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# Frequently Asked Questions

## Who should register?

### **1. Are there any obligations for Designated Public Officials? Do they have to register?**

The Regulation of Lobbying Act 2015 does not set out any requirements for Designated Public Officials to register, submit returns or validate information contained in the returns submitted by lobbyists. Designated Public Officials continue to have obligations set out in other instruments, including ethics legislation, freedom of information legislation, and codes of conduct. While Designated Public Officials have no formal obligations under the Act, the Standards in Public Office Commission has identified a number of best practices, which are outlined in the Guidelines for Designated Public Officials, Guidelines for TDs, Senators and MEPS, and Guidelines for Local Authority Members, which are all available on our website.

### **2. My organisation is 100% run by volunteers – no paid staff at all. If we contact a DPO, are we lobbying?**

Under the Regulation of Lobbying Act 2015, persons who fall within the scope of the Act who communicate with Designated Public Officials about relevant matters must register and submit returns of lobbying activity. Persons within scope are:

- A person with more than 10 employees;
- A representative or advocacy body with 1 or more employees;
- A professional lobbyist paid to communicate on behalf of a client that falls within the previous categories; or
- Anyone communicating about the development or zoning of land.

A volunteer organisation with no paid staff would generally not fit within the Act, unless they are communicating about development or zoning. For more information, see the [Guidelines for People Carrying on Lobbying Activities](#).

### **3. If I am a member of a representative body and they ask me to lobby my local TD, who is responsible for submitting returns?**

Under the Regulation of Lobbying Act 2015, persons who fall within the scope of the Act who communicate with Designated Public Officials about relevant matters must register and submit returns of lobbying activity. Persons within scope are:

- A person with more than 10 employees;
- A representative or advocacy body with 1 or more employees;
- A professional lobbyist paid to communicate on behalf of a client that falls within the previous categories; or
- Anyone communicating about the development or zoning of land.

It is the responsibility of the person who makes, manages or directs the lobbying activity to register and submit returns. A representative body communicating on behalf of its members may undertake grassroots lobbying activities, directing their members to lobby on a particular matter. In such an instance, the obligation to register and submit a return of the lobbying activity would rest with the representative body, not the individual member.

#### **4. Do I have to register before I meet with a DPO?**

There is no requirement to register until after a person has actually commenced lobbying. Under the Regulation of Lobbying Act 2015, a person undertaking lobbying activities is required to register and submit a return of lobbying activity within 21 days of the end of the first relevant period in which they begin lobbying. For example, if someone lobbies for the first time during the month of October, that activity has taken place within the relevant period of 1 September – 31 December. The person would be required to register and submit their first returns by 21 January, 21 days after the end of the relevant period.

#### **5. When a person undertakes lobbying activities on behalf of a client, who registers and submits a return – the client or the professional representative?**

Where a person makes, manages or directs the making of relevant communications on behalf of a client in return for payment, he or she must register and submit a return of lobbying activities. In the return, the client must be identified. In such an instance, it would not be appropriate for the client to submit a return in place of the professional representative, as the client's return would not make transparent the involvement of the professional in making, managing or directing the communication.

If both the hired professional and the client undertake the same lobbying activities, the professional should submit the return, which would identify the client.

The client may also carry out additional lobbying activities independent of their hired representative (that is, where the client is the one making, managing or directing the making of the relevant communication). In this case, both the client and the hired professional should submit returns. In such circumstances the client submits a return in respect of those lobbying activities which are additional and separate to those carried out on the client's behalf by the professional lobbyist.

If a hired professional advises a client regarding the client's lobbying activities, but does not make, manage or direct the making of the relevant communication, then in that instance it is only the client who must register and submit a return.

## **6. I am not a professional “lobbyist”, but I do communicate with Designated Public Officials on behalf of my client. Do I have to register?**

A number of professionals from a wide range of sectors may communicate on behalf of a client. Certainly those who would call themselves consultant lobbyists may lobby on behalf of a client. However, so might solicitors, tax professionals, accountants, management consultants and others. There is no exemption in the Act for any particular profession.

The test, set out in section 5(1)(a) of the Act, is whether a person “makes, manages or directs the making of, any relevant communications on behalf of another person in return for payment (in money or money's worth)” where the client falls within specific categories, namely they must be a person with more than ten employees or a representative or advocacy body with at least one employee. If the person fits within that definition, and are communicating on behalf of a client with a Designated Public Official about a relevant matter, they would be considered to be engaged in lobbying, whether or not they might think of themselves as a lobbyist.

In summary, the Register of Lobbying is meant to capture lobbying activities, including those made by someone on behalf of a client, regardless of the profession of the person representing the client.

## **7. If an organisation has both an “umbrella” group and smaller regional arms, who registers?**

Some organisations have both a larger umbrella body and smaller associated organisations. Others may have a headquarters operation that oversees the operations of its subsidiaries.

In many cases, it is only the headquarters or umbrella organisation that engages in lobbying on behalf of the wider entity. However, some organisations' lobbying activities may be more complicated. For example, the umbrella organisation or headquarters may direct lobbying by the other levels of their organisation. In other cases, it is the member organisation or subsidiary that leads its own lobbying. The larger entity may have more than 10 employees and therefore fit within the scope of the Act, while the smaller organisation may be largely volunteer-driven and fall outside the scope of the Act.

In any event, the responsibility for registering and submitting returns of lobbying activity rests with the level at which lobbying communications are made, managed or directed, as long as that organisation fits within the scope of the Act. It is at that level that must assess whether or not it falls within the scope of the Act.

If the headquarters/umbrella group with more than 10 employees is leading the lobbying campaign, it is that organisation that must register and submit a return. If the lobbying is led by the lower-level association or subsidiary (again with more than 10 employees), the responsibility would rest with that organisation, rather than the headquarters. Finally, if the lobbying is led by the lower-level association which has less than 10 employees (without being made, managed or directed by the umbrella body), then the lower-level association would not have to register as they would fall outside of the scope of the Act.

This may vary depending on the lobbying campaign. It is possible that various levels of an organisation will independently have to register if they were leading separate lobbying activities. It is equally possible that lobbying led by a larger umbrella group would have to be registered but any lobbying led by their smaller subsidiary would be outside the scope of the Act.

## **8. If a charity registers as a lobbyist, will they lose either their charitable status or charitable tax exemption?**

Under the *Charities Act 2009*, charitable status may be granted to certain organisations. Section 2 of that Act defines a charitable organisation, and specifically excludes from charitable status the following types of body (among others): a political party, a body that promotes a political party or candidate, and a body that promotes a political cause, unless the promotion of that cause relates directly to the advancement of the charitable purposes of the body.

Organisations that meet certain conditions under the *Taxes Consolidation Act 1997* may qualify for a charitable tax exemption. This is assessed separate and apart from charitable status.

It is a matter for the Charities Regulatory Authority and/or the Revenue Commissioners to determine whether the actions of a body meet the requirements for charitable status or to avail of tax exemptions.

Within this framework, it is important to note that charities are allowed to lobby in support of their primary charitable objectives. Indeed, many charitable organisations may lobby to seek to influence a program, a funding decision, or a policy position of the Government.

There is no barrier to charities lobbying as long as the lobbying activity adheres to the provisions of the *Charities Act*, namely, that it fits within the organisation's primary objectives. An organisation does not risk its charitable status simply by registering as a lobbyist. They must, however, consider whether the specific lobbying activity they are proposing to undertake is acceptable. Charities may have to satisfy Revenue and/or the Charities Regulatory Authority that their lobbying activity is in keeping with their primary objectives. If in doubt as to whether a lobbying activity is appropriate, the organisation is encouraged to seek guidance from Revenue or the Charities Regulatory Authority.

Nothing in the *Regulation of Lobbying Act* changes the requirements of the *Charities Act* or the *Taxes Consolidation Act 1997*.

Under the *Regulation of Lobbying Act*, a person with more than ten employees, or a representative or advocacy body with at least one employee, that is communicating with a Designated Public Official about a relevant matter, must register and submit returns of lobbying activity. There is no exemption to this requirement for charities. If a charitable organisation meeting the definition in the Act is communicating with a Designated Public Official about a relevant matter, then that charitable organisation must register as a lobbyist.

## Relevant matters

### 9. Do the following local authority matters count as lobbying?

#### (a) Planning application processes

Submitting a planning application or lodging an objection to a planning application are implementation matters and would not be considered lobbying.

A communication in support of an application or an objection MAY be considered lobbying if the application seeks to modify an existing policy or plan. For example, if a planning application seeks to build two houses on a lot where the existing development plan only allows for one – the application itself does not count as lobbying, but communicating in support of it could, since the application seeks a variance from the established plan.

For more information, consult the [Guidelines on lobbying in relation to zoning and development of land](#).

#### (b) Contacting a councillor about a zoning application

The Regulation of Lobbying Act 2015 provides that anyone who communicates with a Designated Public Official about the development or zoning of land is lobbying, and must register.

#### (c) Contacting a councillor about a personal matter (for example, a medical card or social housing)

Subsection 5(5)(a) of the Act provides that communications by or on behalf of an individual relating to his or her private affairs about any matter are exempt, other than the development or zoning of land (apart from the individual's principal private residence). Personal affairs such as a medical card or social housing would be exempt.

## 10. What are the type of implementation matters or matters of a technical nature which are not regarded as lobbying?

Section 5(9) of the Act defines what is regarded as a “relevant matter”. Section 5(9) provides that a relevant matter does not include the following:

- any matter relating to the implementation of a policy, programme or enactment;
- any matter relating to the implementation of an award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds; or
- any matter of a technical nature.

Examples of the difference between what might be regarded as a relevant matter and an “implementation” matter are as follows:

1) Communications seeking to introduce or amend a particular tax policy or law would be regarded as communications concerning a relevant matter. Where a policy has been decided and the tax law has subsequently been enacted communication regarding application of the law would most likely be regarded as implementation matters.

2) Communications relating to the inclusion of certain criteria in a public tender would be regarded as a communication on a relevant matter and as a lobbying activity. When the criteria are agreed and a Request for Tenders is published, communications such as the submission of a tender; queries regarding the tender specifications and feedback on the outcome of the tender would be regarded as implementation matters.

Our “Guidelines for persons carrying on lobbying activities” outline further examples of an implementation matter. *For example, communications relating to the development of criteria for schemes of housing grants, development of criteria for selecting builders to build schools or development of criteria for the awarding of a licence to provide transport on a specific route would be regarded as lobbying activity. The implementation of those grant schemes (the assessment of whether or not an individual would qualify) or licence competitions, or the implementation of tender processes through e-tenders would be regarded as implementation matters.*

As regards matters of a technical nature an example might be where the Government is proposing policy or legislation to reduce motor car emissions. Communications regarding the proposed policy or legislation would be regarded as concerning a relevant matter and as a lobbying activity. When the legislation is in place queries to the regulatory department concerning how to conform with the new requirements would most likely be technical matters and would not be regarded as a lobbying activity. Communications seeking to change the requirements would likely be a relevant matter and therefore lobbying.

## **11. Is communication between a political party and its elected representatives (DPOs) lobbying?**

Political parties play an important role in policy development, working with their members – including elected members – to develop or refine party policy. It is important that political parties are able to consider and develop policy and program platforms in consultation with their membership. This will often entail a degree of internal consultation regarding what would be considered “relevant matters” under the Act. Where a political party is communicating with its elected representatives (DPOs) regarding a relevant matter, the communication could, therefore, be captured by the definition of a lobbying activity.

While there is no specific provision to exempt such communications from the definition of lobbying, the Standards Commission is of the view that such internal party communications cannot have been intended to be within the scope of the Act or required to be included as returns on the Register of Lobbying.

Where a political party communicates with its elected representatives (DPOs) in their capacity as members of the party and/or their position as party spokespersons with regard to the initiation, development or modification of any public policy or programme or in relation to the preparation or amendment of an enactment, it will not be regarded as a lobbying activity.

## **Methods/venues of communication**

### **12. If I have an informal conversation with a Designated Public Official, is that lobbying?**

The Regulation of Lobbying Act 2015 makes no distinction as to the venue or formality of a relevant communication. If a person within the scope of the legislation communicates with a Designated Public Official about a relevant matter, it counts as lobbying, regardless of the level of formality or the location of the conversation.

### **13. Does the Act apply to communications that take place outside of Ireland?**

A person or organisation communicating with any Designated Public Official where that interaction meets the definitions contained in the Act (that is, a person within the scope of the Act, communicating with a Designated Public Official about a relevant matter) is required to register as a lobbyist and report the communication in their return for the relevant period. The Act makes no distinctions regarding where the communication takes place.

Determining whether a communication falls outside of jurisdiction is not based solely on whether it physically takes place outside of the country. Each case will have to be reviewed based on its own set of facts to determine in what circumstances a

communication would fall within or outside of jurisdiction, and whether and how the Act may apply.

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.

## **14. Do social media posts count as lobbying?**

It is the content, not the method of communication that determines whether it should be recorded as a lobbying activity. In certain cases use of social media will be considered as “relevant communications”, as defined in section 5(4) of the Regulation of Lobbying Act 2015. For example, generally a Tweet directed at a broad audience and not targeted at someone would not be considered lobbying. However, if a Tweet is sent to an individual recipient, or a DPO is tagged in the Tweet, it may be lobbying depending on whether the subject of the Tweet concerns a relevant matter and whether the person sending it falls within the scope of the Act.

## **15. If I make a speech at an event, and a TD happens to be in the audience, am I lobbying?**

It is the content, not the method of communication that determines whether it should be recorded as a lobbying activity. Generally a communication, such as a speech, that is aimed at a general audience and does not target Designated Public Officials would not be considered lobbying. However, if a speech is made specifically to one or more DPOs, or they are directly addressed in the course of the speech, it may be lobbying depending on whether the subject of the speech concerns a relevant matter and whether the person making the speech falls within the scope of the Act.

It may also be useful to consider whether other communications occurring during the event would be relevant communications as defined in section 5(4) of the Regulation of Lobbying Act.

## **16. If a DPO contacts me, and I didn't initiate the contact, does that count as lobbying?**

The Regulation of Lobbying Act 2015 makes no distinction regarding who initiates a relevant communication. If a Designated Public Official contacts someone who falls within the scope of the Act, and that person makes a relevant communication, it would have to be recorded, regardless of who initiated the conversation.

## **17. Are public consultation processes exempt?**

Subsection 5(5)(e) of the Regulation of Lobbying Act states that “communications requested by a public service body and published by it” are “excepted” (exempt) communications and are not regarded as lobbying. A submission made as part of a public consultation process would most likely be an exempt communication provided

the submission was requested by the public service body and the public service body publishes it.

A relevant communication (lobbying activity) is one which is made personally (directly or indirectly) with a DPO. A call for submissions by a public body will generally establish a process by which submissions may be made. A generic email address, a mailing address or other contact information may be provided that does not include the name of a DPO. A person making a submission in accordance with this process would most likely not be making a "relevant communication" (carrying out a lobbying activity) as the person would not be communicating personally with a DPO.

In other instances, a name may be provided of an employee of the public body as the contact, who may or may not be a DPO. If the submission is made in accordance with the established process and is published by the public body, it would qualify for the exemption. However, if the person making the submission deviates from the established process and sends it to a DPO instead of, or in addition to, the established process, it would be considered a lobbying activity and would not be exempt.

The submission must be published by the public service body. It is not sufficient for the person making the submission to publish the submission. If a submission is not published by the public service body, it is not an exempt communication.

The Act does not set out a timeframe within which the public body must publish the submission. It is important to confirm with the public body what their intention is regarding submissions. If it is the case that the publication date is likely to extend beyond a second return period the person may wish to consider whether the public interest would be better served by submitting a return of lobbying activity in respect of the submission.

In some cases a public body may not publish the entire submission but may instead publish a summary of the person's submission. If the public body is only publishing a summary of the submission then the person making the submission would need to ensure that the information contained in the summary would be similar to that contained on the Register of Lobbying if the person had to submit a return of lobbying activity in respect of the submission i.e. who made the submission; what the submission was about and what outcome the person is seeking to achieve.

If a person is satisfied that a public body intends to publish his/her submission in a timely manner and in a format which will provide information similar to that which would be available in a return of lobbying activity, then the person may properly regard the submission as an excepted communication and not as a lobbying activity which must be included in a return to the Register of Lobbying.

If a person is in doubt, however, as to whether the public body intends publishing the necessary information, then the person may wish to exercise caution and consider including the submission in their return for the relevant period.

## **18. If I issue a public document (a press release, an annual report etc.), is that lobbying?**

Generally a communication that is aimed at a general audience or the public would not be considered lobbying. To be considered lobbying, a communication must be made to a Designated Public Official about a relevant matter.

## **19. What is indirect lobbying?**

The Regulation of Lobbying Act provides that a "relevant communication" (lobbying activity) can be made directly or indirectly to a Designated Public Official (DPO).

If a person requests that another person or entity lobby on the first person's behalf, then that first person may be engaging in indirect lobbying. (For example: A person asks their neighbour, who happens to be related to a DPO, to speak to the DPO on their behalf.) In this case the first person, if within scope of the Act (see question 3 above), would be required to register and submit a return of the lobbying activity.

If, however, a person is being paid to lobby on another person's behalf then the person being paid to lobby is required to register and submit a return of lobbying activities and include the other person as "a client" on the return of lobbying activities.

If a person is communicating on a "relevant matter" with a public official who is not a DPO and the person requests or indicates that the communication should be brought to the attention of a DPO, then this is regarded as a communication made indirectly to the DPO and as a relevant communication. (For example: A person meets with a public servant who is not a DPO, and asks that they raise the matter discussed with the head of the organisation or the Minister (who are DPOs)). In this case the person making the communication is indirectly communicating with the DPO and is required to register (if within scope of the Act) and submit a return in respect of that lobbying activity.

If a person is communicating on a "relevant matter" with a public official who is not a DPO and the person does not request or indicate that the communication should be brought to the attention of a DPO, then this is not regarded as an indirect communication made to a DPO. It is not regarded as an indirect relevant communication by the person even if the public official subsequently decides to refer the matter to a DPO (e.g. Head of the Organisation or relevant Minister).

## **20. What is the difference between grassroots communications, mass communications and targeted communications?**

Different types of lobbying campaigns

There are different methods by which persons may conduct lobbying campaigns. In some cases there may be a “grassroots” communication where an organisation instructs its members or supporters to contact DPOs on a particular matter. In other cases there may be a mass communication where a person may direct communications at a large number of DPOs. Finally, a lobbying activity may involve a targeted communication directed at one or two particular DPOs. A lobbying campaign can include one or more of these types of communication. The position in relation to “grassroots communications”, “mass communications” and “targeted communications” is set out below.

### Grassroots Communication

An organisation (typically a “representative body” or an “advocacy body”) may issue an instruction or directive to its members, volunteers or supporters to make a “relevant communication” (i.e. to lobby) their public representatives or other Designated Public Officials (DPOs) on a particular matter or matters. This is called a “grassroots communication”, because it is made at the grassroots level. However, it is the body directing the communication that has the responsibility to register and submit returns for the lobbying activity, even if the communication was actually made by their members, volunteers or supporters. The individual members, volunteers and supporters would not have to register or submit returns where they are simply following the grassroots directive sent out by the umbrella body.

Grassroots communications may take several forms. A body may direct its members/supporters to write to a local TD, to speak to their elected councilor, to sign a petition or to send a template letter to a government department. The members may – or may not – follow this directive.

The Standards Commission recognises that it would not be practical for the body to keep a record or include details in a return of each “relevant communication” subsequently carried out by its members / supporters on foot of the instruction / directive given by the body. Regardless of the level of engagement, or the outcome of the campaign, this would be considered lobbying and must be registered by the body sending out the directive.

While the Act does not specifically refer to or define a “grassroots communication”, a directive / instruction to members to make a “relevant communication” with a DPO is captured by the meaning of carrying on lobbying activities in section 5(1)(b) of the Act. The Act provides that it is the responsibility of the person who makes, manages or directs the lobbying activity to register and submit returns. In such circumstances it is the body which is managing or directing the lobbying activities being carried out by its individual members or supporters. The body must, therefore, include the instruction / directive given to its members / supporters in a return of its lobbying activity(ies), and the register is designed to allow this.

The instruction / directive is recorded as a “grassroots communication” and brief details of the instruction / directive given to the members must be included in the return. Details of the individual DPOs contacted will not be included in the return, nor will details of the members/supporters who actually did the lobbying.

The individual members are not required to register or submit a return unless they a) fall within the scope of the Act themselves, and b) have been involved in lobbying activities which are additional or separate to the instruction / directive given by the body.

Here is an example of a return which includes a “grassroots communication”.

<https://www.lobbying.ie/return/13271>

### Mass Communications

A mass communication is one which is directed at a large number of DPOs at once. For example, in some cases a person (organisation or individual) might decide to communicate with a particular category of DPOs (e.g. all TDs, all Senators etc.). In such cases, provided all DPOs in the category have been communicated with, it is not necessary to name each and every individual DPO within that category. The online register allows the user to include details of what the communication was about and the category of persons targeted. Details of the individual DPOs contacted will not necessarily be included in the return.

The relevant dropdown menu on lobbying.ie does not list each specific Local Authority. Where an individual or organisation has communicated with all members of a particular Local Authority they can select “all Local Authority members” and identify the particular local authority(ies) in the additional text field.

Here is an example of a return which includes a “mass communication”.

<https://www.lobbying.ie/return/11222>

### Targeted Communications

In most cases, a person who lobbies will make a targeted communication.

Targeted communications are lobbying activities directed at one or more individual DPOs (e.g. a particular Minister(s) or a particular public official(s)). In such circumstances the DPO communicated with must be specifically identified and will appear on the person’s return of lobbying activities. For example, an organisation may meet with a Minister, write to a TD, or have phone calls on an issue with three individual councillors. Each of these instances would be considered a targeted communication, and the individual DPO or DPOs would have to be identified in the organisation’s lobbying return.

## Identifying DPOs

### **21. How do I know if someone is a DPO?**

Section 6 of the Regulation of Lobbying Act 2015 sets out the categories of individuals that are considered Designated Public Officials for the purposes of the Act. The Act also requires that public service bodies that have Designated Public Officials publish a list of those individuals within their organisation, including the name, grade and brief details of the person's role and responsibilities. While the database on the Register of Lobbyists allows lobbyists to search for the name of a DPO, the list published by the public service body is considered the definitive resource.

## **22. Are communications between members of Working/Expert Groups lobbying activities?**

The Regulation of Lobbying Act provides that a person makes a "relevant communication" if communicating with a Designated Public Official about a "relevant matter". If a "Working/Expert" Group has a Designated Public Official as one of its members then it is possible that other members of the Group are making "relevant communications" if during the course of their deliberations they are communicating with the Designated Public Official on a relevant matter. Such communications would be required to be included in the person's return to the Register of Lobbying. (If the "relevant communications" were made by a particular organisation's representative on the Group the communications might then be required to be included in the organisation's return to the Register of Lobbying.)

There is an exemption that applies to communications within particular groups. Section 5(5)(n) of the Act provides that communications between members of what is referred to in the Act as a "relevant body" are exempt communications. A "relevant body" is defined in section 5(6) of the Act as a body appointed by a Minister or a Public Service Body, and the following applies:

- Its membership consists of at least one Designated Public Official and at least one person who is neither employed by or engaged by a Public Service Body.
- The group is reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister of the Government or the Public Service Body on it, and
- The group conducts its activities in accordance with the criteria set out in the Transparency Code

If a body meets the definition of a "relevant body" as set out above then communications between members of the body that relate to the work of the group, which could otherwise be captured by the definition of a "relevant communication", are not required to be published on the Register. It will be a matter for the Group to consider whether it meets the requirements of section 5(6) of the Act and if it will conduct its activities in accordance with the Transparency Code. Further information concerning a "relevant body" and the Transparency Code can be found in our [Guidelines for Designated Public Officials](#). It is important to note that the exemption only applies to communications relating to the work of the group, and not to other communications that may take place among members on other matters.

## 23. Are communications carried out by a body corporate (commercial or non-commercial state body) to a Government Minister or Government Department exempt?

Communications by or on behalf of a body corporate which are made to a Minister (or to Designated Public Officials serving in the Minister's Department) who holds shares in, or has statutory functions in relation to, the particular body are "excepted" (exempt) communications under section 5(5)(m) of the Act if the communications are made "in the **ordinary course of the business** of the body corporate". Such communications are not, therefore, regarded as lobbying activities.

The particular wording used in section 5(5)(m) refers to communications made "**in the ordinary course of the business** of the body corporate". The Standards Commission is not in a position to specify what constitutes the ordinary course of business of every such body. It will be a matter for the bodies concerned to determine whether a communication is made in the ordinary course of the business of the body.

Examples of a communication made in the ordinary course of the business of the body corporate might be providing the Minister with an annual report for tabling in the Oireachtas, progress reports where the body delivers a program on behalf of the government, or an account of the body's activities or briefing material which contains factual information and which the body has been requested to provide to the Minister or Department.

A communication which is not made in the ordinary course of the business of the body cannot be regarded as an exempt communication under section 5(5)(m). If a communication is not exempt and it concerns a relevant matter it may then be regarded as a lobbying activity by the body. Examples might include:

- A request for additional funding, subvention etc;
- A request for legislative change or policy change
- A request for additional or expanded powers
- Input into the criteria for a tendering competition which the commercial state body intends to compete in.

If communications are made to a Minister (or Designated Public Officials of a Minister's Department) who does not hold shares in, or has statutory functions in relation to, the body corporate then the exemption at section 5(5)(m) of the Act will not apply. If such communications concern a relevant matter and are not otherwise exempt they may be regarded as a lobbying activity.

A lobbying activity is one which is made personally (directly or indirectly) with a Designated Public Official. If a communication is made to a person who is not a Designated Public Official and it is requested or intended that the communication will be brought to the attention of a Designated Public Official, then the communication may be regarded as having been made indirectly to a Designated Public Official.

## **24. Will the list of DPOs be expanded in the future?**

Section 6 of the Regulation of Lobbying Act 2015 provides that the Minister for Public Expenditure and Reform may prescribe public officials as Designated Public Officials under the Act. The Minister has indicated his intention to expand the list at some future date. No date has been set for this, nor is it determined what other positions or organisations may be included. Any inquiries in this regard may be directed to the Department of Public Expenditure and Reform.

## **25. During an election campaign, do TDs and Ministers continue to be Designated Public Officials?**

Designated Public Officials include Ministers and Ministers of State, Members of the Dáil and the Seanad, Members of the European Parliament for the Irish constituencies, Members of local authorities, special advisers and prescribed categories of civil and public servants.

Members of the Dáil are considered to be Designated Public Officials once they are elected and take their seats. When an election is called, TDs cease to be TDs and therefore, also cease to be Designated Public Officials.

However, Ministers and Ministers of State continue in office during an election period and would remain Designated Public Officials during that time, as would members of the Seanad.

## **Content of Returns**

### **26. Does the fact that a Designated Public Official's name appears on a lobbying return mean that they agree with the position of the person lobbying them?**

A person who undertakes lobbying activities may do so in various ways: through emails, phone calls, written submissions, meetings, etc. Some of these activities may be in the form of mass communications (for example, an email sent to all members of the Oireachtas). Others may be more targeted (for example, a meeting with a particular DPO).

It is the responsibility of public officials to seek out and hear from a range of views on issues of public policy, and meeting with organisations or persons who may seek to lobby them on a matter is part of that process. However, the presence of a DPO's name on a lobbying return simply indicates that the DPO has been lobbied on a matter. It does not imply agreement on the part of the DPO with the position of the person lobbying, and should not be interpreted as such.

## **Enforcement**

## **27. Are there any penalties if I don't register?**

Part 4 of the Regulation of Lobbying Act 2015 sets out enforcement provisions, which will come into effect on 1 January 2017. The provisions contained in Part 4 give the Standards Commission the authority to investigate and prosecute contraventions of the Act and to levy fixed payment notices for late filing of lobbying returns. Section 19 of the Act gives the Standards Commission the power to investigate possible contraventions. Section 21 allows the Commission to levy fixed payment notices for certain contraventions of the legislation. Finally, Section 20 of the Act gives the Commission the authority to prosecute offences.

## **General**

### **28. What happens if I have registered in error or submitted a return of lobbying activities when I was not required to do so?**

Section 13(3) of the Act allows the Standards Commission to immediately remove information from the Register if it considers that the information is incorrect or misleading.

If a person considers that they may have registered in error or may have submitted a return of lobbying activities when not required to do so they can contact the Standards Commission and request that the information be deleted from the Register. The Standards Commission will consider the request and, if it considers it appropriate to do so, will delete the information.

### **29. What happens if I am registered and I haven't carried out any lobbying activities during a reporting period?**

Once you are registered on the Register of Lobbying, you are obliged to submit a return of lobbying activities at the end of every return period, including a nil return.

If you do not intend to engage in lobbying in future, you may indicate this on your registration by selecting the option "Permanently Cease Lobbying".

Section 12(3) of the Act provides that if person who is registered on the Register of Lobbying has not carried on any lobbying activities during a return period then the return for that period shall state that this is the case i.e. the person must file a "nil" return. Lobbying.ie allows a registered person to file a nil return in such circumstances. More information on filing a nil return is contained on our "[Nil Returns](#)" page.

If you have indicated on your registration details that you have Permanently Ceased Lobbying then you are not required to continue to submit returns of lobbying activities.

### 30. What happens if I am no longer carrying out lobbying activities

Once you are registered on the Register of Lobbying, you are obliged to submit a return of lobbying activities at the end of every return period. This applies even if you have not carried out lobbying activities during a return period. (See FAQ 29 above re “nil” returns.)

Section 11(4) of the Act, however, provides that a person who has **permanently ceased** to carry on lobbying activities may notify the Standards Commission that this is the case. Lobbying.ie provides a facility where a person can record on their registration details that the person has permanently ceased lobbying.

Section 12(2) of the Act provides that a person who has recorded that they have permanently ceased lobbying will not be required to continue to submit returns of lobbying activities (including nil returns).

A registered person, who is satisfied that they have permanently ceased lobbying, may therefore, log onto their Lobbying.ie account and record on their Registration details that they have permanently ceased lobbying.