Office of the
Legislative Assembly
Office of the Clerk

Chief Executive Officer
ACT Integrity Commission
governance@integrity.act.gov.au

To whom it may concern

Submission into Inquiry into arrangements for lobbying and influence in government in the ACT

Thank you for the opportunity to make a submission into the Commission's inquiry into arrangements for lobbying and influence in government in the ACT. Many of the focus questions in the discussion paper raise questions of policy which I leave to others to address. As the current Registrar for Lobbyists, I address below questions that relate to how the scheme is currently administered, the nature of the scheme and who should administer it.

1. *Should the scheme move to a statute-based model?*

While I express no view on the relative merits of a statutory versus an administrative model, I would note that the current structure of the scheme, through continuing resolution of the Assembly, is less than ideal. The Assembly's Standing Orders and continuing resolutions are intended, under the *Australian Capital Territory (Self-Government Act) 1988 (Cwlth)* and inherited powers from the House of Representatives, to govern the Assembly's conduct of its business and proceedings.[1] Continuing resolution 8AB, the ACT Lobbying Code of Conduct, and Continuing resolution 8AC, ACT Lobbyist Regulation Guidelines, seek to cover:

- Any person, company or organisation who conducts lobbying activities;
- Members;
- Staff;
- Consultants;
- Contractors;
- The Head of Service; and
- Persons employed under the *Public Sector Management Act 1994*.

While there can be no doubt about the Assembly's ability to affect Members and their staff through continuing resolution, I would suggest it would be more appropriate for other parties to be governed by statute or statutory instrument.

[1] See *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory,* second Edition, p. 255.

2. What aspects of the Scheme would be strengthened through implementation of a statutory model?

Continuing resolution 8AC sets out how the Clerk is to handle any complaint. If the complaint is that a lobbyist that is not registered should be registered, then the Clerk may contact that lobbyist to inform them of the rules. Further non-compliance leads to the Clerk informing members and the Head of Service that the person concerned is unregistered and that members and public servants are not permitted to entertain lobbying activities from them.

If the complaint alleges a breach of the ACT Lobbying Code of Conduct by a person, the Clerk may consider removing that person from the register. If the complaint is that a member, staff member or public servant has entertained lobbying activity from an unregistered lobbyist then the Clerk may refer the matter to the relevant member, employing member or Head of Service.

There are no other consequences for breach of the lobbying resolutions. If there is any desire to introduce some form of penalty for breach then this would best be done through a statutory model. The Clerk is not in a position to enforce penalties under continuing resolution.

4. Should the Scheme adopt an 'activity based' model?

I make no comment on the policy merits of moving to an 'activity-based' model but note that such an approach would be administratively more complex and compliance and enforcement of such a model would benefit from investigative skills that are not within the capacity or remit of the Clerk's office.

9. Should the Scheme require public officials to maintain disclosure logs of contact with the public official?

Given the requirement for registered lobbyists to disclose their contacts with public officials this would appear to be duplicative.

10. Should lobbyists be required to specify the purpose of the contact with the public official?

Large companies can have interests that cover many areas so the disclosure of a lobbyist contact alone can provide very limited information about the issues being lobbied about. Disclosure of the specific purpose would appear to greatly enhance the transparency purpose of lobbying regulation.

11. Should Ministers be required to disclose, as part of the publication of diaries, the purpose of any engagement with a registered lobbyist.

See 9 above.

12. Should non-executive MLAs also be required to publish their diaries in accordance with existing ACT Government Open Access Information arrangements applying to executive MLAs.

My submission to the Standing Committee on the Integrity Commission and Statutory Office Holders' Inquiry into the effectiveness of transparency arrangements for Members of the Legislative Assembly addressed this issue and I stand by that submission. Requiring such publication could have a chilling effect on members' ability to undertake their scrutiny work and oversee the expenditure of the approximately $9 billion of ratepayers'/taxpayers' money for which Ministers are responsible.

16. Can a case be made for the transfer of the administration of the Scheme from the Clerk to another body?

The scheme is currently administered by the Clerk with the assistance of their Executive Officer. Both roles have a range of other duties and responsibilities, and the administration of the scheme could be characterised as peripheral to those other roles. The Clerk's office has no investigative expertise nor is it generally an enforcement body. Since being assigned the role in 2014 the Clerk has conducted no educative activities in the lobbying space beyond informing those that contact the office about how the register operates.

The ACT's integrity architecture has evolved considerably since the scheme was assigned to the Clerk in 2014. The ACT Integrity Commission has been established, as has the general framework of Officers of the Assembly to capture bodies that for probity reasons need a degree of independence from the Executive.

The ACT is the sole Australian jurisdiction which requires the Clerk to administer its lobbying scheme. Given lobbying regulation covers activity related not just to the Assembly but also the Executive, it is a poor fit with the Clerk's statutory role.

I note the view of the Centre for Public Integrity when contributing to the work in strengthening the lobbying framework in Victoria. The Centre recommended that Victoria "transfer responsibility for enforcing the Code of conduct and maintaining the Lobbyist Register from the Victorian Public Sector Commissioner to an integrity agency such as the Independent Broad-based Anti-corruption Commission and introduce more rigorous sanctions for breach."

24 *What other improvements can be made to the Scheme to promote public confidence and trust in government?*

It has been the experience of my office that almost all lobbyists applying to be placed on the ACT register either are, or are planning to be, on the Federal, NSW and/or Victorian registers. Ensuring that the ACT scheme uses terminology and requires information which is as consistent as is possible with those schemes could reduce confusion and enhance compliance.

Tom Duncan

Clerk of the Legislative Assembly

28 May 2026