

Information Notice

Strategic Policy Committees, Advisory Groups and the Regulation of Lobbying

Date: 25 April 2018

The Regulation of Lobbying Act 2015 (the Act) is designed to provide information to the public regarding who is lobbying whom about what. Anyone who meets each step of the Three-Step Test must register. Individuals and organisations who participate in Strategic Policy Committees or Advisory Groups established by a public body may have obligations under the Act. This information notice is designed to provide guidance to them in considering whether they have to register on the Register of Lobbying.

Three-Step Test

For a communication to be considered a “relevant communication” for the purposes of the Act it must meet the following criteria:

- 1) The communication is made by a person or organisation within the scope of the Act;
- 2) The communication concerns a “relevant matter”; and
- 3) The communication is directed at a person who is a Designated Public Official (DPO).

Further information concerning [the Three-Step Test](#) can be found on the Regulation of Lobbying website (www.lobbying.ie).

The Transparency Code

A critical element of public policy formulation is the availability to Ministers and Public Bodies of expertise, skills and knowledge from persons outside of the public service. Often this process is formalised by the establishment of a task force, advisory group or Strategic Policy Committees (referred to hereafter as “working groups”), where the objective of the working group is to focus on a particular policy issue or set of related issues.

Where such a working group’s membership comprises of at least one person who, for the purposes of the Act, is a DPO, it may be the case that communications within the group could be considered lobbying communications. The person making these communications may be required to register as a lobbyist and to submit a return of this communication to the Lobbying Register.

However, the Act provides for an exception from the requirement to register in such cases once specified transparency criteria have been put in place. A [Transparency Code](#) was published by the Minister for Finance & Public Expenditure and Reform to address exactly this situation. Communications between members of working groups about the work of the group would be exempt where the group in question complies with the Transparency Code.

If you are leading or participating in an advisory group, task force or Strategic Policy Committee, you need to be aware that in some cases the communications that take place within the group could be considered lobbying. You should check, therefore, that the group is adhering to the Transparency Code.

It is important to note, however, that the exemption only applies to communications relating to the work of the group, during the formal meetings of the group. Where a member of the group avails of the opportunity to speak to the DPO who is also a member about a separate relevant matter, that would not enjoy the exemption and may have to be registered.

For more information about the Transparency Code, see the Appendix, or visit www.lobbying.ie.

APPENDIX: Adhering to the Transparency Code

Relevant groups must meet the criteria specified in the Transparency Code in order to be regarded as a “relevant body” (as defined in the Act) and to avail of the exemption set out in section 5(5)(n) of the Act.

Information must be published on the public body’s website setting out the following:

- Name of Chairperson together with details of his or her employing organisation;
- Names of Members together with details of their employing organisation
- Whether any non-public servant members were previously designated public officials;
- Terms of reference of the group;
- Agenda of each meeting;
- Minutes of each meeting;
- Expected timeframe for the group to conclude its work;
- Reporting arrangements.

This information should be in a prominent place on the website of public bodies and should be easily accessible.

In addition the Chairperson of the Group is responsible for overseeing and conducting the work of the Group in a manner which ensures that the Group operates in a manner fully in accordance with its terms of reference and in the public interest. The Chairperson will include with the final or annual report of the Group a statement confirming its compliance with the Transparency Code.

Sub-groups

The requirements of the Transparency Code also apply to sub-groups of the principal group where the membership of the sub-group consists of at least one Designated Public Official and at least one person from outside of the public service.

It is important to note that only communications which are made within the terms of reference of a committee may enjoy the exemption provided for by the Transparency Code, and only communications made during proceedings of the Committee can be exempted – communications made during breaks or outside of committee proceedings would not enjoy this exemption.

Timeliness of Publication:

Ideally the information should be published in as timely a fashion as possible, having regard to the public interest in safeguarding the integrity of the deliberative process.

All groups should publish information about their membership, terms of reference, expected timeframe and reporting arrangements on their website.

At a minimum, thereafter the information on the public bodies' website must be updated at least every 4 months with details of agendas, minutes, etc. in relation to each such group.

This timeframe is in line with the transparency requirements under the Regulation of Lobbying Act 2015 for persons who are engaging in lobbying communications. A return must be submitted every four months in respect of such activity.

For more information, visit www.lobbying.ie or call (01) 639-5721.