



# Code of Conduct for persons carrying on lobbying activities

Submission to the Standards in Public  
Office Commission

*Social Justice Ireland, July 2018*

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## Introduction

*Social Justice Ireland* is an independent think tank and justice advocacy organisation that advances the lives of people and communities through providing independent social analysis and effective policy development to create a sustainable future for every member of society and for societies as a whole. We welcome the opportunity to respond to the Commission's consultation on the Code of Conduct for persons carrying on lobbying activities.

*Social Justice Ireland* is available to the Commission to expand or elaborate on any area within this submission.

## Submission

According to the Corruption Perceptions Index 2017<sup>1</sup>, Ireland achieved a score of 74 (where 0 is highly corrupt and 100 is very clean). This is an improvement on 2016, where the score was 73. While overall Ireland ranks 19<sup>th</sup> of the 180 countries included in the index, we rank behind the US (who are joint 16<sup>th</sup> with a score of 75) and tenth out of the ten EU-15 countries in the top 20. While Ireland's score is relatively high, we cannot be complacent. Lack of transparency in public decision-making creates mistrust of public institutions. *Social Justice Ireland* welcomes the proposal to implement a Code of Conduct for persons carrying on lobbying activities to ensure greater transparency and accountability by public representatives and bodies.

This submission responds to the questions set out in the template submission attached to the consultation document published online on lobbying.ie.

1. *What do you consider should be included in a Code of Conduct for persons carrying on lobbying activities?*

The five principles for lobbying set out in guide to ethical lobbying published by Transparency International Ireland<sup>2</sup> should be enshrined in any proposed Code of Conduct in respect of lobbying. These principles are legitimacy, transparency, consistency, accountability and opportunity.

The draft Code published by the Commission does take account of the need for legitimacy in lobbying, it is a principle set out in the preamble and in provisions 2 (Acting with Honesty and Integrity), 3 (Ensuring Accuracy of Information), 5 (Disclosure of Interests) and 7 (Avoiding Improper Influence). However, the language used is not sufficiently explicit and lends itself to wide interpretation. It is not sufficient that lobbyists be prohibited from inducing a public official to engage in unlawful activity, they must also be prohibited from engaging in activities that amount to a conflict of interest which would alter the judgement of the public official. Unlawful and unethical behaviours should also be explicitly prohibited.

The principle of transparency is also apparent in the draft Code in provisions 4 (Disclosure of Identity and Purpose of Lobbying Activities) and 5 (Disclosure of Interests), while conscious of the need to preserve the confidentiality of both the public officials and, in the case of lobbyists acting on behalf of a third party, their clients (provision 6). The protections envisaged by provision 5 could be greatly enhanced by the inclusion of the words 'recklessly or negligently...' after 'knowingly' to ensure that

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[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017?gclid=CjwKCAjwp7baBRBIEiwAPTjwxGjND7J1ZEWJZC9gbMi\\_i2dwMbNpnzYXzybSwggaH79Df\\_bRAaBljBoC-XwQAvD\\_BwE](https://www.transparency.org/news/feature/corruption_perceptions_index_2017?gclid=CjwKCAjwp7baBRBIEiwAPTjwxGjND7J1ZEWJZC9gbMi_i2dwMbNpnzYXzybSwggaH79Df_bRAaBljBoC-XwQAvD_BwE)

<sup>2</sup> Responsible Lobbying: A Short Guide to Ethical Lobbying and Public Policy Engagement for Professionals, Executives and Activists,

[https://www.transparency.ie/sites/default/files/15.12\\_responsible\\_lobbying\\_guide.pdf](https://www.transparency.ie/sites/default/files/15.12_responsible_lobbying_guide.pdf)

lobbyists who ought to have known their claims were misleading or exaggerated are not exonerated from consequences. *Social Justice Ireland* also supports the recommendation contained in the Transparency International guide that lobbyists be required to publish their lobbying submissions, policy papers and supporting evidence.

The consistency principle in the draft Code extends only to compliance with the provisions of the Lobbying Act (provision 8) and the Code (provision 9). There is no requirement that organisations maintain consistency with their ethos, any governing body, representative body or membership organisation to which they belong, and compliance with universal standards such as Corporate Social Responsibility strategies or the principles of the SDGs.

Accountability, other than within the confines of the Lobbying Act, is also absent from the draft Code. Lobbyists and organisations should be held accountable for their actions in endeavouring to effect change. Accountability should cover immediate stakeholders of the organisation, but must also hold individuals and groups within its own organisation responsible for any deviation from law, regulation or internal ethos and policies.

An interesting aspect of the lobbying guide produced by Transparency International Ireland is the concept of 'Opportunity'. *Social Justice Ireland* would agree with this as a principle in so far as it refers to the opportunity of private enterprise and civil society to work together to ensure greater transparency and accountability across lobbying activities. Each should be capable of holding the other to account and to insist that lobbying activities are conducted in the common interest, for public good and based on robust evidence and data.

2. *What do you consider should not be included in a Code of Conduct for persons carrying on lobbying activities?*

The Code of Conduct should be robust and accessible, easily understood by any person who seeks to use it to uphold the objectives of transparency and accountability set out in the Lobbying Act. Language that is unclear or ambiguous will only undermine the Code and render it worthless. Having the Code written in Plain English, or accompanied by a Plain English explanatory note, would greatly enhance its efficacy.

3. *Do you think the Code of Conduct should contain different provisions in relation to different descriptions of persons carrying on lobbying activities?*

People and organisations undertake lobbying activities in a range of capacities. Both the lobbying legislation and any Code of Conduct developed to regulate lobbying activities should take cognisance of the power imbalance between those who lobby for or on behalf of large corporations and commercial interest and small organisations and 'third sector' organisations whose advocacy activities are captured by the Lobbying Act for reporting purposes. One size does not fit all. A stratified regulatory regimes is therefore needed to ensure sufficient rigour and accountability of those with the resources to circumvent or obfuscate the requirements of the current regulatory regime, while ensuring those organisations without these significant resources are regulated appropriately.

## Conclusion

*Social Justice Ireland* welcomes the proposal to introduce a Code of Conduct for persons carrying on lobbying activities. Transparency and accountability are critical components of any such Code. Members of the public must be able to trust public institutions and organs of the State. Decisions which may affect the public must be made on the strength of robust evidence, rather than vested interests with deep pockets.

**Social Justice Ireland** is an independent think-tank and justice advocacy organisation of individuals and groups throughout Ireland who are committed to working to build a just society where human rights are respected, human dignity is protected, human development is facilitated and the environment is respected and protected.



*Social Justice Ireland,*  
Arena House,  
Arena Road,  
Sandyford,  
Dublin 18  
Phone: 01 213 0724  
Email: [secretary@socialjustice.ie](mailto:secretary@socialjustice.ie)  
Charity Number: CHY 19486  
Registered Charity Number:  
20076481  
**[www.socialjustice.ie](http://www.socialjustice.ie)**