

List of breaches of the Lobbying Code of Conduct

s 11C(1)(b)	
s 11C(1)(b)	

~~UNCLASSIFIED: Sensitive: Legal~~

Ref: EB14/615

Urgent/Low Complexity

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C
A/g Secretary
Ms Kelly
Ms Lynch
Mr McMahon

To: A/g Secretary (for decision by 6 June 2014)**Through:** Deputy Secretary, Governance *Page 3/1*

File:

PROPOSED SUSPENSION OF LOBBYIST FROM THE AUSTRALIAN GOVERNMENT REGISTER OF LOBBYISTS**Recommendations - that you:**

1. Sign the letter at Attachment A, advising **s 11C(1)(a)** that you intend to remove him from the Register for non-compliance with the Lobbying Code of Conduct (the Code).

Signed / Not Signed

2. Note that **s 11C(1)(a)** of **s 11C(1)(b)** is now compliant and that no further action is required.

Noted

REBECCA CROSS

s 22

Date: 4/6/14

Key Points:

1. Changes to the Lobbying Code of Conduct (the Code) in September 2014 prohibit certain political party office holders from remaining on the Register of Lobbyists past 20 March 2014. Under the Code, the Secretary of PM&C can remove such persons from the Register.
2. Following our enquiries, two lobbyists indicated they held political party offices.
 - a. **s 11C(1)(a)** from the lobbying firm **s 11C(1)(b)**, sought advice on whether his position as **s 11C(1)(a)** **s 11C(1)(a)** is a breach of the Code. The Code specifically prohibits members of administrative committees remaining on the Register after 20 March 2014 (Clause 10.2).
 - b. **s 11C(1)(a)** from the lobbying firm **s 11C(1)(b)** was a member of the **s 11C(1)(a)** but informed us that, as of 19 May 2014, he is no longer a member. On that basis we consider there is no present cause to remove **s 11C(1)** from the Register.

Background

3. Under Clause 10.4 of the Code, the Secretary of PM&C may remove an individual from the Register if he or she is satisfied that the individual is a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).

~~UNCLASSIFIED: Sensitive: Legal~~

4. On 5 March 2014, all registered lobbying entities were emailed to seek their confirmation that each of their individual lobbyists was not a prohibited party office holder. They were advised that failure to provide confirmation by 20 March 2014 would result in the removal of their lobbyist/s from the Register.

- a. The email was re-sent to non-respondents on 18 March 2014.

s 11C(1)(a)

5. On 7 March 2014, s 11C(1)(a) advised that he is the s 11C(1)(a) s 11C(1)(a) also advised that the s 11C(1)(a) s 11C(1)(a) appointment to the s 11C(1)(a) Correspondence between PM&C staff and s 11C(1)(a) is at Attachment B.

6. s 11C(1)(a)

7. s 11C(1)(a)

8. On the basis of s 11C(1)(a) advice that the s 11C(1)(a) s 11C(1)(a) s 11C(1)(a) held a relevant party political office. On 9 April 2014, we advised s 11C(1)(a) that he had been removed from the Register on the basis that he held a position that was inconsistent with the Code. Our advice noted he could be returned to the Register if his status changed.

9. Clause 10.5 of the Code provides that:

The Secretary shall not remove a lobbyist or a person who is an employee of a lobbyist, or a contractor or person engaged by a lobbyist, from the Register under clause 10.3 and 10.4, unless the Secretary has advised the lobbyist or the individual concerned of the reasons why he or she proposes to remove the lobbyist or individual concerned from the Register and given the lobbyist or individual concerned an opportunity to state why the proposed course of action should not be followed.

s 42

s 42

s 11C(1)(a)

s 47F

15. Administrative committees are specifically prohibited by clause 10.4 of the Code. While s 11(C)(1)(a) had appointed a proxy delegate, he had not removed himself from the committee. On this basis, we considered s 11(C)(1)(a) should be removed from the Register. On 9 April 2014, we advised s 11(C)(1)(a) that he had been removed from the Register on the basis that he held a position that was inconsistent with the Code. Our advice noted he could be returned to the Register if his status changed.
16. On 9 April 2014, in response to our advice that he had been removed s 11(C)(1)(a) requested that he be restored to the Register on the basis that he is compliant with the Code and expected that there would be further discussion prior to his removal.
17. On 13 May 2014, we invited s 11(C)(1)(a) to offer additional information as to why he should not be removed.
18. On 21 May 2014, s 11(C)(1)(a) confirmed that he is no longer a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).
19. We note that over certain periods s 11(C)(1)(a) was registered as a lobbyist and held a position inconsistent with the Code s 11C(1)(a). However, this was while his status was being clarified and we do not consider that it warrants any sanction.

s 22

Robert McMahon
Assistant Secretary
Parliamentary and Government Branch
3 June 2014

Policy Officer: s 22
Phone no: s 22
Consultation: s 22

UNCLASSIFIED: Sensitive: Legal

ATTACHMENTS

ATTACHMENT A DRAFT RESPONSE TO s 11C(1)(a)

ATTACHMENT B EMAIL CORRESPONDENCE WITH s 11C(1)(a)

ATTACHMENT C EMAIL CORRESPONDENCE WITH s 11C(1)(a)



Australian Government

Department of the Prime Minister and Cabinet

**Ms Rebecca Cross
Acting Secretary**

Ref:EB14/615

s 11C(1)(a)

s 22

s 22

Dear s 11C(1)(a)

I am writing to advise you that I intend to remove you from the Australian Government Register of Lobbyists (the Register), subject to your explanation of why you should not be removed.

Under clause 10.4 of the Lobbying Code of Conduct (the Code), I am required to remove the name of an individual from the Register if satisfied that the individual is a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).

In your email dated 7 March 2014, you informed the Register that you hold the position of s 11C(1)(a)

s 11C(1)(a)

I consider that your membership of this committee is prohibited under clause 10.2 of the Code, whereby a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body) may not remain on the Register beyond 20 March 2014.

Under clause 10.5 of the Code, an employee of a lobbyist must be given an opportunity to state why they should not be removed from the Register before the proposed course of action is followed. I am informed that you have been provided with a number of opportunities to respond and have not made any submission as to why you should remain on the Register.

I am now providing you with a final opportunity to state why my proposed course of action to remove you from the Register should not be followed. I ask that you do so within seven days of the date of this letter.

It should be noted that under clause 4 of the Code, a Government representative shall not knowingly and intentionally be a party to lobbying activities by an employee of a lobbyist whose name does not appear in the lobbyist's details noted on the Register in connection with the lobbyist.

If you have any further questions the contact person in my department is Mr Robert McMahon, Assistant Secretary, Parliamentary and Government Branch. He can be contacted on email at robert.mcmahon@pmc.gov.au.

Yours sincerely

s 22

Rebecca Cross
4 June 2014

ATTACHMENT B

From: [REDACTED] s 22
Sent: Wednesday, 5 March 2014 1:28 PM
To: Lobbyists Register
Subject: Lobbyist Register – 20 March 2014 requirements ~~[SEC- UNCLASSIFIED]~~
Importance: High

Dear Sir/Madam

I am writing in relation to the position of registered lobbyists holding party political offices.

As noted in emails sent on 25 September 2013 and 17 January 2014, members of a state or federal political party executive, state executive or administrative committee (or the equivalent body) may not remain on the Register of Lobbyists (the Register) after 20 March 2014.

To that end, we request your advice **by Friday 7 March 2014;**

- in relation to yourself and each person employed, contracted or otherwise engaged by your organisation or firm to carry out lobbying activities,
- whether or not that person is a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).

Clause 10.3 (c) of the Lobbying Code of Conduct (the Code) states that the Secretary may remove a lobbyist or person who is an employee of a lobbyist, or a contractor or person engaged by a lobbyist, from the Register of Lobbyists if, in the opinion of the Secretary, the lobbyist fails to answer questions within a reasonable period of time relating to the lobbyist's details on the Register or the lobbyist's lobbying activities.

On 20 March 2014, we will remove from the Register any currently registered lobbyist:

- who is a member of a state or federal political party executive, state executive or administrative committee (of the equivalent body); or
- whose status in relation to such offices has not been advised.

Please contact us on 02 6271 5717 or lobbyistsregister@pmc.gov.au if you have any queries.

Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: s 11C(1)(a) s 22
Sent: Friday, 7 March 2014 12:06 PM
To: s 22
Subject: RE: Lobbyist Register – 20 March 2014 requirements ~~[SEC-UNCLASSIFIED]~~

Dear s 22

Thank you for your update on this important matter.

I am in need of some clarification of my own situation.

You would be aware I am a lobbyist with the Government Relations/lobbying and PR company s 11C(1)(b)
s 11C(1)(b) and I also serve as the s 11C(1)(a)
s 11C(1)(a)

s 11C(1)(a)

If I remain on this committee, am I in breach of the Lobbying Code of Conduct?

Kind regards,

s 11C(1)(a)

Grad Cert (Org - Comm)

Senior Government Relations Consultant

s 11C(1)(b)

s 22

From: Lobbyists Register
Sent: Wednesday, 9 April 2014 8:22 AM
To: s 11C(1)(a)
Cc: Lobbyists Register
Subject: Removal from Australian Government Register of Lobbyists ~~[SEC - UNCLASSIFIED]~~

Good morning s 11C(1)(a)

Thank you for your email advising that you are the s 11C(1)(a)
s 11C(1)(a)

The Lobbying Code of Conduct states that persons employed, contracted or otherwise engaged to carry out lobbying activities may not remain of the Australian Government Register of Lobbyists (Register) if they are a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body) after 20 March 2014.

You were informed of this requirement in emails dated 25 September 2013 and 17 January 2014. Further, emails sent on 5 and 18 March 2014 conveyed that you would be removed from the Register if your status had not been advised by 20 March 2014.

On this basis of your position as s 11C(1)(a) you have been removed from the Register. However, we would be happy to return you to the Register if your status were to change

Regards

Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: Lobbyists Register
Sent: Tuesday, 13 May 2014 10:29 AM
To: [REDACTED] s 22
Subject: Registration on the Australian Government Register of Lobbyists ~~[SEC - UNCLASSIFIED]~~

Dear [REDACTED] s 11(C)(1)(a)

I refer to our email of 9 April 2014 in relation to your registration on the Australian Government Register of Lobbyists advising of your removal from the Register.

On further consideration of your correspondence, there may be additional issues which might be relevant to your status which have not yet been addressed. Consequently, we have decided to restore your registration pending any further submissions you may wish to make.

Before considering this matter further, we will consider any reasons you have already provided or which you now wish to provide us.

Would you kindly provide by close of business Thursday, 15 May 2014 any reasons for us to consider why you should not be removed from the Register of Lobbyists given your membership of the [REDACTED] s 11(C)(1)(a)
[REDACTED] s 11C(1)(a)

Regards,

Robert McMahon
Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: Lobbyists Register
Sent: Wednesday, 21 May 2014 1:04 PM
To: [REDACTED] s 22
Subject: RE: Registration on the Australian Government Register of Lobbyists ~~[SEC-UNCLASSIFIED]~~

Good afternoon [REDACTED] s 11(C)(1)(a)

Further to my email of 13 May 2014 below, I note that we do not appear to have received a response from you.

If there is any further matter of which you wish to advise us in relation to your registration as a lobbyist, please do so by close of business tomorrow, Thursday 22 May 2014.

Regards,

Robert McMahon

Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

ATTACHMENT C

From: [REDACTED] s 22
Sent: Wednesday, 5 March 2014 1:28 PM
To: Lobbyists Register
Subject: Lobbyist Register – 20 March 2014 requirements [SEC-UNCLASSIFIED]
Importance: High

Dear Sir/Madam

I am writing in relation to the position of registered lobbyists holding party political offices.

As noted in emails sent on 25 September 2013 and 17 January 2014, members of a state or federal political party executive, state executive or administrative committee (or the equivalent body) may not remain on the Register of Lobbyists (the Register) after 20 March 2014.

To that end, we request your advice **by Friday 7 March 2014;**

- in relation to yourself and each person employed, contracted or otherwise engaged by your organisation or firm to carry out lobbying activities,
- whether or not that person is a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).

Clause 10.3 (c) of the Lobbying Code of Conduct (the Code) states that the Secretary may remove a lobbyist or person who is an employee of a lobbyist, or a contractor or person engaged by a lobbyist, from the Register of Lobbyists if, in the opinion of the Secretary, the lobbyist fails to answer questions within a reasonable period of time relating to the lobbyist's details on the Register or the lobbyist's lobbying activities.

On 20 March 2014, we will remove from the Register any currently registered lobbyist:

- who is a member of a state or federal political party executive, state executive or administrative committee (of the equivalent body); or
- **whose status in relation to such offices has not been advised.**

Please contact us on 02 6271 5717 or lobbyistsregister@pmc.gov.au if you have any queries.

Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: s 11C(1)(a) s 22
Sent: Wednesday, 19 March 2014 8:40 PM
To: Lobbyists Register
Subject: Re: Lobbyist Register – 20 March 2014 requirements ~~[SEC-UNCLASSIFIED]~~

Further to our discussion yesterday, I advise you as follows:

s 47F



From: Lobbyists Register
Sent: Wednesday, 9 April 2014 8:18 AM
To: s 22
Cc: Lobbyists Register
Subject: Removal from Australian Government Register of Lobbyists ~~[SEC - UNCLASSIFIED]~~

Good morning s 11(C)(1)(a)

Thank you for your email advising that you are a member of the s 11C(1)(a)
s 11C(1)(a)

The Lobbying Code of Conduct states that persons employed, contracted or otherwise engaged to carry out lobbying activities may not remain of the Australian Government Register of Lobbyists (Register) if they are a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body) after 20 March 2014.

You were informed of this requirement in emails dated 25 September 2013 and 17 January 2014. Further, emails sent on 5 and 18 March 2014 conveyed that you would be removed from the Register if your status had not been advised by 20 March 2014.

On the basis of your membership of the s 11C(1)(a) you have been removed from the Register. However, we would be happy to return you to the Register if your status were to change

Regards

Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: s 11C(1)(a) s 22
Sent: Wednesday, 9 April 2014 9:13 PM
To: Lobbyists Register
Subject: Re: Removal from Australian Government Register of Lobbyists ~~[SEC-UNCLASSIFIED]~~

Please restore my registration immediately!!

Based on your verbal advice earlier in mid March I notified that I had not and was not attending meetings from beginning s 11(C) and had been replaced by a proxy delegate until the Committee's delayed re-election in s 11(C) Further, I also notified that I had no role or capacity to direct how the proxy delegate votes on the Committee. You indicated that you thought this was fine (and seemed to indicate that others were in similar circumstances) but would contact me if there were further issues. No further contact was initiated by you. I therefore expect that you will restore my registration immediately, at least pending further the promised further discussion.

s 11C(1)(a)

Director

s 11C(1)(b)

s 22

From: Lobbyists Register
Sent: Tuesday, 13 May 2014 10:29 AM
To: s 22
Subject: Registration on the Australian Government Register of Lobbyists ~~[SEC-UNCLASSIFIED]~~

Dear s 11(C)(1)(a)

I refer to our email of 9 April 2014 and subsequent conversations in relation to your registration on the Australian Government Register of Lobbyists.

We have taken into account your comments which have highlighted issues of which we should have taken account before removing you. Consequently, we have decided to restore your registration pending further consideration.

Before considering this matter further, we will therefore consider any reasons you have already provided or now wish to provide us.

Alternatively, are you able to advise us that your membership of the s 11C(1)(a) s 11C(1)(a) has ceased? We note that you advised in your email of 19 March 2014 that your term on this committee was due to expire s 11(C)(1)(a) and that you did not intend to recontest your position. Could you confirm that that is the case and the date that your term on that Committee expired, or if not, when it will expire and that you do not intend to recontest your position?

Would you kindly provide by close of business Thursday, 15 May 2014 confirmation that the reasons you have already provided remain current or provide additional reasons for us to consider why you should not be removed from the Register of Lobbyists given your membership of the s 11(C)(1)(a) s 11C(1)(a)

Regards,

Robert McMahon
Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: s 11C(1)(a) s 22
Sent: s 11C(1)(a)
To: Lobbyists Register
Subject: Re: Registration on the Australian Government Register of Lobbyists ~~[SEC-UNCLASSIFIED]~~

Thankyou for your advice.

Nominations for the s 11C(1)(a) closed last Monday. I was not a nominee. The election for this committee will be held this weekend s 11C(1)(a) during the State Conference. The ballot will conclude at 11am on Sunday I am advised. The count of the ballot and declaration of election should be completed by Sunday evening.

s 11C(1)(a)

From: Lobbyists Register
Sent: Wednesday, 21 May 2014 12:53 PM
To: s 11C(1)(a)
Subject: RE: Registration on the Australian Government Register of Lobbyists ~~[SEC-UNCLASSIFIED]~~

Good afternoon s 11(C)(1)(a)

Thank you for your email. Following the election held at the State Conference held s 11C(1)(a)
s 11C(1)(a) are you now able to confirm that you are no longer a member of the
s 11C(1)(a)

Please confirm also that you are not a member of a state or federal political party executive, state executive or administrative committee (or the equivalent body).

Regards,

Robert McMahon
Australian Government Register of Lobbyists | Department of the Prime Minister and Cabinet
Tel: (02) 6271 5717 | Fax: (02) 6271 5776 | Email: lobbyistsregister@pmc.gov.au

From: s 11C(1)(a) s 22
Sent: Wednesday, 21 May 2014 1:07 PM
To: Lobbyists Register
Subject: Re: Registration on the Australian Government Register of Lobbyists ~~[SEC - UNCLASSIFIED]~~

Sir,

I hereby confirm that I am not a member of a state or federal political party executive, state executive or administrative committee or an equivalent body.

s 11C(1)(a)

Director

s 11C(1)(b)