



**NSW Independent Commission Against Corruption,
*Investigation into the Regulation of Lobbying Access and
Influence in NSW***

Submission from Women's Electoral Lobby NSW

20th May, 2019

WOMEN'S ELECTORAL LOBBY

Women's Electoral Lobby (**WEL**) is an independent, non-party political, feminist lobby group dedicated to creating a society where women's participation and their ability to fulfil their potential are supported and respected. Founded in 1972, WEL promotes equality between men and women. WEL particularly advocates policy and program solutions to issues that continue to disadvantage or endanger women, including those relating to women's health, education and training, safety, economic security, and participation in public life. We advocate for women of all backgrounds at all intersections where there is injustice and unfairness.

Notwithstanding that *lobby* is in our name, WEL is not a third party lobbyist. WEL is a community-based interest group incorporated under the *Associations Incorporation Act 2009* (NSW). It is funded by membership subscriptions, donations, fund-raising events and bequests. It currently employs two part-time staff members. All other work is undertaken on a voluntary basis. It neither requests nor receives any fees or gifts for its lobbying work.

WEL welcomes this investigation by the Independent Commission Against Corruption (**Commission**) and would like to address some, but not all, of the consultation questions. We are committed to the principle of transparency, integrity, fairness and freedom as a framework for this investigation.

Code of Conduct

WEL endorses the code of conduct prescribed through the *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014* (NSW) (**Code of Conduct**). WEL is excluded from the definition of third party lobbyist contained in the regulation, but, nevertheless operates with integrity, honesty, accuracy and appropriate respect for privacy and confidentiality in all its dealings with the NSW Government and its officials. Our policies are in the public domain on our website and/or Facebook page. We publish an Annual Report outlining our lobbying activities with delegations and representations to Government and, where available, the results of those activities.

Register of Third Party Lobbyists

Q2. WEL supports the Commission's aim to make lobbying processes transparent and to establish a searchable data-rich register of third party lobbyists. WEL submits that this register needs to contain all organisations, companies, consultancies which undertake lobbying work on behalf of others or their organisation, for a fee or other emolument. Its maintenance and update or upgrade needs to be well resourced and at arms-length from Government control, oversighted by an independent agency established within legislation. This agency should be required to report annually to the NSW Parliament.

There is a need to capture in the definition of third party lobbyist all agents who engage with government including those from in-house government relations teams often found in large corporations like Telstra or Crown Casino, for example.

Community based lobbying groups, such as WEL, which are voluntary organisations

and which do not receive any payment or profit for their lobbying work should not be required to register given the administrative burdens that may impose and the likely patchwork understanding and compliance by this sector.

Q3. There should be no distinction between lobbyists on the register and those bound by the Code of Conduct. If the current regulation and its definition is not adequate to capture all third party lobbyists then it should be amended.

Q4. There should be no distinction between “repeat players” and “ad hoc” lobbyists. The public interest is best served by full disclosure irrespective of the number of times an organisation or its individual representatives lobby.

Disclosure of Lobbying Activity

Q6. In addition to the matters set out in section 10 of the *Lobbying of Government Officials Act 2011* (NSW), third party lobbyists should be required to provide information as to whether any of the persons engaging in their lobbying activities are former politicians, staffers to politicians or senior public servants and the details of their last employment in those capacities.

Q7. WEL submits that third party lobbyists should be required to provide details of each lobbying contact, date, those present, length of meeting; reasons for the contact specifying what they are seeking to influence and the desired outcome from the influence. This information should be publicly available.

Q8. Third party lobbyists should be required to disclose the income received from their lobbying, the source of the income and the expenditure incurred on the lobbying activity.

Q9. WEL submits that contacts with Ministers, ministerial advisers, public servants, Members of Parliament by third party lobbyists should be recorded and publicly available for scrutiny soon after contact. This should all be available on a searchable data base.

Q10. Ministers should be required to disclose meetings with third party lobbyists, those present and the topic of the meeting on a monthly basis.

Promoting accessibility and effectiveness

Q12. WEL supports the integration of all the lobbying-related data as suggested in the long form of this question and the Commission’s discussion paper.

Q13. WEL supports the NSW Electoral Commission (or an independent body created in separate legislation) being required to present an annual analysis of lobbying trends and compliance to the NSW Parliament.

Promoting the integrity of direct lobbying – other measures

Q25. WEL submits that there should be a requirement on the NSW Government to make public statement of explanation and reasons for significant executive

decisions. The process for arriving at these decisions must be detailed to reassure the community about the integrity of the process as well as the due diligence applied to protect the public interest or public funds. There cannot be a shelter from transparency taken under contract law, commercial-in-confidence or in the process of Cabinet decision-making, Cabinet-in-Confidence. Such shelter needs to be clearly circumscribed and restricted to high security or other high risk circumstances.

WEL can provide an example of a very contentious process with the Family and Community Services **Going Home Staying Home** reforms which led to a wholesale restructure of homelessness services with contracts being issued to various providers and not to others. The reform involved the introduction of Competitive Tendering; Consolidation of Services into regions; Reduction in the number of providers; one umbrella Specialist Homelessness Service replacing many women's specific services like women's refuges. All bidding providers were sworn to secrecy because the process was competitive. In many instances, the existing providers had no tendering or commercial experience. They were small organisations competing against larger charitable and faith-based organisations, cashed up and able to pay for advice on how to compile a competitive tender document. It was not a level-playing field. The consultation about the reforms was internal to FACS. There was no broader community involvement.

The NSW Government rationale for the lack of explanation for decisions was unsatisfactory. The community impacts were profound with many women's refuges closed. The decision-making processes to arrive at the allocation of multi-million dollar contracts, in the view of community organisations, were not transparent and lacked integrity and consistency across regions.

WEL made representations to the Ombudsman about the process, but, in the end, it was a Cabinet Decision and WEL was deprived of further and better information. WEL would have also benefitted from knowledge of which organisations had been involved in Ministerial or Government official meetings prior to the decisions on reforms. Were faith-based charities consulted? Which charities? And so on.

Where there are major reforms or organisational restructurings to be undertaken, it is vital that the community is able to interrogate information about those organisations or vested interests which are engaging in third party lobbying of government to steer a decision to their advantage. Further, it is important that the NSW Government state the reasons and processes for significant executive decisions in tabled documents in the NSW Parliament.

The need for written reasons is common place in many administrative decisions made by governments across Australia and, as alluded to in the Commission's discussion paper, the need to provide a written explanation is an effective mechanism to promote good government decision-making.

Fair consultation processes

Q26 WEL supports the development of guidelines on fair consultation processes to ensure that all in the community have an equal opportunity to be heard on any major reform or policy decision or project or program.

Q27. WEL suggests that the guidelines should ensure diversity of participation; be clear about how stakeholders in a decision are identified and who must be consulted to undertake such identification in the first instance. There must be gender equality as well as cultural diversity in any stakeholder group. Experiential as well as expert representation must be included.

Government officials should expressly understand that they need to be facilitators and listeners if there is to be productive and purposeful participation by community.

Q28. The guidelines should provide that the reasons given for significant decisions must acknowledge and report upon the fairness of any consultation, detailing process and participants. For example, this could be done by a requirement to provide a schedule to the reasons for the decision containing information about the groups and persons invited to participate in any consultation, the process for selecting those persons or groups, any publicly advertised invitations or announcements and where they were published and the dates they were published, the dates of written submissions and the identity of the persons or groups who made them and the dates of any meetings with any identified persons or groups.

Resourcing disadvantaged groups

Q29. As acknowledged in the Commission's discussion paper, there is no government support or resourcing to support advocacy. Indeed, many government contracts contain specific clauses to prohibit such activities by community organisations undertaking service delivery. Such clauses and the under-resourcing of aspects of the public service does not promote participation in the political process nor advocacy activities independent of government.

WEL would welcome a change in government policy to remove such clauses from government contracts and to better resource women's organisations and others to assist them with advocacy work as well as promoting more participation in the political process. In WEL's experience, this is best done through funding.

WEL should emphasise here that it is self-funded. It receives no government grants. WEL notes that at various times in the NSW public service, there were women's policy units dedicated to women's issues and liaising and consulting with women's organisations on policy reform or implementation. This greatly assisted community-based advocacy on women's issues given the expertise of the then public service.

There is still Women NSW which now resides in the Family and Community Services and Justice Cluster. There is still a Minister for Women, but Women NSW is under-resourced and confined to producing statistical reports and a Women's Strategy. It may organise community consultations, but it does not have the resources to undertake meaningful, inclusive and expert consultation. Accordingly, another means by which to ensure better consultation is to once again resource the public service with specialist policy units.

Promoting the role of education and training

Q33. WEL is not aware of any relevant programs that would assist third party lobbyists and government officials better to enable them to understand their obligations.

Q34. WEL supports the provision of government-funded education and training for all officials to understand their obligations and responsibilities and to appreciate the role that advocacy organisations play in a democracy as opposed to third party lobbyists and well -resourced companies, corporations and charities buying influence. The best type of training program would be face to face and undertaken as part of an induction program and then renewed annually.

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