

# Opening statement to the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

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13 October 2021

Thank you, Chairman and fellow Committee members for inviting me to share my observations on the Lobbying Regulation (Amendment) Bill 2020 on behalf of Transparency International Ireland. I should start by briefly explaining what interest we have in this issue, before moving on to our preliminary observations together with broader recommendations that would further strengthen the Act.

In 2009, Transparency International Ireland identified the regulation of lobbyists as one of six key recommendations aimed at preventing corruption arising from our first [National Integrity Systems](#) study.

Since then, we have undertaken research and produced three publications on the topic including, [Responsible Lobbying in Europe: An overview of voluntary lobbying standards and practice in Europe](#) and published [Responsible Lobbying: A Short Guide to Ethical Lobbying](#).

Earlier this year, we looked at the [disclosure practices of 30 of Ireland's top companies](#) across a range of indicators including Responsible Political Engagement and found some companies showing leadership on this issue. However, it is important to note that most companies did not disclose a policy on responsible political engagement and the highest score achieved on this dimension was 57%. Moreover, 28 out of 30 companies did not publish rules or policies dealing with 'revolving doors' – i.e., the movement of staff from the public sector to companies or vice versa.

It would be churlish however not to acknowledge some of the progress made since we began work on this issue. The 2015 Act in particular, has regularised the practice, setting boundaries and standards of conduct that were not always clear. The Regulator of Lobbying has also been very active in raising public awareness of the Act. In doing so, it has raised public expectations of both lobbyists and policymakers, and I would speculate that the term 'lobbyist' carries a degree more respectability than was the case before the Act was passed.

Nonetheless, the Standards in Public Office Commission has [recommended reforms](#) which have yet to be adopted and a small number of cases appear to have undermined the reputation of the profession since 2015 - both of which appear to have influenced the publication of this Bill. To be fair, the only cases that I am aware of that stirred public controversy; surrounded the movement of former senior advisors or public officials to roles in public relations firms or in business associations. I am unaware of any more serious compliance failures or offences committed since then.

## Preliminary Observations

It is welcome therefore to see a provision in the Bill for an extension of the cooling off period for office holders moving to the private sector from one to two years. We also welcome the proposed requirement for a Designated Public Official (DPO) to cease communicating with a lobbyist where they are aware that that person or body carrying on lobbying activities has failed to comply with the Act.

In summary, we agree with the sponsors of this Bill that the most effective way of encouraging compliance would be to deny those that refuse to comply with the Act the opportunity to lobby public officials and, in the same way, to penalise those companies that hire public officials in contravention of statutory cooling off periods.

However, while the broad approach may be sound, we might suggest a small number of technical amendments that could avoid any potential confusion or unforeseen consequences which I am happy to address after these remarks. In addition, we would recommend providing the Commission with the power to impose financial penalties on those persons, including DPOs, that fail to follow a direction from the Commission to comply with the Act.

### **Additional Recommendations**

At this point, I should draw the Committee's attention to what we see as the primary goals of lobbying regulation.

The first is to prevent trade in influence – the use of personal connections or intermediaries to secretly influence policy.

The second is to improve the quality of public policy by allowing the public and policymakers full sight of the information used to influence that policy and to determine whether the policy is in the public interest.

If the Act is to meet its first purpose, there should be a requirement to disclose not just the source but *the amounts* of funding received or fees charged by lobbyists with the Lobbying Regulator. This would allow enforcement agencies including the Commission and An Garda Síochána to evaluate information that could assist with any future investigation into allegations of breaches of the Act or attempts to trade in influence – an offence created with the passage of the [Criminal Justice \(Corruption Offences\) Act 2018](#).

Without a disclosure requirement it is difficult to know who has paid what to an intermediary or whether they have done so lawfully, and it is equally difficult to determine whether anyone has sought to illegally influence policy. Such a requirement has been instrumental in detecting corruption or trade in influence in other jurisdictions.

The second purpose could be fulfilled without requiring an amendment to the Act. Instead, the online register could allow for much easier download and third-party analysis of data stored on the register. It could also allow for lobbyists to voluntarily upload information or to provide live external links to those documents, and to provide to links to legislation moving through the Oireachtas or relevant information held by public bodies (such as rezoning decisions) on the lobbying.ie website.

This would make it easier for the public to access information shared with policymakers in the course of lobbying. It would help reduce the volume of FOI requests and encourage others to be more open about their lobbying activities. In turn, it would also provide for a comprehensive and accessible 'legislative footprint' that simultaneously makes the most of existing digital platforms and helps make the legislative process more open and accountable.

Time doesn't allow me to address the full scope of the Act or Bill but I am happy to answer any questions you might have. Thank you again for your time.