

## Democracy in Australia – Post ministerial employment and lobbyists

### Restrictions on post separation employment

Ministers are charged with administering departments on behalf of the Government. This means they often gain confidential and valuable information while doing so. Codes should regulate post ministerial employment so that former ministers and senior staff can not receive benefit, including employment, relating to the operation of the portfolio they administered.

This prevents former ministers profiting from their former office, and the possibility that the option of such employment might influence the decisions of ministers while still in office.

A limitation on immediate employment in their previous portfolio areas also avoids any perceptions of inappropriate behaviour. In 2001 Michael Wooldridge, for example, resigned as Federal Health Minister. As Minister, he had awarded the Royal Australian College of General Practitioners a \$5 million grant. He joined the college as a consultant shortly after. No suggestion is made that Wooldridge acted improperly but it was inevitable that media attention would be drawn to these connections.

### Restrictions in Other Democracies

In Britain, the US and Canada, members of parliament are bound by codes which restrict their post-parliamentary work in the private sector.

In Canada, public office holders are banned from taking improper advantage of their previous role. In the US, former holders of elected positions are barred from lobbying for 12 months after they leave office, with penalties including imprisonment for breaches.

In the UK, for the period of two years after holding elected offices, former Ministers must gain approval from an independent committee before taking up private sector employment.

### Code of Conduct

In September 2010, Prime Minister Gillard introduced an updated “Standards of Ministerial Ethics” document, which states that ministers after having left office must not:

“lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.”

Following the federal election in 2010 and the formation of the Gillard Government with the support of the Australian Greens and lower house independent members, the ALP undertook, as part of an agreement with the Greens, to establish, by September 2011, a Parliamentary Integrity Commissioner who would uphold the Parlia-

mentary Code of Conduct as well as advise on and investigate issues of parliamentary entitlement and ethical issues. The supervision of post-ministerial employment by a Parliamentary Integrity office would be a step toward a strong independently enforced code. Ethics regulations should similarly be enshrined in legislation, since a legislated and independently enforced code removes any perceptions that treatment of third parties by ministers or their staff could be influenced by the anticipation of later favourable treatment for them. The current restrictions on employment should also be increased to two years. This would be consistent with international practice.

## Control of Lobbyists

Julian Fitzgerald writes that in 2007 one billion dollars was spent by groups lobbying the Federal government and that lobbying funds were growing at three times the rate of inflation.

### **Australian Government Lobbyists Register**

In 2008, the Rudd Government commenced its register of lobbyists and an accompanying code of conduct for lobbyists. The register is publicly accessible and holds information of the ownership, staffing and clients of lobbyists registered to approach the Federal Government. The Code of Conduct sets out the scope of the register, basic ethical principles of lobbying, and prohibits certain individuals from joining the register. Former Ministers and Parliamentary Secretaries are barred for 18 months after their relevant employment, and senior staff of these persons, for 12 months.

### **Problems with the Register**

Currently, only lobbyists who work on behalf of other organisations are required to register as lobbyists. This means that companies who employ their own staff to lobby on their behalf remain unregulated. John Warhurst points out that this excludes some of the biggest players in lobbying from any scrutiny.

The Age newspaper (5th February, 2010) reports that while the Federal Government has been performing a very broad review of taxation, large legal and accounting firms have been lobbying the Federal government. Senior staff and consultants of these firms include former Labour State Premiers Wayne Goss, Bob Carr and Steve Bracks. No suggestion is made that these former premiers have been engaged in improper lobbying but their positions indicate the overall potential for inappropriate action by former politicians. The key point is that because the staff of these firms are directly employed, their lobbying activities are unregulated. At the same time, the firms have donated hundreds of thousands of dollars to political parties. The Age describes lobbying activity as having gone “deeper in to the shadows”, and the lobbyists’ register cannot bring this activity to light.

The Register, furthermore, contains no reports from the lobbyists who are registered; once a lobbyist is registered, his or her activities are invisible to the public.

### **More effective control of lobbyists**

If the restrictions on lobbyists are to be effective, the code of conduct and register of lobbyists must be integrated with the code of conduct for Ministers. Currently, the Ministerial Code of Conduct sets out a duty to deal only with properly registered lobbyists but a much more transparent system is needed which:

- Covers lobbyists who are directly employed by large service providers as well as lobbying firms; and
- Includes mechanisms for public recording and exposure of lobbying activity.

## Useful sources

### ***Post separation employment***

Parliamentary Library Research Note, (February 2001). “Post-separation Employment of Ministers”

<http://www.aph.gov.au/Library/pubs/BN/pol/CodesOfConduct.pdf>

<http://www.aph.gov.au/Library/pubs/rn/2001-02/02rn40.htm>

### ***Lobbyists***

“Lobbyist control plans in disarray”, The Age, February 6, 2010

<http://www.theage.com.au/national/lobbyist-control-plans-in-disarray-20100205-nipq.html>

“The Persuaders”, The Age, February 6, 2010

<http://www.theage.com.au/business/the-persuaders-20100205-nitf.html>

Department of the Prime Minister and Cabinet, Australian Government, “Lobbyist Code of Conduct”

<http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=contactWithLobbyistsCode>

Department of the Prime Minister and Cabinet, Australian Government, “Lobbyist Register”

<http://lobbyists.pmc.gov.au/lobbyistsregister/>

Fitzgerald, Julian (2007) “The Need for Transparency in Lobbying”, Discussion Paper 16/07, Democratic Audit of Australia

[http://democratic.audit.anu.edu.au/papers/20070920fitz\\_lobbying.pdf](http://democratic.audit.anu.edu.au/papers/20070920fitz_lobbying.pdf)

Warhurst, John (2008) “The Lobbying Code of Conduct: An Appraisal”, Discussion Paper 4/08, Democratic Audit of Australia

[http://democratic.audit.anu.edu.au/papers/20080415\\_warhurst\\_lobbying.pdf](http://democratic.audit.anu.edu.au/papers/20080415_warhurst_lobbying.pdf)

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