



Irish Council for  
**Civil Liberties**

**ICCL Submission on the Draft Code of Conduct,  
under the Lobbying Act 2015  
July 2018**

**About ICCL:**

The ICCL is an independent human rights organisations which seeks to promote and defend human rights and civil liberties in Ireland. As part of our work, we seek to influence law and policy as they impact on human rights and civil liberties, and in doing so we engage extensively with members of the Oireachtas, Government departments, and public bodies. In that capacity, we are registered on the Register of Lobbying and fully comply with the requirements of the Regulation of Lobbying Act 2015.

**Overview:**

The Irish Council for Civil Liberties (ICCL) welcomes the opportunity to comment on the Draft Code of Conduct under the Lobbying Act. The ICCL fully supports the stated objectives of the Code and the wider purposes behind the Regulation of Lobbying Act of ensuring transparency in the conduct of lobbying activities. We believe in the highest possible standards of transparency in all aspects of public life. At the same time, we believe that any system of regulating political engagement should seek to support and facilitate political participation of the widest possible range of society. We also believe that measures which support transparency in political engagement should be clearly distinguished from measures which seek to restrict or limit certain types of political activities, or which seek to protect the integrity of the electoral process.

## **1. Content of Code of Conduct - sections 1-7**

The proposed provisions of the Draft Code with regard to the behaviour of lobbyists and lobbying organisations are welcome and set appropriately high standards for public advocacy.

In pursuit of the objectives of transparency in public policy making, ICCL would recommend that the Code of Conduct should also provide that persons carrying out lobbying activities should generally make public disclosure of their lobbying activities, including where appropriate the publication of documentation submitted as part of lobbying activities.

We note in this regard that a key measure to ensure transparency of lobbying activity is the recording by public bodies of all correspondence and communication received relating to lobbying activities.

## **2. Code of Conduct sections 8 - Registration and Return**

The current system of reporting under the Regulation of Lobbying Act apply rigid reporting requirements on persons or organisations registered under the Act. For small organisations, including community and voluntary organisations, these requirements are onerous, particularly around deadlines for submissions. While guidelines are provided by the Standards in Public Office Commission, further clarity could be provided with regard to those activities which qualify under the Act.

The ICCL would suggest that the role of the Commission should primarily be one of supporting positive compliance with the Act, with a purposive interpretation of the Act whereby good faith attempts to comply with the Act should not lead to the application of penalties.

### **3. Right to Participate in Government**

While ICCL believes that the provisions of the Lobbying Act should apply equally to all bodies and persons engaged in lobbying activities, we also recognise that the State has obligations to promote and facilitate involvement in public and political life by the community at large, as is recognised by the United Nations, the European Union and the Council of Europe. We note in particular, the obligations on Ireland under the Sustainable Development Goals and through its participation in the Open Government Partnership.

In this regard, it may be appropriate to take special measures to encourage and support political activity, including lobbying, by civil society and non-profit bodies, and also to consider whether reporting obligations and penalties should be applied in the same manner to civil society and non-profit organisations seeking to contribute to public policy process as such systems are applied to lobbyists acting for or on behalf of commercial interests.

We note that in a recent Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his follow-up mission to the United Kingdom of Great Britain and Northern Ireland, the Special Rapporteur cited the duty on the State to guarantee the principle of ‘sectoral equity’ in the sphere of lobbying, whereby industry did not enjoy preferential treatment to community interests.<sup>1</sup>

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<sup>1</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his follow-up mission to the United Kingdom of Great Britain and Northern Ireland, to the UN Human Rights Council, 8<sup>th</sup> June 2017, UN document A/HRC/35/28/Add.1

#### **4. Separate Treatment of (i) Lobbying and Transparency Measures and (ii) Limitations on Political Campaigns and Political Donations**

As outline above, ICCL is fully supportive of the Lobbying register system and all measures to promote transparency in the public policy processes. At the same time, we believe that individuals and organisations much be supported to contribute to public policy discussion in an open and transparent manner. It is our view that these two codes must be treated separately; in particular we believe that participation in and declaration of lobbying activity should not be considered as demonstrating engagement in electoral or political activity for the purposes of the Electoral Act.

The Standards in Public Office Commission is the statutory body charged with overseeing compliance with both the Lobbying Act and the Electoral Act. ICCL believes that the Commission should clarify the distinction between the two roles, and issue guidelines and clarification that registration of lobbying activities for the purposes of the Lobbying Act cannot, in and of itself, be considered to constitute evidence or proof of engagement in activities which might be deemed 'political' or pursuant to 'political purposes' under the Electoral Act.