

The Auditor-General
Auditor-General Report No.48 2019–20
Performance Audit

Management of the Australian Government’s Lobbying Code of Conduct — Follow-up Audit

[Attorney-General's Department](#)

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Canberra ACT
26 June 2020

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Attorney-General's Department. The report is titled *Management of the Australian Government's Lobbying Code of Conduct — Follow-up Audit*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

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Audit snapshot

Auditor-General Report No.48 2019–20

Management of the Australian Government's Lobbying Code of Conduct — Follow-up Audit



Why did we do this audit?

- ▶ There is public and Parliamentary interest in lobbying activities being carried out with integrity and transparency.
- ▶ Auditor-General Report No.27 of 2017–18 found that communications, compliance management and evaluation of the Australian Government regulatory regime for lobbyists could be improved, and recommended a review of the arrangements in place to achieve the regulatory objectives.



What did we find?

- ▶ The Attorney-General's Department (AGD) did not implement the recommendation from Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*.
- ▶ Governance arrangements to oversee implementation of the recommendation were limited in effectiveness.
- ▶ There was no strategy to raise awareness of the Code.
- ▶ Compliance risks were not systematically assessed and advice was not provided to Government about the sufficiency of the compliance framework.
- ▶ No evaluation framework was developed, and there were no performance measures.



Key facts

- ▶ The *Lobbying Code of Conduct* (Code) was established on 13 May 2008.
- ▶ The Code requires Government representatives to meet only with registered lobbyists and report breaches of the Code, and requires lobbyists to register and comply with various engagement principles.
- ▶ The Lobbyist Register contains the details of 257 lobbyist organisations and 590 lobbyists, who work on behalf of 1,792 clients.
- ▶ Accountability for the Code transferred from the Department of the Prime Minister and Cabinet to AGD in May 2018.



What did we recommend?

- ▶ The Auditor-General made two recommendations to AGD, related to governance processes for the implementation of recommendations, and the need to evaluate the sufficiency of the current regulatory regime for lobbying.
- ▶ AGD agreed to the recommendations.

38%

Of registered lobbyists declared being a former Commonwealth Government representative, such as a Minister or senior public servant.

8

Lobbyist organisations were deregistered by AGD in January 2020 due to non-compliance with administrative requirements.

3

Alleged breaches of other provisions of the Code were reported between February 2018 and March 2020.

Summary and recommendations

Background

1. Lobbying activities refer to communications with government representatives in an effort to influence government decision-making. To help safeguard decision-making processes from factors such as undue influence or unfair competition, governments around the world, including the Australian Government, have introduced lobbying regulatory regimes.

2. The Australian Government's regime was established with the introduction of the *Lobbying Code of Conduct* (Code) in 2008. The policy objective of the regime is expressed in the Code as:

... to promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.¹

3. The regime specifies that this objective will be achieved through lobbyist and Government representative compliance with the Code's various provisions and its main administrative mechanism, the Register of Lobbyists (Register). The Register is a publicly available database of registered lobbyist organisations and lobbyists, and their clients. As at March 2020, the Register listed 257 lobbyist organisations, 590 individual lobbyists, and 1,792 clients.

4. Lobbyist organisations have administrative responsibilities associated with keeping the Register up to date, and lobbyist organisations and individual lobbyists must also comply with a number of lobbying principles and prohibitions under the Code. Government representatives are required to check the Register prior to meeting with a lobbyist, and to report any known breaches of the Code. The Attorney-General's Department (AGD) became responsible for administering the Code following a machinery of government change that transferred accountability from the Department of the Prime Minister and Cabinet (PM&C) in May 2018.

5. Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*, assessed the effectiveness of PM&C's management of the Code, and concluded that:

While the Department of the Prime Minister and Cabinet's arrangements to manage the Australian Government's Register of Lobbyists are consistent with the framework agreed by Government, improvements could be made to communications, compliance management and evaluation for the Code and the Register. It would also be timely to review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code.

6. The Auditor-General recommended that the department review the appropriateness of current arrangements in supporting the achievement of the Code's objectives. This included:

- implementing a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities;

1 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 1.4.

- assessing risks to compliance with the Code and providing advice on the ongoing sufficiency of the current compliance management framework; and
 - developing a set of performance measures and establishing an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.
7. PM&C partly agreed with the recommendation, indicating that it would implement the recommendation where it was consistent with a non-legislation based scheme.

Rationale for undertaking the audit

8. This audit is a follow-up to the Auditor-General Report No.27 of 2017–18, *Management of the Australian Government’s Register of Lobbyists*. The appropriate and timely implementation of agreed recommendations is an important part of realising the full benefit of an audit. The audit responds to public and Parliamentary interest in lobbying activities being carried out with integrity and transparency.

Audit objective and criteria

9. The audit objective was to examine the effectiveness of AGD’s implementation of the recommendation from Auditor-General Report No.27 of 2017–18.
10. To form a conclusion against the audit objective, the following high-level criteria were adopted:
- Does AGD have effective governance arrangements to oversee the implementation of the recommendation from Auditor-General Report No.27 of 2017–18?
 - Has a strategy been implemented to raise awareness of the *Lobbying Code of Conduct* among lobbyists and Government representatives?
 - Has AGD assessed risk to *Lobbying Code of Conduct* compliance and provided advice to the Australian Government on the sufficiency of the current compliance management framework?
 - Have performance measures and an evaluation framework for the *Lobbying Code of Conduct* and Register of Lobbyists been developed?

Conclusion

11. AGD did not implement the recommendation from Auditor-General Report No.27 of 2017–18, *Management of the Australian Government’s Register of Lobbyists*.
12. Governance arrangements to oversee the implementation of the ANAO recommendation were limited in effectiveness. There was no implementation planning at any stage in the transition of accountability for the Code and ANAO recommendation from PM&C to AGD. Progress against the ANAO recommendation was first reported to the AGD Audit and Risk Management Committee (ARMC) in August 2019.
13. AGD did not develop a strategy to raise awareness of the Code. Registered lobbyists received information about some of their administrative responsibilities. Limited activities were undertaken to inform lobbyists and Government representatives of their compliance obligations under the Code.

14. AGD did not systematically assess risks to compliance with the Code and did not advise Government about the sufficiency of the current compliance framework in meeting the Code's objectives.

15. AGD did not develop an evaluation framework for the Code and did not develop performance measures. It did not assess or inform others about whether the current regime is achieving the regulatory objectives.

Supporting findings

Governance structures and processes

16. There was no plan for the implementation of the ANAO recommendation, or for the implementation of the machinery of government transfer of accountability for the Code from PM&C to AGD. The ANAO recommendation was broadly considered when designing and building a proposed IT system for the Register, but no attempt was made to map IT functionality to the specific components of the ANAO recommendation.

17. Arrangements for senior management and audit committee oversight of implementation for the ANAO recommendation were partly effective. Divisional responsibility for the Code within AGD was clearly established. The Executive Board and Senior Management Committee had visibility of the Code, however this was focused on technological issues associated with the transfer of the Register rather than the implementation of the ANAO recommendation. Progress against the recommendation was reported to the ARMC, but the commencement of this process was delayed.

Communications to raise awareness

18. AGD did not develop a communications or stakeholder engagement strategy for the Code.

19. AGD's effectiveness in communicating regulatory requirements to lobbyists cannot be assessed in the absence of a communications strategy. Communication primarily occurred through a dedicated website and through correspondence with registered lobbyist organisations, with limited public information and stakeholder engagement. Communications focused on administrative responsibilities rather than broader compliance obligations, with no communication activities targeted at unregistered lobbyists.

20. Communications to Government representatives to raise their awareness of the Code and regulatory obligations were partly effective. AGD used the lobbying website to provide some information to Government representatives about compliance obligations, but did not undertake any broader communications activities with Government representatives, including with the Australian Government entities that employ them or the entities that have a responsibility to provide guidance to the Australian public sector.

Assessment and management of compliance risks

21. AGD did not systematically consider or manage risks that impact the ability or willingness of regulated entities and individuals to comply with the Code. Risks in relation to AGD's ability to administer the Code were assessed at a basic level and only after actual risks associated with data accuracy were realised. There was no strategy to ensure that administrative risks, or risks to

compliance with the Code, are effectively managed. In practice, activities and procedures such as email communications with lobbyist organisations, compliance dashboards and draft standard operating procedures aimed to manage some administrative risks.

22. AGD did not advise Government about the sufficiency of the compliance framework in meeting the Code's objectives.

Performance measurement and evaluation

23. AGD did not develop an evaluation framework for assessing the regime's success in meeting objectives and did not develop performance measures.

24. AGD did not develop a monitoring program for the Code and did not establish any performance measures for AGD processes in administering the Code. A service standard was developed for timely updates to the Register, but performance against this standard is not yet measured or assessed.

25. No performance information was provided to the Parliament or the public about work undertaken in relation to the Code, and whether intended regulatory objectives are being achieved.

Recommendations

Recommendation no.1 Attorney-General's Department establish effective governance processes for the implementation of the recommendation made in Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.
Paragraph 2.38

Attorney-General's Department response: *Agreed.*

Recommendation no.2 Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.
Paragraph 5.27

Attorney-General's Department response: *Agreed.*

Summary of entities' responses

26. The Attorney-General's Department's and the Department of the Prime Minister and Cabinet's summary responses to the report are provided below and their full response is at Appendix 1.

Attorney-General's Department

The Attorney-General's Department welcomes the ANAO's audit report and the recommendations made for better management of the Australian Government Register of Lobbyists.

The department recognises the challenges that have been experienced by stakeholders as a result of significant IT issues during the transfer of responsibility for the Lobbyists Register from the Department of the Prime Minister and Cabinet. The department has focussed its efforts during this time on ensuring there is a reliable public-facing Register. The department has worked to support lobbyists during the transition and appreciates the patience and support of lobbyists through the transition.

The department has accepted the two recommendations made in this report and will work to ensure the integrity objectives of the Lobbyist Register are supported.

Department of the Prime Minister and Cabinet

The Department of the Prime Minister and Cabinet (PM&C) welcomes the opportunity to review and respond to an extract of the proposed audit report on Management of the Australian Government's Lobbying Code of Conduct - Follow-up Audit (the Follow-up Audit).

In line with PM&C's partial agreement to the recommendations of Auditor-General Report No. 27 of 2017-18, Management of the Australian Government's Register of Lobbyists, the Follow-up Audit did not consider implementation activities which related more appropriately to a legislative scheme (rather than the code-based scheme in existence).

PM&C notes there are no recommendations directed to the Department.

Key messages from this audit for all Australian Government entities

27. Below is a summary of key messages that have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Performance and impact management

- Entities should undertake timely reviews of long-running programs and activities to ensure they remain appropriately calibrated to effectively and efficiently achieve their intended outcomes.

Governance and risk management

- Parliamentary tabling of responses to ANAO recommendations formalises an entity's commitment to Parliament to implement the recommendations. Entities should develop implementation plans that include intended actions, timeframes and measures of success.
- Effective governance arrangements for implementation of recommendations should include assignment of responsibility and reporting arrangements that provide the accountable authority with a clear line of sight of implementation.

Audit findings

1. Background

Introduction

1.1 Lobbying activities refer to communications with government representatives in an effort to influence government decision-making — including on legislation, the development or amendment of government policy or programs, the awarding of government contracts or grants, and the allocation of funding.² The Organisation for Economic Co-operation and Development describes lobbying as:

... a fact of life in the public decision-making process. It can provide decision-makers with valuable insight and data and facilitate stakeholders' access to the development and implementation of public policies. However, it can also lead to undue influence, unfair competition, and regulatory capture to the detriment of the public interest and effective public policies.³

1.2 To help safeguard decision-making processes, governments around the world, including the Australian Government, have introduced lobbying regulatory measures in various forms.

Lobbyist regulation

Overview of the Australian Government regulatory regime

1.3 A lobbyist registration scheme was first introduced in Australia in 1983 but was abolished in 1996.⁴ The current regime was established with the *Lobbying Code of Conduct* (Code) on 13 May 2008.⁵ The policy objective of the regime is expressed in the Code as:

... to promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.⁶

1.4 There are three intended outcomes of the regime (refer Appendix 2): Government representatives make informed judgements about lobbyist interests; there is transparent contact between lobbyists and Government representatives; and there is public trust in the integrity of government processes.

1.5 The Attorney-General's Department (AGD) is accountable for the Code as part of a suite of integrity policies and frameworks applying across the Australian Government. The regime specifies

2 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 3.4.

3 Organisation for Economic Co-operation and Development, *Lobbyists, Governments and Public Trust (Vol 3) — Implementing the OECD principles for transparency and integrity in lobbying — Highlights*, OECD, 2014, p. 7.

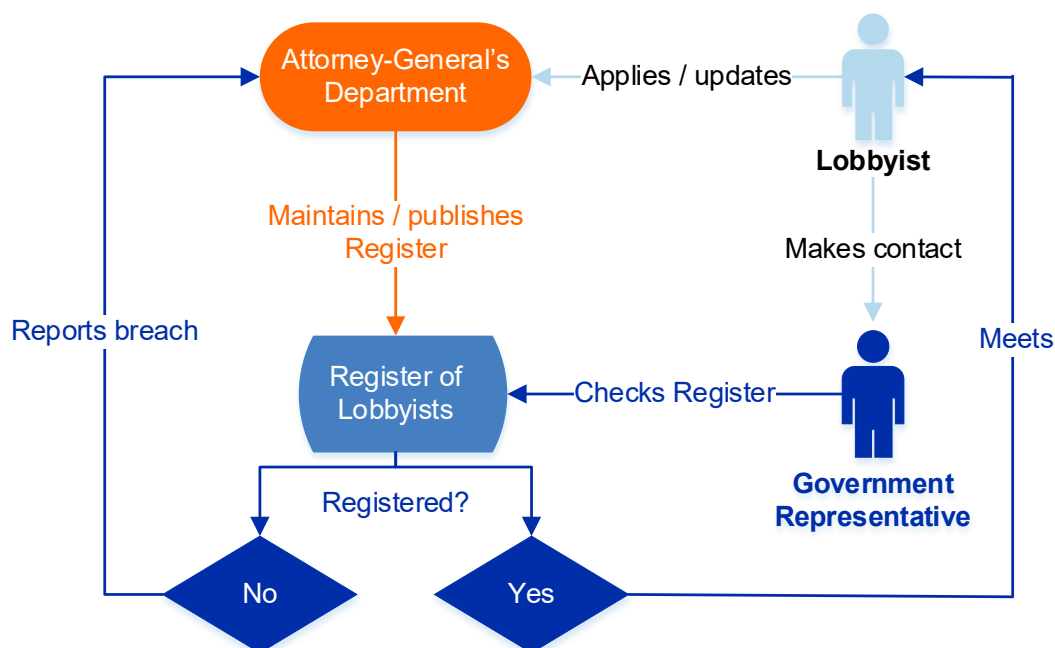
4 The stated reason for its abolishment was that it had fallen into disuse.

5 Senator J Faulkner, *Ministerial Statements (Lobbying Code of Conduct and Register of Lobbyists)*, Parliament of Australia, 13 May 2008.

6 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 1.4.

that the policy objective will be achieved through lobbyist⁷ and Government representative⁸ compliance with the Code's provisions and its main administrative mechanism, the Register of Lobbyists (Register), as shown in Figure 1.1.

Figure 1.1: Australian Government regulatory regime for lobbying



Source: ANAO analysis

1.6 Lobbyist organisations and lobbyists have administrative responsibilities under the Code (refer Box 1), generating administrative inputs that allow the regime to function.

7 'Lobbyists' are defined to be 'any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client' and excludes 'in-house' lobbyists, 'engaging in lobbying activities on their own behalf rather than for a client.' Charitable and religious organisations; non-profit organisations; trade delegations; and regulated professions such as tax agents, doctors, lawyers and accountants 'who make occasional representations to Government on behalf of others in a way that is incidental to the provision of their services' are among the excluded entities. (Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 3.5.)

8 'Government representatives' are defined to be 'a Minister, a Parliamentary Secretary, a person employed or engaged by a Minister or a Parliamentary Secretary under the *Members of Parliament (Staff) Act 1984*, an Agency Head or a person employed under the *Public Service Act 1999*, a person engaged as a contractor or consultant by an Australian Government agency whose staff are employed under the *Public Service Act 1999* or a member of the Australian Defence Force.' (Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 3.3.) This definition excludes staff engaged outside of the *Public Service Act 1999* by Corporate Commonwealth or state entities.

Box 1. Administrative requirements — lobbyist organisations and lobbyists

- Lobbyist organisations shall inform AGD of: business registration details; names of lobbyists; whether a lobbyist is a former Government representative; their cessation date; and names of clients.^a
- Lobbyist organisations shall submit details within 10 business days of any change.^b
- Lobbyist organisations shall provide a mandatory update of details within 10 business days of each 31 January^c and 30 June.^d
- Lobbyists shall provide a statutory declaration regarding criminal history and political party executive membership each 30 June.^e

Note a: 'Clients' are defined to be an individual, association, organisation or business who: (a) has engaged the lobbyist on a retainer or other income to make representations to Government representatives; or (b) has, in the previous three months, engaged the lobbyist to make representations to Government representatives, whether paid or unpaid. (Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clauses 3.1 and 5.3.)

Note b: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 5.4.

Note c: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 5.5.

Note d: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 5.6.

Note e: The statutory declarations indicate that the lobbyist: (a) has never been sentenced to a term of imprisonment of 30 months or more, (b) has not been convicted, as an adult, in the last ten years, of an offence, one element of which involves dishonesty, such as theft or fraud, (c) is not a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body) (Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clauses 5.6 and 10.1).

Source: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019.

1.7 There are three primary outputs of the regime. The first is a public Register that lists all lobbyist organisations, individual lobbyists employed by those organisations and clients of the lobbyist organisations. The objective of the Register is to ensure that:

... lobbying activities will be carried out ethically and transparently, and that Government representatives who are approached by lobbyists can establish whose interests they represent so that informed judgments can be made about the outcome they are seeking to achieve.⁹

The second output is lobbyist organisation and lobbyist compliance with various provisions of the Code (refer Box 2).

9 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 1.3.

Box 2. Compliance obligations — lobbyist organisations and lobbyists

- Lobbyists who are former Ministers or Parliamentary Secretaries shall not lobby in relation to any matter in which they had official dealings in their last 18 months in office, for a period of 18 months after they leave office.^a
- Lobbyists who are former advisers to Ministers or Parliamentary Secretaries under the *Members of Parliament Staff Act 1984*, members of the Australian Defence Force at Colonel level and above, agency heads or senior executive service employees under the *Public Service Act 1999*, shall not lobby in relation to any matter in which they had official dealings in their last 12 months of employment, for a period of 12 months after they cease employment.^b
- Lobbyists shall observe ‘principles of engagement’ when lobbying, including honesty, accuracy, non-partisanship.^c
- Lobbyists shall inform Government representatives that they are registered lobbyists and of the name of their client.^c
- Lobbyists must not have been sentenced to imprisonment for 30 months or more; been convicted of an offence, one element of which involves dishonesty, in the last 10 years; or be a political party executive.^d

Note a: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 7.1.

Note b: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 7.2. This definition includes Commonwealth Government positions and excludes equivalent positions in state government.

Note c: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 8.1.

Note d: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 10.1.

Source: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019.

The third output is Government representative compliance with the Code (refer Box 3).

Box 3. Compliance obligations — Government representatives

- Government representatives shall not meet with unregistered or otherwise non-compliant lobbyists.^a
- Government representatives will report known Code breaches to the Secretary.^b

Note a: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 4.

Note b: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 9.

Source: Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019.

1.8 The Code specifies that, using the administrative information provided by lobbyist organisations (refer Box 1), AGD is to undertake a number of processes that will lead to the required outputs and outcomes. Specifically, AGD must maintain and update the Register; make the Code

and Register public¹⁰; deregister lobbyists who do not undertake the required processes to maintain the Register¹¹ or comply with the Code¹²; and inform lobbyists of the intention to deregister them.¹³

The Australian Government Register of Lobbyists

1.9 The Register is a publicly available, searchable database of lobbyist organisations, their registered lobbyists and their clients.¹⁴ Table 1.1 summarises the database as at 3 March 2020.

Table 1.1: Information on the Register at 3 March 2020

Entity	Number registered	Registration information	Number providing
Lobbyist organisation	257	Australian Business Number	251 ^a
		Owners, partners, stakeholders	254
		At least one lobbyist listed	257
		At least one client listed	257
Lobbyist	590 ^b	Position	579
Former Government representatives	227 ^b	Cessation date	226

Note a: Count excludes non-Australian lobbyist organisations, as well as missing, inaccurate and deactivated ABNs.

Note b: Count is based on total registered lobbyists, including duplicate entries. Some duplicates are due to lobbyists being associated with multiple lobbyist organisations, but four duplicates are repeated entries. There are 558 unique registered lobbyists (excluding duplicate entries), and 208 unique former Government representatives.

Source: ANAO analysis of Register data.

1.10 The Register listed 257 lobbyist organisations and 590 lobbyists, and 1,792¹⁵ clients.¹⁶ Of the 590 registered lobbyists, 227, or 38 per cent, indicated that they previously held an office as a Commonwealth Government representative.¹⁷ Almost all (226) former Government representatives provided a cessation date for their previous office or position, as required.

Alternate regulatory approaches

1.11 Governments may approach regulation through either legislative or non-legislative models. Non-legislative models involve ‘achieving regulatory ends through non-legislative means, such as binding or non-binding guidelines on market participants’¹⁸, and can include light touch or

10 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 6.

11 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clauses 5.7 and 10.3.

12 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clauses 5.7 and 10.3.

13 Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 10.5.

14 The Register can be accessed at <https://lobbyists.ag.gov.au>.

15 If a client has employed more than one lobbyist organisation, the Register will report the client multiple times. However, this total excludes 135 duplicate client records on the Register, where the client and associated lobbyist organisation are identical.

16 The comparable numbers in February 2018 were 253 lobbyist organisations, 566 lobbyists (539 unique lobbyists) and 1,813 clients.

17 This excludes individuals who previously held an office as a state or territory Government representative.

18 Australian Government, *The Australian Government Guide to Regulation*, Department of the Prime Minister and Cabinet, 2014, p. 28.

principles-based regulation¹⁹, self-regulation and quasi-regulation. Legislated approaches involve either co-regulation²⁰ or explicit government regulation, which is used where ‘there is a high perceived risk or public interest and achieving compliance is seen as critically important’.²¹

1.12 The Australian Government regulatory regime employs a non-legislated, light touch approach. In 2008, the Prime Minister decided that the Department of the Prime Minister and Cabinet (PM&C), which was responsible for the Code at the time, would not have any significant role in monitoring compliance and that the Code would place the onus on Government representatives to monitor lobbyists’ compliance. The Australian Government has few powers to enforce lobbyist compliance — the only penalty for lobbyist non-compliance is deregistration. Although AGD can and does enquire into reports of lobbyist breaches of the Code, it has no power to compel Government representatives to meet only with registered lobbyists or to report breaches when they become aware of them (refer paragraph 4.18).

1.13 Table 1.2 and Appendix 3 show the key characteristics of the Australian Government regime in comparison to those of other international and domestic jurisdictions.

19 Where regulated entities are simply trusted to adhere to values and principles in a code of conduct.

20 Where industry develops and administers its own arrangement and government provides the underpinning legislation to enforce it.

21 Australian Government, *The Australian Government Guide to Regulation*, Department of the Prime Minister and Cabinet, 2014, p. 29.

Table 1.2: Summary of lobbyist regulatory regimes

		AUS	NZ	UK	IRE	CAN	US	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Legislation		✗	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✗	✗	✓
Code of Conduct		✓	✗	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓	✓
Types of lobbyists covered	Third-party	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	In-house	✗	✗	✗	✗	✓	✓	✗	✓	✗	✗	✗	✗	✗	✗
Former gov't reps lobbying prohibitions	Prohibitions apply	✓	✗	✗	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✗
	Prohibition 2+ years	✗	✗	✗	✗	✓	✗	✗	✗	✗	✓	✗	✗	✗	✗
Register of Lobbyists		✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
Information included on the register	Lobbyists	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	Clients	✓	✗	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	Lobbying activities	✗	✗	✗	✓	✓	✓	✗	✗	✗	✓	✗	✗	✗	✗
Lobbyist reporting	Quarterly+	✗	✗	✓	✗	✓	✓	✗	✗	✗	✓	✗	✗	✗	✓
Monitoring and managing	Breach can be reported	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	Audits	✗	✗	✗	✗	✓	✓	✗	✗	✗	✓	✗	✗	✗	✗
	Ministerial diaries	✗	✓	✓	✗	✗	✗	✓	✓	✗	✓	✗	✗	✗	✗
	Other powers	✗	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✗	✗	✓
Enforcement powers	Deregister	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	Fines	✗	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✗	✗	✓
	Prison	✗	✗	✗	✓	✓	✓	✗	✗	✗	✗	✓	✗	✗	✗
Public reporting	Annual reports	✗	✗	✓	✓	✓	✓	✗	✗	✗	✓	✓	✗	✓	✓
	Investigation reports	✗	✗	✓	✓	✓	✓	✗	✓	✗	✗	✗	✗	✗	✗

Legend: ✓ Yes ✗ No

Source: ANAO analysis of information available in the public domain (refer Appendix 3).

1.14 While most jurisdictions have a code of conduct and register, key differences include enshrinement of the code in legislation; regulation of in-house lobbyists as well as third-party lobbyists; duration of lobbying prohibition periods for former Government representatives; types of information that lobbyists must report (specific lobbying activities and communications); compliance methods (audits, reviews and formal and police investigations); the severity of penalties; the independence of the administrative entity; and the extent of public reporting.

Australian Government policy reform and accountability between 2008 and 2020

1.15 The Code has undergone review and some change since its introduction in 2008.

- In 2009, the Senate Standing Committee on Finance and Public Administration recommended the Code be expanded to encompass some in-house lobbyists. This recommendation was not supported by the Australian Government because, 'concerns about transparency do not arise in relation to in-house lobbyists and employees of peak industry bodies ... as it is clear whose interests they represent ...'²² However, in its response, the Government agreed to keep the operation of the Register under review and, if necessary, consider the need for changes to the Code and Register.²³
- In August 2011, the Special Minister of State announced two changes to the Register: the requirement that lobbyist organisations disclose if any former Government representatives were employed by their firm as lobbyists (clause 5.1iii) and measures to decrease the requirement for mandatory reporting from four times to twice per year (clauses 5.4 and 5.5).
- In November 2011, the Senate Finance and Public Administration References Committee conducted an inquiry into the operation of the Code and Register. A number of submissions recommending change were received. However, the conclusion of the inquiry was that the regime was working effectively and meeting its defined objectives; no changes to the Code were recommended by the inquiry or made by the Government.
- In 2013, amendments were made to the Code which prohibited certain political party office holders from remaining on the Register.

1.16 The Code has not been substantially altered since 2013.

1.17 PM&C was accountable for the Code between 2008 and 2018. A machinery of government (MoG) change in 2018 made AGD accountable, in addition to its ongoing responsibility for the Foreign Influence Transparency Scheme (FITS).²⁴ The date of effect of a MoG change will be either

22 Australian Government, *Government response to Senate Standing Committee on Finance and Public Administration Report — Knock, knock...who's there? The Lobbying Code of Conduct*, Parliament of Australia, 2009, p. 4.

23 Australian Government, *Government response to Senate Standing Committee on Finance and Public Administration Report — Knock, knock...who's there? The Lobbying Code of Conduct*, Parliament of Australia, 2009, p. 2.

24 Commencing on 10 December 2018, the purpose of FITS is to provide the public with visibility of the nature, level and extent of foreign influence on Australia's government and politics. FITS also involves a public register, and is regulated through legislation which includes criminal offences for failing to comply with obligations under the scheme, failing to register in circumstances where a person is required to do so, providing false or misleading information or destroying records to avoid registration obligations.

the date a change to the Administrative Arrangements Order (AAO) is issued, the date specified in a decision by the Prime Minister or Cabinet, or the date specified in legislation or a legislative instrument.²⁵ The amendment to the AAO which specified that AGD would deal with whole of government integrity policy and activities was issued on 11 May 2018.

Auditor-General Report No.27 of 2017–18

1.18 Auditor-General Report No.27 of 2017–18, *Management of the Australian Government’s Register of Lobbyists*, assessed the effectiveness of PM&C’s management of the Register. The audit, which was tabled in February 2018, had three criteria:

- Have sound administrative processes been established to update and maintain the Register?
- Has a fit-for-purpose risk-based approach to managing compliance been established?
- Are effective monitoring and reporting arrangements in place?

1.19 The audit’s findings are summarised in Appendix 4. The audit concluded:

While PM&C’s arrangements to manage the Australian Government’s Register of Lobbyists are consistent with the framework agreed by Government, improvements could be made to communications, compliance management and evaluation for the Code and Register. It would also be timely to review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code.²⁶

1.20 The ANAO made one three-part recommendation:

The Department of the Prime Minister and Cabinet review the appropriateness of current arrangements and Code requirements in supporting the achievement of the objectives established for the Code. To better support the ongoing regulation of lobbyists, PM&C should:

- (a) implement a strategy to raise lobbyists’ and Government representatives’ awareness of the Code and their responsibilities;
- (b) assess risks to compliance with the Code and provide advice on the ongoing sufficiency of the current compliance management framework; and
- (c) develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.

1.21 PM&C’s full response to the 2017–18 audit report is provided at Appendix 5. The department ‘agreed in part’ to the recommendation, noting that ‘some elements of the recommendation are better suited to a legislatively–based regime that regulates all lobbyists, i.e., not just those employed by third-parties’ and that it would ‘consider how best to implement the recommendation sub-points consistent with the spirit and intent of the policy objectives of the Register of Lobbyists as an administrative scheme.’

25 Australian Public Service Commission, *Machinery of Government (MoG) changes: What is a MoG change?* [Internet], APSC, 2019, available from <https://www.apsc.gov.au/machinery-government-mog-changes-what-mog-change> [accessed 9 May 2020].

26 Auditor-General Report No.27 2017–18 *Management of the Australian Government’s Register of Lobbyists*, p. 8.

Rationale for undertaking the audit

1.22 This audit is a follow-up to the Auditor-General Report No.27 of 2017–18, *Management of the Australian Government’s Register of Lobbyists*. The appropriate and timely implementation of agreed recommendations is an important part of realising the full benefit of an audit. The audit responds to public and Parliamentary interest in lobbying activities being carried out with integrity and transparency.

Audit approach

Audit objective, criteria and scope

1.23 The audit examined the effectiveness of AGD’s implementation of the recommendation from Auditor-General Report No.27 of 2017–18, *Management of the Australian Government’s Register of Lobbyists*.

1.24 Noting PM&C’s partial agreement to the previous audit report’s recommendation (refer paragraph 1.21), this audit did not consider implementation activities which related better to a legislation based scheme.

1.25 To form a conclusion against the audit objective, the following high level audit criteria were adopted:

- Does AGD have effective governance arrangements to oversee the implementation of the recommendation from Auditor-General Report No.27 of 2017–18?
- Has a strategy been implemented to raise awareness of the *Lobbying Code of Conduct* among lobbyists and Government representatives?
- Has AGD assessed risk to *Lobbying Code of Conduct* compliance and provided advice to the Australian Government on the sufficiency of the current compliance management framework?
- Have performance measures and an evaluation framework for the *Lobbying Code of Conduct* and Register of Lobbyists been developed?

Audit methodology

1.26 The audit involved:

- a review of departmental documentation and communications materials relating to the Code;
- data extraction and analysis of the Register’s public and backend data;
- reviews of supporting systems for the Code, comprising the website, portal and customer relationship management system;
- interviews with relevant entity staff; and
- an interview with a professional body for lobbyists, the Australian Professional Government Relations Association.

1.27 The audit was conducted in accordance with the ANAO Auditing Standards at a cost to the ANAO of approximately \$259,920.

1.28 The audit team was Christine Chalmers, Judy Jensen, Zoe Pilipczyk, Dr Cristiana Linthwaite-Gibbins, Ben Thomson, Stephenson Li and Paul Bryant.

2. Governance structures and processes

Areas examined

The ANAO examined the Attorney-General's Department (AGD) governance arrangements for implementation of the recommendation from Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*.

Conclusion

Governance arrangements to oversee the implementation of the ANAO recommendation were limited in effectiveness. There was no implementation planning at any stage in the transition of accountability for the *Lobbying Code of Conduct* (Code) and ANAO recommendation from the Department of the Prime Minister and Cabinet (PM&C) to AGD. Progress against the ANAO recommendation was first reported to the AGD Audit and Risk Management Committee (ARMC) in August 2019.

Areas for improvement

The ANAO made one recommendation aimed at improving AGD's governance of ANAO recommendations.

2.1 In agreeing to a recommendation made by the ANAO or by the Parliament, an entity is undertaking to the Parliament to improve the relevant area of administration. Good governance arrangements to monitor and oversee the implementation of a recommendation increase the prospect of successful implementation. Effective governance arrangements include fit-for-purpose implementation plans that identify the intent of the recommendations and associated actions, responsibilities, timeframes, and measures of success; as well as clear responsibilities and reporting arrangements to provide the accountable authority with a clear line of sight of implementation.²⁷

2.2 This chapter examines whether:

- there was a fit-for-purpose implementation plan for the ANAO recommendation; and
- senior management and the ARMC had effective oversight of the implementation of the ANAO recommendation.

Is there a fit-for-purpose implementation plan?

There was no plan for the implementation of the ANAO recommendation, or for the implementation of the machinery of government transfer of accountability for the Code from PM&C to AGD. The ANAO recommendation was broadly considered when designing and building a proposed IT system for the Register, but no attempt was made to map IT functionality to the specific components of the ANAO recommendation.

2.3 PM&C agreed in part to the recommendation from Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists* (refer paragraph 1.21).

27 For more information see Australian National Audit Office, *Implementation of recommendations*, ANAO, 2019, available from <https://www.anao.gov.au/work/audit-insights/implementation-recommendations> [accessed 18 June 2020].

2.4 A timeline for the implementation of the ANAO recommendation is shown at Appendix 6. This timeline highlights three distinct elements requiring implementation planning:

- the machinery of government (MoG) transfer of accountability for the Code from PM&C to AGD;
- the migration of the Register of Lobbyists (Register) IT system from PM&C to AGD; and
- the explicit consideration of the ANAO recommendation (refer paragraph 1.20).

Planning for machinery of government transfer of Code to AGD

2.5 The Prime Minister publicly announced the intention to consolidate government integrity and transparency responsibilities within AGD in July 2017. It was intended that transferring accountability for various integrity schemes would enhance the Attorney-General's integrity role and allow the Attorney-General to focus on protecting the rule of law and ensuring integrity within the Commonwealth. It was also intended that harmonising the requirements of the Foreign Influence Transparency Scheme (FITS) and the Lobbying Code within one administering entity would reduce regulatory burden and increase public transparency.

2.6 Discussions regarding the MoG change began between the two departments in 2017. The Prime Minister wrote to the Attorney-General on 6 May 2018 formally advising him of AGD's new responsibilities in relation to integrity and transparency, and that AGD would now be accountable for the Code. The Administrative Arrangements Order was modified on 11 May 2018 to indicate that AGD now dealt with whole of government integrity policy and activities.

2.7 In its 2016 guidance to entities about machinery of government changes, the Australian Public Service Commission (APSC) advised that:

It is expected that Machinery of Government changes will be implemented as quickly as possible to support the Government's priorities, with a focus on achieving the best outcomes for the Australian community across the whole of government.²⁸

2.8 The Prime Minister indicated in his 6 May 2018 correspondence that the respective departments should settle implementation arrangements to support the MoG change, including timing and resources.

2.9 Transfer of appropriation funding occurred in early October 2018. The Register remained on PM&C's IT network until May 2019 (refer paragraph 2.16), at which time it was placed on the AGD IT network.

2.10 Entities were advised by the APSC that:

It is good practice to complete a thorough due diligence exercise within the first five to ten days to identify complex issues early. As soon as it is apparent that a MoG is complex, an independent facilitator should be appointed to lead a cross-agency committee.²⁹

28 Australian Public Service Commission, *Machinery of Government changes: A guide for agencies*, APSC, 2016, p. 6.

29 Australian Public Service Commission, *Machinery of Government changes: A guide for agencies*, APSC, 2016, p. 6.

2.11 The MoG was managed by a MoG Steering Committee that had been established by AGD in July 2017 to manage an earlier MoG process. AGD did not conduct a due diligence exercise within the first five to ten days for the elements of the MoG relating to the Code, develop an implementation plan with milestones or specify a completion date for administrative arrangements. PM&C and AGD have advised that they did not consider the MoG to be complex or contested.

Planning for Register system migration to AGD

2.12 The Register is the primary administrative mechanism for the Code. Deficiencies in the IT system for the Register and the focus on providing a basic functioning Register have been cited by AGD as the primary reason for failing to implement the ANAO recommendation.

2.13 In 2016 guidance to entities about MoG changes, the APSC and Department of Finance advised that 'IT matters need to be addressed early in the MoG change process. This can involve significant time and resources to resolve and implement. Poor planning will increase risk and the cost of getting it wrong can be significant.'³⁰

2.14 Officers from AGD's Information Division began communicating about the system transfer with their counterparts in PM&C in June 2018. An August 2018 'options paper' prepared by AGD's Chief Technology Office analysed potential approaches to the Register transfer (refer Table 2.1).

Table 2.1: Options for Register transfer

Option	Description	Advantages	Disadvantages
1	Develop AGD bespoke solution Discard the PM&C system and create a bespoke application	<ul style="list-style-type: none"> Highest likelihood of seamless technological fit and Enterprise Architecture Compliance 	<ul style="list-style-type: none"> Most expensive High level of risk commensurate with bespoke application development
2	Integration with existing AGD solution Merge the Lobbyist and FITS registers into one register	<ul style="list-style-type: none"> Significant return on investment via the re-use of an existing system High level of consistency and adherence to the AGD Enterprise Architecture and higher level of technological fit 	<ul style="list-style-type: none"> Would require significant business knowledge FITS [Register currently under development with tight targets for completion and release May lead to unideal system for both registers Risk of conflict or overheads that affect efficiency
3	Re-host with Minimum Viable Product Refactor or reconfigure components of PM&C system not supported at AGD	<ul style="list-style-type: none"> Cheapest Retains PM&C investment in system Lowest risk 	<ul style="list-style-type: none"> Some compromise in regard to elements of the solution design and the use of third party stacks

Source: ANAO analysis of Attorney-General's Department, *Lobbyist Relocation Options Paper*, Chief Technology Office, 2018.

30 Australian Public Service Commission, *Machinery of Government changes: A guide for agencies*, APSC, 2016, p. 38.

2.15 The options paper ruled out transferring PM&C's existing operational IT system for technical reasons, and proposed three options: developing a bespoke solution; integrating the Lobbyist Register into the FITS Register; or a Minimum Viable Product (MVP), which involved reconfiguring the PM&C system, which was being redeveloped by PM&C, to function in the AGD environment. The MVP option was recommended on the basis that it was the least risky and costly. No formal cost estimates were produced. The MVP option was endorsed by AGD senior management in October 2018. The options paper noted that the system would not be supported in AGD's environment without significant changes.

2.16 At the time of the MoG change, PM&C was in the process of redeveloping the IT system for the Register 'to reorder the available functions to better respond to user expectations and administrator processes.' This redevelopment work, which had been ongoing since January 2017, had an initial completion date of 30 November 2017, which was later extended to January 2019 (refer Appendix 6). The options paper specified that 'All development work will be completed prior to handover to AGD and that the application has been certified as fit for purpose', meaning the transfer could not occur immediately, as stated by PM&C in an email dated 20 June 2018, but would need to be delayed until testing was completed by PM&C. Discussions to prepare the AGD environment for the transfer commenced in December 2018 and a solution architecture was finalised by AGD in late March 2019. Throughout February to May 2019, information officers from both departments worked together to facilitate the transfer of the IT system, which occurred on 14 May 2019.

2.17 A number of technological issues were identified following the system migration. These included incorrect or incomplete data during transfer from PM&C to AGD; issues with functionality of the user portal; linking errors between the Register and the backend system; duplicate data; and issues with AGD's ability to create and publish registrations. The Australian Professional Government Relations Association stated that most of the issues users encountered with the Register after May 2019 were new and did not occur when the Register was housed at PM&C.

2.18 Despite known risks associated with a redeveloped system that had never been used in production, and misalignment between that system and the platform in which it would be housed at AGD, the system was placed online without performing pre or post-deployment user testing, data migration validation or having a back-out strategy in place.

2.19 Following technological failures in the migrated Register, AGD deployed an 'interim solution' in November 2019, which involved de-activating automation.³¹ By December 2019, planning was focused on establishing a more robust long-term IT solution to support the Register, with the first stage to be delivered by 28 April 2020, at a budgeted cost of \$590,000. The first stage was deployed on 27 May 2020. AGD stated that it will continue to update the system in stages, with the final product scheduled for delivery in June 2021, at an estimated total cost of \$1.57 million.

31 The interim solution broke the link between the user portal and the backend customer relationship management (CRM) system. Lobbyist organisations continued to log into the portal but now accessed a web form to inform AGD of changes to their registration. Two officers then manually entered the data provided by lobbyist organisations into the CRM and were required to check this had been accurately transferred to the Register.

Planning for implementation of the ANAO recommendation

2.20 The ANAO recommendation was first reported to the PM&C Audit and Risk Committee (ARC) in March 2018. Papers stated that PM&C would implement a strategy to raise awareness of the Code, following completion of an IT system redevelopment, and that it would develop a set of performance measures and establish an evaluation framework as part of the redeveloped system. The recommendation was added to the PM&C ARC database on 27 April 2018.

2.21 Updates provided to the PM&C ARC between June 2018 and June 2019 did not report any progress on implementation of the ANAO recommendation³², and it was closed and no longer included in the PM&C ARC recommendation register from June 2019.

2.22 The MoG change transferring accountability for the recommendation to AGD was effected on 11 May 2018 — the date the change to the Administrative Arrangements Order was issued (refer paragraph 1.17).

2.23 The extended period of one year involved in transferring the Register IT system from PM&C to AGD led to differing views about which department held accountability for the Code and the ANAO recommendation, during the period May 2018 to May 2019.

- On 22 October 2018, a PM&C officer responded to a question about the Code before the Senate Finance and Public Administration Legislation Committee by stating, 'That would be a question now that should go to the Attorney-General's Department as a policy issue.'³³
- On 23 October 2018, an AGD officer responded to a question about the Code before the Senate Legal and Constitutional Affairs Legislation Committee by stating 'as we haven't taken that function over yet, we're just not aware of it. It's PM&C at the moment. You go through them ... It's an operational question in relation to how the code and the register operate, and, at this point, we are not operationally responsible for the register.'³⁴
- When answering a question in the House of Representatives on 9 September 2019, the Attorney-General advised Parliament that 'Responsibility for the Australian Government Lobbying Code of Conduct and the Register transferred from the Department of Prime Minister and Cabinet to the Attorney-General's Department on 10 May 2019.'³⁵

2.24 AGD has stated that it was not responsible for implementing the ANAO recommendation until May 2019, after the Register was placed on the AGD IT network. AGD has advised the ANAO that, 'While the department formally assumed policy and administrative responsibility for the Lobbying Code from March [sic] 2018, PM&C retained responsibility for its day-to-day operation —

32 From August 2018, PM&C ARC papers noted that the Prime Minister had decided to transfer the Code to AGD, that the transfer would occur once an IT system upgrade was completed (originally planned for November 2018, later March 2019), and closure of the recommendation would occur as soon there was evidence of the transfer.

33 Senate Finance and Public Administration Legislation Committee, *Estimates*, Parliament of Australia, 22 October 2018, p. 149.

34 Senate Legal and Constitutional Affairs Legislation Committee, *Estimates*, Parliament of Australia, 23 October 2018, pp. 146–147.

35 House of Representatives, *Questions in Writing - Australian Government Register of Lobbyists (Question No. 30)*, Parliament of Australia, 9 September 2019.

including communications and enforcement activities, performance measures and evaluation, and the implementation of the ANAO's recommendation and implementation — until May 2019.'

2.25 An implementation plan for the ANAO recommendation was not developed by AGD after the MoG change in May 2018, or after the placement of the Register on AGD's IT network in May 2019.

2.26 The ANAO recommendation was broadly considered when designing and building AGD's proposed IT system for the Register. The proposal noted that 'modifications to the system should be consistent with the Australian National Audit Office's recommendations ...' However, no attempt to map IT functionality to the specific components of the ANAO recommendation was made.

Do senior management and the audit committee have oversight of implementation?

Arrangements for senior management and audit committee oversight of implementation for the ANAO recommendation were partly effective. Divisional responsibility for the Code within AGD was clearly established. The Executive Board (Board) and Senior Management Committee (SMC) had visibility of the Code, however this was focused on technological issues associated with the transfer of the Register rather than the implementation of the ANAO recommendation. Progress against the recommendation was reported to the ARMC, but the commencement of this process was delayed.

Responsibility for the Code

2.27 The management structure for the Code is governed by a delegation instrument and is the responsibility of the Director of the Institutional Integrity Branch (later the Transparency Frameworks Branch³⁶), which sits within the Integrity and Security Division and the Integrity and International Group.

2.28 In 2018–19, 3.7 full-time equivalent staff were initially assigned to the Branch, which is responsible for administering both FITS and the Code. This was subsequently increased to 8.2, of which four are assigned to the Code. AGD has advised this will be reduced to two after the new IT system was introduced in May 2020, with more staff deployed during mandatory update periods. The Branch is assisted by staff from the Information Division.

Management oversight

2.29 The Board is responsible for setting the vision and strategy for the department, overseeing risk and ensuring organisational performance. The Board actively considered the Code once in 2019, on 17 December. At this meeting, an update about the technological problems with the Register (refer paragraph 2.17) was provided by staff from the Transparency Frameworks Branch at the request of the Secretary. The Board did not discuss the ANAO recommendation — or its implementation — at this meeting, other than to note that a follow-up ANAO audit was imminent.

36 In December 2019, the section within the Institutional Integrity Branch that was responsible for the Code was renamed the Transparency Frameworks Branch.

2.30 The SMC is the primary discussion forum on significant corporate and strategic whole of department issues; provides a mechanism for sharing information between the senior executive and staff; and provides advice as needed to the Board. The SMC discussed the Register seven times in 2019. Technological problems with the Register were first noted in August 2019. Discussion by the SMC focused on the Register and its technological development. AGD's implementation of the ANAO recommendation and broader policy considerations associated with the Code, such as the sufficiency of the compliance management framework, were not discussed by the SMC.

2.31 A number of committees support the Board and SMC. The primary functions of the Strategic Operations Steering Committee (SOSC) are to support business improvement; monitor resource allocation and priority-setting across the department; and provide a link between the department's enabling services and its policy, program and advising areas. The SOSC discussed migration of the Register three times in January to March 2019.

2.32 The risks of the Register migration from PM&C were not adequately advised to management to make informed decisions in the lead up to the migration in May 2019. In its August 2018 options paper (refer paragraph 2.15), the Chief Technology Office described the MVP option as having a 'low level of risk exposure.' In April 2019, despite significant delays in its implementation of the transfer, the ICT Committee informed the Board that the Register project was 'appropriately resourced', with 'no major issues to report', although 'PM&C has indicated it wants to transfer the Lobbyist Register no later than 20 April, which would be before the completion of testing.' In December 2019, the ICT Committee informed the Board that the MVP had been delivered and that work was underway to 'address the highest priority issues and to develop a longer term solution for the system.' The Board did not discuss the papers associated with the updates in the period April to December 2019.

Audit and Risk Management Committee oversight

2.33 The ANAO recommendation is monitored by AGD's ARMC. For the purposes of reporting to the AGD ARMC, the audit sponsor is the Deputy Secretary, Integrity and International Group, and the responsible officer is the Assistant Secretary, Transparency Frameworks Branch.

2.34 PM&C's ARC papers show that the ANAO recommendation implementation target date was originally set at 30 June 2018, and was later deferred to 31 December 2018 (refer Appendix 6). By March 2019, the recommendation was classed as overdue.

2.35 The ANAO recommendation was first listed in AGD's ARMC meeting papers on 16 August 2019 — 15 months after accountability for the Code was transferred to AGD. AGD's ARMC papers show the due date for addressing the recommendation to be 1 March 2020. As at 14 November 2019, this recommendation was described, and accepted, as being 'On track (due to be completed by the due date)' despite no evidence of progress or an implementation plan.

2.36 The Register IT system redevelopment, which AGD advises will address several aspects of the recommendation, was not due to be completed until 30 June 2020.

2.37 On 4 March 2020, the branch responsible for the Code requested an extension of the recommendation due date to 30 June 2021.

Recommendation no.1

2.38 Attorney-General's Department establish effective governance processes for the implementation of the recommendation made in Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.

Attorney-General's Department response: Agreed.

2.39 *The department is committed to the effective administration of the Australian Government Lobbying Code of Conduct and Register, and to achieving its policy objectives. The department will implement measures to address this recommendation using the existing executive boards within the department for effective oversight. To ensure an implementation plan for this recommendation can be created and achieved within a reasonable timeframe, the department has committed additional resources to the administration of the Lobbying Code and Register.*

2.40 *The department accepts that the implementation of the ANAO's previous recommendation was delayed. The reasons for this are two-fold.*

2.41 *While policy responsibility was transferred to the department in May 2018 as part of machinery of government changes, the Department of the Prime Minister and Cabinet (PM&C) retained responsibility for the day-to-day administration of the Code and Register, including compliance and communications activities, until May 2019 when PM&C completed its development of a new IT system that was intended to give effect to substantial parts of the ANAO recommendations.*

2.42 *When the new IT system was transferred to the department and launched in May 2019, there were significant issues with the operation of the system that affected stakeholders' ability to properly discharge their obligations under the Code. To address these issues the department prioritised the development and implementation of a replacement, interim IT solution, and the development of a long-term IT system. The first phase of the long-term IT solution was successfully launched on 27 May 2020 and incorporates features designed to assist the department in the implementation of the ANAO's previous recommendation. This includes an automated function to notify former Government representatives of their additional obligations under the Lobbying Code of Conduct, ensuring that lobbyists are aware of their obligations, and that our compliance approach is consistent.*

3. Communications to raise awareness

Areas examined

The ANAO examined the Attorney-General's Department's (AGD) arrangements to communicate and raise awareness of the *Lobbying Code of Conduct* (Code) amongst lobbyists and Government representatives.

Conclusion

AGD did not develop a strategy to raise awareness of the Code. Registered lobbyists received information about some of their administrative responsibilities. Limited activities were undertaken to inform lobbyists and Government representatives of their compliance obligations under the Code.

3.1 Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists* recommended that the department 'implement a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities' (refer paragraph 1.20).³⁷

3.2 This chapter examines whether the AGD has:

- implemented an appropriate communications strategy;
- effectively communicated regulatory requirements to lobbyists; and
- effectively communicated regulatory requirements to Government representatives.

Does AGD have an appropriate communications strategy to raise awareness of the Code?

AGD did not develop a communications or stakeholder engagement strategy for the Code.

3.3 A communications and engagement strategy for a regulatory regime helps to ensure that entities and individuals subject to regulation are aware of their obligations. There are communications and stakeholder engagement strategies for other AGD programs, new legislation, and responding to the recommendations of Royal Commissions. However, AGD does not have a communications or stakeholder engagement strategy for the Code.

37 Auditor-General Report No.27 2017–18 *Management of the Australian Government's Register of Lobbyists*, p. 10.

Does AGD effectively communicate regulatory requirements to lobbyists?

AGD's effectiveness in communicating regulatory requirements to lobbyists cannot be assessed in the absence of a communications strategy. Communication primarily occurred through a dedicated website and through correspondence with registered lobbyist organisations, with limited public information and stakeholder engagement. Communications focused on administrative responsibilities rather than broader compliance obligations, with no communication activities targeted at unregistered lobbyists.

3.4 The Code establishes that lobbyist organisations and lobbyists have a number of administrative responsibilities (refer Chapter 1, Box 1) and compliance obligations (refer Chapter 1, Box 2). Although it has no overarching strategy, AGD undertakes communications activities to raise awareness among lobbyists of these responsibilities and obligations.

Primary communications activities

Lobbying website

3.5 The primary communications vehicle used by AGD to raise awareness of the Code among lobbyists is the website <https://lobbyists.ag.gov.au> (lobbying website).

3.6 The lobbying website provides public access to the Register of Lobbyists (Register), information for lobbyists and links to the Code (with a page dedicated to information for lobbyists³⁸), and is the gateway for lobbyist registration and updates.

Email correspondence

3.7 Email is used to raise awareness among registered lobbyist organisations.³⁹

3.8 AGD has template emails to send to all registered lobbyist organisations outlining lobbyists' administrative requirements for biannual mandatory reporting periods. AGD does not remind lobbyist organisations through emails of other administrative requirements, such as their responsibility to submit updated details within 10 business days of any change outside of the mandatory reporting periods.

3.9 AGD has a template email for registered lobbyist organisations requesting that they remind their employed lobbyists who are former Government representatives of relevant lobbying prohibitions. Between May 2019 and January 2020, AGD communicated with six lobbyist organisations employing former Government representatives, explaining that these lobbyists are restricted in some lobbying activities 'as per Section 7 of the *Lobbying Code of Conduct*.' This correspondence was not sent to all relevant lobbyist organisations (at 30 January 2020, there were a total of 29 lobbyist organisations employing former Government representatives who had ceased being a Government representative in the previous 12 months — refer paragraph 4.19).

38 Page available at <https://www.ag.gov.au/Integrity/lobbyists/Pages/information-for-lobbyists.aspx> [accessed 19 June 2020].

39 All direct communications are from AGD to lobbyist organisations rather than individual lobbyists as AGD does not collect contact details for individual lobbyists.

3.10 Following on from technological issues with the Register in 2019 (refer paragraph 2.17), AGD sent two emails to registered lobbyist organisations acknowledging the issues and providing an overview of the process for resolution.

Information communicated through primary communications activities

3.11 Table 3.1 and Table 3.2 show the messages communicated to lobbyists about their administrative responsibilities (refer Chapter 1, Box 1), and compliance obligations, via the two primary communications activities: website and correspondence. Administrative and compliance requirements are communicated through the lobbying website. Messages about administrative and compliance obligations through correspondence are limited.

Table 3.1: Communications in relation to lobbyist administrative requirements

Clause	Lobbyist administrative responsibilities	Information on lobbying website	Information in correspondence sent since May 2019
5.4	Lobbyist organisations shall submit updated details within 10 business days of any change.	Yes	No
5.5 5.6	Lobbyist organisations shall provide a mandatory update of details within 10 business days of each 31 January and 30 June.	Yes	Yes, to all registered lobbyist organisations for mandatory update period June 2019 and January 2020.
5.6	Lobbyists shall provide a statutory declaration regarding criminal history and political party executive membership within 10 business days of each 30 June.	Yes	Yes, to all registered lobbyist organisations for mandatory update period June 2019.

Source: ANAO analysis.

Table 3.2: Communications in relation to lobbyist compliance obligations

Clause	Lobbyist compliance provisions	Information on lobbying website	Information in correspondence sent since May 2019
7.1	Lobbyists who are former Ministers or Parliamentary Secretaries shall not lobby in relation to any matter in which they had official dealings in their last 18 months in office, for a period of 18 months after they leave office.	Yes	AGD contacted employers of six of a possible 29 lobbyists in 2019–20 ^a , reminding former Government representatives that they are restricted in some lobbying activities ‘as per Section 7 of the <i>Lobbying Code of Conduct</i> .’
7.2	Lobbyists who are former advisers to Ministers or Parliamentary Secretaries, Australian Defence Force members Colonel level or higher, agency heads or senior executive service employees, shall not lobby in relation to any matter in which they had official dealings in their last 12 months of employment, for a period of 12 months after they cease employment.	Yes	

Clause	Lobbyist compliance provisions	Information on lobbying website	Information in correspondence sent since May 2019
8.1	Lobbyists shall observe 'principles of engagement' when lobbying, including honesty, accuracy, non-partisanship.	Yes	No
8.1	Lobbyists shall inform Government representatives that they are registered lobbyists and of the name of their client.	Yes	No
10.1	Lobbyists must not have been sentenced to imprisonment for 30 months or more; been convicted of an offence, one element of which involves dishonesty, in the last 10 years; or be a political party executive.	Yes	No (but embedded in statutory declarations that must be completed annually — refer clause 5.6 in Table 3.1)

Note a: As at 31 January 2020, refer paragraph 4.19.

Source: ANAO analysis.

Other communications activities

Public information

3.12 Communications to the broader community of lobbyists, including eligible lobbyists who may have failed to register, are limited to the lobbying website. Advertising and social media campaigns have not been used.

3.13 AGD has provided limited information about the Code through its corporate reporting. The Code was mentioned once in the 2018–19 Annual Report — to state that AGD had 'assumed responsibility' for the Code and Register. There are no references to the Code in AGD's 2018–22 or 2019–23 Corporate Plan.

Stakeholder direct engagement

3.14 AGD has engaged with the Australian Professional Government Relations Association (APGRA) — a lobbyist professional body. In May 2019, AGD met with APGRA about the Code. AGD and APGRA met again in late 2019 after several communications from APGRA expressing concern about technological issues with the Register, and then again in February 2020.

3.15 AGD has not consulted with other professional bodies or organised engagement events targeting lobbyists.

Does AGD effectively communicate regulatory requirements to Government representatives?

Communications to Government representatives to raise their awareness of the Code and regulatory obligations were partly effective. AGD used the lobbying website to provide some information to Government representatives about compliance obligations, but did not undertake any broader communications activities with Government representatives, including with the Australian Government entities that employ them or the entities that have a responsibility to provide guidance to the Australian public sector.

3.16 The Code establishes that Government representatives shall not meet with unregistered lobbyists and will report Code breaches to the Secretary of AGD (refer Chapter 1, Box 3).

3.17 There is a dedicated page on the lobbying website to provide information for Government representatives.⁴⁰ The page defines a Government representative, provides links to the Code and Register, and reinforces Government representatives' compliance obligations to meet only with registered lobbyists and to report Code breaches. The page also includes a checklist of what to do if contacted by a lobbyist — reproduced in Figure 3.1.

Figure 3.1: Information for Government representatives — Checklist

Checklist

If you receive a phone call or meeting request from a potential lobbyist:

- **Step One:** Ascertain whether the caller is a lobbyist and who they represent.
- **Step Two:** If they are representing a third-party client, then ask who their client is.
- **Step Three:** Ask whether they are registered on the Australian Government Register of Lobbyists and whether their client is registered.
- **Step Four:** Check the Register to ensure they are there.

Source: Attorney-General's Department, *Information for Australian Government Representatives* [Internet], AGD, available from <https://www.ag.gov.au/integrity/australian-government-register-lobbyists/information-australian-government-representatives> [accessed 17 March 2020].

3.18 The checklist does not remind Government representatives to check if the lobbyist is a former Government representative who may be within their prohibition period, although cessation dates are on the public Register.

3.19 AGD has not provided any information about the Code to Parliamentarians or other Government representatives, although a letter directed to Ministers and Assistant Ministers has been drafted. AGD has not provided any information about the Code to other government entities that might serve as a conduit for disseminating information to Government representatives. This includes employer departments and agencies, as well as agencies that have a role in providing whole of government public sector guidance. The Australian Public Service Commission⁴¹ and Parliament of Australia websites⁴² have outdated references to the Code and Register, although the Department of Finance reference⁴³ is up to date. AGD's own internal reference in its *Guidelines for Managing Conflicts of Interest*, which is provided to all AGD staff on its intranet, also has outdated references and directs employees to a Department of the Prime Minister and Cabinet website.

40 Page available at <https://www.ag.gov.au/Integrity/lobbyists/Pages/information-australian-government-representatives.aspx> [accessed 19 June 2020].

41 Australian Public Service Commission, *Section 5: Conflict of Interest* [Internet], APSC, available from <https://apsc.govcms.gov.au/section-5-conflict-interest> [accessed 17 March 2020].

42 Parliament of Australia, *Codes of conduct in Australian and selected overseas parliaments* [Internet], Parliament of Australia, 2012, available from https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/Conduct#_Toc325623496 [accessed 13 March 2020].

43 Department of Finance, *Guidance by role - Minister* [Internet], Finance, available from <https://maps.finance.gov.au/guidance/guidance-role/minister> [accessed 17 March 2020].

4. Assessment and management of compliance risks

Areas examined

The ANAO examined whether the Attorney-General's Department (AGD) had assessed risk to the *Lobbying Code of Conduct* (Code) compliance and provided advice to Government on the sufficiency of the current compliance framework.

Conclusion

AGD did not systematically assess risks to compliance with the Code and did not advise Government about the sufficiency of the current compliance framework in meeting the Code's objectives.

4.1 Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists* recommended that the department 'assess risks to compliance with the *Lobbying Code of Conduct*' and 'provide advice on the ongoing sufficiency of the current compliance management framework' (refer paragraph 1.20).⁴⁴

4.2 This chapter examines the activities undertaken by AGD to assess compliance risk and manage the administrative responsibilities and compliance obligations of regulated entities; and the arrangements established to advise the Australian Government about the sufficiency of the current regime and the way it is administered.

Have risks to compliance with the Code been assessed and mitigation strategies developed?

AGD did not systematically consider or manage risks that impact the ability or willingness of regulated entities and individuals to comply with the Code. Risks in relation to AGD's ability to administer the Code were assessed at a basic level and only after actual risks associated with data accuracy were realised. There was no strategy to ensure that administrative risks, or risks to compliance with the Code, are effectively managed. In practice, activities and procedures such as email communications with lobbyist organisations, compliance dashboards and draft standard operating procedures aimed to manage some administrative risks.

Regulatory risk assessment and risk-based compliance strategies

4.3 The Australian Government uses regulatory instruments, ranging from legislation to principles-based instruments such as codes of conduct, to influence the way individuals and entities behave (refer paragraph 1.11). Regulators should provide assurance to the Australian Government that mandated requirements under the regulatory regime are being met through these instruments and that regulatory objectives are being achieved. Poorly administered and ineffective regulation imposes unnecessary costs on regulated entities and the taxpayer.

4.4 Figure 4.1 summarises the Code's requirements (refer paragraphs 1.6 through 1.8).

44 Auditor-General Report No.27 2017–18 *Management of the Australian Government's Register of Lobbyists*, p. 10.

Figure 4.1: Lobbyist, Government representative and AGD administrative and compliance obligations under the Code



Source: ANAO analysis of Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019.

4.5 Regulatory risk is an actual or potential event or circumstance that interferes with the achievement of a regulatory objective. Regulatory risk can be categorised into two broad types — administrative risk and compliance risk.

- Administrative risk — risks that affect the responsible regulatory entity’s ability to administer the regulatory regime. In the context of the Code, AGD’s ability to administer requirements is principally related to the supply and management of information. The Code’s primary administrative mechanism is the Register of Lobbyists (Register)⁴⁵, which relies on administrative inputs from lobbyists and on AGD’s processing of these inputs (refer Figure 4.1). Administrative risks may be factors that cause lobbyists or lobbyist organisations to fail to meet their administrative responsibilities and provide the necessary information inputs, as well as factors that impede AGD’s ability to effectively process this information.
- Compliance risk — risks that affect regulated entities’ and individuals’ ability or willingness to comply with the regulatory regime. The Code places a number of compliance obligations on lobbyists, lobbyist organisations and Government representatives (refer Figure 4.1). Examples of compliance risks could be lack of knowledge and information about compliance obligations among lobbyists and Government representatives; technological failures in the Register impeding Government representatives’ ability to check it; Government representatives’ lack of resources to identify, assess and report breaches; or lack of sufficient incentive to comply given weak or non-existent penalties.

4.6 AGD’s 2019–23 Corporate Plan states that ‘all staff have a responsibility to identify and engage with risk in order to ensure our policies, programs and services are robust and innovative.’⁴⁶ AGD’s guidance to staff in implementing the *Commonwealth Risk Management Policy* states that a risk assessment should be conducted when developing a new policy, implementing a new program, establishing a new process, considering a new proposal or reviewing existing work practices.

4.7 A risk-based compliance strategy should define the types of activities to be undertaken to confirm or assure compliance, who will undertake these activities, how frequently they will be conducted and how they will be reported. A risk-based compliance strategy helps regulators develop proportionate and appropriate mitigation strategies. If the risk of non-compliance declines, a reduction in the nature and extent of compliance activities may be appropriate. The key components of a risk-based compliance monitoring strategy are shown in Figure 4.2.

45 Register available at <https://lobbyists.ag.gov.au/home> [accessed 19 June 2020].

46 Attorney-General’s Department, *Corporate Plan 2019–23*, AGD, 2019, p. 29.

Figure 4.2: Risk-based compliance monitoring strategy

Source: ANAO.

Administrative responsibilities and risks

4.8 Figure 4.1 outlines the administrative requirements under the Code for lobbyists.

4.9 The Transparency Frameworks Branch did not conduct a risk assessment for the Code prior to assuming administrative responsibility.

4.10 Following the migration of the Register from the Department of the Prime Minister and Cabinet (PM&C) to AGD in May 2019, technological issues were identified in relation to system deployment (refer paragraph 2.17). Many of these issues became apparent during the June 2019 mandatory reporting period. The issues led to delays in the processing of mandatory update information, with the recording of 30 June mandatory update information not completed until 28 November 2019.

4.11 The primary consequence of administrative risks being realised is an inaccurate Register, impeding public transparency of lobbying activities. This consequence was evident in September 2019, when the Attorney-General reported to Parliament that ‘as of 8 August 2019, there are 266 entities and 836 individual lobbyists registered ...’⁴⁷ ANAO analysis of the Register’s data in both 2017 and 2020 has determined that the total number of individual lobbyists registered was fewer than 600 at both points in time. AGD advised that the overstatement of registered lobbyists in August 2019 was due to technological issues with the Register system at that time which resulted in duplicate records and that, although PM&C had notified AGD of the problem of duplicate records on 7 August 2019, AGD were ‘unaware of the impact for resulting statistics.’

47 House of Representatives, *Questions in Writing - Australian Government Register of Lobbyists (Question No. 31)*, Parliament of Australia, 9 September 2019.

4.12 Following these failures, in September 2019, the branch responsible for the Code completed a risk assessment that identified one administrative risk — failure of the IT system for the Register leading to data inaccuracies. This risk had a ‘Major’ consequence, ‘Possible’ likelihood and ‘High’ risk level, which is higher than AGD’s risk tolerance of ‘low’ to ‘medium’ as expressed in its enterprise-level strategic risk register. An ‘interim’ IT solution involving de-activation of the previous system and a longer term ‘major transformation’ of the IT system for the Register were listed as new controls that would lower the risk level to ‘medium.’

4.13 In practice, AGD undertakes some activities aimed at monitoring and managing the risk that administrative requirements associated with the Code are not being satisfied.

- Regular email communications with registered lobbyist organisations (refer paragraph 3.8) remind lobbyists of their administrative responsibilities during mandatory update periods. If lobbyist organisations or lobbyists fail to provide the necessary administrative inputs, they are deregistered. In the January 2020 mandatory reporting period, eight lobbyist organisations were removed from the Register due to non-compliance.
- During the mandatory reporting periods, AGD uses a compliance dashboard to monitor whether lobbyist organisations have confirmed that their details are up to date. This dashboard informs a schedule of reminder and non-compliance emails, which are sent to lobbyist organisations throughout the mandatory reporting period.
- In February 2020, AGD prepared a set of draft standard operating procedures (SOPs) for officers which provide guidance in processing registrations and resolving IT difficulties with the Register. This requires that all registrations and updates be checked by a Director in a two-step approval process.
- In an email to registered lobbyists sent in November 2019, AGD committed to a three to five-business day service standard for actioning changes to the Register as a means of ensuring that the Register is kept up to date. AGD advised the ANAO that officers are instructed to prioritise older requests to help ensure this standard is met although this is not referenced in the relevant draft SOP. The specifications of the new IT system (refer paragraph 2.19) include reminders to officers.

4.14 There is no risk-based compliance strategy to manage administrative risks. Without a strategy, it is unclear what controls for other administrative risks are required.

- Outside of the mandatory reporting period, there is a risk that lobbyist organisations will not update AGD with changes within 10 days. AGD advised that, in the 31 January 2020 mandatory reporting period, 122 out of 259 lobbyist organisations that responded, submitted at least one change. AGD has not verified that these changes occurred within 10 days of the mandatory report through checks against business databases, surveys or other methods.⁴⁸

48 The Queensland Integrity Commissioner conducted a major audit in 2018–19 confirming the details of all lobbyists and lobbyist organisations listed on Queensland’s Register. The Integrity Commissioner indicated that it was satisfied that as at 30 June 2019, the compliance and contact details for all registered entities were in accordance with the *Integrity Act 2009*, although it identified the need for new measures in relation to password retrieval, expansion of declarations to capture additional relevant information, and web-site redesign (Queensland Integrity Commissioner, *Annual Report 2018–19*, Queensland Integrity Commissioner, 2019, p. 8).

- There is a risk that former Government representatives will not correctly declare themselves as such on the Register, leading to a lack of disclosure of conflicts of interest. Lack of declaration has occurred on a least one occasion since May 2019. AGD responded to this issue by sending a warning letter to the lobbyist three months after registration. However, the identification of this breach of the Code was due to the high profile of the lobbyist. There are no processes in place to guard against this risk when the lobbyists' previous official dealings are unknown to AGD staff.
- There is a risk that former Government representatives will declare an inaccurate cessation date from their previous roles and lobby within the prohibition period. There are 227 former Government representatives on the Register (refer Table 1.1). Although AGD could check publicly available information regarding cessation dates for all, or a sample of, former Government representatives, it does not do this.
- There is a risk that lobbyist organisations will fail to list all clients, leading to lack of disclosure of relevant interests when lobbying. AGD has no controls in place to mitigate against this risk and this would be difficult for AGD to verify under the current regulatory regime.

Compliance obligations and risks

4.15 Figure 4.1 outlines the compliance requirements under the Code for lobbyists and Government representatives. AGD's Audit and Risk Management Committee (ARMC) reporting on 16 August 2019 shows that AGD was relying on PM&C's redevelopment of the IT system for the Register in order to implement the ANAO recommendation to assess risks to compliance with the Code.

4.16 AGD has not conducted a compliance risk assessment for the Code. AGD's enterprise-wide strategic risk register does not mention the Code, and a decision was made by the Security and Risk Management Committee (SRMC) in February 2020 to exclude from this register risks related to specific programs such as the Foreign Influence Transparency Scheme (FITS) and the Lobbying Code.

4.17 In the absence of a risk assessment, it is unclear what risks to compliance with the Code and the achievement of objectives exist; what AGD's risk tolerance level is; which risks exceed this tolerance level and require mitigation; how any controls should be prioritised in a compliance monitoring strategy; and whether its actions in controlling risk are effective. Noting this, in February 2020, the SRMC agreed that 'programs with elevated risks should have their own operational risk register' and that the Governance Office within AGD would consult with relevant line areas about this.

4.18 There are a number of risks to compliance that are inherent within the Australian regime that may impede achievement of its intended outcomes of Government representatives making informed judgements about lobbyist interests; transparent contact between lobbyists and Government representatives; and public trust in the integrity of government processes (refer paragraph 1.4). Regulatory regimes in other jurisdictions (refer paragraph 1.13 and Appendix 3) give administering agencies stronger powers to monitor and manage compliance or have greater transparency requirements.

- AGD has no method to determine if lobbyists are observing ‘principles of engagement’⁴⁹, including being transparent about whose interests they are representing when meeting with a Government representative. In some jurisdictions, registers must include details about the specific topic of all meetings (refer Table 1.2 and Appendix 3).
- Although AGD has stated that it will inquire into breaches that are reported to it by Government representatives or others (refer paragraph 4.20), AGD has no power to ensure, or means to verify, that Government representatives are reporting known breaches of the Code. Auditor-General Report No.27 of 2017–18 identified 11 alleged breaches between 2013 and February 2018. PM&C has advised that two potential breaches of the Code were brought to their attention between February 2018 and May 2019, each alleging that lobbyists were undertaking lobbying activities on behalf of clients who were not listed in the Register. Between May 2019 and February 2020, one alleged breach was reported to AGD by a member of the public. In the last three instances, the allegations were examined by the respective departments, who judged that there was no evidence to indicate non-compliance and that no further action was required.
- AGD has no means to verify that Government representatives are checking the Register and meeting only with registered lobbyists and with former Government representatives only outside the prohibition period. In some regulatory regimes (refer Table 1.2 and Appendix 3), ministerial diaries are published.

4.19 Moreover, measures that can potentially be utilised by AGD under the current Australian regime are not always utilised.

- Emails are sometimes sent to lobbyist organisations employing former Government representatives to remind them about prohibitions (refer paragraph 3.9). As at 31 January 2020, 29 former Government representative lobbyists⁵⁰ had ceased employment as a Government representative within the previous 12 months and were therefore prohibited from lobbying on certain topics. In the period between May 2019 and January 2020, AGD notified six of these lobbyists (via their employer) about prohibitions. In three instances, this was more than 48 days after the relevant record had been created in the Register. The

49 Lobbyists shall observe the following principles when engaging with Government representatives: (a) lobbyists shall not engage in any conduct that is corrupt, dishonest or illegal, or unlawfully cause or threaten any detriment; (b) lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided by them to clients whom they represent, the wider public and Government representatives; (c) lobbyists shall not make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to Government representatives, members of political parties or to any other person; (d) lobbyists shall keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party (noting that there are certain restrictions on registration at 10.1(c) below); and (e) when making initial contact with Government representatives with the intention of conducting lobbying activities, lobbyists who are proposing to conduct lobbying activities on behalf of clients must inform the Government representatives: (i) that they are lobbyists or employees of, or contractors or persons engaged by, lobbyists; (ii) whether they are currently listed on the Register of Lobbyists; (iii) the name of their relevant client or clients, including a client whose identity is not required to be made public under clause 5.2; and (iv) the nature of the matters that their clients wish them to raise with Government representatives. (Attorney-General's Department, *Lobbying Code of Conduct*, AGD, 2019, clause 8.1.)

50 Excluding one duplicate lobbyist record.

‘interim’ IT system for the Register (refer paragraph 2.19) alerts staff when a cessation date for a former Government representative falls within the prohibition period, but the control mechanism of sending an email to the Government representative has not been included in the recently developed SOPs. AGD has advised that new IT solution deployed on 27 May 2020 includes an automated email function.

- The AGD ARMC was advised on 14 November 2019 that AGD would work with the Department of Finance to engage with recently departed *Members of Parliament (Staff) Act 1984* employees to ensure they are aware of the prohibitions applying to them under the Code. AGD has not contacted the Department of Finance about this.
- Statutory declarations are used to determine if lobbyists have been imprisoned; convicted of dishonesty, theft or fraud; or are political party executives. AGD has considered but rejected police checks of statutory declarations as a way of controlling the risk of fraudulent declarations and does not check their veracity in any other way.⁵¹

4.20 AGD has advised the ANAO that ‘the Code does not give the department any investigative powers.’ However, AGD has stated that:

‘... how the department handles alleged breaches that are reported to us will, necessarily, depend on the facts and circumstances of each case. However, in broad terms, we would:

- undertake an initial assessment of the information that is referred to us
- make further enquiries of the referent and other relevant individuals organisations and/or government entities where necessary and appropriate
- seek out relevant publicly information where necessary and appropriate, and
- consider the matter based on all relevant and available information, and provide advice to the Secretary or take such other action (for example, writing to the subject of the referral to request that they take remedial action, or seeking further assurance through a statutory declaration) as may be appropriate in the circumstances.’

Has AGD appropriately advised the Australian Government on the sufficiency of the current compliance management framework?

AGD did not advise Government about the sufficiency of the compliance framework in meeting the Code’s objectives.

4.21 In its 2018–22 Corporate Plan, AGD noted a trend in declining public confidence in government and that ‘Providing advice to government on key integrity frameworks is a particular focus of the Integrity and Security Division.’⁵² Members of the Finance and Public Administration Legislation Committee expressed the view in February 2018 that PM&C, which was responsible for the Code at the time, had a role to play in advising the Government on the sufficiency of the current policy in relation to lobbyists, and questioned why this was not occurring.

51 AGD has noted that no area of the department investigates a person’s criminal history, either as part of verifying the accuracy of a statutory declaration or otherwise.

52 Attorney-General's Department, *Corporate Plan 2018–22*, AGD, 2018, p. 6.

4.22 Reporting to the AGD ARMC on 16 August 2019 stated that, ‘AGD will also consider whether additional measures are required to support greater compliance with the Code by lobbyists, increased assurance over information quality and enhanced monitoring of current arrangements. It is likely that this work will take a minimum of six months.’ There is no evidence that AGD has progressed its consideration of these measures in the period since. AGD testimony before the Senate Legal and Constitutional Affairs Legislation Committee on 22 October 2019 also demonstrated that AGD made no progress.

4.23 On 6 May 2018, the Prime Minister wrote to the Attorney-General, requesting advice to be provided by late July 2018, ‘following your review of arrangements in relation to the Lobbying Code, as recommended by the ANAO, including whether the Lobbying Code should be placed on a statutory footing in a manner consistent with the FITS Bill.’ AGD advised in June 2020 that, ‘The Attorney-General wrote to the Prime Minister on 12 September 2018 responding to the initial request, and confirming it was withdrawn by agreement.’⁵³

4.24 Following media reports about technological failures in the Register since its transition to AGD and questions posed in Parliament on 22 October 2019, a senior advisor within the Attorney-General’s Office (AGO) asked AGD to provide advice on the issue of in-house lobbyists and any other issues about the Code and Register that ‘warrant consideration.’ In its informal response, on 4 November 2019, AGD noted that it had limited capacity to provide policy advice ‘at this time due to our focus on the technological issues facing the existing register system.’ However, several policy options were provided in an informal response, under the categories of ‘short-term, quick win’, ‘longer term, moderate enhancements’ and ‘longer term, significant enhancements.’ Options included legislating the Code; establishing an oversight body; expansions to the scope (for example, information that is required to be reported or to include in-house lobbyists); expanding prohibitions for former Government representatives and on certain lobbying tactics; extension of compliance requirements and penalties for non-compliance; enhancements to administration (for example, greater automation); and improvements in cross-agency collaboration. AGD advised that the exclusion of in-house lobbyists is aligned with other Australian transparency frameworks, including FITS.

4.25 October 2019 planning documents indicate that AGD intended to develop a formal policy paper for the AGO by July 2020, but AGD has advised ANAO that this is unlikely to be progressed until the new Register IT system (refer paragraph 2.19) is in place.

53 The Attorney-General’s letter of 12 September 2018 did not specifically mention the Lobbyist Register.

5. Performance measurement and evaluation

Areas examined

The ANAO examined the Attorney-General's Department (AGD) development of an evaluation framework and performance measures for the *Lobbying Code of Conduct* (Code).

Conclusion

AGD did not develop an evaluation framework for the Code and did not develop performance measures. It did not assess or inform others about whether the current regime is achieving the regulatory objectives.

Areas for improvement

The ANAO made one recommendation that AGD evaluate and advise the Australian Government about whether the current regulatory regime for lobbying is achieving, and can achieve, the regulatory objectives.

5.1 Auditor-General Report No.27 of 2017–18, *Management of the Australian Government's Register of Lobbyists*, recommended that the department 'develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved' (refer paragraph 1.20).⁵⁴

5.2 This chapter examines whether AGD:

- has developed an appropriate framework for performance measurement and evaluation;
- monitors and uses performance information for continuous improvement; and
- has appropriate arrangements for reporting its performance in administering the Code and the achievement of objectives established for the Code.

Has AGD developed an appropriate framework for performance measurement and evaluation?

AGD did not develop an evaluation framework for assessing the regime's success in meeting objectives and did not develop performance measures.

Establishing an evaluation framework

5.3 An integral part of the regulatory process is assessing the effectiveness of the regulatory arrangement in achieving policy objectives. Such assessments help identify any improvements required to the policy framework, as well as to the administrative performance of the regulator. Regulators are advised that implementation plans should reflect 'the importance of evaluation: not just to assess how well you implemented the policy, but whether the policy remains relevant and needed.'⁵⁵

54 Auditor-General Report No.27 2017–18 *Management of the Australian Government's Register of Lobbyists*, p. 10.

55 Australian Government, *The Australian Government Guide to Regulation*, Department of the Prime Minister and Cabinet, 2014, pp. 49–50.

5.4 A good quality evaluation framework will include the specification of policy objectives and outcomes; evaluation questions that cover the domains of appropriateness, effectiveness, efficiency, impact and/or sustainability; robust performance metrics; identification of baseline data; data collection processes; timeframes, budgets and responsibilities; and a reporting and dissemination strategy. It should also consider the input of stakeholders.

5.5 AGD has advised that an evaluation framework will not be developed before the new IT system (refer paragraph 2.19) for the Register of Lobbyists (Register) is in place.

5.6 Regulation Impact Statements (RIS) are required for all Commonwealth regulatory regimes and these include an evaluation plan or framework. AGD has not referred to a RIS in administering the lobbying regime.

Defining outcomes and objectives

5.7 Department of Finance guidelines on developing performance information emphasise the importance of establishing the objectives and desired outcomes of a given policy and that 'senior managers play a critical role in ensuring that this understanding exists (and is reinforced) at all levels in an entity.'⁵⁶

- The Code clearly defines the objective of the regime to be to promote trust in the integrity of government processes through ensuring contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty (refer paragraph 1.3).
- There are three intended outcomes of the regulatory regime: Government representatives make informed judgements about lobbyist interests; there is transparent contact between lobbyists and Government representatives; and there is public trust in the integrity of government processes (refer paragraph 1.4).
- There are three primary outputs of the regime: a public Register; lobbyist organisation and lobbyist compliance with various provisions of the Code; and Government representative compliance with the Code (refer paragraph 1.7).

5.8 AGD activity since becoming accountable for the Code in 2018 has been focused on establishing a reliable Register. Although the Register is the primary administrative mechanism by which the Code's purpose is meant to be achieved, an exclusive focus on one output runs the risk of administrators failing to consider the Code's broader intended outcomes and objectives and critically evaluate current structures and processes against the regulatory objective.

5.9 The Department of Prime Minister and Cabinet (PM&C) advises 'An effective approach identifies all the main components of an initiative and plans out all the activities as a cause-and-effect chain.'⁵⁷ Such a cause-and-effect chain, otherwise known as a logic model, 'can help determine what performance information is needed to tell an effective performance story because

56 Department of Finance, *Developing good performance information: Resource Management Guide No. 131*, Department of Finance, 2015, p. 9.

57 Department of the Prime Minister and Cabinet, *Cabinet Implementation Unit Toolkit 5: Monitoring, review and evaluation*, PM&C, 2013, p. 3.

it can help identify the sequence of causes and effects that explain how a purpose is intended to be fulfilled.⁵⁸ AGD has not developed a logic model for the lobbyist regime.

Developing performance measures

5.10 In its response to Auditor-General Report No.27 of 2017–18, PM&C stated:

Prior to the audit, PM&C had allocated funds to modernise the IT system which underpins the Register ... implementing other improvements consistent with the audit's findings and recommendation ... PM&C will also develop a set of performance measures and establish an evaluation framework as part of the redeveloped system.⁵⁹

On 16 August 2019, AGD officers reported to the AGD Audit and Risk Management Committee (ARMC; refer paragraphs 2.33 to 2.35) that:

PM&C, in its response to the ANAO audit, indicated that the design of the new application would involve developing 'a set of performance measures and establish[ing] an evaluation framework'. AGD is still exploring the extent to which this aim has been addressed through the new application or if further work is required.

In an internal policy paper written in late 2019, AGD officers stated that:

It is not clear whether a set of performance measures and evaluation has been designed ... the lobbyist register would benefit from oversight and evaluation measures.

5.11 Reports to an ARMC meeting on 14 November 2019 stated that a new long-term IT solution currently in development for the Register would incorporate and provide the necessary compliance and performance information. The ARMC was told by the branch responsible for the Code that a contractor had been engaged to help inform the department about the sufficiency of current compliance processes and to develop performance measures. This contractor was engaged in October 2019 to provide 'business process development and mapping services' to AGD in relation to both the Code and the Foreign Influence Transparency Scheme (FITS). However, no deliverables regarding performance monitoring, measurement or evaluation were sought in the scope of work from this contractor and none have been provided. The contractor provided draft standard operating procedures for the Register.

5.12 AGD divisional and branch business and work plans do not include performance measures for the Code.

5.13 Well-defined performance indicators and targets enable a regulator to measure, monitor and report regulatory performance. An evaluation framework setting out a strategy for performance measurement — including outcome, output and process performance measures, and the means by which this performance information would be collected — should have informed and guided the proposed rebuild of the IT system for the Register. Although an internal policy paper written in late 2019 stated that the department should 'ensure [performance measures and an

58 Department of Finance, *Developing good performance information: Resource Management Guide No. 131*, Department of Finance, 2015, p. 22.

59 Auditor-General Report No.27 2017–18, *Management of the Australian Government's Register of Lobbyists*, Appendix 5 — The Department of the Prime Minister and Cabinet's response.

evaluation framework] is included in the IT build Phase 2⁶⁰, there was no detailed consideration of how the proposed IT system could reliably collect performance information, what performance information should be collected and how this information would support evaluation of the Code's administration and achievement of the policy objective. There was no overarching evaluation strategy to guide the development of the system.

5.14 Papers for an ARMC meeting in April 2020 did not include reporting on the implementation of recommendations, including the ANAO recommendation to develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.

Does AGD monitor and use performance information for continuous improvement?

AGD did not develop a monitoring program for the Code and did not establish any performance measures for AGD processes in administering the Code. A service standard was developed for timely updates to the Register, but performance against this standard is not yet measured or assessed.

5.15 Performance information 'allows managers of activities to understand whether the tasks they have been allocated are providing the results expected by senior managers, and if not, why not. Performance information used for this purpose supports continuous improvement.'⁶¹

5.16 AGD has not developed a monitoring program for the Code and has not established management performance measures.

5.17 AGD has not assessed information gaps or evaluated the effectiveness of its communications activities aimed at lobbyists or Government representatives. Other than one lobbyist taking part in user tests of its 'interim solution' to the Register (refer paragraph 2.19), it has conducted no stakeholder research to determine current awareness levels and information needs, has no baseline data to benchmark the effectiveness of future communications, and has not assessed the effectiveness of its communications (for example, by comparing the number of lobbyist organisations and lobbyists who are registered) against other jurisdictions.

5.18 Where websites are used to communicate, the analysis of website usage data can provide useful feedback. AGD has not analysed usage data for the lobbying website, <https://lobbyists.ag.gov.au>. AGD does not assess if the lobbying website is an effective mechanism for raising awareness of the requirement to register or other compliance obligations under the Code.

5.19 In an email to registered lobbyists sent in November 2019, AGD established a service standard of implementing lobbyist change of details submissions within three business days of receiving completed forms (five business days during mandatory update periods). There is no established performance metric that measures collective performance against the standard over

60 This meant the proposed redevelopment of the IT system for the Register due to be launched by 30 June 2020.

61 Department of Finance, *Developing good performance information: Resource Management Guide No. 131*, Department of Finance, 2015, p. 16.

time. AGD has advised that the proposed IT system will have an ‘enhanced and comprehensive statistics function’ that will include ‘the ability to track and monitor ... whether we action requests within 3 business days.’

5.20 AGD bases some of its department-wide performance results on a stakeholder satisfaction survey of close to 500 respondents from Commonwealth, state and territory governments, courts, tribunals, legal assistance services, industry, academia and non-government organisations.⁶² In the May 2019 survey there were no questions related to the Code, although AGD has advised that it will include Code-related questions and sample relevant stakeholders in future surveys.

Have appropriate reporting arrangements been established?

No performance information was provided to the Parliament or the public about work undertaken in relation to the Code, and whether intended regulatory objectives are being achieved.

5.21 AGD’s stated purpose is ‘To achieve a just and secure society through the maintenance and improvement of Australia’s law, justice, security and integrity frameworks.’⁶³ Its second⁶⁴ of five⁶⁵ strategic priorities is, in part, ‘to promote public sector integrity.’⁶⁶ This ‘strong oversight and accountability gives the Australian population confidence in the legitimacy of its public institutions and promotes trust in government decision-making.’⁶⁷

5.22 There is no performance information provided to the Parliament, the public or other external stakeholders about AGD’s work undertaken in relation to the Code.⁶⁸ The Code was mentioned once in the 2018–19 Annual Report — to acknowledge that AGD had ‘assumed responsibility for the *Lobbying Code of Conduct* and Register of Lobbyists’. There are no references to the Code in AGD’s 2018–22 or 2019–23 Corporate Plan.

5.23 Portfolio Budget Statement performance measures are established for each of AGD’s strategic criteria. In relation to strategic priority two, ‘integrity’, there were four key performance indicators (KPIs), including two that assess ‘community impact’: Australia’s score on a Corruption Perceptions Index and public understanding of the Protective Security Policy Framework (PSPF). A Corruption Perceptions Index KPI could be considered to be measuring AGD’s outcome performance in managing lobbyist regulation, as this work sits within a suite of integrity and

62 The last survey administered achieved a reported 27 per cent response rate from more than 1,700 invitations.

63 Attorney-General’s Department, *Annual Report 2018–19*, AGD, 2019, p. 5. Following changes to the Administrative Arrangements Order (AAO) on 29 May 2019, AGD added a second outcome and purpose, ‘Facilitate jobs growth through policies and programs that promote fair, productive and safe workplaces’, reflecting AGD’s new industrial relations role under the AAO (Attorney-General’s Department, *Corporate Plan 2019–2023*, AGD, 2019, p. 3.).

64 Third in the 2019–23 Corporate Plan.

65 Six in the 2019–23 Corporate Plan.

66 Attorney-General’s Department, *Annual Report 2018–19*, AGD, 2019, p. 9.

67 Attorney General’s Department, *Corporate Plan 2018–22*, AGD, 2018, p. 6.

68 The Office of the Commissioner of Lobbying of Canada publishes an annual report for its lobbyist regulatory regime. Other jurisdictions including the United Kingdom, the United States, Queensland and Victoria also publish annual reports. AGD does not publish a comparable annual report, has advised the ANAO that such a report is not needed and has stated that it has no intention to publish one.

transparency activities that would share this intended outcome. There is no specific measure of AGD's performance in achieving the objectives of the Code, in contrast to the PSPF and FITS.

5.24 The Organisation for Economic Co-operation and Development (OECD) notes worldwide public concern about the detrimental effects of some lobbying practices on policy making. To assist governments, it has developed 10 'Principles for Transparency and Integrity in Lobbying' (refer Box 4).

Box 4. OECD's 10 Principles for Transparency and Integrity in Lobbying

1. Countries should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies.
2. Rules and guidelines on lobbying should address the governance concerns related to lobbying practices, and respect the socio-political and administrative contexts.
3. Rules and guidelines on lobbying should be consistent with the wider policy and regulatory frameworks.
4. Countries should clearly define the terms 'lobbying' and 'lobbyist' when they consider or develop rules and guidelines on lobbying.
5. Countries should provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities.
6. Countries should enable stakeholders — including civil society organisations, businesses, the media and the general public — to scrutinise lobbying activities.
7. Countries should foster a culture of integrity in public organisations and decision making by providing clear rules and guidelines of conduct for public officials.
8. Lobbyists should comply with standards of professionalism and transparency; they share responsibility for fostering a culture of transparency and integrity in lobbying.
9. Countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance.
10. Countries should review the functioning of their rules and guidelines related to lobbying on a periodic basis and make necessary adjustments in light of experience.

Source: Organisation for Economic Co-operation and Development, *Transparency and Integrity in Lobbying* [Internet], OECD, 2013, available from <https://www.oecd.org/gov/ethics/Lobbying-Brochure.pdf> [accessed 2 March 2020].

5.25 Internal AGD analysis found that the Code and its administration fully meets one⁶⁹ of the 10 OECD principles, partly meets five⁷⁰, and 'fails to meet' the remaining four principles.⁷¹ This analysis has not been communicated to government.

69 Principle 4 — Countries should clearly define the terms 'lobbying' and 'lobbyist' when they consider or develop rules and guidelines on lobbying.

70 Principles 3, 5, 6, 7 and 8.

71 Including Principle 9 'Countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance' and Principle 10 'Countries should review the functioning of their rules and guidelines related to lobbying on a periodic basis and make necessary adjustments in light of experience.'

5.26 Lack of performance information means that the Australian Government is unable to make an informed judgement about whether AGD has effectively and efficiently administered the current regulatory regime for lobbying. Moreover, the lack of evaluation impedes government's ability to determine whether the regulatory regime as currently designed is inherently capable of achieving the regime's stated objectives (refer paragraph 1.3 and Appendix 2).

Recommendation no.2

5.27 Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

Attorney-General's Department response: *Agreed.*

5.28 *The department is committed to the effective administration of the Australian Government Lobbying Code of Conduct and Register and its underlying policy objectives.*

5.29 *The department will consider the implementation of both recommendations made by the ANAO in conjunction with one another.*

5.30 *The department is undertaking a review of the sufficiency of the current regulatory regime and Code. The department will consider policy options that may enhance the scheme's objectives and provide advice to Government.*



Grant Hehir
Auditor-General

Canberra ACT
26 June 2020

Appendices

Appendix 1 Entity responses



Australian Government
Attorney-General's Department

Secretary

19/10995-5

10 June 2020

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

Thank you for the opportunity to comment on the proposed audit report on the Management of the Australian Government Register of Lobbyist (the Lobbyist Register). I welcome the recommendations made to better manage the Lobbyist Register to ensure it achieves its purpose in promoting trust in the integrity of government processes.

Please find below the department's response to the report's recommendations.

Recommendation No. 1: Attorney-General's Department establish effective governance processes for the implementation of the recommendation made in Auditor-General Report No. 27 of 2017-18, *Management of the Australian Government's Register of Lobbyists*. This includes ensuring appropriate senior management engagement; that responsible officers understand the recommendation's intent; and that an implementation plan with achievable activities and milestones is in place.

Agree. The department is committed to the effective administration of the Lobbying Code and Register, and to the achievement of its underlying policy objectives. The department has committed additional resources to the administration of the Lobbying Code and Register which will support this work.

The department has released the first phase of a new IT system to support the Register, which contains features designed to assist us in the implementation of the ANAO's previous recommendation.

Recommendation No. 2: Attorney-General's Department evaluate the sufficiency of the current regulatory regime for lobbying, and provide advice to Government about whether the regime is able to achieve the regulatory objective of promoting public trust in the integrity of government processes through ensuring that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

Agree. The department will consider the implementation of both recommendations made by the ANAO in conjunction with one another, with a view to developing and implementing measures

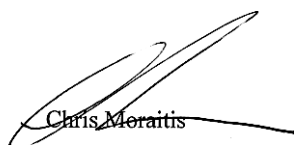
3-5 National Circuit, Barton ACT 2600 Telephone (02) 6141 6666 www.ag.gov.au ABN 92 661 124 436

within the existing framework established by the Lobbying Code, and providing advice to Government in relation to any matters that may require changes to that framework.

I would like to thank your staff for the professional and collegiate manner in which this audit was conducted. We are committed to the implementation of the recommendations and continued improvement in this area.

The action officer for this matter is Rai Basu who can be contacted on 6141 3001.

Yours sincerely



Chris Moraitis

2 of 2



Australian Government
Department of the Prime Minister and Cabinet

SECRETARY

Ref: EC20-000352

Mr Grant Hehir
Auditor-General for Australia
Australian National Audit Office
Email: OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Auditor-General

Thank you for your email of 15 May 2020, and subsequent correspondence from the ANAO of 12 June 2020, regarding the proposed audit report on *Management of the Australian Government's Lobbying Code of Conduct – Follow-up Audit* (the Follow-up Audit), which includes content relating to the Department of the Prime Minister and Cabinet (PM&C).

I acknowledge the opportunity to review and respond to an extract of the Follow-up Audit, pursuant to section 19 of the *Auditor-General Act 1997*. I also note that I, and officials from my Department, provided further information and commentary on an earlier draft of this report, and that this information was taken into account in the preparation of the final version of the Follow-up Audit report.

I note that the Follow-up Audit acknowledges PM&C's partial agreement to the recommendations of Auditor-General Report No. 27 of 2017-18, *Management of the Australian Government's Register of Lobbyists*, in that it did not consider implementation activities which related more appropriately to a legislative scheme (rather than the code-based scheme in existence). I agree with this approach.

I also note there are no specific recommendations in the Follow-up Audit directed to my Department.

A summary of my response is provided in the attachments to this letter.

Yours sincerely

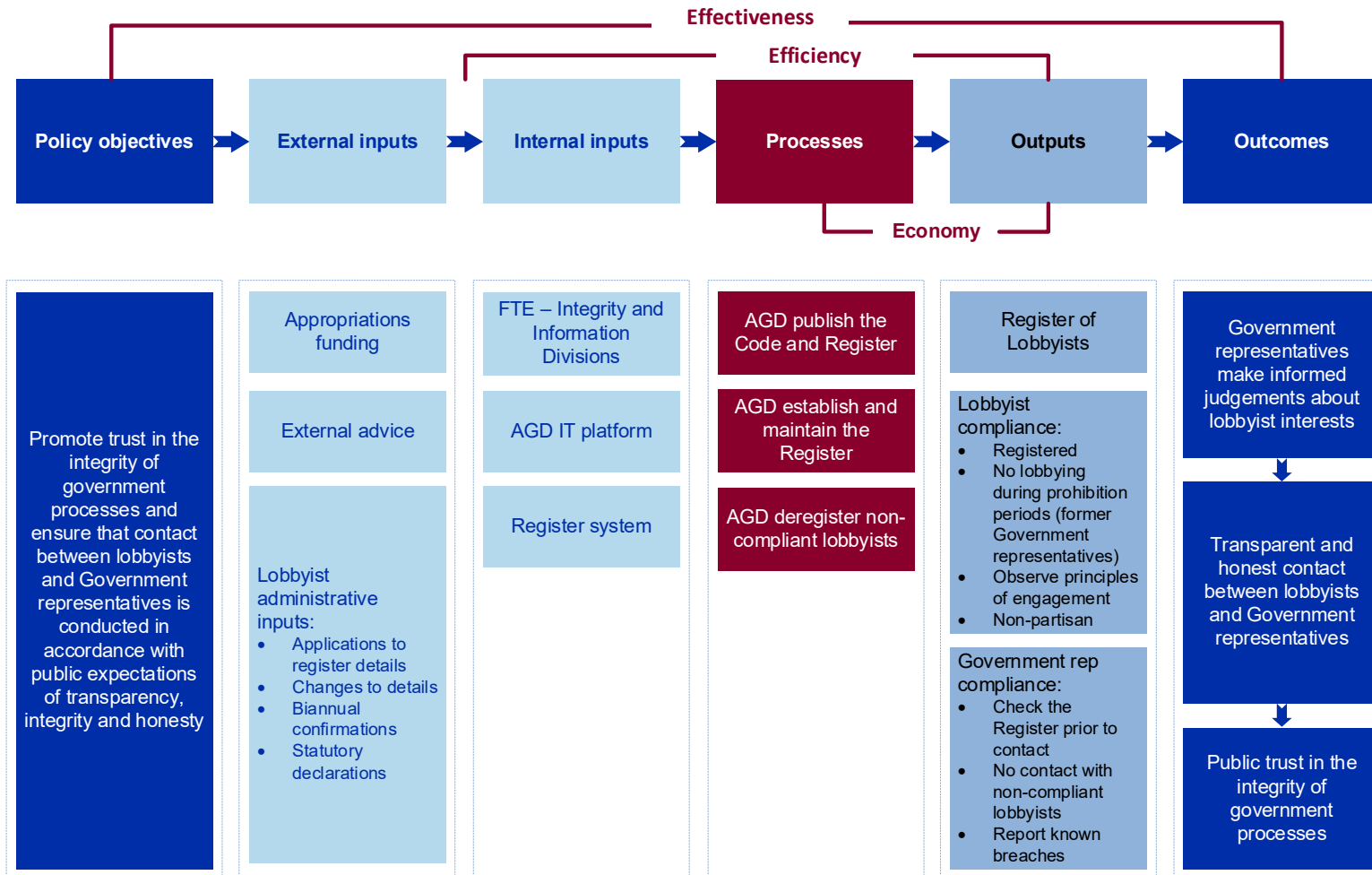
A handwritten signature in black ink, appearing to read 'P Gaetjens'.

Philip Gaetjens
16 June 2020

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Appendix 2

Inputs, outputs and outcomes of the Australian Government lobbyist regulatory regime



Source: ANAO analysis of Code.

Appendix 3 Other jurisdictions' lobbyist regulatory regimes

Table A.1: International jurisdictions — lobbyist regulatory regimes

	Australia	New Zealand	United Kingdom	Ireland	Canada	United States
Legislation	Not legislated	The Lobbying Disclosure Bill was introduced in April 2012. It did not progress past second reading.	Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014	<i>Regulation of Lobbying Act 2015</i>	<i>Lobbying Act 1988</i>	<i>Lobbying Disclosure Act 1995</i>
Administrating body	Attorney-General's Department	–	Office of the Registrar of Consultant Lobbyists	Standards in Public Office Commission	Office of the Commissioner of Lobbying of Canada	Office of the Clerk of the House of Representatives
Code of Conduct	<i>The Lobbying Code of Conduct 2008</i>	A Code of Conduct was proposed in the defeated Lobbying Disclosure Bill	Consultant lobbyists are required to develop their own code of conduct and make it publicly available, or use industry codes	<i>Code of Conduct 2018</i>	<i>Lobbyists' Code of Conduct 1997</i>	None
Definition of lobbying activities	Communications with a Government representative in an effort to influence Government decision-making	–	Communications with Minister of the Crown or permanent secretary representative in an effort to influence Government decision-making	Communications to inform decision-making by elected and appointed public officials	Communications with government decision makers on specific topics	Any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to decision making

	Australia	New Zealand	United Kingdom	Ireland	Canada	United States
Definition of a Government representative	<ul style="list-style-type: none"> Minister and staff Parliamentary Secretary and staff Agency Head A person employed under the <i>Public Service Act 1999</i> A contractor or consultant Australian Defence Force member 	–	<ul style="list-style-type: none"> Minister of the Crown Permanent Secretary 	<ul style="list-style-type: none"> Ministers Ministers of state Ministerial advisers Elected representatives Senior public servants 	<ul style="list-style-type: none"> Minister of the Crown and staff Minister of state and staff Senior public office holder 	<ul style="list-style-type: none"> Officers, employees, and elected officials of the executive and legislative branches
Types of lobbyists covered	<ul style="list-style-type: none"> Third-party 	–	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party In-house 	<ul style="list-style-type: none"> Third-party In-house
Definition of a former Government representative	<p>Former:</p> <ul style="list-style-type: none"> Minister and staff (Advisor level and above) Parliamentary Secretary and staff (Advisor level and above) Agency Head Senior Executive Service Australian Defence Force (Colonel level or above) 	–	Not defined	<p>Former:</p> <ul style="list-style-type: none"> Ministers Ministers of state Ministerial advisers Senior public servants 	<p>Former:</p> <ul style="list-style-type: none"> Minister of the Crown and staff Minister of state and staff Senior public office holder 	<p>Former:</p> <ul style="list-style-type: none"> Officers, employees, and elected officials of the executive and legislative branches
Duration of prohibition from lobbying (former Government representatives)	12–18 months	–	No prohibition	One year	Five years	One–two years

	Australia	New Zealand	United Kingdom	Ireland	Canada	United States
Number of registered lobbyists and/or lobbyist organisations	<ul style="list-style-type: none"> 590 lobbyists 257 lobbyist organisations 	–	<ul style="list-style-type: none"> 153 lobbyist organisations 	<ul style="list-style-type: none"> 1,474 lobbyists (of which 625 submitted returns in the latest period) 	<ul style="list-style-type: none"> 1,408 third-party 5,411 in-house lobbyists 	<ul style="list-style-type: none"> 294 lobbyist organisations
Administrative mechanism	Register of Lobbyists	–	Register of Consultant Lobbyists	Register of Lobbying	Registry of Lobbyists	Lobbyist Disclosure database
Information included in the register	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	–	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Lobbying activity (subject, type and recipient) 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client Lobbying activity (subject, type, date and recipient) 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client Lobbying activity (subject, type date and recipient, expenses)
Lobbyist organisation reporting	Biannual	–	Quarterly	Triannual	Monthly or biannual	Quarterly
Monitoring and managing	<ul style="list-style-type: none"> Breach reports 	<ul style="list-style-type: none"> Ministerial diaries 	<ul style="list-style-type: none"> Breach reports Ministerial diaries Other powers 	<ul style="list-style-type: none"> Breach reports Other powers 	<ul style="list-style-type: none"> Breach reports Audits Other powers 	<ul style="list-style-type: none"> Breach reports Audits Other powers
Enforcement powers	<ul style="list-style-type: none"> Deregistration 	–	<ul style="list-style-type: none"> Deregistration Fines 	<ul style="list-style-type: none"> Deregistration Fines Imprisonment 	<ul style="list-style-type: none"> Deregistration Fines Imprisonment 	<ul style="list-style-type: none"> Deregistration Fines Imprisonment
Public reporting	No external report	–	<ul style="list-style-type: none"> Annual Report Breach investigation case summaries 	<ul style="list-style-type: none"> Annual Report Breach investigation case summaries 	<ul style="list-style-type: none"> Annual Report Investigation case summaries 	<ul style="list-style-type: none"> Annual Report Enforcement reports

Note: The number of registered lobbyists and lobbyist organisations was calculated between December 2019 and March 2020. As a result, the actual number may vary from what is currently listed on the public domain.

Source: ANAO analysis of information available in the public domain.

Table A.2: Australian jurisdictions — lobbyist regulatory regimes

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Legislation	Not legislated	<i>Lobbying of Government Officials Act 2011</i>	The Northern Territory does not have a Lobbyist Code of Conduct or related legislation	<i>Integrity Act 2009</i>	<i>Lobbyists Act 2015</i>	Not legislated	Not legislated	<i>Integrity (Lobbyists) Act 2016</i>
Administrating body	ACT Legislative Assembly	NSW Electoral Commission	–	Queensland Integrity Commissioner	South Australia Department of the Premier and Cabinet	Department of Premier and Cabinet	Victorian Public Sector Commission	Public Service Commission
Code of Conduct	<i>ACT Lobbying Code of Conduct</i>	<i>Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014</i>	–	<i>Lobbyists Code of Conduct</i>	<i>Lobbyists Regulations 2016</i>	<i>Lobbying Code of Conduct</i>	<i>Victorian Government Professional Lobbyist Code of Conduct</i>	<i>Contact With Lobbyists Code</i>
Definition of lobbying activities	Communication with a public official to influence legislation or policy, regulatory or administrative decisions	Communicating with the official for the purpose of representing the interests of others in relation to decision making	–	Contact with a government representative in an effort to influence state or local government decision-making	Communicating with a public official to influence decision making	Communicating with a Government representative in an effort to influence Government decision-making	Contact with a Government Representative in an effort to influence Government decision-making	Communicating with a government representative for the purpose of influencing, whether directly or indirectly, state government decision-making

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Definition of a Government representative	<ul style="list-style-type: none"> Member of Legislative Assembly Employee under <i>Legislative Assembly (Members' Staff) Act 1989</i> and <i>Public Sector Management Act 1994</i> 	<ul style="list-style-type: none"> Minister and staff Parliamentary Secretary and staff Agency head Employee in NSW public service Member of a governing body 	–	<ul style="list-style-type: none"> Premier or another Minister and staff Assistant Minister and staff A councilor Public sector officer 	<ul style="list-style-type: none"> Minister and staff Parliamentary Secretary and staff Public sector employee Individual who is engaged under a contract to provide services to or on behalf of a public sector agency Member of a government board 	<ul style="list-style-type: none"> Minister Parliamentary Secretary Member of Parliament of the political party (or parties) that constitute the Executive Government of the day Ministerial adviser Head of Agency appointed under the <i>State Service Act 2000</i> 	<ul style="list-style-type: none"> Minister Cabinet Secretary Parliamentary Secretary Ministerial officer Seconded or otherwise placed in a Ministerial office Person employed, under <i>Public Administration Act 2004</i> 	<ul style="list-style-type: none"> Minister Parliamentary Secretary Public sector employee Person engaged by a public sector body
Types of lobbyists covered	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party In-house 	–	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party 	<ul style="list-style-type: none"> Third-party

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Definition of a former Government representative	<ul style="list-style-type: none"> Former member of the ACT Legislative Assembly or employed under the <i>Legislative Assembly (Members' Staff) Act 1989</i> 	<ul style="list-style-type: none"> Former Minister or Parliamentary Secretary 	–	<ul style="list-style-type: none"> Former Premier or another Minister, an Assistant Minister, a councillor, a public sector officer, who was a chief executive, Senior executive or senior executive equivalent, a ministerial staff member, or an assistant minister staff member 	<ul style="list-style-type: none"> Former Minister, Parliamentary Secretary, a member of SAES (within the meaning of the Public Sector Act 2009) or a person engaged as a member of a Minister's personal staff 	<ul style="list-style-type: none"> Former Minister or a Parliamentary Secretary, or agency head 	<ul style="list-style-type: none"> Former Minister or Cabinet Secretary, Parliamentary Secretary, Executives (or equivalent) or Ministerial Officers under the Public Administration Act 	–
Duration of prohibition from lobbying (former Government representatives)	12–18 months	18 months	–	Two years	One–two years	One year	12–18 months	No prohibition
Number of registered lobbyist organisations ^a	45 lobbyist organisations	128 lobbyist organisations	–	109 lobbyist organisations	84 lobbyist organisations	50 lobbyist organisations	136 lobbyist organisations	110 lobbyist organisations
Administrative mechanism	Register of Lobbyists	Register of Third-Party Lobbyists	–	Register of Lobbyists	Register of Lobbyists	Register of Lobbyists	Register of Lobbyists	Register of Lobbyists

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Information included in the register	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	–	<ul style="list-style-type: none"> Lobbyist organisation Lobbyists Client Lobbying activity (subject, type, date and recipient) 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client 	<ul style="list-style-type: none"> Lobbyist organisation Lobbyist Client
Lobbyist organisation reporting	Biannual	Triannual	–	Monthly and annual	Annual	Annual	Annual	Quarterly
Monitoring and managing	<ul style="list-style-type: none"> Breach reports Ministerial diaries 	<ul style="list-style-type: none"> Breach reports Ministerial diaries Other powers^b 	–	<ul style="list-style-type: none"> Breach reports Audit Ministerial diaries Other powers 	<ul style="list-style-type: none"> Breach reports Other powers 	<ul style="list-style-type: none"> Breach reports 	<ul style="list-style-type: none"> Breach reports 	<ul style="list-style-type: none"> Breach reports Other powers
Enforcement powers	<ul style="list-style-type: none"> Deregistration 	<ul style="list-style-type: none"> Deregistration Lobbyist watch list Fines 	–	<ul style="list-style-type: none"> Deregistration Fines 	<ul style="list-style-type: none"> Deregistration Fines Imprisonment 	<ul style="list-style-type: none"> Deregistration 	<ul style="list-style-type: none"> Deregistration 	<ul style="list-style-type: none"> Deregistration Fines
Public reporting	Not externally reported	Investigation reports	–	Annual Report	Annual Report (limited)	Not externally reported	Annual Report	Annual Report

Note a: The number of registered lobbyists was calculated between December 2019 and March 2020. As a result, the actual number may vary from what is currently listed on the public domain.

Note b: The NSW Electoral Commission does not have investigative powers, rather the Independent Commission Against Corruption investigates corruption in NSW, which may include corruption related to lobbying.

Source: ANAO analysis of information available in the public domain.

Appendix 4 Summary of findings from Auditor-General Report No.27 of 2017–18

Processes and outcomes	Findings and conclusions	Areas for improvement	Recommendations
<p>Publishing the Lobbying Code of Conduct (Code) and Register of Lobbyists (Register)</p>	<p>The Department of the Prime Minister and Cabinet (PM&C) had not developed a strategy to raise lobbyists' awareness of the website, the Code and the Register.</p> <p>PM&C did not analyse usage data for the lobbying website.</p> <p>Some communications activities had been undertaken via the website or letters to departmental secretaries, but PM&C had not developed a communication plan or strategy to raise Government rep's awareness of their responsibilities for monitoring lobbyists' compliance with the Code.</p>	<p>Routine analysis of webpage access would inform the development and refinement of communications strategies and approaches.</p> <p>PM&C should ensure that lobbyists and Government representatives understand their compliance obligations under the Code.</p>	<p>PM&C implement a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities.</p>
<p>Establishing and maintaining the Register</p>	<p>PM&C established appropriate administrative arrangements to update and maintain the Register.</p> <p>The IT system supporting the Register was obsolete, but would be replaced in 2017–18.</p> <p>39 per cent of new applications were not processed within stated timeframes (five days). PM&C did not monitor whether timeframes were being met.</p> <p>Planned replacement of existing database provided an opportunity to improve efficiency (for example, by reducing duplicative and manual processes).</p> <p>Internal audit identified inconsistencies in documentation around due diligence checks, and inadequate security controls for Register passwords.</p> <p>Where applications were approved subject to amendments, PM&C did not check that the required changes had been made.</p>	<p>Implement follow-up processes where application are approved subject to amendments.</p> <p>Due diligence arrangements relating to former Government representatives could be strengthened.</p> <p>Accuracy of information on the Register between biannual reporting periods could be improved.</p> <p>Consider, as part of the design of the proposed replacement database, integrating the registration, quality assurance and approval processes into the Register.</p> <p>Consider integrating the statutory declaration requirements into the application form.</p>	

Processes and outcomes	Findings and conclusions	Areas for improvement	Recommendations
	<p>PM&C reminded registered lobbyists about their registration obligations via a quarterly email, and compliance was generally good. Lobbyists who failed to meet their biannual reporting obligations were de-registered after 14 days — a process supported by automated controls within the database.</p> <p>PM&C did not monitor compliance with clause 5.4 — the obligation to report changes within 10 days. Analysis suggested changes were often not reported until biannual updates. Lobbyists were not reporting changes within 10 days.</p> <p>A quality assurance process was established to manage the integrity of information. However, database limitations made it difficult to obtain an appropriate level of assurance over information quality. Planned replacement of the database provided an opportunity to strengthen quality assurance.</p>	<p>Streamline processes to obtain assurance from former Government representatives that they are aware of the lobbying prohibitions by including this as part of the statutory declaration.</p> <p>Review the administrative burden on lobbyist organisations.</p>	

Processes and outcomes	Findings and conclusions	Areas for improvement	Recommendations
<p>Deregistering non-compliant lobbyists</p>	<p>Low level of compliance activity reflected the original decision of Government to place the onus on Government representatives to monitor lobbyist compliance and report non-compliance.</p> <p>However, the effectiveness of compliance management was reduced by reliance on reports of non-compliance to drive compliance activities.</p> <p>PM&C could not demonstrate it had undertaken an assessment of compliance risks. Approach to compliance management was not informed by an assessment of risks.</p> <p>Effectiveness of compliance management was reduced by a lack of strategy around advice to Government representatives of their compliance monitoring responsibilities.</p> <p>PM&C was unaware of the arrangements that Australian Government departments have implemented to ensure that officials understand their obligations.</p> <p>While each allegation of non-compliance identified by ANAO was assessed, records were not well maintained. It was unclear how many reports had been received since 2013.</p> <p>There was no process or timeframe for responding to reported breaches, or a definition of a 'sufficiently serious' breach.</p> <p>PM&C did not remove or suspend any of the 11 registrants identified by ANAO who were the subject of reported breaches since 2013.</p>	<p>Develop an awareness-raising strategy to inform Government representatives of their responsibilities under the Code.</p> <p>Seek assurance from departmental secretaries that information on Code requirements are communicated to senior staff.</p> <p>Strengthen administration around reported breaches.</p> <p>Consider whether the compliance management arrangements for the Code and Register are appropriate.</p> <p>Advice to Government about the sufficiency of the compliance management framework should consider the approaches to regulating lobbying, and managing the compliance with those regimes, adopted by other jurisdictions.</p>	<p>PM&C assess risks to compliance with the Code.</p> <p>PM&C provide advice to Government on the ongoing sufficiency of the current compliance management framework.</p>

Processes and outcomes	Findings and conclusions	Areas for improvement	Recommendations
<p>Achieving outcomes and policy objectives</p>	<p>The Register contributes to achievement of the Code's objectives but does not, on its own, provide transparency into the integrity of contact between lobbyists and Government representatives, or the matters discussed.</p> <p>Parliamentary inquiries and an internal audit focused on the operation of the Register as a mechanism for providing transparency to Government representatives rather than the success of the Code in achieving all of its policy objectives.</p> <p>PM&C had not established effective performance monitoring and reporting arrangements, including an evaluation strategy or plan, instead relying on internal audit and ad hoc parliamentary inquiries.</p> <p>PM&C could not demonstrate it had provided advice to Government about the ongoing appropriateness of the regime since its implementation.</p> <p>Public reporting about the Code was limited to answers to questions in Senate committee hearings. A Senate committee suggestion to inform the public about Code breaches was not implemented.</p>		<p>PM&C review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code.</p> <p>PM&C develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.</p>

Source: Auditor-General Report No.27 2017–18 *Management of the Australian Government's Register of Lobbyists*.

Appendix 5 Department of the Prime Minister and Cabinet's response to Auditor-General Report No.27 2017–18



Australian Government
Department of the Prime Minister and Cabinet

SECRETARY
DR MARTIN PARKINSON AC PSM

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2600

Dear ~~Mr~~ ^{Grant} Hehir

Thank you for the email dated 21 December 2017 regarding the audit report on the Management of the Australian Government's Register of Lobbyists.

The Department of the Prime Minister and Cabinet (PM&C) welcomes the overarching finding that the arrangements to manage the Register are consistent with the framework agreed by Government. I note that parliamentary inquiries in 2008 and 2012 and the 2013 internal audit reached similar conclusions.

As you are aware, the Lobbying Code of Conduct, as established in 2008 and continued by successive Governments, is an administrative initiative, not a regulatory regime. The Code establishes a publicly available Register of third-party lobbyists and their clients, so that Ministers, their staff and government officials can establish whose interests are being represented by a given lobbyist.

I appreciate the efforts of you and your staff to suggest further enhancements to our administrative approach. As such, I can agree in part to the single recommendation of the audit report, noting the multi-part approach taken. Importantly though, some elements of the recommendation are better suited to a legislatively-based regime that regulates all lobbyists, i.e. not just those employed by third-parties.

As you know, this is not the regime which we administer. That said, PM&C will consider how best to implement the recommendation sub-points consistent with the spirit and intent of the policy objectives of the Register of Lobbyists as an administrative scheme.

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The audit recognises that PM&C's delivery of compliance monitoring is consistent with the level of compliance risks sought by government when establishing the Register. Unlike some other Australian jurisdictions, the Australian Government Register of Lobbyists and the associated Code of Conduct is not enshrined in legislation, therefore it is not compulsory for lobbyists to register and penalties cannot be applied for the failure of unregistered lobbyists to adhere to the Code. The onus for compliance lies with registered lobbyists and with government representatives (including Ministers and Parliamentary Secretaries, ministerial staff, public servants and Defence Force personnel).

PM&C understands the broader conclusions of this audit related to the design and implementation of a regulatory framework. However, PM&C has focussed its response to the multi-part recommendation in so far as it relates to an administrative scheme, rather than a regulatory one, in accordance with the policy objectives of the Australian Government Lobbying Code of Conduct and Register of Lobbyists. For example, often the audit draws comparisons from jurisdictions with legislative schemes, which are not comparable to or consistent with the framework determined by successive Australian governments.

Prior to the audit, PM&C had allocated funds to modernise the IT system which underpins the Register with the view to streamline many of the current processes and improve functionality for lobbyists and other stakeholders. It is anticipated that the new system will reduce processing times, strengthen quality assurance processes, be more flexible and improve reporting while also implementing other improvements consistent with the audit's findings and recommendation. As you know, PM&C agrees with, and is intending to implement, a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities, following the completion of the IT system redevelopment.

PM&C will also develop a set of performance measures and establish an evaluation framework as part of the redeveloped system, to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved with respect to the Australian Government's Lobbying Code of Conduct and Register of Lobbyists.

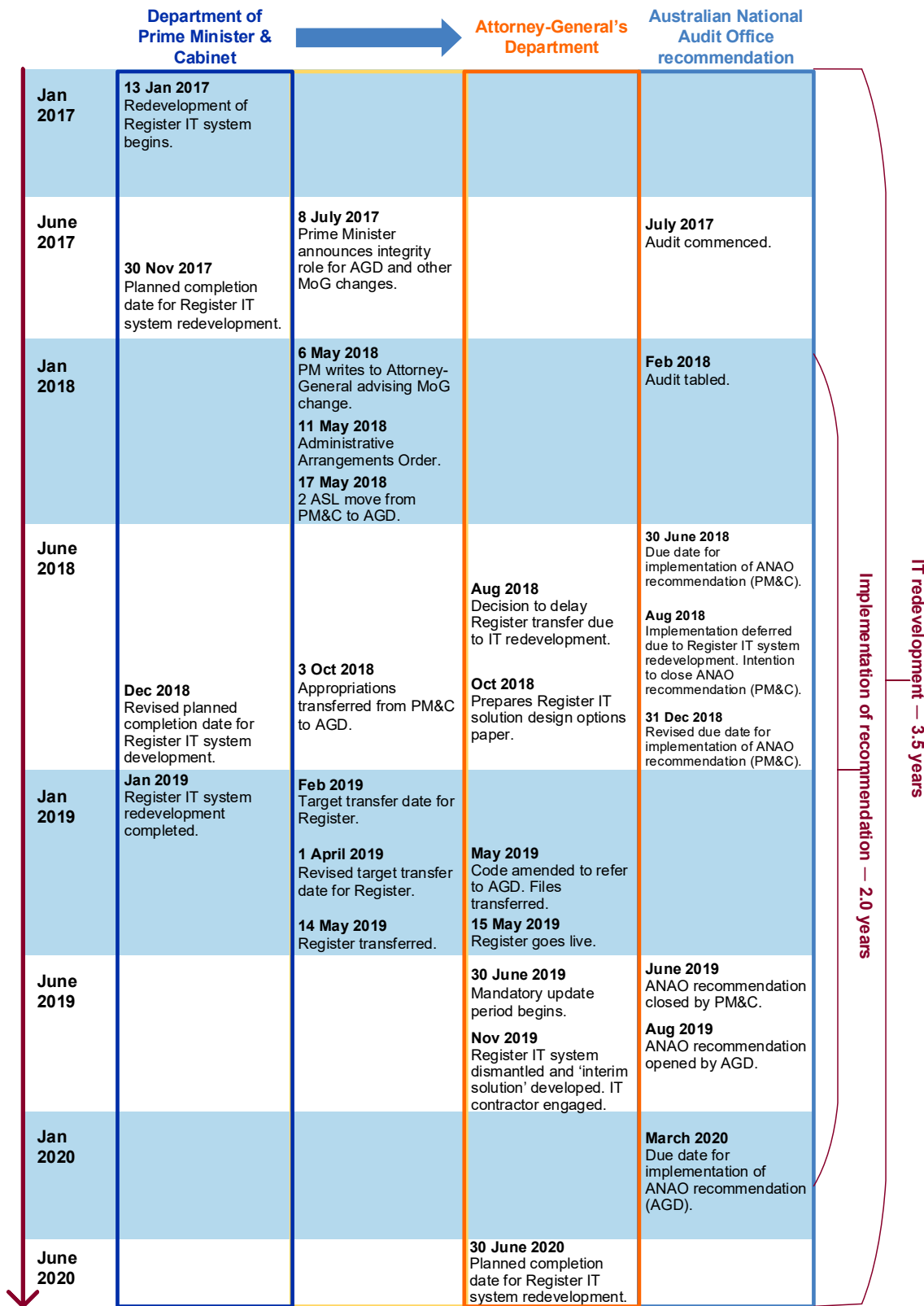
I am committed to continuously improving PM&C's public administration. This report will be used to inform our advice to the Government on options to ensure the Australian Government Lobbying Code of Conduct and Register of Lobbyists continue to facilitate communications with Government commensurate with the goals of transparency with minimal administrative impediments.

Yours sincerely



30 January 2018

Appendix 6 Implementation of the ANAO recommendation timeline



Source: ANAO analysis.