



Regulation of Lobbying:

Guidelines on lobbying in relation to
development and zoning of land

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Introduction

The Regulation of Lobbying Act 2015 (the Act) commenced on 1st September 2015.

The Act applies mainly to:

- professional lobbyists,
- commercial organisations which have more than 10 full time employees;
- representative bodies with at least one full time employee; and
- advocacy groups, non-governmental organisations and charities which have at least one full time employee and which promote particular interests or causes.

General guidelines in relation to carrying on lobbying activities are available [here](#).

How the Regulation of Lobbying Act might apply to individuals and local groups

When communicating with public officials or representatives regarding the zoning or development of land, individuals and groups who may not ordinarily regard themselves as carrying on lobbying activities, may find that the Act also applies to them. These guidelines deal specifically with lobbying in relation to zoning and development.

What is meant by Zoning?

Local authorities regularly draw up development plans and local area plans for their areas. Among other things, these plans outline the use to which land may be put, for example, land may be designated for residential use; for industrial, commercial, agricultural or recreational use; as open space; or a mixture of those uses. This is generally described as “zoning”. From time to time, the local authority may consider changing the designation of particular lands (“rezoning”).

When drawing up development plans or local area plans, local authorities engage in a formal public consultation process. This means that you may make a submission to the local authority setting out your views on the proposed plan. Making your views known to a local authority as part of a formal public consultation process is not lobbying.

Communicating, however, with a [Designated Public Official](#) outside the formal public consultation process about a development plan or local area plan or a proposal to zone or re-zone particular lands may be lobbying. (For example contacting your local TD or County Councillor about a development plan or a proposal to zone or re-zone particular lands outside the formal public consultation process.)

What is meant by Development?

“Development” is defined in the [Planning and Development Acts](#) as the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Applications for planning permission

Development may require planning permission. In general, applications for planning permission are made to the local authority. These applications are publicly available. An application for planning permission is not lobbying. Seeking declarations/referrals under the Planning Acts on development and exempted development is not lobbying.

Communications with a Designated Public Official about a planning application that adheres to the local authority's established development policy/development plan would be considered an implementation matter, and therefore exempt from the requirement to register and submit a return. However, a communication with a Designated Public Official about a planning application may be regarded as lobbying if the planning application seeks or requires a change in the local authority's development policy, including a planning variance.

Enforcement of planning decisions

The local authorities are responsible for the implementation of the planning laws. Complaints may be made to a local authority if a person considers that development is taking place or has taken place which is contrary to the planning laws or the conditions attached to a particular planning permission. Such complaints are not lobbying as they involve the implementation of the planning laws.

Major infrastructural projects

Planning applications in respect of certain major infrastructure projects are made directly to An Bord Pleanála. Appeals against planning decisions made by local authorities are also made to An Bord Pleanála. Communications to An Bord Pleanála do not constitute lobbying activities as its members and officials are not currently Designated Public Officials.

Communicating with Designated Public Officials however, about planning applications or planning appeals for such projects may constitute lobbying if the planning application or planning appeal seeks or requires a change in the local authority's development policy.

Are you engaged in lobbying in relation to zoning and development?

You are if you meet all of the following conditions:

- A. You are carrying on lobbying activities.
- B. The person being lobbied is a Designated Public Official.
- C. You are making a relevant communication.
- D. That communication is about a relevant matter.
- E. That communication is not an excepted communication.

A Who is carrying on lobbying activities in relation to zoning and development?

Any individual, organisation or group who communicates with a Designated Public Official on a relevant matter concerning the zoning or development of land may be considered to be carrying out lobbying activities.

B Who is being lobbied: Designated Public Officials

Designated Public Officials are:

- Ministers of the Government and Ministers of State
- Other members of Dáil Éireann and Seanad Éireann
- Members of the European Parliament for the three constituencies in Ireland
- Members of local authorities
- Special advisers
- Secretaries-General and Assistant Secretaries-General of Government departments
- Chief Executive, Assistant Chief Executive, Directors of Services, Head of Finance or Head of Human Resources in Dublin City Council
- Chief Executive, Directors of Services or Head of Finance in any other local authority

Other public servants will be prescribed by the Minister for Public Expenditure and Reform over time. Public bodies are obliged to publish and maintain a list of the names of their employees who are Designated Public Officials and a brief description of their roles and responsibilities for the purposes of the lobbying legislation. This information will be kept up to date and made available on the websites of the public bodies.

C What is a relevant communication?

A relevant communication is a communication that

- May be written or oral
- Is made personally either directly or indirectly. (A communication is regarded as having been made personally even if you ask someone else to make the communication on your behalf. It is not uncommon for a person to engage a planning consultant to communicate with a local authority on their behalf. If such communications were regarded as a lobbying activity the planning consultant may be required to register and would include the person he/she is representing as a client on his/her return of lobbying activity. If the person also made separate or additional communications him/herself which were regarded as lobbying activities then he/she would also have to register and submit a return.)

- Is made to a Designated Public Official
- Relates to a relevant matter
- Is not an excepted communication

D What is a relevant matter?

A relevant matter is defined in the Act as

- Any matter relating to the initiation, development or modification of any public policy or of any public programme
- The preparation or amendment of any law (including secondary legislation such as statutory instruments and bye-laws)
- The award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds
-

APART FROM the implementation of any such policy, programme, enactment or award or any matter of a technical nature.

E What is an excepted communication

There are a number of specific excepted communications contained in the Act which are not regarded as lobbying. The full list of excepted communications is available <here>. The following are the relevant excepted communications in relation to zoning and development.

- Your principal private residence: You are not lobbying if you communicate with a Designated Public Official about obtaining planning permission to build or extend your principal private residence. Your principal private residence is a dwelling or part of a dwelling occupied by you as your only or main residence and includes gardens or grounds of not more than one acre (0.4 ha) which are used for your own occupation and enjoyment.
- Factual information: Communications requesting factual information or providing factual information in response to a request for the information (for example, if you ask a local authority member or official about the planning process)
- Published submissions: Communications requested by a public service body and published by it (for example, submissions received in response to a public consultation process on the development plan or local area plan)
- Communications by Designated Public Officials or public servants: Communications by a <Designated Public Official> with other Designated Public Officials in his or her capacity as such; communications by public servants (or those engaged on contract by a public service body) with other Designated Public Officials made in that capacity and relating to the functions of the public service body. Public servants are employed by or hold office in public service bodies - in general, these are State bodies other than commercial State bodies. Local authorities are public service bodies. (This means that communications by county councillors and other elected representatives to local authority managers or other public servants does not constitute lobbying.)

How to decide if you are lobbying

There are questions that you need to ask/answer before deciding if you are engaged in lobbying within the meaning of the legislation:

Are you communicating with a Designated Public Official about zoning or development?

The communication may be direct or indirect. If you ask someone else to communicate on your behalf, that is indirect communication and is still regarded as a communication made by you for the purposes of the Act.

If yes,

Is it a relevant matter?

Does it involve the initiation, development or modification of any public policy or public programme in relation to zoning or development or is it the implementation of any such policy or programme? If it is implementation only, you are not lobbying.

Exactly what are you communicating about?

Examples of communications in relation to zoning and development which are likely to be regarded as lobbying

In the case of zoning and development, the following are examples of communications regarding relevant matters which would be regarded as lobbying:

- A communication to a Designated Public Official about a development plan or local area plan or the zoning or rezoning of land which is outside of a formal consultation process is lobbying.
- A communication to a Designated Public Official about a planning application for a residential development on land that is already zoned residential may be lobbying if the planning application involves a modification of policy, for example, if the application involves a housing density greater than that outlined in the development plan or local area plan.
- A communication with a Designated Public Official about a planning application which is outside of the formal planning process may be regarded as lobbying if the planning application seeks or requires a change in the local authority's development policy.
- Communicating with Designated Public Officials about development of major infrastructural projects may constitute lobbying.
- A communication to a Designated Public Official in relation to a planning application for the development of a wind farm or the building of pylons on land that is zoned agricultural or amenity (either promoting or opposing same) is lobbying as it involves a modification of a policy.

Examples of communications in relation to zoning and development which are not likely to be regarded as lobbying

- A communication about your principal private residence is not lobbying.
- An application for planning permission is not lobbying.
- Seeking declarations/referrals under the Planning Acts on development and exempted development is not lobbying.

- Lodging a submission to an application for a planning permission with a local authority is not lobbying.
- Communications with a Designated Public Official about a planning application that adheres to the local authority's established development policy/development plan would be considered an implementation matter, and therefore exempt from the requirement to register and submit a return.
- A communication to a local authority or a Designated Public Official about enforcement of a planning condition is not lobbying as it involves implementation.
- Making a submission to the local authority setting out your views on a proposed development plan or local area plan as part of a public consultation process is not lobbying.
- Requesting information about the planning, development or zoning process is not lobbying.

Pre-Planning meetings

A pre-planning meeting is not part of the formal planning application process. It is not possible to definitively state that "pre planning" meetings are not regarded as a lobbying activity. It would depend on who attended the meeting and the matters discussed.

A pre-planning meeting where the only matters discussed concern the sharing of factual information would not be regarded as a lobbying activity. Similarly seeking or obtaining information or sharing information for the purposes of complying with a local authority's policy or relevant planning legislation would not be regarded as lobbying.

On the other hand if a change to a local authority's policy is being sought or discussed or an attempt is being made to influence a planning outcome during a pre-planning meeting it could be regarded as a "relevant communication" and a lobbying activity.

Ultimately it will be a matter for the person seeking the pre-planning meeting with the local authority to decide whether a "relevant communication" took place (i.e. was a "relevant matter" discussed with a DPO during the meeting).

Getting guidance

If you are unsure about whether or not you are engaged in lobbying, you should

1. Seek guidance from the Standards in Public Office Commission; the Standards Commission may be able to offer advice about whether or not you are engaged in lobbying activities.
2. If you think you may be engaged in lobbying activities, you should register on www.lobbying.ie.

What you need to do

You must register and submit a return of your lobbying activities within 21 days (relevant date) of the end of the relevant period in which you first start lobbying activities. Once registered you must submit a return in respect of lobbying activities carried out during each subsequent relevant period.

The relevant period is the four months ending on the last day of April, August and December each year.

If you start lobbying activities between

- 1 January and 30 April, you must register and submit a return of your lobbying activities by 21 May
- 1 May and 31 August, you must register and submit a return of your lobbying activities by 21 September

- 1 September and 31 December, you must register and submit a return of your lobbying activities by 21 January.

The Act commenced on 1 September 2015. The first registration period, therefore is from 1 September 2015 – 31 December 2015. Registrations and returns of lobbying activities in respect of this period must be submitted to the register by 21 January 2016.

The Register of Lobbying

You can only register or submit a return online on www.lobbying.ie. There is no other mechanism for registering or submitting a return. Detailed information about the Register of Lobbying and how it operates is available at <http://www.lobbying.ie/>

Contact Us

LOBBYING.IE
Register of Lobbying

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