



Requirements of the Act in relation to “relevant Bodies” and the “Transparency Code”

An important element of public policy formulation is that expertise, skills and knowledge from persons outside of the public service are available to Ministers and Public Bodies when required. This often takes the form of Working Groups which may consist of both public servants and non-public servants.

The Act defines a lobbying activity as a “relevant communication” with a DPO. In light of the nature and frequency of communications between public officials and non-public servants in such Working Groups it is possible that some of these communications could be captured by the definition of a lobbying activity.

Section 5(5)(n) of the Act provides that communications between members of Working Groups may be exempt communications provided they meet the definition of a “relevant body” provided for in section 5(6) of the Act. In such circumstances the communications are not regarded as lobbying activities and are not required to be included in returns of lobbying activities submitted to the Register.

In order for the communications to be exempt the Working Group must meet the definition of a “relevant body” provided for in Section 5(6) of the Act. A “**relevant body**” is defined as a body which:

- 1) Is appointed by a Minister of the Government or a public service body;
- 2) Has at least one DPO and at least one person who is not a public servant; and
- 3) Conducts its activities in accordance with the Transparency Code which has been published by the Minister.

A critical element of public policy formulation is the availability to Ministers and Public Bodies of expertise, skills and knowledge from persons outside of the public service. Where such a working group’s membership comprises of at least one person who, for the purposes of the Act, is a DPO (Designated Public Official), it may be the case that communications within the group could be considered lobbying communications. The person making these communications may be



required to register as a lobbyist and to submit a return of this communication to the Lobbying Register.

Section 5(7) of the Act provides that the Minister shall prepare and publish a **Transparency Code**. The Code sets out how such groups, may conduct their activities in a transparent way. By adhering to the Transparency Code, communications within these Working Groups would meet the exemption from the requirement to register and report on lobbying activities.

It should be noted that this exemption only applies where the Working Group is a “relevant body” and complying with the Transparency Code. If the Working Group is not complying with the Transparency Code, then it is not regarded as a relevant body. Any communications between persons who are not public servants and DPOs serving on the Working Group would not be an exempt communication under section 5(5)(n) of the Act. The communications could, therefore, be regarded as lobbying activities which may be required to be included in a return to the Register.

The relevant body is responsible for publishing any information relating to the working group which is required to be published under the Transparency Code and this information is published on the Council’s website under – Your Council/Council meetings.