



**Irish National Organisation of the Unemployed**

**Submission to the**

**Department of Public Expenditure and Reform**

**on**

**Regulation of Lobbyists**

***February 2012***

## **Introduction**

The INOU welcomes this opportunity to make a submission to the Department of Public Expenditure and Reform (DPER) on the issue of 'regulation of lobbyists'. In the Programme for Government it states that *"We will introduce a statutory register of lobbyists, and rules concerning the practice of lobbying."* (p20) While in DPER's Public Service Reform Plan it notes that the planned publication date of the Bill dealing with the regulation of lobbyists will be Q1 2013.

In this submission the INOU will consider the OECD's *'10 Principles for Transparency and Integrity in Lobbying'* and the questions raised by DPER under these principles. However, the INOU will also reference an earlier paper by the OECD entitled *'Engaging Citizens in Policy-Making: Information, Consultation and Public Participation'*<sup>1</sup> and the principles it promoted including the concept of rights and the resources required for meaningful engagement. Central to any public sector reform agenda should be the nature of consultation and engagement *with* and accountability *to* people living in Ireland and in particular people who experience social and economic exclusion.

The OECD's 10 Principles for Transparency and Integrity in Lobbying are divided into four sections and these section headings will be used as the headings in this document:

- I. Building an Effective and Fair Framework for Openness and Access
- II. Enhancing Transparency
- III. Fostering a Culture of Integrity
- IV. Mechanisms for Effective Implementation, Compliance and Review

## **Building an Effective and Fair Framework for Openness and Access**

The guiding principles of the OECD's earlier paper are particularly pertinent here. Under the Rights principle the paper notes: *"Citizens' rights to access information, provide feedback, be consulted and actively participate in policy-making must be firmly grounded in law or policy. Government obligations to respond to citizens when exercising their rights must also be clearly stated. Independent institutions for oversight, or their equivalent, are essential these rights."* It is imperative that any regulation of lobbying does not undermine these citizen rights.

However, there are clearly power differentials in Irish society and these are replicated in policy making and the lobbying that seeks to inform and influence such policy making. The two key pieces of legislation that follow on from any Budget clearly illustrate this issue: the Social Welfare Bill is rushed through the Parliamentary process and any opportunity those who will be impacted by it have to influence it has to be done speedily, noisily and through the public domain. On the other hand the Finance Bill is given more time and those who seek to influence it do so in the private domain, the process lacks transparency and the issues are rarely discussed in the public domain. It is important that any regulation of lobbying does not preclude concerned citizens for protesting to changes that will

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<sup>1</sup> An OECD Public Management Policy Brief 2384040

negatively impact on their lives; while on the other hand it is critical that where policy change is sought and given that there is clarity as to who sought it, why it was given, and to what end.

In response to Q1.2 raised by DPER, the definition of lobbying will be critical here. Some people argue for a very broad definition that could arguably include the citizen calling on their local TD to represent them or address a specific issue in a particular way. Similarly in an era of one-off campaigns, where social media facilitates people to engage with the state and public decision making in a more accessible manner, should such engagement to be part of regulatory system or should it be seen as a useful and welcome tool to support active citizenship? This raises questions about where lobbying starts and ends vis-à-vis the citizen's right to participate in a democracy. Other definitions are tighter and include those seeking to influence policy design and implementation on a professional basis or as a certain % of their work on behalf of an organisation or who receive some recompense of such activity. In defining lobbying a definition of what constitutes a lobbyist will also be required and should add clarity to the debate.

As the OECD's consultation paper notes *"Governments benefit from active citizens and a dynamic civil society and can take concrete actions to facilitate access to information and participation, raise awareness, strengthen citizens' civic education and skills as well as to support capacity-building among civil society organisations."* Civil society organisations, non-government organisations and community groups have an important role to play in any democracy in the development of appropriate policy responses and their implementation on the ground. Constructive engagement with such organisations can be an effective, efficient and more equitable of addressing a broad range of social and economic issues. It is critical that any regulation of lobbying does not undermine such work and that the drive for greater transparency does not lead to greater inequalities in public decision making and the design and implementation of policy.

## **Enhancing Transparency**

It is very debatable if merely requesting lobbyists to make public their information and the issues they have raised with the political and official system while at the same time the official and political system is not, itself, transparent in its decision making processes will address the power differentials at the heart of the debate. Under principle six of the OECD's principles for transparency and integrity in lobbying the importance of enabling stakeholders including civil society and the general public to scrutinise lobbying activities is recommended. Resources are critical to engage properly in public discourse and decision making, enabling those working on and experiencing issues of inequality and social exclusion to participate fully and contribute to public debate should be viewed as an investment in Ireland's current and future development.

Under the OECD's guiding principles for engaging citizens in policy-making and under the principle of 'commitment' it notes *"Leadership and strong commitment to information, consultation and active participation in policy-making is needed at all levels – from politicians, senior managers and public officials"*. While under the 'accountability' principle it notes that *"Governments have an obligation to account for the use they make of citizens' input received through feedback, public consultation and*

*active participation. Measures to ensure that the policy-making process is open, transparent and amenable to external scrutiny and review are crucial to increasing government accountability overall.”* Both of these principles are absolutely critical: firstly, they could address that sense of frustration experienced by many community organisations who have felt that consultation was a one way street with little evidence as to its impact or outcomes. Secondly, they should compliment any developments in addressing concerns about the opaque nature of lobbying as it would make it clearer what does or does not influence decision making and policy development.

### **Fostering a Culture of Integrity & Mechanisms for Effective Implementation, Compliance and Review**

A culture of integrity within public life is absolutely critical and never more so than at present when so many people have lost faith in the political and official system and its ability to properly address the economic and social crisis facing Ireland. Clarity as the rules of and roles within public discourse and decision making are urgently required. For Ireland to emerge out of the current crisis a more equitable and sustainable society in which to live and work demands the active participation of as many people as possible and in particular those addressing issues of social and economic exclusion. A commitment to constructive dialogue where citizens feel they are being listened to and responded to in a transparent manner is integral to such a development. Introducing rules as to the practice of lobbying without such a commitment could prove to be counter productive. The introduction of any lobbying register or rules would have to carefully consider whether such a course of action would result in an administrative burden that would undermine active engagement and so exacerbate socio-economic exclusion. To that end a user friendly system could support engagement, provide a useful source of information on issues and ideas, and should ensure greater compliance. Indeed the public relations potential of such a system could prove to be the most constructive way of addressing issues of concern about lobbying.

### **For further information contact**

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