



Irish Heart Foundation

Submission on a Code of
Conduct for persons carrying on
lobbying activities

July 2018





Irish Heart Foundation

Every hour someone in Ireland suffers from a stroke.

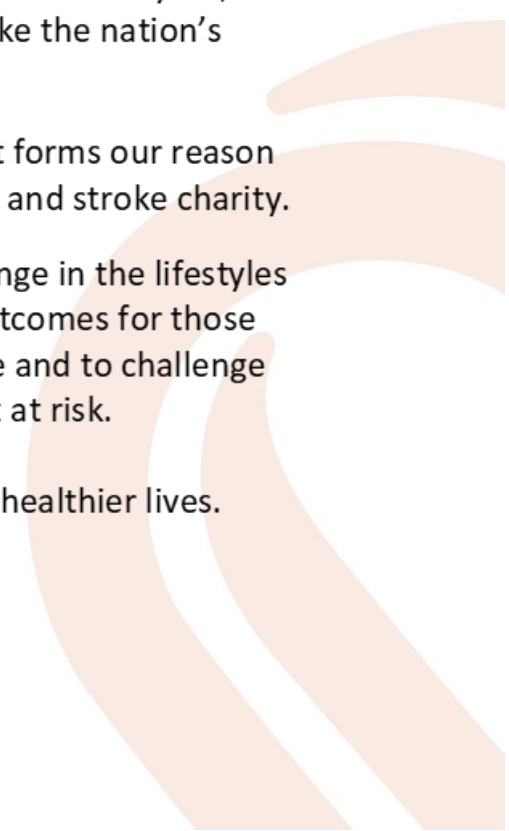
Every day, hundreds of Irish people are diagnosed with heart disease.

The lives of these people are often cut tragically short. Many are left disabled. Up to 10,000 die each year, which makes heart disease and stroke the nation's biggest killer.

It shouldn't be this way and this fact forms our reason for being. We are the nation's heart and stroke charity.

Our mission is to affect positive change in the lifestyles of Irish people, to achieve better outcomes for those affected by heart disease and stroke and to challenge when the health of our nation is put at risk.

We empower people to live longer, healthier lives.



Introduction

The Irish Heart Foundation welcomes the consultation on a Code of Conduct for persons carrying on lobbying activities and looks forward to working with the Standards in Public Office Commission, and other stakeholders, to improve the transparency of the policy making process. This follows on from our engagement with the Department of Public Expenditure and Reform on the design, structure and implementation of an effective regulatory system for lobbying in Ireland in 2012.

The IHF welcomes all efforts to promote transparency and accountability in the policy making process, as key elements to maintain and strengthen the trust of citizens. Being transparent in our advocacy activities is vital to the work of the IHF. This transparency enables the people we represent to see how we are promoting their interests at the highest levels. Our engagement with patients enables us to bring their voices into the decision making process and can assist policy makers to consider what the impact of their decisions may be for citizens.

Lobbying is an activity embedded in the policy making process. For that reason, transparency frameworks, as well as codes of conduct for lobbyists, are important to protect the integrity of the process. The Regulation of Lobbying Act 2015 marked an important step in imposing obligations upon Government and all Government Departments, together with the stakeholders involved in the policymaking process, including NGOs and businesses, as well as bringing greater transparency to the lobbying process. However, the development of a code of conduct can go further to identify supplementary disclosure requirements that could greater identify where lobbying pressures and funding come from. Identifying the context for lobbying is critical given that “the public has a right to know how public institutions and public officials made their decisions, including, where appropriate, who lobbied on relevant issues.”¹

This submission follows the template provided by the Standards in Public Office Commission, drawing upon the principles identified in the Draft Code of Conduct.

¹ OECD. (2013). OECD Principles for Transparency and Integrity in Lobbying. Available from: <http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf> p4

What do you consider should be included in a Code of Conduct for persons carrying on lobbying activities?

In addition to lobbying regulations, a wider framework of measures is required to increase transparency in decision-making. The Draft Code of Conduct identifies 9 principles by which persons carrying out lobbying activities should govern themselves when carrying out these activities. For the purposes of this consultation, the IHF will draw upon and elaborate on some of these principles in shaping our response to key points for inclusion in the Draft Code of Conduct. Central to the IHF position on the code of conduct is transparency and ensuring that lobbying is wholly transparent: who is lobbying, background to lobbying and the interests behind lobbying organisations.

4. Disclosure of identity and purpose of lobbying activities

“A person carrying on lobbying activities should always identify themselves by name and, where applicable, the body or bodies they work for. Where a person is carrying on lobbying activities on behalf of a client or other person the person carrying on the lobbying activities should disclose the identity of the client or other person and the nature of their relationship with that person.”

“A person carrying on lobbying activities should always inform the elected or appointed public official of their interests, objectives or aims they promote (or those of the client they represent) and the purpose and intended results of the communication.”

5. Disclosure of Interests

The IHF believe that principle 4 must be closely linked to principle number five on the disclosure of interests. More specifically, we would point out that disclosure of interests should be broader in scope than potential conflicts of interests in terms of representation. As currently articulated, disclosure of interests requirements state:

“A professional lobbyist or third party carrying on lobbying activities on behalf of other persons should properly inform the client, business or organisation whose interests they are representing about any potential conflicts of interest, or of any competing interests arising from their professional practice or other business, family or social associations.”

However, the IHF believe that in the area of public health for example, where an organisation is not representative of patients or the health sector, but may be interpreted to have competing interests, this must be highlighted i.e. if representing a business interest that conflicts with the public health agenda.

Considering principles 4 and 5 together, the Irish Heart Foundation believes that for lobbying to be wholly transparent, greater emphasis and work must be done to identify those with commercial interests in policy. In that regard, the IHF have previously argued for a Code of practice for engagement with industry and business interest NGOs with a commercial vested interest in health.

Public health advocacy and lobbying

Market forces can have a significant impact on public health outcomes and this provides strong justification for legislative and regulatory responses by government to reduce the influence of commercial interests associated with the alcohol, food, beverage and other industries on public health policy. Several of the risk factors for cardiovascular diseases are represented by strong lobbies and industry often has a vested interest in policy outcomes which are not necessarily conducive to public health. A 2011 report from the House of Lords on Behaviour Change acknowledged the role of industry in public health but stated that “they had major doubts about the effectiveness of voluntary agreements with commercial organisations especially where there are potential conflicts of interest” and highlighted the need for rigorous and independent monitoring.²

In our 2012 submission on the design, structure and implementation of an effective regulatory system for lobbying in Ireland, the IHF highlighted the need to develop a code of conduct for engagement with industry (including business-interest NGOs) with a commercial vested interest in health so as to ensure public health policy is not compromised by the obvious conflicts of interests associated with a number of industries.

Disclosure models and declarations of interest should be adopted, particularly in relation to funding sources. This is of special importance in the area of health policy advocacy. In that regard, principle 5 should be strengthened given that disclosure requirements have the potential to provide important information on key aspects of lobbyists and lobbying such as its objective, beneficiaries, funding sources and targets.

The Irish Heart Foundation acknowledges that this is complicated by the right of individuals and organisations to influence policies and legislation that affects their legitimate interests. However, a wider framework and interpretation of these principles should ensure that there is full transparency for the public in knowing who and what these interests are.

Lobbying interventions on behalf of commercial interests, particularly in the area of health, are always a tactical investment. Moreover, these interests are frequently in conflict with public health aims and objectives, as well as having the effect of postponing, altering or vetoing important public health interventions. If we are to have full transparency for the public, these principles must be strengthened to put an onus on lobbyists to identify their interests. In order to do this, it will be necessary to broaden the disclosure requirements and how lobbyists identify themselves:

“If the public is to know who and how public policy is formulated, it simply needs to know who is paying, and who is paid, to influence policy, for what reason and by what means.”³

² Available from: <https://publications.parliament.uk/pa/ld201012/ldselect/ldsctech/179/17908.htm>

³ Transparency International. (2012). Submission to the Department of Public Expenditure and Reform 2012 Consultation on the Regulation of Lobbyists. Available from: <https://www.transparency.ie/resources/submissions/tii-submission-department-public-expenditure-and-reform-2012-consultation-regulation-lob> p3

Do you think the Code of Conduct should contain different provisions in relation to different descriptions of persons carrying on lobbying activities?

In our submission on the design, structure and implementation of an effective regulatory system for lobbying in Ireland in 2012, the Irish Heart Foundation outlined the position that the regulation of lobbyists must primarily be designed to contain vested interests, which use considerable fire power to promote their lobbying positions. In that regard, the Code of Conduct should make distinctions therefore in relation to the different categories of lobbyists.

In drafting the Code of Conduct, the Standards in Public Office Commission should note the specific role of NGOs in providing equitable balance between public and private interests within the promotion of participatory democracy.

Advocacy by charities serves a public benefit. It is inclusive in nature, engaging with the wider community and those most likely to be affected by particular policies. Charities / NGOs can promote democracy by including, educating and empowering a diverse spectrum of voices in public policy debates. NGOs also engage those they represent in all stages of the advocacy process – from setting the agenda, to shaping the strategy and meeting with policy makers.

The position of NGOs (not-for-profit organisations which serve no commercial interests), should not be confused with business-interest not-for-profit organisations (BINGOs) which are increasingly being used by large corporations and business lobbies to influence decision making. These groups often tend to have consumer facing names, which distort the reality that they are representing business interests, rather than those of citizens.

Reflecting on question one and the points contained therein, through full disclosure of identity, purpose of lobbying and interests, it will be easier for both the public and those being lobbied to distinguish who is lobbying, and for what purpose. This clarity and differentiation in those carrying out lobbying activities should be provided for in the Code of Conduct.

Any other comments, views or suggestions?

In its examination of lobbying in Europe, Transparency International noted that sometimes lobbyists “conceal their true origins and beneficiaries from public decision-makers and any external observers.”⁴ While the Regulation of Lobbying Act 2015 has had the effect of making lobbying activities more transparent, it has not necessarily dealt with the identification of true origins and beneficiaries. Indeed, we know that the tobacco industry has often funded think-tanks or research institutions to front their lobbying efforts around the world, who then do not disclose their donor base. This then lends itself to creating an opaque view of who is lobbying and to what ends.

Consultation and Advisory Bodies

A critical issue for the Irish Heart Foundation in the development of the Code of Conduct, as well as the Regulation of Lobbying Act 2015 going forward is the use of consultation and advisory bodies in the policy-making process. More specifically, the make-up of these bodies and how influential they are in shaping policy, without much transparency.

Transparency International has raised concerns about “lobbying from the inside” through the use of expert and advisory groups convened by the public sector, which are largely opaque processes.⁵ In the development of policy, these so-called ‘expert’ or advisory groups, play a critical role in shaping the content and framework for new policies, often then producing policies as a *fait accompli* to the public. While it is important that any and all of these groups are balanced, and no single interest dominates, equally it is critical that there is transparency in who these representatives are (reflecting comments in previous sections). Otherwise, when advisory groups are convened away from the public eye with little information on their full composition, concealed interests can wield further influence in policy. This ‘lobbying by the back door’ must be recognised in the Code of Conduct and provision made for moderating how these activities occur and representatives act.

For more Information Contact:
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⁴ Transparency International. (2015). Lobbying in Europe: hidden influence, privileged access. Available from: https://www.transparency.org/whatwedo/publication/lobbying_in_europe p7

⁵ Ibid p9



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