



# 2020

## Regulation of Lobbying Annual Report

**Standards in Public Office Commission**

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## Introduction by the Chairperson

In accordance with the provisions of section 25(1) of the *Regulation of Lobbying Act 2015*, I am pleased to present the Standards in Public Office Commission's Annual Report on the Regulation of Lobbying in 2020 to be laid before each House of the Oireachtas.

The fact that the Register of Lobbying is a fully online system was a significant help in enabling the Commission to continue its regular operational activities under the Act notwithstanding the difficulties posed by COVID-19. The Commission also published new guidance material, issued a number of statutory decisions, conducted online outreach, and continued its investigation and enforcement activities. The Commission notes the exceptional work of the Secretariat throughout this period.

The Commission welcomes the Government's announcement in September 2020 that it proposes to review the Act, particularly the section dealing with post-employment provisions relating to certain categories of public officials.

On behalf of the Commission, I would like to thank Ms. Sherry Perreault and the Secretariat for their hard work throughout the challenging past year.



**Garrett Sheehan**

Chairperson

Standards in Public Office Commission

June 2021



Mr Justice Garrett Sheehan receives his seal of office from President Michael D. Higgins, 9 December 2020

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## The Standards in Public Office Commission

The Standards in Public Office Commission is an independent body established in December 2001 by the *Standards in Public Office Act 2001*. In 2020, its members were:

- Mr Justice Daniel O’Keeffe, Chairperson (until 10 February 2020);
- Mr Justice Garrett Sheehan, Chairperson (from 9 December 2020);
- Seamus McCarthy, Comptroller and Auditor General;
- Peter Tyndall, Ombudsman;
- Peter Finnegan, Clerk of Dáil Éireann;
- Martin Groves, Clerk of Seanad Éireann;
- Jim O’Keeffe, former member of Dáil Éireann (until 10 February 2020); and
- Geraldine Feeney, former member of Seanad Éireann (from 9 December 2020).

In February 2020, the six-year terms of Chairperson O’Keeffe and Jim O’Keeffe ended.

In December 2020, President Michael D. Higgins appointed Mr Justice Garrett Sheehan, former judge of the Court of Appeal, as Commission Chairperson. On the same day, Ms Geraldine Feeney, former member of Seanad Éireann, was appointed to the post of ordinary member. Both appointments are for a six-year term.

The Secretariat to the Standards in Public Office Commission is provided by the Office of the Ombudsman.

The Commission has supervisory roles under four separate pieces of legislation:

- The *Ethics in Public Office Act 1995*, as amended by the *Standards in Public Office Act 2001*, (the Ethics Acts);
- The *Electoral Act 1997*, as amended, (the Electoral Acts);
- The *Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014*; and
- The *Regulation of Lobbying Act 2015*.

The Commission also has a role in investigating potential non-compliance with Part 15 of the *Local Government Act 2001*.

The Commission issues a separate annual report covering its activities in administering the other legislation within its remit.

## Statement by the Head of Ethics and Lobbying Regulation

2020 was, to paraphrase a wiser person than I, a year upon which none of us will look back “with undiluted pleasure”. When we published our annual report for 2019 last June, we were already working remotely, not for a moment realising that we would still be doing so one year on. However, this past year has also provided us with an extraordinary insight into the importance and influence of lobbying in our decision-making processes.



**Sherry Perreault**  
Head of Ethics and Lobbying Regulation

Lobbying has always played an important role in informing and influencing legislative change, policy formation, program development and funding decisions. The extraordinary impact that this pandemic has had in most areas of our lives also shows up on the Register of Lobbying. It has prompted unprecedented volumes of lobbying in virtually all policy areas – health care, economic development, recreation and sport, social supports, mental health and more have been the subject of Covid-related lobbying. Businesses, advocacy groups and associations impacted by the pandemic have sought to influence decisions on restrictions, funding supports and procurement. It has spurred into action people and organisations who have never before lobbied, and given a new focus for those who have done so for years. Most importantly, it shows in stark relief not only the importance of lobbying, but the need for transparency about it. With so many engaging with public officials to advocate for a particular outcome, it is critical that the public have access to information about how decisions are being made. The value of the Register of Lobbying is in providing comprehensive and timely information, and maintaining high levels of compliance is a priority for the Commission.

This year's annual report includes an overview of the Commission's activities regulating lobbying in 2020. The total number of registrants increased by nearly 7%, with a significant increase in the number of returns over the year, which may be attributed to the pandemic. Further details are available in [Chapter One](#) of this report.

While we continue to emphasise education and compliance over enforcement, the Commission did carry on a number of investigations and enforcement activities during the year. We also issued a number of decisions on applications for post-employment waivers on foot of the general election. Further details of the Commission's operational activities are set out in [Chapter Two](#).

[Chapter Three](#) of the report details communications and outreach undertaken in 2020 to encourage compliance through knowledge and awareness of statutory obligations that apply under the Act. One positive change brought about by our new working circumstances is a move towards online outreach, which has allowed for greater geographic participation and more people able to attend virtual sessions. This is an important learning for us as we plan for a post-pandemic working world.

[Chapter Four](#) provides an analysis of key issues in 2020. Obviously the impact of COVID on both our working situation and lobbying more broadly is discussed in greater detail, as is the pending legislative review of the Act.

Finally, a full list of recommendations for change to the Act that remain outstanding at the time of publication are set out in [Chapter Five](#).

I would be remiss if I did not take this opportunity to thank the staff of the Commission Secretariat for their hard work over the past year, in very trying circumstances. Their dedication and professionalism is greatly appreciated by the Commission and myself.





# Chapter One:

Registrations  
and Returns

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# Chapter One

## Registrations and Returns

Those who carry out lobbying activities, or who intend to do so, are required to register with the Commission. Thereafter, registrants are required to submit returns of lobbying activity in respect of three reporting periods each year, namely: 1 January - 30 April, 1 May - 31 August and 1 September - 31 December. Returns must be submitted at the latest 21 days after the end of the reporting period.

### 1.1 New registrants

Guidance on the “**Three Step Test**”, which allows potential registrants to determine whether a communication they have made should be returned to the register, is provided on the [Lobbying.ie](http://Lobbying.ie) website. Once they decide to register, all new registrations are reviewed by the Commission to ensure that the person is indeed required to register and that they have done so correctly. Where a person has registered in error, the Commission will remove the registration and any associated returns.

Each new registrant is sent a letter, which highlights the reporting period deadlines, suggested best practices for account administration and details of enforcement provisions in the event of non-compliance.

During 2020, the Commission received 183 new registrations. During the year, 49 registrants were found to have registered in error and their registrations were deleted.

The total number of registered lobbyists at the end of 2020 was 2,085.

### 1.2 Returns of lobbying activities

At the time of completing this report, more than 11,600 returns of lobbying activities have been submitted in respect of the three reporting periods in 2020. This number may change over time, as late returns for 2020 are made to the system. The graphs (in the [Appendix](#)) illustrate the number of returns received in respect of each relevant period and the most popular “relevant matters” and policy areas addressed in the returns.

All returns of lobbying submitted in 2020 were reviewed to verify that they complied with section 12 of the Act, that the information provided was clear and meaningful, and that it was provided in the appropriate manner and form. Where errors or non-compliance with the Act's requirements are identified, the Commission follows up with the registrant to address the matter.

If the Commission finds that information contained in a return of lobbying activities is incorrect, misleading or is not sufficiently detailed, the Commission may use its powers under section 13 to remove the return or request its correction, as appropriate. Generally, registrants are quick to cooperate where requested to amend their returns or provide further information. Where a return is removed, the registrant will be considered not to have made the return in the first instance and risks being non-compliant. The Commission made 417 requests for further information in 2020. In all cases, the required information was supplied and any issue resolved. Accordingly, there were no instances where the Commission proceeded to remove a return in 2020 on foot of a failure to provide information requested.

### **1.3 Upgrades to the register in 2020**

The performance of the online register is reviewed regularly, from the perspective of both user and administrator, to ensure that it is operating as effectively and efficiently as possible.

In 2020, a number of updates were identified to improve the register's usability and functionality. These changes were completed in the first quarter of 2021. Updates include adding a facility to send return reminders to users as well as administrators of accounts, and the addition of a field for users to include the name of a company 'also trading as' so as to improve the searchability of the register.

Future updates may be made where a need arises.





# Chapter Two:

## Operations

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# Chapter Two

## Operations

Section 25(2) of the Act requires that the following information be included in this report:

- any determinations under section 14 made or in force that year (delayed publication requests);
- any investigations carried out under section 19 and concluded in that year;
- any applications for consent made under section 22 (post-employment restrictions) and all decisions on such applications, made in that year;
- any convictions for offences under section 20 in that year; and
- any fixed payment notices (FPNs) served under section 21 in that year.

This information must be provided in a form that does not enable the identification of the persons involved.

### 2.1 Delayed publication requests

Under section 14 of the Act, a person may apply to delay publication of the information contained in the person's application to register or in their return of lobbying activities, for stated reasons. The Commission's role in determining applications to delay publication is set out in the [Appendix](#) of this report.

There were no applications made to delay publication of a return to the register under section 14 of the Act in 2020.

### 2.2 Investigations under the Act

Section 19 provides the Commission with the authority to conduct investigations into possible contraventions of the Act.

Unregistered lobbying activity is monitored via open source intelligence, such as media articles, social media notifications and proposed legislation, from complaints and information received by the Commission, or from information contained on the register itself.

Nine investigations into possible unreported or unregistered lobbying were carried over from 2019 into 2020, and three further investigations were launched during the year. The Complaints and Investigations Unit closed 11 investigations during 2020 and, where appropriate, provided investigation reports for the Commission's consideration. One investigation was ongoing at year's end.

Separately, the Commission decided to prosecute four cases – two for failure to submit returns by the statutory deadline, and two for other offences, prosecuted under section 20(2) of the Act. In two cases, compliance was subsequently achieved and the Commission withdrew the prosecution. In one case, the Commission withdrew a prosecution after identifying issues with the circumstances surrounding the registration of the account. One prosecution remained before the courts at the end of 2020.

## 2.3 Applications for consent to waive/reduce post-employment restrictions

Section 22 of the Act provides that Ministers, Ministers of State, special advisers and senior public officials who have been prescribed for the purposes of section 6(1) of the Act are subject to a one year "cooling-off" period after they leave office, during which time they cannot engage in lobbying activities in specific circumstances, or be employed by, or provide services to, a person carrying on lobbying activities in specific circumstances, except with the consent of the Commission.

A person subject to the cooling-off period may apply to the Commission for a reduction or waiver of the cooling-off period. Further information regarding the provisions of section 22 and the Commission's role in relation to it is set out in the [Appendix](#) of this report.

Where a person's obligations under section 22 are not engaged, there is no obligation to seek consent. Consent may be sought at any time during the cooling-off period. If an application is refused for a particular position, nothing precludes the individual from applying again in respect of a different role.

The general election in February 2020 resulted in many former Designated Public Officials (DPOs) seeking alternative employment when the new government formed in June 2020. Several of these DPOs sought employment in positions that required them to seek the consent of the Commission for a reduction or waiver of the cooling off period. As a result, 2020 saw the largest number of section 22 applications since the provision of the Regulation of Lobbying Act in 2015 – eight in total. All of the applications received in 2020 were from former special advisers.

However, there were two instances where the Commission became aware of former DPOs who, in the view of the Commission, should have sought consent to take up a particular employment. The Commission made inquiries of the individuals, and, based on the information available to the Commission, formed the view that consent should have been sought. This view was without prejudice to whether consent would have been given if sought.

While the provisions of section 22 create statutory obligations, as outlined above, there are no powers under the Act for the Commission to investigate or prosecute breaches of these provisions. There are no consequences of non-compliance. The Commission has called repeatedly for the Act to be amended to make it an offence if a person fails to comply with their statutory obligations in respect of post-employment. Without appropriate investigation and enforcement powers, these provisions of the Act are essentially voluntary and carry no real weight. The Commission recommends once again that the Act be amended accordingly.

Other significant issues arising are set out in the following case studies.

### Case Study 1

The applicant, a special advisor in a government department, contacted the Commission seeking consent to take up a position with an organisation on the Register of Lobbying. The applicant expected to carry out lobbying activities and sought to waive the twelve month cooling-off period in full.

According to the register, the applicant's prospective employer had previously lobbied the applicant's former Department. However, the prospective employer had never directly lobbied the applicant while they were a special advisor, nor had the applicant been involved in any decision-making or matters relating to the previous lobbying. The applicant was offered the position following a competitive selection process, and would not be expected to participate in or advise on any prohibited lobbying activities concerning the applicant's former employer or any connected DPOs during the relevant period. Appropriate measures would be established to manage this. The Commission granted consent to waive the twelve-month cooling off period, subject to a number of conditions, designed to uphold the spirit and intent of the Act.

No appeal was received.

## Case Study 2

The applicant held the position of special advisor in a government department and sought consent to take up a position with an organisation registered on the Register of Lobbying. The applicant had held the position of special advisor for a very short period, and had worked in two different government departments during that time. The applicant had ceased employment and applied for a waiver for the final ten months of the cooling off period.

While the employment as a special advisor was of short duration, and had not yet been formally ratified as is required for all advisors, the Commission considered that the applicant had been in paid employment as a special advisor and that section 22 of the Act did apply. Consent was therefore required.

It was confirmed that the applicant would not be expected to participate in or advise on any lobbying activities covered by the Act, and would put appropriate measures in place to manage this. The applicant would be expected to participate in lobbying activities directed at other departments. The Commission gave consideration to the fact the applicant had previously been named in a return, along with several other DPOs, submitted by the hiring organisation, and was not hired through a competitive job selection process. However, given the short duration of the employment as special advisor, the Commission considered it reasonable that consent be given subject to conditions.

No appeal was received.

### Case Study 3

The applicant held the position of special advisor in a government department and sought the consent of the Commission to waive the twelve-month cooling-off period in full in order to carry on lobbying activities in a self-employed partnership.

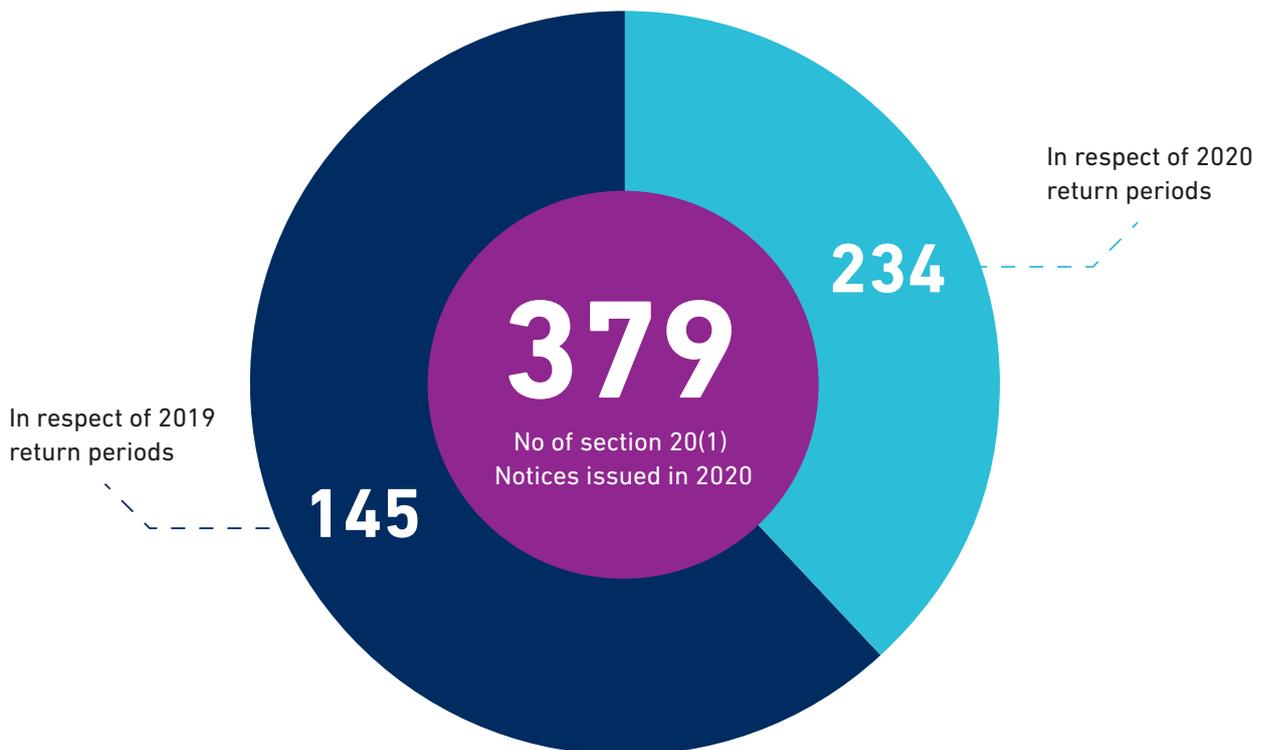
The applicant stated that they did not intend to carry out, advise on or direct lobbying activities with their previous department or any former connected DPOs. The Commission granted consent subject to a number of conditions, and requested that the applicant and the co-founder of the organisation sign an undertaking on behalf of the organisation. The undertaking provided a commitment that neither the organisation nor any of its directors would engage in discussions, decisions or activities relating to making, managing or directing lobbying activities directed towards the applicant's former department or colleagues. The applicant and the organisation agreed to the conditions.

No appeal was received.

## 2.4 Offences under section 20 of the Act

### Late returns of lobbying activity

A registrant is required to make a return of lobbying activities, including a nil return, by the statutory deadline. It is an offence to make a return after the relevant deadline. Section 21 provides that the Commission may serve a fixed payment notice (FPN) of €200 to a person who has submitted a late return of lobbying activities. If a person fails to pay the penalty within 21 days, the Commission may proceed to prosecute the offence of submitting a late return. A person is liable on summary conviction to a Class C fine (currently €2,500).



In 2020, the Commission launched two prosecutions for offences under section 20(1) of the Act. Both actions were settled and there were no convictions.

There was an increase in FPNs levied in 2020, reversing the downward trend observed in 2019. The increase in the number of FPNs in the past year may be due to the upheaval caused by Covid-19. Employees from many organisations started working from home without all the supports of their office environment. Several registrants cited this as a reason for making late returns during the year and thereby incurring FPNs. The Commission notes an improvement in compliance as the year progressed, as organisations adapted to new circumstances.

The Commission also cancelled 26 FPNs in 2020, where:

- a technical problem on lobbying.ie prevented the person from submitting a return on time;
- an administrative error occurred in which the person erroneously submitted a duplicate return for the wrong period; and/or
- the person was not required to register and had registered in error.

## Other offences

Other relevant contraventions of the Act include failure to register, failure to make a return, failure to cooperate with an investigation of the Commission or an order of an authorised officer, and intentionally providing inaccurate, false or misleading information to the Commission. The Commission may prosecute any of these offences under section 20(2) of the Act. Offences may be prosecuted summarily or on indictment. The person is liable, on summary conviction, to a maximum fine of €2,500, or if convicted on indictment, to an unlimited fine and a maximum of two years' imprisonment.

In practice, the Commission most often has to prosecute where a registrant has failed to make a return.

The Commission issues a notification of offence to any registrant who has failed to make a return by the deadline, and the person is afforded an additional two weeks to submit a return of lobbying activities. If the person fails to submit the return by that date, the Commission may proceed to prosecute the offence under section 20(2).

In 2020, the Commission issued a total of 150 notices informing the registrant of their intent to prosecute if a return of lobbying activities was not submitted. In a number of cases, the registrant was not required to be on the register, as they, and/or the communication made, were outside the scope of the Act. In these cases, the register was corrected and the person's return or registration deleted, as relevant. In all other cases, except one that was referred for prosecution, the registrant complied and prosecution was not pursued.

### Notices issued during 2020 for failing to submit a return

No of section 20(2) Notices issued	In respect of 2020 periods	In respect of 2019 periods	Referred for prosecution
150	111	39	1

The Commission continues to encourage compliance in the first instance. Effective outreach and communication with registered lobbyists at an early stage has effectively reduced the number of files being referred for prosecution each year. Perhaps unsurprisingly, most tend to comply with their obligations once contacted by the Complaints and Investigations Unit.

The Commission takes a less lenient approach with lobbyists who lobby without registering, repeatedly miss return periods and/or fail to comply or engage with the Commission. In such cases, the Commission will proceed to prosecution.

The number of notices issued by the Commission continues to decline year on year, in respect of both late and non-returns. This once again reflects the time invested to encourage compliance, and efforts to review whether registrants or their communications are in fact required to be on the register. This approach continues to ensure that less time and resources are spent pursuing non-compliance.

## 2.5 Information about Designated Public Officials on public body websites

The Act requires that each public body appointed under section 6(4) of the Act publish up-to-date lists of their DPOs. Our website [Lobbying.ie](https://www.lobbying.ie) provides relevant links to these pages for public bodies appointed under the Act.

Prior to the end of each return period, public bodies are asked to check, and update as required, a list showing the name, grade and brief details of the role and responsibilities of each DPO prescribed for the body. They are also asked to confirm and update information relating to working groups or task forces operating under their aegis.

In January 2020, the Commission contacted all public bodies with DPOs to verify that information was up-to-date, including the following:

- That each relevant body had a Regulation of Lobbying page;
- Whether the name and position held were published on the page; and
- That each body had relevant information on their website in relation to the [Transparency Code](#) for any group working under their aegis.

The Commission also ensured that links from its own website were accurate and operational.

The results of this survey were encouraging. The Commission found that all relevant public bodies had a dedicated website page listing DPOs as well as the relevant information relating to their position. Each body that has a group operating under the Transparency Code also had the relevant information published on their Regulation of Lobbying page.

The Commission notes, however, that the overall number of bodies adhering to the Transparency Code continues to be low. An examination of a number of advisory groups reporting to various government departments showed that just 40% were fully compliant with all eight requirements of the transparency code. Local authorities also have a number of such advisory groups, including strategic policy committees, where some members may be required to register unless the group adheres to the Transparency Code.

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Of 31 local authorities, just six were fully compliant. The Commission recommends that relevant bodies adhere to the Transparency Code. By doing so, communications made in the course of the work of these advisory bodies would meet the exemption set out in the Act. Members of the groups would not have to register, unless making separate lobbying communications.

## 2.6 Reports of inaccurate information

Section 10(5) of the Act provides that a person may report to the Commission any inaccurate, out of date or misleading information relating to them on the register. A number of individuals have interpreted that provision to mean they may make complaints about the accuracy of a return that does not relate to them.

While the Commission welcomes any information about any issue of compliance with the Act, it felt that further guidance was needed in respect of this particular provision of the Act. Accordingly, in 2020, the Commission published a new information notice, called **How to report inaccurate information**.

Although DPOs do not have any statutory obligations under the Act, they play an important role in the Act's effective operation. The Commission produced a new checklist tailored for DPOs entitled **Top ten things DPOs need to know about lobbying**. This list is intended as a resource for DPOs who have been lobbied, or expect to be in the future. It informs them of best practices for DPOs in dealing with lobbyists, such as recognising lobbying, and good record-keeping practices. It also provides useful links to further information. In addition to publication on the lobbying website, the Department of Public Expenditure and Reform circulated the checklist to government departments and agencies for distribution to the DPOs in their organisations.



# Chapter Three:

Communications  
and Outreach

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# Chapter Three

## Communications and Outreach

### 3.1 Outreach activities

The Commission continues to take opportunities to promote understanding of the Act and its obligations, with a view to supporting effective compliance and sharing best practices. With the advent of the pandemic and the associated remote working arrangements in March, outreach activities switched to online platforms.

While born out of necessity, the Commission realises that virtual sessions allow for greater geographic representation and greater numbers of participants due to costs savings. It is likely they will continue to be an important outreach tool in the post-pandemic environment.

Outreach using Twitter continues to be an effective means of engaging with the general public and with those individuals and organisations that have or may have obligations to register and make returns under the Act.

#### January

- Meeting with Scottish Parliament Lobbying Register team.

#### February

- Meeting with representatives of a private sector registrant to review their training program regarding lobbying legislation.

#### March

- Stakeholder meeting conference call in partnership with the Public Relations Institute Ireland (PRII).

#### May

- Consultation meeting with members of the Finnish Transparency Register regarding proposed lobbying legislation in Finland.
- Head of Ethics and Lobbying Regulation met with an Australian consultant studying lobbying regulation in other countries.

**August**

- Head of Ethics and Lobbying Regulation was guest speaker at the University of Turku (Finland) conference on lobbying regulation.

**September**

- Virtual annual conference of the European Lobbying Regulators Network (ELRN).

**November**

- Online “open house” on the regulation of lobbying for new and prospective registrants.
- Head of Ethics and Lobbying Regulation participated in panel discussion on lobbying regulation, organised by Transparency International Estonia.

**December**

- Virtual annual conference of the Council on Governmental Ethics Laws (COGEL).
- International Anti-Corruption Conference - Head of Ethics and Lobbying Regulation participated in panel discussion on digital systems to increase transparency.
- Online presentation to Latvian parliamentary officials studying lobbying.





# Chapter Four:

Key Issues in 2020  
and Next Steps

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# Chapter Four

## Key Issues in 2020 and Next Steps

### 4.1 The Covid-19 pandemic

Starting in March 2020, the advent of the Covid-19 pandemic led to the implementation of lockdown policies by the government, affecting all sectors of Irish society. Remote working became the norm for many in the public and private sectors, hospitality and entertainment industries were closed, construction was limited and travel for non-essential purposes was curtailed, and essential services sought to maintain services while protecting workers. New government policies and programmes were initiated in incredibly short timelines. Legislation was introduced or amended to address emerging needs. Contracts to procure essential goods were put in place. Funding for industries and the newly unemployed was provided to deal with the impacts of the economic crisis.

All of these measures have been the subject of extensive lobbying by businesses, representative bodies and advocacy groups looking for policy decisions or financial support. Many of those lobbying were already registered; others were entirely new to lobbying. The need for transparency - to show who is seeking to influence decisions and decision-makers - is more pronounced than ever.

The register has been structured as an online system since its establishment in 2015. This has allowed for a seamless transition to the “new normal” of remote working caused by pandemic restrictions. The register is accessible at all times online by registrants and potential registrants. The Lobbying Regulation Unit is working remotely with technical supports provided for staff to enable the effective operation of the register, and continues to be available via email and telephone to answer queries.

#### Covid-19 related returns on the register

In the first returns period of January to April 2020 the number of returns was 3,324. However, the total number of returns increased dramatically in the second and third returns periods of 2020, and was apparently related to increased lobbying in respect of the pandemic:

- January to April 2020                      3,324 returns
- May to August 2020                        3,872 returns
- September to December 2020            4,327 returns

Returns submitted for 2020 include 1,378 specifically referencing the pandemic, and arose across most public policy areas. The public policy area with the highest number of returns relating to Covid-19 was health with 412 returns, followed by economic development and industry with 330 returns and agriculture with 105 returns.

An examination of the reported issues in returns which relate to the Covid-19 pandemic shows a broad range of lobbying activities. Specific issues raised include:

- Covid-19 supports, including pandemic unemployment payment (PUP) and redundancy payments;
- Tax implications of PUP payments;
- Enterprise responses & supports to business;
- Sporting organisations seeking a reduction in restrictions;
- Transport of personal protective equipment (PPE);
- Covid-19 payments for asylum seekers;
- Guidance on children entering retail outlets;
- Use of technology to allow marts to reopen; and
- Allocation of the Covid-19 vaccine.

A small number of new registrants came into the system due to lobbying activities specifically related to Covid-19.

It is interesting to note that a number of returns also reflect changes to the way people work – the number of returns specifically referencing Zoom videoconferences increased dramatically in the second and third returns periods.

### **Compliance issues during the pandemic**

The lobbying register has operated effectively during the Covid-19 pandemic. As the register operates completely online, registrants can register and make returns on their lobbying activities from anywhere in the world. In the second two returns periods of 2020, some registrants found themselves unable to make returns by the deadline because of challenges in working from home, as records of lobbying activities were located at their places of work. However, these registrants comprised a small minority. Most registrants remained compliant and continued to make their returns by the returns deadlines.

## 4.2 New legislative review of the Act

The Act commenced on 1 September 2015, and since then has twice been reviewed (in 2016 and in 2019) by the Minister for Public Expenditure and Reform in accordance with the review provisions set out in section 2 of the Act. No amendments were made to the Act on foot of either review.

The Commission's submission to the 2019 review included 22 separate recommendations in respect of the Act's definitions, operations, post-employment obligations, enforcement and various other matters. On 25 February 2020, the Department of Public Expenditure and Reform published its report of the Second Review of the Regulation of Lobbying Act. The Commission was disappointed that none of its recommendations had been endorsed in the review report.

In September 2020, the Taoiseach announced in Dáil Éireann that section 22 of the Act, concerning restrictions on post-term employment as a lobbyist, should be reviewed. Subsequently, the Minister for Public Expenditure and Reform directed that the review be expanded to include a study of the recommendations made by the Commission to both previous reviews, as well as the question of lobbying of relevant persons while they are outside of the State and issues raised in two Private Members' Bills. It is expected that the review will conclude in 2021. The Commission will continue to participate as needed.

The Commission's submission to the 2019 legislative review, which remains the current position of the Commission, may be viewed [online](#).



# **Chapter Five:**

Recommendations  
for Change

# Chapter Five

## Recommendations for Change

The Commission has made recommendations for change to the Act in its annual reports and as part of submissions to legislative reviews of the Act. All outstanding recommendations are included in the below table.

### Recommendations applying to the Lobbying Act 2015

Recommendations	Years made	Update
1. The Act should be amended to provide that any business representative bodies or 'coalitions' of business interests, irrespective of number or status of employees, are within scope of the Act, where one or more of the members of the body/coalition would be within scope if they were acting themselves. Members of the body/coalition should be required to be named on returns in support of increased transparency.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report
2. Section 5(3) of the Act should be amended to provide that, where a relevant communication on behalf of an organisation that falls within scope of the Act is made by either a paid employee or an office holder of the organisation, it will be regarded as a lobbying activity made by the organisation.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report

Recommendations	Years made	Update
3. The Act should be amended to provide a more comprehensive definition of a full-time employee in section 7.	Statutory Reviews 2016 & 2019	Nothing to report
4. Section 5(1)(c) of the Act should be amended to provide for the managing and directing of relevant communications about the development or zoning of land, in addition to the making of such communications.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report
5. The provisions of section 5(1)(c) of the Act should be limited to persons who have a material interest in relation to the development or zoning of land or are connected to or communicating on behalf of someone with such an interest.	Statutory Review 2019  Annual reports 2019, 2018, 2017	Nothing to report
6. The Act should be amended to exempt communications made by political parties to their DPO members in their capacity as members of the party.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report
7. The exempt communication at section 7 of the Act should apply to negotiations on terms and conditions of employment undertaken by representatives of other employee representative bodies.	Statutory Review 2019  Annual report 2019	Nothing to report

Recommendations	Years made	Update
<p>8. Section 11(1)(b) of the Act should be amended to include an address where a person carries on business or their 'main activities'.</p>	<p>Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018, 2017, 2016</p>	<p>Nothing to report</p>
<p>9. The word 'permanently' should be removed from section 11(4) of the Act.</p>	<p>Statutory Review 2019</p> <p>Annual report 2019</p>	<p>Nothing to report</p>
<p>10. Section 16 of the Act should include an explicit requirement for the Commission to lay any code of conduct published under section 16 of the Act before the Houses of the Oireachtas.</p>	<p>Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018,2017,2016</p>	<p>Nothing to report</p>
<p>11. The Act should be modified to give the Commission authority to conduct inquiries into and report on breaches of the Code.</p>	<p>Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018, 2017, 2016</p>	<p>Nothing to report</p>
<p>12. Failure to comply with section 22 of the Act (either in relation to submitting an application for consent, where required, or in relation to complying with the Commission's decision on an application for consent) should be a relevant contravention under section 18 of the Act and an offence under section 20 of the Act.</p>	<p>Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018, 2017, 2016</p>	<p>Nothing to report</p>

Recommendations	Years made	Update
13. Employers of relevant DPOs should ensure that DPOs are aware of their post-employment obligations when planning to leave a post, and that they may seek advice from the Commission as needed.	Statutory Review 2019  Annual reports 2019, 2018, 2017	Nothing to report
14. The Act should be amended to extend the scope of section 22 to include public bodies and DPOs with whom a person may have had significant involvement, influence or contacts.	Statutory Review 2019  Annual reports 2019, 2018, 2017	Nothing to report
15. The Act should be amended to allow the Commission to publish certain details regarding its decisions to waive or reduce the cooling-off period under section 22 of the Act.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017	Nothing to report
16. An anti-avoidance clause should be added to the list of relevant contraventions in section 18 of the Act.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017	Nothing to report
17. The Commission should be allowed to publish summary details of investigations under section 19 of the Act.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report
18. The Act should be amended to introduce obligations for DPOs to decline further communications with persons where the DPO is aware that the person has failed to register previous lobbying activities by the relevant date.	Statutory Reviews 2016 & 2019  Annual reports 2019, 2018, 2017, 2016	Nothing to report

Recommendations	Years made	Update
<p>19. The Act should be amended to provide the Commission with the authority to order any DPO to refuse to have dealings with a person who has been convicted of a relevant contravention.</p>	<p>Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018, 2017, 2016</p>	<p>Nothing to report</p>
<p>20. The Act should be amended to provide the Commission with the authority to investigate breaches of the provisions outlined in recommendations 18 and 19 above.</p>	<p>2016 Statutory Reviews 2016 &amp; 2019</p> <p>Annual reports 2019, 2018, 2017, 2016</p>	<p>Nothing to report</p>
<p>21. An education programme led by the Department should be undertaken to inform public bodies about the exempt communication under section 5(5)(n) of the Act and the requirements of the Transparency Code.</p>	<p>Statutory Review 2019</p> <p>Annual report 2019</p>	<p>Nothing to report</p>
<p>22. An education programme led by the Department should be undertaken to inform relevant state agencies about the exempt communication under section 5(5)(m) of the Act and the circumstances in which it applies.</p>	<p>Statutory Reviews 2019</p> <p>Annual report 2019</p>	<p>Nothing to report</p>
<p>23. Section 22 might be reviewed to allow the Commission to impose restrictions on lobbying activities relating to functional areas of other public service bodies or with DPOs from other public service bodies with which the applicant is not 'connected'.</p>	<p>Statutory Reviews 2019</p> <p>Annual report 2019</p>	<p>Nothing to report</p>



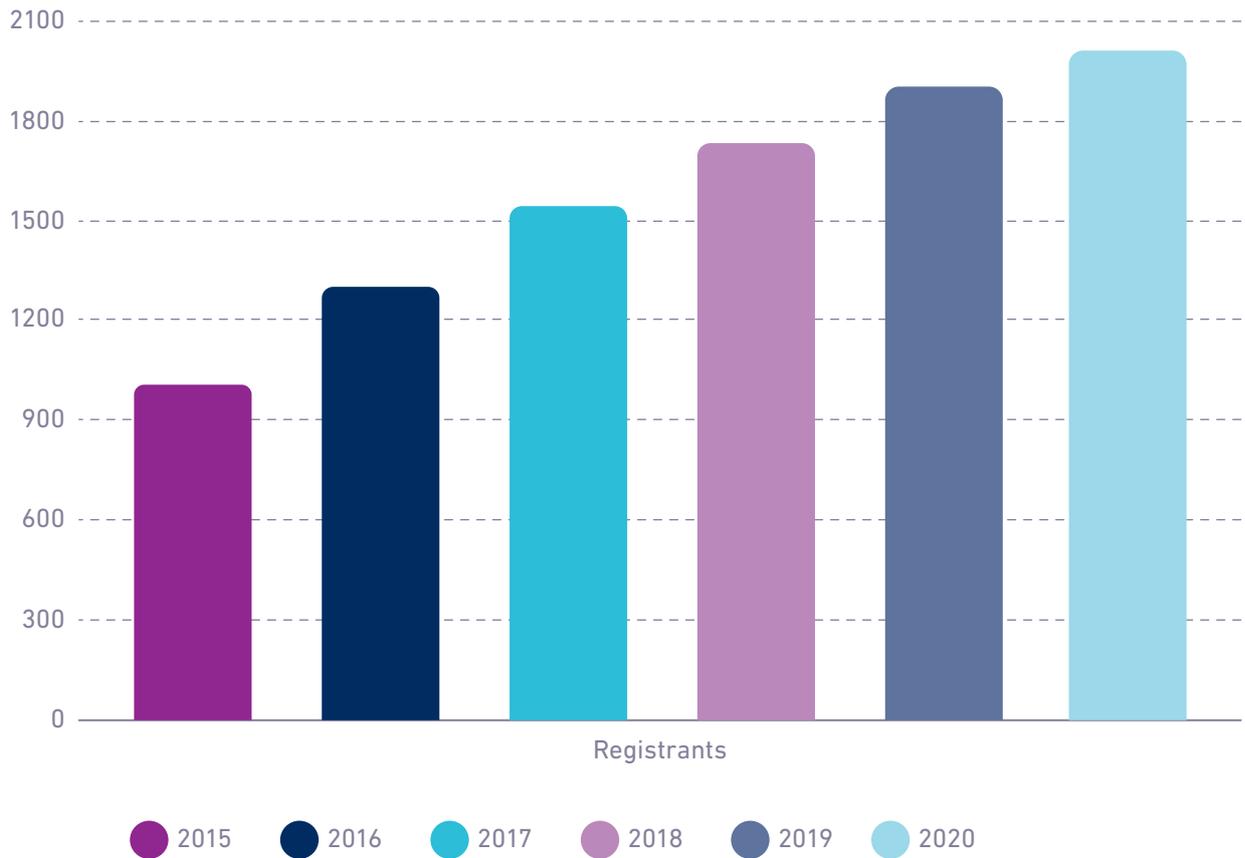
# Appendix:

## Statistics

# Appendix Statistics

Figure 1 – New registrants in year 2015-2020



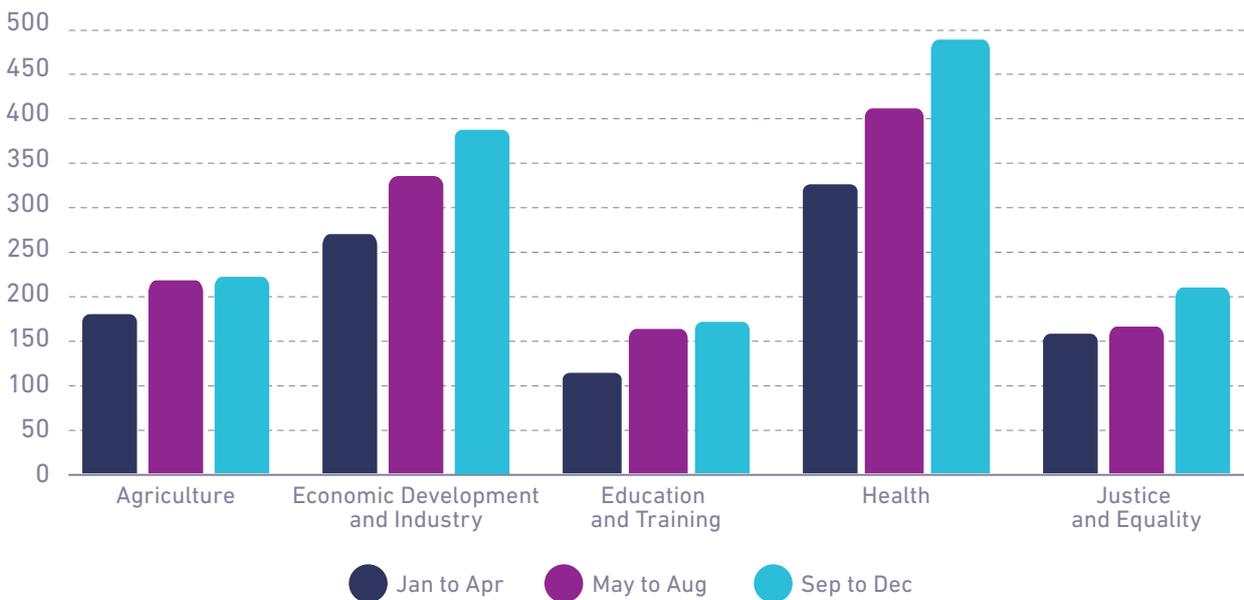
**Figure 2 – Net\* total of registrants at year end 2015-2020**

*\*Does not include registrants subsequently deleted*

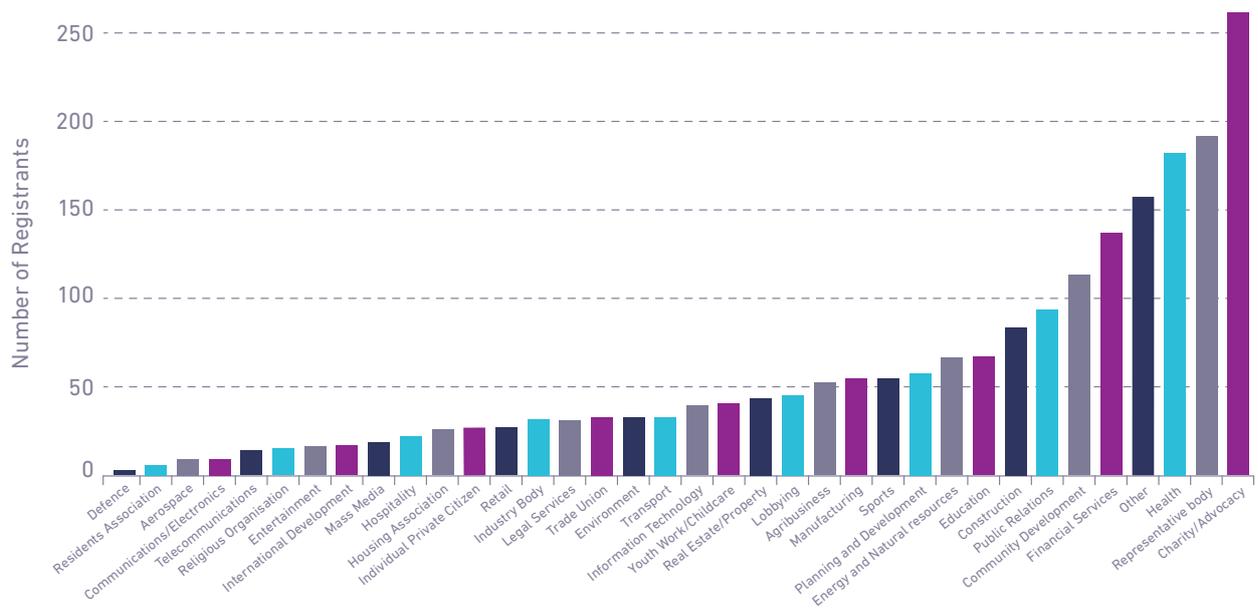
**Figure 3 – Lobbying returns received, by reporting period**



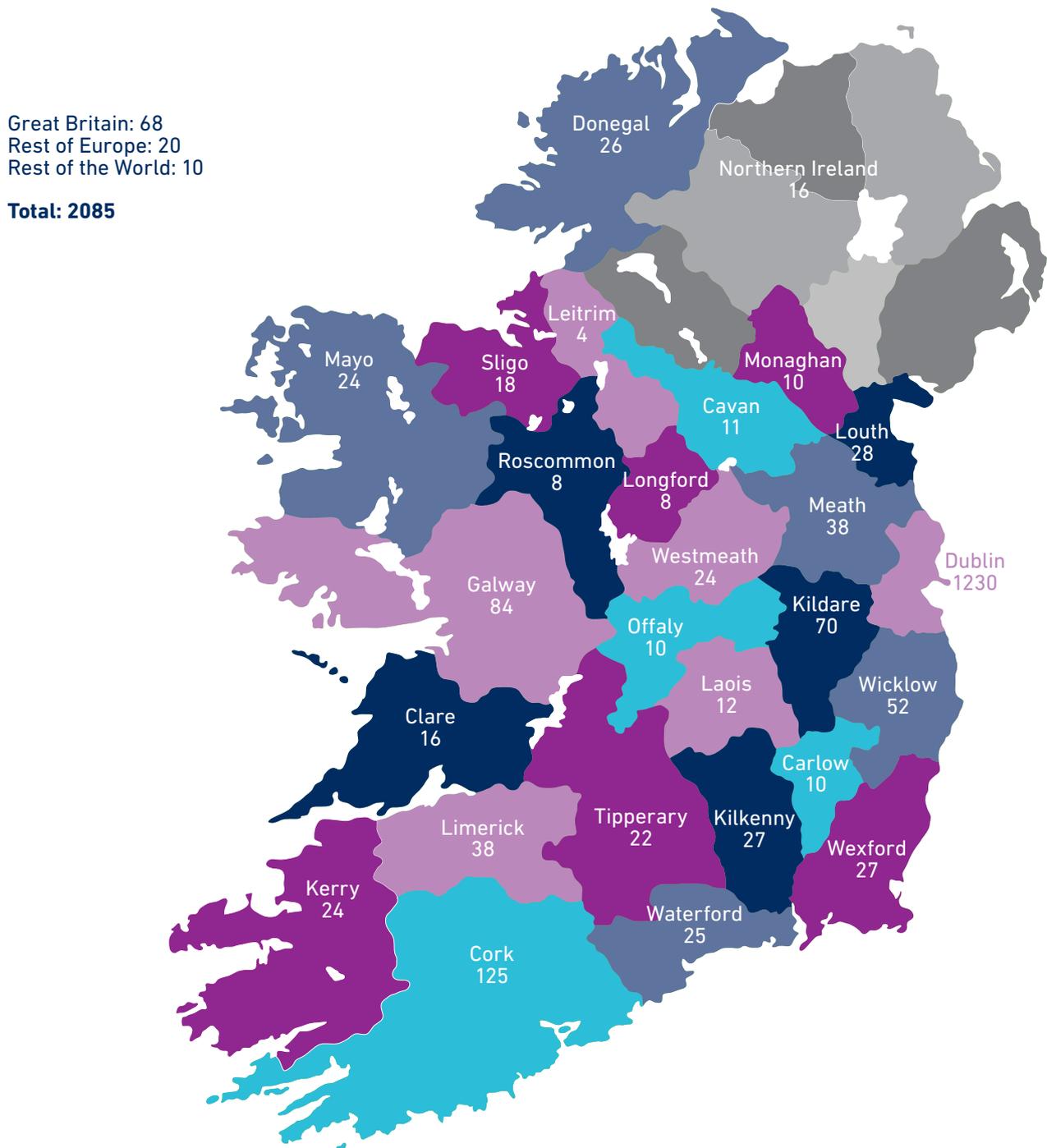
**Figure 4 – Top five public policy matters lobbied about in 2020**



**Figure 5 – Registered lobbyists at end 2020, by main business activity**



**Figure 6 - Regional location of registrants at end 2020**



**Figure 7 - Applications to waive/reduce post-public employment cooling-off period, 2015 to 2020**

	2015	2016	2017	2018	2019	2020
Ministers	0	0	0	0	0	0
Ministers of State	0	0	0	0	0	0
Ministerial advisors	0	1	3	2	2	8
Prescribed public servants	0	1	2	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>2</b>	<b>2</b>	<b>8</b>

