



# Irish Cancer Society

Submission

Irish Cancer Society Response to the Department of Expenditure's call for a review of the  
Regulation of Lobbying Act 2015

May 2019

Established in 1963, the Irish Cancer Society is the national cancer charity. Our vision is that every person in Ireland will have access to the best possible cancer services; will have the lowest risk of getting cancer, the highest survival rates and the best support and information available when affected by cancer.

The Irish Cancer Society welcomes the opportunity to respond to the Department of Public Expenditure and Reform (DPER) on its invitation to review the Regulation of Lobbying Act 2015.

Comment on positive provisions within the Act

The Act provides additional transparency in the Irish lobbying space, something which the Irish Cancer Society believes is vitally important in a functioning democracy.

Lobbying is an essential part of the democratic process and a key part of what we do in the Irish Cancer Society. It enables us to make our views known on issues of public policy, and to inform a range of decision makers, including politicians and public servants on best practice to support an evidence basis for their decisions. The Irish Cancer Society advocates to ensure that fewer people get cancer and those that do have a better outcome.

Lobbying can improve government decisions by providing valuable insights and data. However, lobbying can also provide an unfair advantage to better-resourced interest groups where the process is ill-defined and standards are lax.

The Act means that organisations and individuals seeking to lobby to undermine public health measures, such as the tobacco industry, must submit publicly available returns, which applies a layer of accountability which was not present prior to the Act's introduction in 2015.

The "Code of Conduct" is a helpful addition to the Act, as it outlines what is considered good lobbying practice. Having a code of conduct as a reference point allows organisations to be considered in their approach to lobbying and ensure that respect is demonstrated towards public bodies, information is accurate, and that those making an approach do so with honesty and integrity.

Furthermore, the spirit of the Act is broadly followed by organisations who engage in lobbying activity. While some concerns have arisen around individual cases which may breach the provisions in the Act, the Act has generally had a positive impact on lobbying activity in Ireland.

Comment on the objectives of the Act

The Act aims to make the lobbying process more transparent. It has gone some way to achieving this, namely through the following provisions:

- The establishment of the lobbying register.
- The competence of the Standards in Public Office Commission to regulate lobbying.
- The requirement of lobbyists to provide regular information on lobbying activities and in the case of professional lobbyists, information about their clients.
- Establishment of a code of conduct.
- Introduction of a "cooling off period" during which former DPOs cannot lobby.

To support organisations in complying with the Act, and as a member of the Advisory Group to its implementation, the Irish Cancer Society has welcomed the support and guidance of the Standards in Public Office Commission (SIPOC) through its regular communication and the availability of its staff to offer advice to organisations on the lobbying register.

To support this, and SIPOC in carrying out its duties, the Irish Cancer Society believes the provision of examples of lobbying activity would be beneficial to organisations who may require additional clarity on whether their communications constitute lobbying. This may be provided through the extension of the "Frequently Asked Questions" section on the lobbying.ie website to include detailed hypothetical scenarios where lobbying is taking place. The provision of real-world examples would in turn improve the quality of returns being made where organisations are better informed where their activities are considered lobbying.

Those submitting a lobbying return through lobbying.ie are encouraged to submit a meaningful return which identifies the results that the lobbying party is actually seeking. The Society does not believe it is sufficient to seek "to raise matters of interest to our organisation" for example. It would be beneficial to organisations submitting a return that this principle is highlighted and organisations are made aware of the potential consequences for failure to include a meaningful return. At present, a significant number of returns to the lobbying register do not contain adequate detail on the relevant matters being communicated to DPOs and the intended outcomes. Where a lack of transparency is included on lobbying returns, this may be viewed as a hindrance on the democratic process.

The Irish Cancer Society has been working for many years to protect people from the harms of smoking, to support smokers to quit and to protect young people from the tactics employed by the tobacco industry. Ireland has ratified the World Health Organization's (WHO) Framework Convention on Tobacco Control (FCTC). This is a legally binding treaty. Under the convention, engagement with the tobacco industry should be limited to only where it is strictly necessary i.e. in order to effectively regulate tobacco products and the tobacco industry itself. This engagement must be transparent; for instance written records, accessible to the public, should be kept of any meetings.

The Irish Cancer Society has written to the Standards in Public Office Commission to communicate concerns that some instances of lobbying by the tobacco industry have not been documented in lobbying returns. In addition to breaching the FCTC, the tobacco industry's non-disclosure of lobbying activity serves to undermine the effectiveness of the Regulation of Lobbying Act in its aim to make lobbying more transparent. Ultimately, this has serious implications for the democratic process; all lobbying communications should be documented and publicly available to preserve transparency in the policy-making process.

The Irish Cancer Society believes that a sector-specific communications campaign (e.g. charity, community and voluntary, finance, technology, public affairs) may be beneficial in reminding any bodies which are engaged in lobbying activities, of their obligations under the Act.

#### Comment on Unintended consequences of the Act

A situation has arisen wherein lobbying activities which take place outside of Ireland are not required to be documented. This is acknowledged by the Standards in Public Office Commission on the lobbying.ie website: "It is recognised that there may be difficulties with extra-territorial enforcement of the Act. All those lobbying Irish Designated Public Officials outside of the State are encouraged to comply with the spirit of the legislation to ensure transparency."

With this, organisations that are Brussels-based, for example, would not have to file a lobbying return where they are engaging in lobbying activities with Irish MEPs based outside of Ireland. This may undermine the democratic process where there is non-disclosure of lobbying activities, resulting in a lack of transparency in the policy-making process.

Lobbying is an essential part of the democratic process whereby interested parties have the opportunity to feed into the policy-making process. As is outlined in the OECD's "Principles for Transparency and Integrity in Lobbying", enhanced transparency and fostering a culture of integrity are crucial to upholding standards of democracy in the lobbying process.

The Irish Cancer Society believes that the publication of Best Practices for those scenarios where lobbying activity is not bound by the Act, would contribute to establishing a custom of compliance with the spirit of the legislation.

#### Comment on whether the Act can be improved

The OECD's "Principles for Transparency and Integrity in Lobbying", provides guidance on lobbying best practices and offers access to relevant standards and instruments. The initiative outlines a ten-point priority checklist as follows:

1. Do all stakeholders have fair and equitable access to the development and implementation of public policies?
2. Do rules and guidelines on lobbying respect the socio-political and administrative context?
3. Are the rules and guidelines on lobbying consistent with the wider policy and regulatory frameworks?
4. Are the terms "lobbying" and "lobbyist" clearly defined in the rules and guidelines on lobbying?
5. Is sufficient information on lobbying activities publicly available?
6. Can lobbying activities be scrutinised by stakeholders?
7. Are there clear rules and guidelines of conduct for public officials on how to engage with lobbyists?
8. Do lobbyists comply with standards of professionalism and transparency?
9. Is there a coherent spectrum of strategies and practices to ensure compliance with rules on lobbying?
10. Is the functioning of rules and guidelines on lobbying periodically reviewed to ensure compliance?

These principles are broadly contained in the Act. Per principle 4, however, further clarification on the definition of lobbying activity would serve to improve organisations' understanding of whether they are engaged in lobbying activity and accordingly, would lead to higher quality returns.

Per principle 8, the Irish Cancer Society has outlined additional measures which we believe would increase standards of professionalism and transparency among those engaged in lobbying activity. These measures include the publication of Best Practices for those engaged in lobbying activity who are not bound by the terms of the Act, and targeted communications campaign to remind specific sectors of their obligations under the Act.

Furthermore, the Irish Cancer Society believes that "Designated Public Official" (DPO) status should be extended to the staff grade of Principal Officer, as well as to the HSE. At present, DPO status within the civil service is reserved for the staff grades of Secretary General and Assistant Secretary. The Society believes that the extension of DPO status to Principal Officer would allow for greater security for the purposes of the Act, namely to make the lobbying process more transparent.

Principal Officers have significant executive authority in the policy-making process. As such, the Society believes that they should be categorised as a DPO. At present, bodies who make relevant communications about relevant matters to a Principal Officer, are not deemed to be lobbying, even though the Principal Officer will have significant influence over the policy-making process.

Furthermore, the HSE too has a significant executive function within health policy in Ireland. At present, those who make relevant communications about relevant matters to staff within the HSE are not deemed to be lobbying. The Irish Cancer Society believes that the Act should extend the category of DPO to those within the HSE who exercise competence over the policy-making process.

#### Conclusion

The Irish Cancer Society believes that the Act has been a positive instrument in ensuring greater transparency in the policy-making process. The Act has provided for greater public accountability, something which can only be viewed as a positive thing. The Irish Cancer Society wants to ensure that the highest standards of transparency and accountability are upheld in the lobbying process. We believe these principles are particularly important when observing lobbying efforts by the tobacco industry, and that the measures we have outlined in this document will aid in upholding those principles.

For more information on the content of this submission, please contact:

Erich Steyaert  
Advocacy Officer  
Irish Cancer Society

