

# Impact Analysis Statement

## Summary IAS

### Details

<b>Lead department</b>	Department of the Premier and Cabinet
<b>Name of the proposal</b>	Extending lobbying framework to the Shadow Ministers and Shadow Assistant Ministers
<b>Submission type</b> ( <i>Summary IAS / Consultation IAS / Decision IAS</i> )	Summary IAS
<b>Title of related legislative or regulatory instrument</b>	<i>Integrity Act 2009</i>
<b>Date of issue</b>	August 2024

<b>What is the nature, size and scope of the problem? What are the objectives of government action?</b>
<p>The need for stronger lobbying regulation was a key outcome of the 2022 review by Professor Peter Coaldrake AO, <i>Let the sunshine in: Review of culture and accountability in the Queensland public sector</i> (Coaldrake Report). The Coaldrake Report reflected that, while lobbying has a role in informing policy development, public perception of interference with the two elements that are central to good government – equal access to decision-makers and ensuring decisions are free from undue influence – can lead to distrust and a view that lobbyists are distorting the political process.</p> <p>The Coaldrake Report resulted in significant legislative reform of lobbying laws to bring greater transparency of lobbying activity, including through increased information being published about lobbying of government and opposition representatives. Under the lobbying framework, a registered lobbyist must comply with a Code of Conduct made under section 55 of the <i>Integrity Act 2009</i>. The current <i>Lobbyists Code of Conduct</i> contains a requirement for lobbyists to disclose on a monthly basis, the contact (meetings) they have with government and opposition representatives during the previous month.</p> <p>The terms ‘government representative’ and ‘opposition representative’ are defined in the <i>Integrity Act 2009</i>. These definitions apply the lobbying framework to the Premier, Ministers and Assistant Ministers, and their staff members, and for opposition representatives, to the Leader and Deputy Leader of the Opposition, and the Opposition Leader’s staff. The framework does not apply to an opposition spokesperson or opposition assistant spokesperson (‘the shadow ministry’).</p> <p>Opposition spokespersons, colloquially known as ‘Shadow Ministers’, are opposition Members of Parliament who are recognised in the Queensland Legislative Assembly as representing a particular area of public business or policy. The business or policy area often replicates the portfolio responsibilities of Ministers of the Crown. Through a current Determination under the <i>Queensland Independent Remuneration Tribunal Act 2013</i>, opposition spokespersons are paid a salary in addition to their normal entitlements. An appointment as an opposition spokesperson becomes effective when the Leader of the Opposition formally notifies the Speaker, Clerk or the Legislative Assembly. Outside of this formal mechanism, the Opposition may also establish Opposition Assistant Spokesperson roles (‘Shadow Assistant Ministers’).</p>



Lobbyists may influence the shadow ministry in the same way they influence the Leader and Deputy Leader of the Opposition, and the government. The Coaldrake Report reflected on the pre-election period as being a 'risk window', as lobbying activity has shown to increase prior to an election and that level of activity has not subsided but has instead become a new base<sup>1</sup>. The Coaldrake Report went on to reference a January 2022 submission by the Crime and Corruption Commission to the former Economics and Governance Committee during its *Inquiry into the Report on the Strategic Review of the Functions of the Integrity Commissioner*, which expressed the view that transparency would be enhanced by requiring publication of contact with lobbyists and all government and opposition representatives<sup>2</sup>.

Changes to Parliamentary sessional orders in March 2024 now require the monthly publication of opposition spokesperson diary extracts outlining meetings with external parties, including the date, name of the organisation or person and purpose of the meeting. Those changes brought opposition spokespersons into line with the monthly publication of diary extracts for government ministers, assistant ministers and chiefs of staff under *The Queensland Ministerial Handbook*, and the Leader and Deputy Leader of the Opposition and chief of staff under *The Queensland Opposition Handbook*. The subsequent publication of opposition spokesperson diary extracts identified the contact between lobbyists and those Members of Parliament.

The objective of the amendments is to meet public expectations of visibility over lobbying activity and ensure decisions and policies made by political parties are free from undue influence.

The proposed amendments will apply the lobbying framework to opposition spokespersons and opposition assistant spokespersons, to the extent that lobbying activity with that cohort will be publicly available in the Lobbying Register. This will bring those opposition members into line with how the lobbying framework applies to government ministers.

The proposed amendments will complement changes to Parliamentary sessional orders in March 2024.

#### What options were considered?

As the lobbying framework – including the publicly available Lobbying Register – is legislated, formally extending that framework to the Shadow Ministry and ensuring the Integrity Commissioner has the same oversight of lobbying of Shadow Ministers can only be achieved through legislative amendment. Therefore, no other options were considered.

#### What are the impacts?

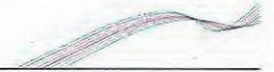
The proposed amendments will expand the definition of 'opposition representative' in the *Integrity Act 2009* to include an opposition spokesperson or opposition assistant spokesperson. Those terms are also defined. As a result, elements of the lobbying framework will apply to this cohort and this will impact registered lobbyists, the Integrity Commissioner and opposition spokespersons and opposition assistant spokespersons.

Communication with opposition spokespersons and opposition assistant spokespersons will be captured as 'lobbying activity', thus requiring registered lobbyists to disclose lobbying activity involving meetings and contact with those persons.

There is currently no explicit requirement in the *Integrity Act 2009* for a registered lobbyist to disclose to the Integrity Commissioner, details of contact (meetings) with a government representative or opposition representative. Instead, this requirement is imposed on registered lobbyists through a code of conduct made under section 55 of the *Integrity Act 2009*. Compliance with the code of conduct is mandatory for registered lobbyists (s55(6)). The current *Lobbyists Code of Conduct* includes a requirement for registered lobbyists to

<sup>1</sup> Coaldrake, P. (2022), *Let the sunshine in: Review of culture and accountability in the Queensland public sector*, Final Report, pp.48-49.

<sup>2</sup> Crime and Corruption Commission (2022), *Submission to the Economic and Governance Committee, Parliament of Queensland, Inquiry into the Report on the Strategic Review of the Functions of the Integrity Commissioner*, p.2.



disclose their lobbying activities to the Integrity Commissioner each month. That information is then published in the Lobbying Register maintained by the Integrity Commissioner.

### **Impacts on registered lobbyists**

The impacts apply only to entities required to register as a lobbyist in Queensland, i.e. an entity that carries out a lobbying activity for a third party client for a commission, payment or other reward (pecuniary or otherwise).

It is important to note that not all lobbyists need to be registered, including non-profit entities (e.g. a charity or club), entities constituted to represent the interests of their members (e.g. an industrial organisation/union or professional body) and members of a trade delegation, providing their lobbying consists of only representing their entity, members or delegation.

Further, lobbying activity is limited to communicating with a government representative in an effort to influence decision-making of the Queensland Government or a Queensland local government, or communicating with an opposition representative in an effort to influence decision-making of the Queensland Opposition. It does not capture communicating with a government or opposition representative as follows: in a public forum; about a non-business or non-commercial matter; in response to a request for information; in the ordinary course of making an application or seeking a review or appeal about a decision under a Queensland Act; or in an incidental meeting beyond the control of the representative.

It is possible there might be a slight increase in the number of entities or individuals requiring registration as a lobbyist. This would occur if a lobbyist had been only lobbying Shadow Ministers or Shadow Assistant Ministers and therefore did not need to register as a lobbyist. Should this occur, the registration process is simple, quick and at no cost to the registrant.

Any lobbying activity with a Shadow Minister or Shadow Assistant Minister will need to be recorded in the Lobbying Register as a lobbying contact each month by a registered lobbyist. This results in an increase in reporting obligations for registered lobbyists, but this is expected to have minimal impact given the number of registered lobbyists and lobbying contacts already recorded.

Lobbying contacts reflect communications with government and opposition representatives. Definitions of those terms in the *Integrity Act 2009* currently capture: the Premier, another Minister or an Assistant Minister; a councillor; a public sector officer; a ministerial staff member or an Assistant Minister's staff member; the Leader of the Opposition, Deputy Leader of the Opposition; and/or a staff member in the office of the Leader of the Opposition.

In the 2023-24 Annual Report, the Office of the Queensland Integrity Commissioner (OQIC) reported that 665 lobbying contacts were recorded in the Lobbying Register by registered lobbyists (comprising 110 registered entities and 300 registered 'listed persons'). That report found the number of registered entities had reduced slightly from 2020-21 to 2023-24, but the number of listed persons had remained relatively stable over the same period. The number of lobbying contacts has varied considerably (989 in 2020-21, 1518 in 2021-22 and 665 in 2022-23), with the reduction in 2023-24 likely to be the result of changes in the way in which lobbyists can make contact with a Minister (all requests to be in writing via an online form and make any other contact via the relevant Chief of Staff).

A search of the Lobbying Register on 24 July 2024<sup>3</sup> indicates that some registered lobbyists are already reporting contact with Shadow Ministers and have done so since 2015. In some instances, this is because the Shadow Minister has attended with the Leader or Deputy Leader of the Opposition (or because one of those position holders is also a Shadow Minister). But in most instances, the contact is directly with a Shadow Minister. The

<sup>3</sup> The search of the Lobbying Register on 24 July 2024 involved a search of the term 'shadow minister' in the Contact Log to filter the results. The results generated a report that provided the first recorded contact of a Shadow Minister on 27 April 2015.



search showed 98 of the contacts recorded by 23 registered lobbyists in the Lobbying Register over a ten-year period involved Shadow Ministers.

Table 1 provides a summary of the 'voluntary' recording of Shadow Minister lobbying by registered lobbyists by financial year. Using data extracted from Lobbying Register (Contact Log) and OQIC Annual Reports, this table also includes the total number of registered lobbyists and listed persons, and the total number of lobbying contacts (where reported). Note that this lobbying contact with Shadow Ministers is not reflective of the total lobbying of Shadow Ministers that might have occurred over the periods in Table 1.

**Table 1: "Voluntary" Shadow Minister Contact Log**

Financial Year	Number of Lobbyists Voluntarily Reporting <sup>4</sup>	Total Registered Lobbyists / Listed Persons <sup>5</sup>	Lobbying Contacts with Shadow Ministers <sup>6</sup>	Total Lobbying Contacts <sup>7</sup>	
2024-25	1	Not yet reported	1	23	To 24/7/2024
2023-24	13	Not yet reported	48	929	Lobbying Register
2022-23	4	110 / 300	21	665	2022-23 Annual Report
2021-22	1	129 / 305	10	1518	
2020-21	5	123 / 277	8	989	
2019-20	2	113 / 300	2	Not reported	Reporting of the number of lobbying contacts commenced in the 2021-22 Annual Report
2018-19	1	105 / 263	1	Not reported	
2017-18	3	Not reported	4	Not reported	
2016-17	1	170 / 313	1	Not reported	
2015-16	1	156 / 303	1	Not reported	
2014-15	1	158 / 312	1	Not reported	

A summary of the contact log over a four year period from 2020-21 to 2023-24 is summarised in Table 2. A download of the contact log on the public Lobbying Register was undertaken on 2 August 2024 and analysed in Microsoft Excel. Lobbying activity was tallied against four categories, based on the clarity of the information: government, opposition, other and unknown. Where information (including broader searches) was not able to confirm a category for the representative (e.g. a name only), the entry was assigned to the 'unknown' category. The 'government' and 'opposition' categories captured Queensland State Members of Parliament and their staff only (i.e. Federal Members of Parliament were categorised as 'other', along with local government representatives and departmental employees or statutory bodies). Some lobbying activity was assigned to two or more categories (e.g. if the lobbying activity was with both a government and opposition representative).

<sup>4</sup> As lobbying contact with Shadow Ministers has been reported voluntarily by some registered lobbyists, it does not reflect the total lobbying of Shadow Ministers that might have occurred.

<sup>5</sup> Sourced from Annual Reports of the Office of the Queensland Integrity Commissioner.

<sup>6</sup> The search of the Lobbying Register on 24 July 2024 involved a search of the term 'shadow minister' in the Contact Log to filter the results.

<sup>7</sup> Sourced from a download of the full contact log from the Lobbying Register on 24 July 2024.

**Table 2: Average lobbying activity over a four year period**

	2020-21	2021-22	2022-23	2023-24	Average/year
<b>Government</b>	817	1110	341	484	688
<b>Opposition</b>	16	32	29	113	48
<b>Other</b>	253	422	326	329	333
<b>Unknown</b>	11	8	1	7	7
<b>TOTAL</b>	<b>1097</b>	<b>1572</b>	<b>697</b>	<b>933</b>	<b>1075</b>

The requirement under the *Lobbyists Code of Conduct* to disclose lobbying activity monthly is an administrative activity. Information is entered into the Lobbying Register directly by the lobbyist (or their representative). The person logs into their account and enters or selects information for the lobbying activity: date, client, representative/s (name, position and/or entity, department or office name), mode of contact (email, meeting etc), contact purpose (from a drop-down list) and policy/portfolio.

#### ***Estimated compliance costs for registered lobbyists***

Based on the following assumptions, total compliance costs for the reporting of lobbying activity with Shadow Ministers and Shadow Assistant Ministers are estimated to be \$11,739 per annum on average for registered lobbyists<sup>8</sup>:

- opposition representatives being lobbied at the same rate as government representatives, based on the average of 688 contacts per year;
- entry of each lobbying activity contact taking 15 minutes;
- the data entry being undertaken by a 'clerical and administrative worker' at \$39 per hour<sup>9</sup>; and
- a standard on-cost multiplier of 1.75 being applied.

Using the Office of Best Practice Regulation's cost calculator, this annual cost of \$11,739 per annum totals \$88,221 over 10 years.

The estimated compliance costs are representative and not guaranteed, having regard to the range of variances that include the time taken to enter the lobbying activity in the contact log and whether this is done throughout the month or at one time, the hourly rate of the person entering the lobbying activity, and the actual number of lobbying activity contacts throughout the year. Not all registered lobbyists will be impacted (i.e. if they do not lobby Shadow Ministers or Shadow Assistant Ministers).

This estimate provides an indication that the impact of having to formally record lobbying contact with Shadow Ministers is likely to be insignificant. Further, the impacts are balanced by the public benefits to the public by the increased transparency of lobbying activities, which helps to achieve the purpose of the *Integrity Act 2009* to increase confidence in the system of government by regulating lobbying activity.

#### **Impacts on Integrity Commissioner**

One of the functions of the Integrity Commissioner is to provide education and training to government and opposition representatives and registered lobbyists, about the operation of the lobbying framework in Chapter 4 of the *Integrity Act 2009* (s7(c)). Therefore, the Integrity Commissioner will be required to provide education and training to opposition spokespersons and opposition assistant spokespersons.

<sup>8</sup> Applying the assumptions, the estimated compliance costs are based on: 688 contacts x 0.25 hours each x \$39/hr x 1.75.

<sup>9</sup> Australian Bureau of Statistics, 2023 average hourly total cash earnings for 'clerical and administrative workers' – see: <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/employee-earnings-and-hours-australia/may-2023#occupation> (accessed 9 August 2024).



At present, there are 19 Shadow Ministers appointed by the Leader of the Opposition (noting the Leader and Deputy Leader are also Shadow Ministers, but already captured by the definition of 'opposition spokesperson'). A further eight elected members of the Opposition are identified as being Shadow Assistant Ministers.<sup>10</sup>

The impact of providing training and education to a slightly broader cohort of opposition members is unlikely to be significant. As reported in the OQIC 2022-23 Annual Report, the OQIC has developed a suite of presentations with content targeted at various audiences on different topics. It was also reported that a dedicated Training and Engagement Officer would be employed in the OQIC to lead projects to develop new training and awareness materials and presentations.

The OQIC 2022-23 Annual Report also reflected on the number of enquiries about the lobbying regulation scheme, such as queries as to whether a contact is a 'lobbying activity' or whether an entity is required to be registered as a lobbyist. The report indicated a higher than usual number of enquiries in 2022-23 (51) compared to previous financial years (31 in 2021-22 and 38 in 2020-21). There might be a possibility of a small increase in the number of enquiries about the changes, however this is not expected to be more than expected for any legislative change.

### **Impact on Opposition Spokespersons and Opposition Assistant Spokespersons**

The changes will also impose obligations on opposition spokespersons and opposition assistant spokespersons, as 'opposition representatives' to:

- not knowingly permit lobbying in contravention of sections 46 and 62 of the *Integrity Act 2009*, which prohibit lobbying activity for a third party client by an unregistered lobbyist (s46) and prohibit lobbying activity for a third party client by a former government or opposition representative, if the activity relates to official dealings in which the person engaged in their official capacity in the two years prior to becoming a former representative (s62);
- report to the Integrity Commissioner, via a responsible person for the representative, any instances of an unregistered lobbyist seeking to carry out, or having carried out, lobbying activity with the representative (s66B);
- provide to the Integrity Commissioner, via a responsible person for the representative, information about lobbying activity with the representative, if the responsible person reasonably believes the information may be relevant to the functions or powers of the Integrity Commissioner (s66C); and
- upon request by the Integrity Commissioner by notice, provide the Integrity Commissioner with information or a document relating to a suspicion by the Integrity Commissioner that a registered lobbyist may have failed to comply with a condition of registration, the *Lobbyists Code of Conduct* or a directive, or elements of the *Integrity Act 2009* (s66D).

These are not considered to be significant impacts and assist the Integrity Commissioner with enforcement of the lobbying laws.

The amendments will also capture contact with an opposition spokesperson or opposition assistant spokesperson as being contact that might form part of a 'post-separation obligation'. These are obligations under sections 20A and 20D of the *Integrity Act 2009* that a former ministerial advisor or 'former designated person' can continue to ask for the Integrity Commissioner's advice about, for a period of two years after they ceased being a ministerial advisor or designated person.

Overall, the impacts are not considered significant and the benefits to the public are expected to outweigh any costs by the increased transparency of lobbying activities and the increase in public confidence around lobbying activity with decision makers and potential decision makers.

<sup>10</sup> See: <https://documents.parliament.qld.gov.au/tp/2024/5724T159-9DC1.pdf>



<b>Who was consulted?</b>
The Integrity Commissioner was consulted on the proposed amendments and is supportive. The Premier has corresponded with the Leader of the Opposition about the proposed amendments.
<b>What is the recommended option and why?</b>
The legislative response is considered the most effective approach to achieving the objectives of government action, which is to meet public expectations of visibility over lobbying activity and ensure decisions and policies made by political parties are free from undue influence.

**Impact assessment**

	First full year (estimated)	First 10 years (estimated)
<b>Direct costs – Compliance costs</b>	\$11,739	\$88,221
<b>Direct costs – Government costs</b>	Nil	Nil

**Signed**

Mike Kaiser  
 Director-General  
 Department of the Premier and Cabinet

Date: 20/8/2024

The Honourable Steven Miles MP  
 Premier

Date: 29/8/24