

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

By John Devitt, Chief Executive, Transparency International Ireland

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Thank you, Chairman and fellow Committee members for inviting me to share my observations on the General Scheme of the Lobbying Regulation (Amendment) Bill 2022 on behalf of Transparency International Ireland.

I introduced you to our work last October when discussing the private members bill on the same topic and explained that TI Ireland has dedicated some time to this issue having called for a register of lobbyists in 2009 and undertaken research and published guidance on ethical lobbying since 2015.

We noted some of the progress made since we began work on this issue. The 2015 Act and the Regulator have 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, opportunities to reform the Act have been missed since the first review of the Act was conducted in 2017 and a small number of cases appear to have undermined the reputation of the lobbying profession and undermined public trust in politics more widely. We therefore welcome the Government's proposal to amend the Act and the publication of the General Scheme.

When I last presented to the Committee, I explained what we see as the primary goals of lobbying regulation: the first is to prevent conflicts of interest that could create opportunities for corruption such as trade in influence.

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.

It is with these two goals in mind that I share some observations on the General Scheme and make or reiterate our recommendations from last year.

## Preliminary Observations

Firstly, we welcome a number of proposed reforms contained in the General Scheme. These include:

- The creation of an offence to take any action designed to avoid one's obligations in connection with registering as a lobbyist and making returns.<sup>1</sup>
- The elimination of the loophole which exempts a person who is marked on the register as having 'ceased lobbying' from making returns while remaining on the register.<sup>2</sup>

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<sup>1</sup> Head 13

<sup>2</sup> Head 8

- And the inclusion of business representative bodies or coalitions of business interests,<sup>3</sup> as well as non-remunerated office holders in advocacy or interest groups in the definition of persons carrying out lobbying.<sup>4</sup>

We also welcome the proposed amendment to Section 22, which would make a breach of the cooling-off period, or lobbying during that period without SIPO's consent, a 'relevant contravention' and allow the Commission to carry out an investigation.<sup>5</sup>

### Priority Recommendations

I am happy to discuss a number of areas for improvement or additional provisions in pursuit of the aims of the General Scheme. However, I should underscore the point made at my last appearance before the Committee that the Act does little to meet its first objective of preventing corruption unless there is a corresponding requirement to disclose not just the source, but *the amounts* of funding received or fees charged by lobbyists with the Lobbying Regulator, as well as details of any gifts, hospitality or travel provided to the targets of lobbying.

This, as we noted before, 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 public policy. Such a requirement has been instrumental in detecting corruption or trade in influence in other jurisdictions, most notably in the United States.

The second purpose could be fulfilled without necessitating 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 as well as legislation moving through the Oireachtas, or to links to relevant information held by public bodies (such as rezoning decisions) on the lobbying.ie website.

This 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.

Regretfully, we note that there are no proposals contained in the General Scheme that would give effect to either recommendation. Nevertheless, we would hope that the Oireachtas would consider these recommendations as part of any review of the Bill when it comes before it in due course.

### Additional Recommendations

In addition to these two priorities, we are happy to share recommendations that would strengthen the proposals contained in the General Scheme. These include:

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<sup>3</sup> Head 5

<sup>4</sup> Head 6

<sup>5</sup> Head 14

- Extending the standard cooling-off period to two years, but with provision for shorter or longer periods depending on the DPO's position and the nature and/or interplay of the previous and new roles.
- The categorisation of breaches of cooling-off periods and other post-term employment regulations as offences, as is the case with other contraventions of the Lobbying Act. [The 'anti-avoidance clause' provided for by Head 13 of the Regulation of Lobbying (Amendment) Bill should also make the avoidance of Section 22 obligations an offence].
- Finally, for now we would call for an outright ban on all members of the Oireachtas or local authorities from acting as lobbyists or receiving any income for the purpose of influencing public policy other than that provided for by virtue of the elected office they hold.

TI Ireland will share additional observations and recommendations as part of its submission on the General Scheme and Bill and I am happy to touch on these or any other provisions this afternoon.