Public Health Association of Australia
submission on the political influence of donations

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Introduction

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Preamble

PHAA welcomes the opportunity to provide input to the inquiry into the political influence of donations. The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
PHAA Response to the Inquiry Terms of Reference

a. The level of influence that political donations exert over the public policy decisions of political parties, Members of Parliament and Government administration

Undermining equality, avoidance of tyranny and accountability

Political donations may be presented as enabling more effective (costly) campaigning, providing information to voters about candidates and policies. In reality, political donations undermine the democratic principles of equality, avoidance of tyranny and accountability.\(^1\)\(^2\) Donations are likely to carry an expectation or perception of influence among the public, which is problematic in a range of ways. Such perceptions may reduce confidence in politicians and by extension government, and affect motivation to engage with seemingly corrupted policy processes. In permitting particular groups an unfair advantage in pushing their interests, in affording them inequitable capacity to influence or pressure candidates and elected representatives, and through allowing undue influence in the system, political donations weaken rather than strengthen democracy and the democratic process. Ordinary citizens, community groups and civil society without the financial capacity to purchase influence are further excluded, while the wealthy, big business, unions and lobby groups are invited in as special guests, whose interests should be looked after.

The dangers of political gifts

Psychological evidence shows that receiving a gift creates an obligation in the mind of the recipient, and creates a positive view of the giver. Psychologists have long argued that ‘pure gift’ is impossible because of obligation and reciprocity being involved. More specifically, the reciprocity is not repaying the gift as such, but as expression of affirmation, and mutuality.\(^3\) In the realm of political donations, this would indicate that the multiple donations are setting up ongoing mutual relationships between the donor and the recipient. One current Australian Senator, David Leyonhjelm was even quoted by the media as confirming that donations from the tobacco company Phillip Morris had influenced him “from being strongly opposed to totally opposed” in his policy decision to oppose tobacco plain packaging, and that he would welcome donations from other tobacco companies.\(^4\) The National Party has continued to accept donations from tobacco companies despite their role in government and the inconsistency with Article 5.3 of the Framework Convention on Tobacco Control to which Australia is a signatory.\(^5\)

There are numerous examples of large donations being made by businesses to both major political parties in Australia. For example, in the 2015-16 financial year, alcohol producer Lion Pty Limited donated $145,000, the Australian Leisure and Hospitality Group donated over $35,600, Crown Resorts Limited donated over $170,000 and the Australian Hotels Association donated over $350,000.\(^5\) Businesses and lobby groups of this size are able to make donations and seek to influence policy decisions favouring alcohol sales and availability. Few if any public health groups, community sector organisations and others in civil society who work in addressing the harms associated with excessive alcohol consumption have the same financial base from which to draw, in order to seek a similar level of influence.
Corporate behaviour not in the public interest

Similarly, there are numerous examples of corporate behaviour resulting in poor outcomes for the public, including for public health. Examples from large, multi-national corporations are extensive – Volkswagen emissions control software, the BP oil spill in the Gulf of Mexico, Big Tobacco’s continuation to knowingly sell and promote a lethal product, awhile refusing to publicly accept the addictive properties of nicotine even when internal reporting acknowledged this reality, Exxon’s promotion of climate change denial despite internal reporting acknowledging the contribution of fossil fuels, and more recently evidence of environmental damages and disregard for environmental conditions attached to project approvals by Adani. Smaller, more local Australian examples also exist. A local cheese manufacturer in Victoria campaigned against fluoridation of the water supply, instead promoting bottled water, with taxpayers contributing funding towards a solution acceptable to the company. The unhealthy relationship between NSW Labor and developers was epitomized with the gaoling of former Minister Eddie Obeid.

The public perception and implications are clear – major organisations are directly and indirectly making large donations to political parties, and not being adequately called to account for poor behaviour as corporate citizens. The lack of transparency means the connections are difficult to prove. However, that same lack of transparency makes them equally difficult to disprove, and the perceptions persist, weakening confidence in the democratic process and in our elected representatives.

Donations to buy access and influence

One of the most telling issues is that large donations are often made to both major parties. In such cases it would be impossible to argue that the policies and practices of one of the parties would be more suitable to the specific business. It can only be to buy access and influence.

The effect is that one group of those seeking to have influence are presenting arguments backed up by money while the other are presenting arguments backed up by evidence. However, money and evidence should never be treated equally in policy decision making. There should be a level playing field for ideas in policy making, with advocacy success based on the merits of research and policy activity, but the influence of donations to political parties and candidates tips the balance.

Corporatocracy

The danger in Australia is that instead of having one vote one value – the risk is that we are moving inexorably towards more and more influence of those with money. Most Australians believe they are living in a democracy and the last thing we need is the rise of a “corporatocracy”.

b. Motivations and reasons why entities give donations to political parties and political candidates

Donations as an investment

Donors to political parties and candidates are far from unaware of the influence their donations have. Shareholders in companies purchase shares to benefit from the profits those companies make. In turn, the company director, in recognition of the investment shareholders make in their company, is required legally to maximise profits for those shareholders, and, at least for large shareholders, listen to their concerns as part-owners of the business. When large donations are made to political parties and candidates, the effects are not dissimilar. The donor makes donations to benefit from the actions of the political party or candidate. In turn, the party or candidate, in recognition of the investment donors make, feels obliged to ensure those expectations are met and that the concerns of the donor are heard. The legal imperative placed upon companies to their shareholders is not there, but the psychological obligations remain, with
effectively private ownership of public officials. Expenditure on donations, like most business commitments, expect a return on investment.

Analysis of individual donors to the United States of America elections shows that those who make repeated donations are motivated by gaining access to and contact with politicians, compared with infrequent and single-donation donors who are more ideologically driven. The frequency of donations by the repeated donors increases the reliance of the political party or candidate on their funding, thereby increasing the likelihood that the politicians will grant the repeat donors the access they seek in order to secure further donations in the future. Repeated donations create and then reinforce an ongoing relationship between donor and recipient. Such connections are not always something donors want publicly known. Increased transparency of small donations has been shown to lead individuals to decrease or refrain from making donations in order to avoid disclosing their identities.

Reducing regulatory costs
Political donations by corporations have multiple motivations which may not always align with shareholder interests. One set of motivations may be to reduce regulatory costs for their business and thereby increase profits, in line with their obligations to shareholders. Reduction in such regulation while suiting a business, may not be in the general community interest. However, there may be more personal and ideological motivations as well. A study of political donations by large Australian corporations found that decisions on where donations should be directed are influenced by the professional and non-professional networks of the directors and are not always reflective of the wishes of the shareholders of their companies.

c. The use of shell companies, trusts and other vehicles to obscure the original source of political donations
It is difficult to imagine honest and legitimate reasons for obscuring the original source of political donations. Deliberate methods and actions to reduce transparency of political donations have no place in good governance. Evasion-proof systems of reporting must be established and any obscuring of the source of donations should be treated as corrupt behaviour. Appropriate legislation ought to ensure significant penalties for the donor, the political party or the candidate where such vehicles are used.

d. How to improve the integrity of political decision-making through our political donations regime and the public funding of elections
Transparency is key to improving the integrity of political decision-making. Currently, there is no consistency of approach towards this between the Commonwealth, States and Territories, with 9 different systems in place.

Capping and transparency
Several states and territories in Australia have made changes over recent years to increase the transparency of political donations in their jurisdiction. NSW Premier Kristina Kenneally introduced wide ranging legislation to cap political donations to $5000 in 2010 in response to the report of the NSW Joint Standing Committee on Election Reform that recommended a cap of $2000. She also moved to cap political expenditure at $100,000 per candidate and $100,000 per electorate for campaigns in NSW.
An improved system for the disclosure of political donations started in Queensland in early 2017. Covering both state and local government political donations, the Electronic Disclosure System aims for ‘real time’ disclosure of donations, and transparency through increased access to that information. Included in the Queensland system is a mapping feature, providing easy identification of which electorate donations are received from, including interstate and international donations.\textsuperscript{12} This compares with routine quarterly disclosure for donations over $1000 in the Australian Capital Territory, increasing to weekly in the lead up to Territory elections. In South Australia the limit is $5000, with routine half yearly reporting and weekly before the State election. New South Wales requires only annual reporting on the $5000 limit, but bans donations from property developers, tobacco, gambling and liquor industries.

\textbf{Inconsistency and lack of sound legislation}

At the Commonwealth level, the reporting system is even weaker with annual reporting 8 months after the relevant financial year, with the limit set at $13,200. Unfortunately, even the Queensland system is not backed up by legislation, and relies on an honesty system of reporting, with the Queensland Electoral Commission unable to verify the data. The Victorian Government recently announced a tightening of their system to include a cap on donations of $4,000 over a four-year parliamentary term, public disclosure of donations above $1,000 and real-time disclosure of political funding.\textsuperscript{13}

There is also a difference between donations and campaign expenditure, and caps need to be placed on both for the system to be effective. Limits on expenditure during election campaigns may help to decrease the motivation and opportunities for political donations seeking to purchase influence. The current system has no consistency among States, Territories and the Commonwealth, with vast differences in the time-frames and limits for disclosure, and who can donate. There are also no connections between the systems, so that donations just below the reporting threshold can be made to each State and Territory branch of a party, as well as the Federal party itself. Cumulatively, these donations could take the donor over the reporting threshold, but there is no ability for the system currently to make these connections.

\textbf{Leadership especially on transparency}

The Commonwealth is lagging behind the states and territories on making improvements in transparency, and needs to take a leadership role in creating an integrated, transparent, evasion-proof donations reporting system. Influence purchasing can also occur through mechanisms other than reportable donations, including gifts, event sponsorship, fundraising events, fees for membership to and attendance at networking forums and hosting events. A tightening of the system needs to include each of these methods of seeking influence, in order to be effective. Transparency would be further enhanced through public disclosure of all invitations to events hosted by donors, and of all meetings between donors or their representatives, and political candidates, politicians and political parties and their representatives. Such information presented alongside donation disclosures would present a clearer picture of the influence of political donations. If there is no undue influence being purchased by donations, there is nothing to fear from such transparency.
Calls for increased transparency in political donations are made not just for equity and accountability reasons but also because of the direct and indirect impacts they can have on public health. For example, a review of advocacy by food industry groups in Fiji found that they use a number of advocacy actions, including political donations, to seek policy outcomes which are detrimental to health and stymie attempts to reduce non-communicable diseases.\textsuperscript{14}

Bans on political donations can be complemented by appropriate and transparent financing from other sources.\textsuperscript{15} The PHAA recommends that all political donations be banned, and that public funding of elections and political parties be increased accordingly, for use in operating costs of political parties, engaging members and promoting policy positions. A ban on all political donations is the most equitable approach. This is important given that a lack of equity is one of the issues to be addressed.

**Implementation**

PHAA recognises the difficulties involved in implementing such measures. The experience of attempts to reduce tobacco company influence over tobacco-control policies through the World Health Organization Framework Convention on Tobacco Control illustrates the complexities and resistance such measures encounter even in relation to a product that in Australia is likely to cause the deaths of two thirds of its consumers.\textsuperscript{16}

If donations are to be allowed, transparency must be paramount. If the donations are truly not seeking to purchase influence, and are not having that effect, there is no reason for secrecy. There should be no ability to conceal the identity of the donor through the use of associated entities; the public should have real time access to complete, national and state/territory information about all donations made to any political party, candidate and election campaign, regardless of the amount; and certain industries including tobacco, liquor and gambling industries and associations should be banned from making donations in recognition of the public health damage of their products. Tax deductions for political donations should also be banned.

e. Any other related matters

**Conflict of Interest**

It is usual practice within the academic sphere and on many company boards for conflicts of interest to be declared. This is in recognition of the potential for a lack of impartiality. A research project evaluating a particular product or service may be less critical if funded by that product or service than if it was truly independent. A large shareholder from one company is unlikely to be given a seat at the Board table of a competing company. Conflicts of interest are clearly recognised and understood in business and academia. The political and policy making sphere should not be treated differently. Within the political sphere, these practices are usual from a personal perspective for politicians. Politicians are asked to divest from conflicts of interest from personal shareholdings and company directorships. Transparency in political donations and influence is simply a logical extension of this to their professional interests. Politicians with jurisdiction over legislative decision making in a particular sector should not be allowed to accept donations from within that sector, because of the potential conflict of interest. This has begun in some States and Territories, with for example, New South Wales recognising the clear conflict of interest in accepting donations from property developers. A thorough analysis would reveal few sectors which do not come under the legislative jurisdiction of either a state or territory or the Commonwealth. One simple and effective way of ensuring that this is extended across all jurisdictions including the Commonwealth, and for all potential conflicts of interest, is to ban political donations completely.
Conclusion

PHAA strongly supports this inquiry into the influence of political donations. We are keen to ensure increased transparency in the system in line with this submission. We are particularly keen that the following points are highlighted:

- Political donations should be banned
- If donations are to be maintained, or in the meantime:
  - There should be a single national online register of all donations, regardless of the amount, updated daily for real-time disclosures
  - The register should include donations in other forms including gifts, attendance at fundraising events, fees for membership of and attendance at networking and other similar forums, sponsorships and hosting events
  - The register should include disclosure of all meetings between donors and political parties and their respective representatives
  - Tax deductions for political donations should be banned
  - Political donations from companies whose goods cause demonstrable public health damage, such as tobacco, alcohol and gambling, should be banned.

The PHAA appreciates the opportunity to make this submission and the opportunity to contribute to a fairer and more transparent policy making process in Australia.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

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References