


# SUBMISSION TO THE ACT INTEGRITY COMMISSION

## *Inquiry into arrangements for lobbying and influence in government in the ACT*



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**Chief Executive Officer**
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Dear Chief Executive Officer

**SUBMISSION ON THE INQUIRY INTO ARRANGEMENTS FOR LOBBYING AND INFLUENCE IN GOVERNMENT IN THE ACT**

**Introduction**

1. ClubsACT is the peak body representing licensed community clubs in the Australian Capital Territory. Our members are not-for-profit organisations that operate community facilities, employ Canberrans, support local sport, provide hospitality and social connection, and contribute directly to the civic life of the Territory.

2. ClubsACT welcomes the opportunity to make a submission to the ACT Integrity Commission's inquiry into arrangements for lobbying and influence in government in the ACT. ClubsACT supports strong integrity settings. Public confidence in government matters, and decisions should be made transparently, fairly and on their merits.

3. That said, integrity reform must remain proportionate, evidence-based and carefully targeted. In ClubsACT's view, the current ACT arrangements should be retained. We are not aware of any systemic problem with the existing scheme that would justify a new statutory model, expanded registration requirements, mandatory contact logs or additional public disclosure obligations for not-for-profit representative associations such as ClubsACT.

**Executive summary**

4. ClubsACT's position is clear. The existing lobbying arrangements should be retained unless a demonstrated failure is identified. The discussion paper identifies potential risks associated with lobbying generally, but it does not establish a pattern of improper lobbying by not-for-profit member associations or any systemic failure in the current ACT scheme that would warrant broader regulation of ordinary representative advocacy.

5. The current framework already draws a sensible distinction between commercial third-party lobbying and representative advocacy undertaken by not-for-profit organisations on behalf of their members. That distinction should be preserved. It reflects the reality that organisations like ClubsACT do not lobby as commercial agents for private clients. We represent a membership base and contribute practical information to public policy development.

6. The key question is not whether lobbying can create risks in theory. It can. The key question is whether the proposed regulatory expansion is necessary, proportionate and directed to an identified problem. On the material available, ClubsACT does not consider that case has been made.

7. If the Commission considers that improvements are required, they should be practical and educative rather than punitive or legalistic. Better guidance, clearer examples, modernised reporting tools and education for public officials and stakeholders would strengthen confidence without discouraging legitimate engagement between government and the community.

**Recommendations**

Recommendation 1: Retain the current ACT lobbying arrangements unless clear evidence is identified that the present scheme is failing.

Recommendation 2: Do not expand the Register of Lobbyists to capture not-for-profit member associations undertaking representative advocacy on behalf of their members.

Recommendation 3: Do not adopt an activity-based model that would regulate ordinary engagement between community organisations, industry associations, small not-for-profits and government.



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Recommendation 4: Do not impose mandatory public contact logs or expanded disclosure requirements for routine meetings with not-for-profit representative organisations.

Recommendation 5: Maintain the distinction between Ministers exercising executive authority and non-executive MLAs performing representative, scrutiny and constituency functions.

Recommendation 6: If improvement is considered necessary, focus on guidance, education, practical tools and clearer examples rather than new legislative obligations.

Recommendation 7: If specific concerns are identified about third-party commercial lobbyists, success fees, revolving-door arrangements or former officials, those matters should be dealt with narrowly and directly and should not be used as a basis for capturing community representative advocacy.

Recommendation 8: Any concern about the legal status or registration of associations should be considered through a separate review of the Associations Incorporation Act 1991, in consultation with affected stakeholders, rather than through a lobbying review.

**The current arrangements are proportionate**

8. The ACT already has a lobbying scheme. It defines who is a lobbyist, what constitutes lobbying activity, who is a public official, the standards expected of registered lobbyists, and the consequences of engaging with persons who are required to be registered but are not registered. Registered lobbyists are already required to make periodic returns.

9. The scheme also sits within a broader integrity architecture. That includes codes of conduct for MLAs, staff and public servants, declarations and conflict of interest requirements, open access arrangements, procurement rules, ministerial diary disclosure, gifts and benefits rules, electoral finance laws, the ACT Audit Office and the ACT Integrity Commission. These are not minor protections. They are a substantial set of overlapping safeguards.

10. The Commission's discussion paper records that the ACT scheme was introduced in 2014 and that, since inception, no complaints have been made about non-compliance with the scheme. That is not proof that the scheme is perfect. It is, however, relevant to whether a substantial new compliance burden is justified.

11. ClubsACT does not submit that no reform should ever occur. We submit that the case for reform must be made. In a small jurisdiction such as the ACT, care should be taken to ensure that regulatory reform remains targeted to an identified problem and does not expand simply because broader regulation is theoretically available.

**Representative advocacy is not commercial lobbying**

12. ClubsACT's engagement with government is representative advocacy. It is not commercial third-party lobbying. ClubsACT is a not-for-profit association representing the interests of its members. It does not act as a paid agent for unrelated private clients seeking commercial advantage.

13. This distinction matters. The current ACT scheme recognises that not-for-profit organisations representing the interests of their members, including trade and industry associations, are not required to be registered. The discussion paper also notes that these exclusions are consistent with arrangements in other Australian States and Territories.

14. That exclusion is not a loophole. It is a deliberate and sensible recognition that democratic engagement depends on governments hearing from representative organisations. Community organisations, peak bodies, charities, sporting associations, unions and industry bodies all help government understand how policy operates in practice.

15. For ClubsACT, many policy issues are technical, operational and community-facing. Government decisions on regulation, planning, taxation, hospitality, community contributions, licensing, workforce and venue operations affect clubs, staff, sporting groups, charities, community users and local economies. If organisations like ClubsACT are discouraged from engaging directly with government, policy will be less informed, not more transparent.



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**The problem has not been identified**

16. The central issue for ClubsACT is simple: we are unclear what problem with the existing system is being fixed. We are not aware of systemic issues with the current scheme, nor of evidence that not-for-profit representative associations have created the type of corruption risk that would justify expanded registration and compliance obligations.

17. The discussion paper properly identifies that lobbying can involve risks. ClubsACT accepts that. But risk in the abstract is not, by itself, a sufficient basis for regulation. A reform proposal should identify the problem, explain why existing mechanisms are inadequate, and demonstrate why the proposed response is proportionate.

18. A broader scheme may capture more activity, but that does not mean it will improve integrity. Poorly targeted regulation can also create real harms: it can discourage engagement, increase process costs, create uncertainty for small organisations, and make public officials more cautious about seeking practical advice from those affected by government decisions.

19. ClubsACT is particularly concerned that expanded arrangements could impose the same practical burden on small not-for-profit associations as on commercial lobbying firms. That would be unreasonable. Many small associations do not have dedicated legal, governance or compliance teams. The more complex the regime becomes, the more ordinary democratic participation is displaced by process management.

**Disclosure requirements must not suppress free and frank engagement**

20. ClubsACT does not support mandatory public contact logs or more detailed disclosure obligations for routine meetings with not-for-profit representative bodies. Transparency is important, but it must be balanced against confidentiality, privacy, commercial sensitivity and the need for free and frank discussion.

21. Clubs and associations may engage with government about sensitive operational matters, workforce issues, financial pressures, regulatory approvals, venue security, planning and land-use matters, procurement, community funding and impacts on vulnerable community groups. Public disclosure of the fact, timing or purpose of those discussions may create unfair speculation or expose information that should properly remain confidential.

22. A public log may also change behaviour in ways that weaken policy development. Public officials may become more reluctant to seek early advice. Community organisations may become more guarded. Meetings may become more process-focused and less useful. That is not a transparency gain if it reduces the quality and candour of advice available to government.

**Ministers and non-executive MLAs should not be treated the same**

23. ClubsACT supports the distinction between Ministers and non-executive MLAs. Ministers exercise executive authority. Non-executive MLAs perform representative, scrutiny and constituency functions. They should be able to meet with community organisations, constituents, associations and affected stakeholders without being drawn into an executive-style diary publication regime.

24. The role of a non-executive MLA is to listen, scrutinise, test legislation, represent constituents and hold government to account. Treating every significant engagement with a representative body as a matter for public disclosure risks weakening that role. It may also discourage constituents and community organisations from raising matters openly with their elected representatives.

**Response to selected focus questions**

25. ClubsACT does not support moving to a statute-based lobbying model at this time. A statutory scheme may be appropriate in some jurisdictions where a clear problem has been identified, but legislation should not be adopted unless it is necessary and proportionate. On the material presently available, ClubsACT does not consider that case has been established for the ACT.



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26. ClubsACT does not support expanding the definition of persons and entities required to register in a way that captures not-for-profit associations representing their members. If the Commission identifies a concern about commercial lobbying, success fees, former officials or professional third-party lobbying, those matters should be addressed directly. They should not be used as a basis for regulating ordinary member representation.

27. ClubsACT does not support an activity-based model. Such a model risks capturing normal consultation, policy submissions, correspondence and meetings between government and the very organisations government should be hearing from. The likely effect would be to increase compliance burden and reduce the quality of engagement.

28. ClubsACT does not support mandatory disclosure logs for routine engagement with representative organisations. Where a matter involves procurement, conflicts of interest, gifts, personal benefit or corrupt conduct risks, existing integrity frameworks should apply. But routine policy engagement should not be treated as suspect merely because it seeks to influence government decision-making.

29. ClubsACT does not consider that a case has been made for transferring administration of the scheme from the Clerk to another body, broadening sanctions, extending revolving-door restrictions or creating new public-record obligations in the absence of evidence that the current arrangements are failing. Any such reform should be confined to specific, demonstrated risks.

**Associations should not be regulated by accident through a lobbying review**

30. ClubsACT is already an incorporated association. Associations are already subject to registration and governance obligations under the associations framework. If government or the Commission has concerns about the registration, governance or accountability of associations, those concerns should be considered through a separate review of the Associations Incorporation Act 1991, undertaken in consultation with affected stakeholders.

31. It would be inappropriate to use a lobbying review to impose additional registration and compliance obligations on associations by indirect means. That would confuse two different issues: the integrity regulation of professional lobbying and the ordinary governance framework for not-for-profit associations.

**A better reform path: guidance, education and practical tools**

32. If the Commission considers that improvements should be made, ClubsACT submits that the focus should be guidance and education rather than expanded legal obligations. This would also align with the integrity policy commitment referred to in the discussion paper, which contemplated an education piece for MLAs and their staff.

33. Practical improvements could include:

plain-English guidance explaining the difference between commercial third-party lobbying, in-house advocacy, member-based representative advocacy, constituency engagement, and public consultation;

worked examples showing when a communication is captured by the current scheme and when it is not;

guidance for public officials on how to identify integrity risks without discouraging legitimate engagement;

specific advice on managing confidential, commercially sensitive or personal information provided during policy discussions;

modernising reporting tools, including web-based forms rather than downloadable Word documents for registered lobbyists;

periodic education sessions for MLAs, ministerial staff, directorates and stakeholders; and

a light-touch review mechanism to test whether the guidance is improving understanding without creating unnecessary compliance burden.



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34. These steps would improve clarity and confidence without treating ordinary engagement as a problem. They would also avoid imposing disproportionate costs on small not-for-profit organisations and associations that exist to give their members a practical voice in public policy.

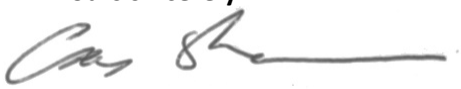
**Conclusion**

35. ClubsACT supports integrity, transparency and public confidence in government decision-making. We do not support weak integrity standards. But good integrity policy must be directed to real problems, not assumed problems.

36. On the material available, ClubsACT does not consider that a case has been made for expanding the current lobbying scheme to capture not-for-profit member associations, ordinary representative advocacy, routine policy engagement or non-executive MLA constituency activity.

37. The current arrangements are understandable, proportionate and supported by a broader integrity framework. If improvement is required, it should be practical, targeted and educative. The ACT should strengthen clarity without creating new red tape where no demonstrated failure has been identified.

**Yours sincerely**



**Craig Shannon**
**Chief Executive Officer**
**ClubsACT**
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