COMMUNITY
LEGAL CENTRES
TASMANIA

30 June 2022

Chief Executive Officer
Integrity Commission Tasmania
GPO Box 822
Hobart TAS 7001

via email: prevention@integrity.tas.gov.au

To Michael Easton,
Re: Reforming Oversight of Lobbying in Tasmania

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the consultation paper *Reforming Oversight of Lobbying in Tasmania* ('the Review'). We strongly support greater regulation of lobbying in Tasmania in order to prevent corruption and increase transparency of government decision-making. Strengthening lobbying regulation should in turn increase public confidence in the integrity of political institutions.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

Whilst we recognise that there are many forms of lobbyist and lobbyist behaviour, our submission focuses on commercial and in-house lobbyists. We define commercial lobbyists as paid professionals engaged by for-profit clients to make representations which seek to influence public officials on their behalf. In-house lobbyists are those that seek to influence public officials on behalf of their for-profit employer.

- ***Disclosure***

In Tasmania, only commercial lobbyists are required to be included on the *Register of Lobbyists*. However, as the Integrity Commission's review correctly points out "registers of Australian lobbyists act as little more than a directory of third-party lobbyists and who or what they act for".[1] We strongly recommend that the register of lobbyists is broadened to include both commercial and in-house lobbyists. We also strongly believe that extensive disclosure of lobbying activities is required. The integrity of government decision-making is improved when the community is made aware of who is lobbying government and their purpose in lobbying government.

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[1] Integrity Commission, *Reforming Oversight of Lobbying in Tasmania* (May 2022) at 7.

We recommend the adoption of the Scottish model which requires detailed information to be provided by lobbyists on a publicly accessible database including the date on which they were lobbied, the location at which the person was lobbied, a description of the meeting, the person or organisation seeking the lobbying and the purpose of the lobbying.[2] In Scotland, disclosure must be made within 30 days of the lobbying activity having occurred.[3] A similar model of extensive disclosure of lobbying activity has been adopted in Queensland.[4]

An important oversight mechanism would also see lobbying activity made publicly available through the regular disclosure of ministerial diaries. Both NSW and Queensland require government ministers to regularly disclose meetings held, however the Queensland model is preferred because the diaries are required to be disclosed on a monthly basis rather than in NSW where the diaries are published quarterly.[5]

Additionally, in comparison with other Australian jurisdictions, Tasmania's *Lobbying Code of Conduct* defines 'government representatives' narrowly. We strongly recommend that the definition is broad enough to include persons with influence in State and local government decision-making including ministers, government members of Parliament, ministerial advisers, shadow ministers and shadow ministerial advisers, employees of state service agencies, heads of agency, members of government boards, executive members of the administrative arm of the government and elected members of local government.

- ***The revolving door***

The integrity of government decision-making is compromised when members of parliament and other public officers are able to move into commercial and in-house lobbying roles immediately upon their departure from government. The current lack of regulation in Tasmania means that narrow vested interests may receive more favourable treatment than the public interest.

As it stands, the Commonwealth Government's *Lobbying Code of Conduct* prohibits ministers and parliamentary secretaries from engaging in lobbying activities in their former portfolio area for 18 months after leaving office whilst ministerial advisers and senior public servants are prohibited for 12 months.[6] In our opinion, the Commonwealth model is too narrowly defined. We strongly recommend the adoption of the Canadian model because it extends to all members of parliament as well as ministerial advisers and

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[2] Section 6(2) of the *Lobbying (Scotland) Act 2016*.

[3] Section 8(2) of the *Lobbying (Scotland) Act 2016*.

[4] Queensland Government, Lobbyist records. As found at https://www.forgov.qld.gov.au/information-and-communication-technology/recordkeeping-and-information-management/recordkeeping/manage-specific-record-types-and-activities/lobbyist-records (Accessed 30 June 2022).

[5] Queensland Government, *Ministerial Handbook* at 3.12. As found at https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook/ethics/ministerialdiaries.aspx (Accessed 30 June 2022). Also see NSW Government, *Ministers' Office Handbook* (June 2021) at 31. As found at https://publications.dpc.nsw.gov.au/assets/dpc-publications/ministerial-handbook/Ministers-Office-Handbook-published-24-06-2020.pdf (Accessed 30 June 2022).

[6] Australian Government, Attorney-General's Department, Lobbying Code of Conduct. As found at https://www.ag.gov.au/integrity/publications/lobbying-code-conduct (Accessed 30 June 2022).

senior public servants. Importantly, there is a five-year prohibition on acting as either a commercial or in-house lobbyist.[7] The importance of a longer prohibition is the recognition that former members of parliament and other public officers will be less connected to their former colleagues and as a result are less likely to disproportionately influence government decision-making.

- ***Success fees***

All States in Australia except Tasmania prohibit the paying or receiving of success fees.[8] We strongly believe that success fees should be prohibited because of the risk that they encourage misconduct.

- ***Adequate resourcing and other safeguards***

We strongly support the administration of the Tasmanian Code of Conduct being transferred from the Department of Premier and Cabinet to the Integrity Commission, an independent statutory authority. In our opinion, this will ensure greater independence from Government. However, it is crucial that the Integrity Commission receive adequate resourcing to ensure that it can effectively regulate the lobbying industry and take appropriate enforcement action. Finally, we note that greater regulation of lobbying alone will not improve confidence in the integrity of political institutions but must be introduced together with strong political donation legislation and improved right to information legislation.[9]

If you have any queries, or would like to discuss our submission further, please do not hesitate to contact us.

Yours faithfully,

Benedict Bartl
Policy Officer
Community Legal Centres Tasmania

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[7] *Lobbying Act*, R.S.C. 1985 c 44, (4th Supp.) section 10.11.

[8] See, for example, section 15 of the *Lobbying of Government Officials Act 2011* (NSW); section 21 of the *Integrity (Lobbyists) Act 2016* (WA) and; section 14 of the *Lobbyists Act 2015* (SA).

[9] See for example the Australia Institute who have observed that Tasmania currently "does not have state-based political donation laws" and "is an underperformer in ensuring RTIs are processed in a timely manner, and has a higher-than-average instance of redactions and rejections in comparison to other states". Australia Institute, *Good government in Tasmania* (November 2020) at 1. As found at https://australiainstitute.org.au/report/good-government-in-tasmania/ (Accessed 30 June 2022).