further, an individual may find it difficult to locate the appropriate information about a lobbying activity on the current register.

OVIC recommends redesigning the register to improve design and accessibility and providing information that the public would want to know, in a way they can understand, to make informed decisions. For example, providing information about the involved government officials, lobbyists and their clients, and affected government portfolios and policies.

Some Australian State or Federal registers provide users with the ability to search by clients, lobbyists, ministers, and portfolios, along with a high-level contact log for Ministers, Assistant Ministers and Chiefs of Staff.¹² The design enables the public to explore and understand the relationships between lobbyists and government, and their influence or interest in government policies or portfolios.

Lobbying in a digital-first world

Untraditional lobbying activities are on the rise and can have an outsized impact on government decision making. The Organisation for Economic Co-operation and Development flagged several risks in its lobbying in the 21st century report, including the influence of foreign agents and social media.¹³

Outside of traditional lobbying activities, communications and interactions between lobbyists and governments can now occur on social media, using direct messages and grassroots communication.

Canadian lobbyists are required to report any communications used to persuade the public to influence government officials to support a particular issue or policy. For example, placing ads on major social media platforms asking the public to send letters of support or opposition on a new policy to government officials.¹⁴ A similar rule might help reduce the impact of misinformation campaigns on government decision making in Victoria.

Thank you again for the invitation to make a submission. I invite DPC to continue to engage with OVIC as these reforms progress.

I have no objection to this submission being published by DPC. I also propose to publish a copy of this submission on OVIC's website.

¹¹ This recommendation was made in IBAC's [Special report on corruption risks associated with donations and lobbying](#), referenced in the consultation paper on pages 11-13.

¹² See [Queensland Lobbying Register; Australian Government Lobbyist Register](#).

¹³ OECD, [Lobbying in the 21st Century: Transparency, Integrity and Access](#), 2021.

¹⁴ See [Rule 1.1 of the Canadian Lobbyists' Code of Conduct \(2023\)](#); OECD, [Lobbying in the 21st Century: Transparency, Integrity and Access](#), 2021.

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If you have any questions about the comments in this submission, or would like to discuss these issues further, please contact Fathia Tayib, Senior Policy Officer, at fathia.tayib@ovic.vic.gov.au.

Yours sincerely

Sean Morrison

Information Commissioner