



RESPONSIBLE LOBBYING

AN EVALUATION FRAMEWORK

JUNE 2020

THE RESPONSIBLE LOBBYING FRAMEWORK

The practice of lobbying (defined below) is widespread and is a legitimate part of the political process. Done responsibly, lobbying leads to better legislation, rules and standards, increases stakeholder engagement in public life, and serves the public interest.

Yet the practice is open to abuse. If it is done secretly it undermines democratic accountability. It is vulnerable to conflicts of interest. Even when these practical abuses are corrected other problems remain; well-resourced causes can benefit from disproportionate (and therefore undemocratic) influence, and even the existence of personal relationships between lobbyist and legislator can lead to subtle distortions arising from the valid human responses of empathy and reciprocity.

This best practice Framework has been developed by Carnstone for the Meridian Institute to help promote and support responsible lobbying practice. It is based on a large number of pre-existing standards and guides (see the references) but owes a particular debt to the work of Transparency International which has produced several very useful and authoritative documents on the topic.

Our Framework is intended for the **originators** of lobbying activity – in most cases companies or Civil Society Organisations (CSOs) – rather than focussing on intermediaries such as paid lobbyists. Recognising the variation in national controls on lobbying, it is intended to apply globally, allowing multi-national organisations to work to a common international standard.

Why have we produced it? The right to influence policy through lobbying is a privilege granted to companies, CSOs and other stakeholders and, like all privileges it can be withdrawn. We believe that responsible organisations will wish to sign up to robust standards to justify society's trust in the matter; indeed leading companies are already beginning to do so. In the absence of effective voluntary self-regulation of this type, it is likely that strict limitations will increasingly be placed upon the practice.

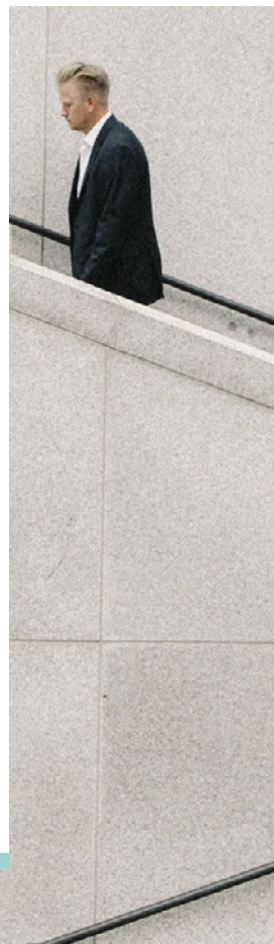
This Framework is intended to guide those wishing to take responsibility for themselves. It is free to use, but we request that it is always named the Responsible Lobbying Framework and, whenever possible, the website www.responsible-lobbying.org is acknowledged and referenced to enable us to increase our supporter base.

WHAT IS LOBBYING? AND ADVOCACY?

Transparency International defines lobbying as “any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making and carried out by or on behalf of an organised group. Lobbying can also include direct or indirect attempts to influence public opinion, outside of normal advertising and marketing activity, with a view to impacting public decision making” (TI CPEI 2018, p.35). This is the definition we have selected for this Framework.

Some make a distinction between “**lobbying**” and “**advocacy**”, suggesting that “lobbying” is intended to change specific legislation whereas “advocacy” is more about increasing the prominence of an issue (e.g. Gates, p.5; Harvard, p.4). Reflecting this, “advocacy” is often the preferred term used by CSOs for their work with legislators; often it appears that CSOs “advocate” and companies “lobby”.

It then often follows that “lobbying” is seen as bad and “advocacy” as good; the inference is that the distinction depends on the validity of the cause. We find, along with the OECD (Vol2, p.28) that “attempts to distinguish ‘good [advocacy]’ from ‘bad lobbying’ are fraught with normative judgement” and this Framework does not make a distinction based on the **cause**. We conclude, in line with the OECD, that the principal distinction between good and bad lobbying (or good and bad advocacy for that matter) is the **process**, which we attempt to codify through these five principles of responsible lobbying. It therefore follows that all actors – whether corporate or CSO and whatever their cause – should be held to these same standards.



GUIDANCE ON INTERPRETING THIS FRAMEWORK

THE ROLE OF INTERMEDIARIES

Whilst targeted at the originators of lobbying activity, this Framework makes frequent reference to intermediaries involved in the process. For the avoidance of doubt this includes all of the following:

- Paid professional advisers such as public affairs agencies, government relations agencies etc.
- Unpaid advisors or contacts representing the organisation.
- Think-tanks and/or research organisations supported by the organisation.
- Trade associations and other industry associations.
- Charities and other third-sector bodies supported financially by the organisation.
- Issues-based consumer campaigns outside of normal advertising and marketing activity, undertaken with a view to impacting public decision making.

SECTORAL CONTEXTS

The Responsible Lobbying Framework has been developed to be applicable across all sectors and subjects. We recognise that specific references may be needed when the Framework is applied to particular topics or sectors. As users apply this generic framework, they may wish to define the following based on their sector-specific context:

- A. The key issues of public interest (Principle 1.1).
- B. The key public policy frameworks (Principle 1.3).
- C. Expected arrangements for managing conflicts of interest and preventing damage to the organisation's and public interest (Principle 1.5).



THE FIVE PRINCIPLES OF RESPONSIBLE LOBBYING ARE:

1

LEGITIMACY

“RESPONSIBLE LOBBYING WILL NEVER BE INCONSISTENT WITH THE PUBLIC INTEREST.”

Which means:

1. Responsible lobbying must consider the wider public interest, not only an organisation’s needs narrowly defined. It should respect the interests and needs of people, communities and the environment. Organisations lobbying responsibly will be able to present a public interest case for their positions.
2. Responsible lobbying should support an evidence-based approach to policy making, clearly respecting independent, peer-reviewed science.
3. Responsible lobbying must respect and not undermine existing public policy / human rights frameworks developed by international agencies, national and/or sub-national governments, and standard-setting bodies.
4. Political donations should at best be avoided. If made, they should be fully and transparently disclosed (see Principle 2).
5. Conflicts of interest² should be identified and disclosed (see Principle 2) with clear policies in place – including credible dispute resolution – to manage them.
6. The lobbying organisation should have clear codes of conduct to prevent bribery and corruption in its relations with public officials, including the offering and receiving of gifts, hospitality or other financial and in-kind incentives. These codes should apply equally to all in-house and any intermediary lobbyists, paid or unpaid.
7. Policies and processes for managing the “revolving door” should be in place, covering the hiring of former politicians and public officials, secondments or placement of staff into the public sectors and cooling-off periods, where needed.

1. OECD Vol2, Harvard
2. WHO, Harvard, IM
3. ATNF BMS
4. TI CPIE 2018, TI Standards
5. OECD Vol2, Harvard, TI Guide
- 5a. TI Glossary, WHO Guidelines
6. TI Standards, OECD Vol 2,
7. TI CPIE 2018, OECD Vol2, OECD Principles

² We define a conflict of interest as a situation where an individual or organisation is confronted with choosing between the duties and demands of their position and their own interests and where such choice might (1) affect their personal or professional objectivity and/or (2) result in an unfair competitive advantage for the individual or entity.

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TRANSPARENCY

“RESPONSIBLE LOBBYING ORGANISATIONS WILL BE OPEN, COMPLETE AND TRUTHFUL IN THEIR COMMUNICATIONS ON THE TOPIC.”

Which means disclosing:

1. The nature of all direct and intermediary lobbying, paid or unpaid, including:
 - a. The identity of direct and intermediary lobbyists engaged;
 - b. The identity of public sector officials that were engaged with;
 - c. The issues that were addressed during this engagement;
 - d. The outcomes sought through this engagement;
 - e. Positions taken on sub-national, national and international public policy frameworks;
 - f. The frequency of engagement;
 - g. The ultimate beneficiaries of this engagement, which could include interests other than those of the organisation sponsoring the engagement.
2. The monetary value of:
 - a. Spend on direct lobbying, including spend on intermediary lobbyists, paid or unpaid;
 - b. Spend on third-party organisation memberships, including the portion of this spend used for lobbying;
 - c. Political donations, including in-kind, consistent with national frameworks.
3. Any materials that were shared with public sector recipients as part of lobbying activity, excluding commercially sensitive materials.
4. Full list of third-party organisation memberships, including board seats held.
5. Policies, processes and approaches, and results of accountability mechanisms such as periodic audits, referenced under other Principles of this Framework.

All disclosures should be:

- a. made at least annually following reporting cycles (ideally quarterly);
- b. publicly available in an easily accessible and identifiable location on the organisation’s website, and where relevant for the engagement promptly made available to public sector officials lobbied (e.g. Principle 2.1.g);
- c. compiled in a dedicated report, report section or webpage, providing a total view of the organisation’s material activities and issues, nationally and globally.

1. PRI Guide, ATNF BMS, OECD Principles, WHO, TI Standards, TI CPEI 2018, IM, Harvard
2. PRI Guide, WHO, TI Standards, TI CPEI 2018
3. TI Guide, TI Standards
4. IM, PRI Guide, ATNF, TI CPEI 2018
5. TI Guide, TI Standards, TI CPEI 2018, OECD Vol2, ATNF BMS

Disclosures: TI Standards, TI CPEI 2018, IM

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CONSISTENCY

“RESPONSIBLE LOBBYING ORGANISATIONS WILL PRACTICE WHAT THEY PREACH, REMAINING CONSISTENT WITH THEIR PROFESSIONAL CODES, ORGANIZATIONAL VALUES AND OTHER PUBLIC POSITIONS.”

Which means:

1. Responsible lobbyists will have controls over third-party membership organisations, such as trade associations:
 - a. processes to identify the positions of third-party organisations that the organisation is a member of across all geographies, which should take into account credible media reports from trustworthy sources;
 - b. processes to review and proactively manage relationships with third-party organisations, including clear steps to be taken in cases of misalignment of positions, from engagement with the organisation to align positions escalating to withdrawing support.
2. They will also have controls over all lobbyists, in-house and intermediary, paid or unpaid, to ensure they understand and adhere to organisational policies, e.g. through codes of conduct, training and regular performance assessment. In support of this, substantial public sanctions should be placed on lobbyists who contravene those policies and codes of conduct.

1. PRI Guide
2. TI Guide, OECD Vol2, OECD Principles, TI Standards

4

ACCOUNTABILITY

“RESPONSIBLE LOBBYING ORGANISATIONS AND THOSE WHO LOBBY FOR THEM WILL BE ACCOUNTABLE TO STAKEHOLDERS FOR THEIR ACTIONS.”

Which means:

1. There will be external stakeholder involvement in lobbying; for example stakeholder partners may be involved in setting lobbying positions, agreeing lobbying strategy and in reviewing performance (See Principle 5).
2. Support for and adherence to national laws, standards and any national codes of conduct for lobbyists, and any illegal and unethical activity to be duly reported to relevant legal or oversight authorities.
3. The organisation's Board to have clear oversight of lobbying policy positions, the lobbying processes and practices of the organisation itself, of intermediary lobbyists (paid or unpaid) and the lobbying activity of third-party organisations it is a member of.
4. Periodic audits, the results of which should inform policies and be publicly reported, of:
 - a. all public disclosures to ensure accuracy and completeness;
 - b. all lobbying activities within the organisation to ensure alignment;
 - c. the controls over third-party membership organisations such as trade associations, or intermediary lobbyists (paid or unpaid, as outlined in Principle 3.2 and 3.3) to ensure effectiveness.
5. Internal whistleblowing mechanisms, offering all employees the chance to raise anonymously any concerns or breaches of the organisation's lobbying policies and codes of conduct, illegal or unethical lobbying activity.

1. ATNF, TI CPEI 2018, TI Standards
2. TI Guide, TI Standards, TI CPEI 2018, OECD Vol2, OECD Principles
3. PRI Guide, TI CPEI 2018, WHO, ATNF BMS
4. OECD Principles; PRI Guide, TI Guide, TI CPEI 2018 TI Standards; OECD Vol2
5. TI Standards

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OPPORTUNITY















“RESPONSIBLE LOBBYING ORGANISATIONS WILL COORDINATE AND ALIGN ACTIVITIES WITH OTHERS WHEN THEY IDENTIFY ISSUES THAT FURTHER THE PUBLIC INTEREST AND ARE OF COMMON CONCERN.”

Which means:

1. Respecting and safeguarding the opportunity for interest groups to lobby, for example not spending disproportionate resources on lobbying to crowd out other interests regardless of legal caps on political donations.
2. Pursuing opportunities for multi-stakeholder partnerships, including companies and CSOs, to lobby together where a common position that supports key public interest outcomes can be found.
3. Cooperation between companies and CSOs to promote and support higher transparency and accountability standards from governments.

1. TI Standards
2. TI Guide, Harvard
3. TI Guide

REFERENCES FOR THE RESPONSIBLE LOBBYING FRAMEWORK

-  **ATNF:** Access To Nutrition Foundation, Global Index 2018: Category G – Engagement.
-  **ATNF BMS:** Access To Nutrition Foundation, ATNI Global Index 2018 Methodology to assess baby food companies' compliance with the International Code of Marketing of Breast-Milk Substitutes and subsequent WHA resolutions.
-  **Gates:** Bill & Melinda Gates Foundation, U.S. Private Foundation Funds and Advocacy.
-  **Harvard:** Harvard Kennedy School Corporate Responsibility Initiative & Business Fights Poverty, Advocating together for the SDGs: How civil society and business are joining voices to change policy, attitudes and practices.
-  **IM:** InfluenceMap's Methodology.
-  **OECD Principles:** OECD, Principles for Transparency and Integrity in Lobbying.
-  **OECD Vol2:** OECD, Lobbyists, Governments and Public Trust, Volume 2: Promoting integrity through self-regulation.
-  **PRI Guide:** UN Principles for Responsible Investment, Converging on climate lobbying: aligning corporate practice with investor expectations.
-  **TI CPEI 2018:** Transparency International UK, Corporate Political Engagement Index 2018.
-  **TI Glossary:** Transparency International, Glossary, Conflicts of Interest
-  **TI Guide:** Transparency International Ireland, A short Guide to Ethical Lobbying and Public Policy Engagement for Professionals, Executives and Activists.
-  **TI Standards:** Transparency International, 38 International Standards for Lobbying Regulation.
-  **WHO:** WHO Framework of engagement with non-State actors (specifically: policy and operational procedures on engagement with private sector entities).
-  **WHO Guidelines:** WHO Guidelines for Declaration of Interests (WHO Experts)

The Responsible Lobbying Framework was produced by **Simon Hodgson** and **Daniel Witte** at **Carnstone Partners Ltd**, with support from the **Meridian Institute**. It is free to use, but we request that it is always named the Responsible Lobbying Framework and, whenever possible, the website www.responsible-lobbying.org is acknowledged and referenced to enable us to increase our supporter base.

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Design: nineteenseventyone.co.uk