

3 Integrity

This chapter assesses the level of implementation in countries of the integrity principles of the Recommendation on Principles for Transparency and Integrity in Lobbying. It highlights the current challenges faced by governments to ensure that public officials interact with lobbyists with impartiality and in the public interest. The findings show that public officials need an integrity framework adapted to the specific risks of lobbying and other influence activities. The chapter also examines how lobbyists and companies have complied with their obligation to influence the public decision-making process with integrity and identifies the need for a more comprehensive, clearer integrity framework to guide their interactions with public officials.

Introduction

Apart from enhancing the transparency of the policy-making process, the strength and effectiveness of the process also rests on the integrity of both public officials and those who try to influence them. The OECD Recommendation on Principles for Transparency and Integrity in Lobbying [[OECD/LEGAL/0379](#)] (hereafter “Lobbying Principles”) asks Adherents to “foster a culture of integrity in public organisations and decision-making”, by providing principles, rules, standards and procedures that give public officials clear directions on how they are permitted to engage with lobbyists (Principle 7). Similarly, the Lobbying Principles also call on lobbyists to “comply with standards of professionalism and transparency; [as] they share responsibility for fostering a culture of transparency and integrity in lobbying” (Principle 8). To achieve compliance with rules and standards of conduct, the Lobbying Principles also call on Adherents to: “implement a coherent spectrum of strategies and practices” (Principle 9), which include “properly resourced monitoring and enforcement”; raising “awareness of expected rules and standards”; enhancing “skills and understanding of how to apply them”; and encouraging “organisational leadership to foster a culture of integrity and openness in public organisations”.

The OECD Recommendation on Public Integrity [[OECD/LEGAL/0435](#)] also provides measures for cultivating a culture of integrity across government and the whole of society (OECD, 2017^[11]). The measures include setting clear integrity standards and procedures, investing in integrity leadership, promoting a professional public sector dedicated to the public interest, and communicating and raising awareness of the standards and values. As for lobbyists and companies, the Recommendation on Public Integrity calls on Adherents to promote a whole-of-society culture of integrity, by encouraging the private sector to uphold public integrity values in their interactions with the public sector.

The 2014 report monitoring the implementation of the Lobbying Principles found that there was insufficient emphasis on establishing standards for public officials in their interactions with lobbyists. The report concluded that if the framework for openness and access employed too narrow a focus, for example examining only transparency and lobbying registers, it risked overlooking the role of integrity standards in ensuring that public decision-making processes promote inclusiveness and accountability. Another case of concern regarding the fairness and impartiality of decision making was the practice of “revolving doors” – the movement of public officials between the public and private sectors (OECD, 2014^[21]). As for lobbyists, the 2014 report also found that the codes of conduct both of the association to which lobbyists belonged and the company that employed them were the primary sources for lobbyists of formal integrity guidance. The report noted that lobbyists felt these codes offered somewhat meaningful guidance on how to conduct day-to-day lobbying activities. While the guidance seemed to be clear, its application was voluntary and not stringent enough to change the behaviour of those who abuse legitimate means of influence.

Since then, the lobbying landscape has evolved and more actors are trying to influence policy makers, using practices beyond the traditional definitions of “lobbyists” and “lobbying”. While legislation, policies and guidelines on public integrity have been established, less is available on the interaction between public officials and lobbyists. Undue influence persists in many countries, undermining the public’s trust in the policy decision-making process. As a result, both governments and lobbyists need not only to face the limitations of their integrity frameworks in the policy-making context but also to strengthen them, to ensure the integrity and inclusiveness of public policies, notably:

- Public officials need an integrity framework adapted to the risks of lobbying and other influence activities.
- Companies and lobbyists need a full integrity framework to engage in policy making.

Public officials need an integrity framework adapted to the risks of lobbying and other influence activities

The Lobbying Principles call on public officials to “conduct their communication with lobbyists in line with relevant rules, standards and guidelines in a way that bears the closest scrutiny”. Public officials should “cast no doubt on their impartiality to promote the public interest, share only authorised information and not misuse ‘confidential information’, disclose relevant private interests and avoid conflict of interest”. They should also “set an example by their personal conduct in their relationship with lobbyists.” While the great majority of public officials follow these principles, in some cases, public officials do not abide by them, casting doubt on the impartiality and overall integrity of the public decision-making process.

In addition, the Lobbying Principles call on countries to establish restrictions on revolving-door practices. Such restrictions may include a “cooling-off” period that temporarily restricts former public officials from lobbying their past organisations, as well as a similar temporary cooling-off period on appointing or hiring a lobbyist to fill a regulatory or advisory post. Many countries have established such rules and procedures; but revolving door practices still exist.

Countries can continue efforts to strengthen the integrity of public decision-making process frameworks by addressing the following challenges:

- Few countries have specific integrity standards for public officials on lobbying activities.
- Public officials require additional guidance to assess the reliability of information.
- Rules on gifts, invitations and hospitalities are robust, but need continuous attention.
- The revolving door is still a concern, despite strict standards for managing conflicts of interest.
- Guidance, capacity building and awareness raising can be increased.

Few countries have specific integrity standards for public officials on lobbying activities

All countries have developed standards of conduct and values for their public service and public officials, in which integrity and impartiality are usually promoted. Such standards indicate the expectation that all public officials’ actions, related primarily to decision making, should be impartial and made in the public interest. This is in line with the OECD Recommendation on Public Integrity [[OECD/LEGAL/0435](#)], which requires Adherents to set standards of conduct, to clarify expectations and to serve as a basis for disciplinary, administrative, civil and/or criminal investigations. These standards and values are usually defined in legal and/or administrative systems, such as statutes and general acts on public service, as well as in the constitution, labour laws, special service or public service regulations, administrative procedure laws and codes of conduct/ethics (OECD, 2020^[3]). General integrity standards and values for public officials can inform and set the boundaries of acceptable behaviour when interacting with representatives of special interest groups.

Standards can also be adapted to sectors or functions in the executive and legislative branches, and to higher and more politically exposed positions. For example, elected or appointed political officials (e.g. members of Government, members of Parliament, political advisors) are central to public decision making, set the political agenda and have access to confidential information. The OECD Recommendation on Public Integrity [[OECD/LEGAL/0435](#)] asks its Adherents to “[d]emonstrate commitment at the highest political and management levels within the public sector to enhance public integrity and reduce corruption, in particular through: establishing clear expectations for the highest political and management levels that will support the public integrity system through exemplary personal behaviour, including its demonstration of a high standard of propriety in the discharge of official duties”. Therefore, higher expectations to serve the public interest are invested in the highest political levels, which may call for higher standards specifically tailored to the positions they occupy. Such standards exist in several countries (Table 3.1 and Box 3.1).

Table 3.1. Countries with standards of conduct for the highest political positions

	Executive branch	Legislative branch
Australia	Statement of Ministerial Standards Statement of Standards for Ministerial Staff	No specific standard
Austria	No specific standard	No specific standard
Brazil	Code of Conduct for the Senior Federal Administration	No specific standard
Belgium	No specific standard	Deontology Code for Members of the House of Representatives
Canada	Prime Minister Guide on Open and Accountable Government (for Ministers and Ministers of State)	Conflict of Interest Code for Members of the House of Commons Ethics and Conflict of Interest Code for Senators
Chile	No specific standard	No specific standard
Colombia	No specific standard	No specific standard
Costa Rica	No specific standard	No specific standard
Czech Republic	No specific standard	No specific standard
Denmark	No specific standard	No specific standard
Estonia	No specific standard	No specific standard
Finland	No specific standard	No specific standard
France	Deontology charter for members of the government	Deontology Code for Deputies (<i>Code de déontologie des députés</i>)
Germany	Guidelines for Supervisors and Heads of Public Authorities/Agencies	Code of Conduct of the German Bundestag and the relevant rules for implementing it
Greece	No specific standard	Code of Conduct for Members of the Parliament
Hungary	Code of Conduct for Government Officials	No specific standard
Ireland	Code of Conduct for Councilors Code of Conduct for Office Holders	Code of Conduct for Members of Dáil Eireann other than Office Holders Code of Conduct for Members of Seanad Éireann
Iceland	Code of Conduct for Ministers	Code of Conduct for Members of the Althingi
Israel	No specific standard	No specific standard
Italy	No specific standard	No specific standard
Japan	No specific standard	No specific standard
Korea	No specific standard	No specific standard
Latvia	No specific standard	No specific standard
Lithuania	Code of Conduct for State Politicians	No specific standard
Luxembourg	No specific standard	Code of Conduct for Members of Parliament relating to financial interests and conflicts of interest
Mexico	No specific standard	No specific standard
Netherlands	No specific standard	No specific standard
New Zealand	Code of Conduct for Ministerial Staff	No specific standard
Norway	No specific standard	No specific standard
Peru	No specific standard	Parliamentary Code of Ethics (<i>Código de Ética Parlamentaria</i>)
Poland	No specific standard	No specific standard
Portugal	Government Code of Conduct	No specific standard
Romania	Memorandum on adopting the Code of Conduct for the members of the Romanian Government (2019)	Decision No. 77/2017 regarding the Code of Conduct of the members of the Romanian Parliament
Slovak Republic	No specific standard	No specific standard
Slovenia	Code of Ethics of the Holders of Public Office in the Government of the Republic of Slovenia and the Ministries	Ethical Code for the Members of the National Assembly of the Republic of Slovenia
Spain	No specific standard	Code of Conduct for Members of the Congress and the Senate
Sweden	No specific standard	No specific standard
Switzerland	No specific standard	No specific standard
Turkey	No specific standard	No specific standard
United Kingdom	Ministerial Code	Code of Conduct for Members of Parliament

	Executive branch	Legislative branch
	Code of Conduct for Special Advisors	Code of Conduct for Members of the House of Lords
United States	No specific standard	House of Representatives Ethics Manual Senate Rules and Standards of Conduct
EU	Code of Conduct for Members of the EC	Code of Conduct for Members of the European Parliament on financial interests and conflicts of interest

Source: Additional research by the OECD Secretariat.

Box 3.1. Specific codes set high standards of conduct for exposed political positions

The Australian Statement of Ministerial Standards

Considering that ministers are “entrusted with considerable privilege and wide discretionary power”, the Australian Statement of Ministerial Standards includes ethical principles such as acting with integrity, observing fairness, accepting accountability and responsibility, and advancing the public interest.

The Code of Conduct for Members of Government in Portugal

The Code of Conduct for Members of Government in Portugal also applies to senior managers of the public administration under the responsibility of the Government, as well as directors and managers of public institutes and state-owned companies.

The UK Ministerial Code

In the United Kingdom, new prime ministers issue their own Ministerial Code, setting out the rules and standards that are expected from all ministers. “The Seven Principles of Public Life,” which apply to anyone who works as a public office holder, whether elected or appointed, nationally and locally, are annexed to the Code.

The Brazilian Code of Conduct for the Senior Federal Administration

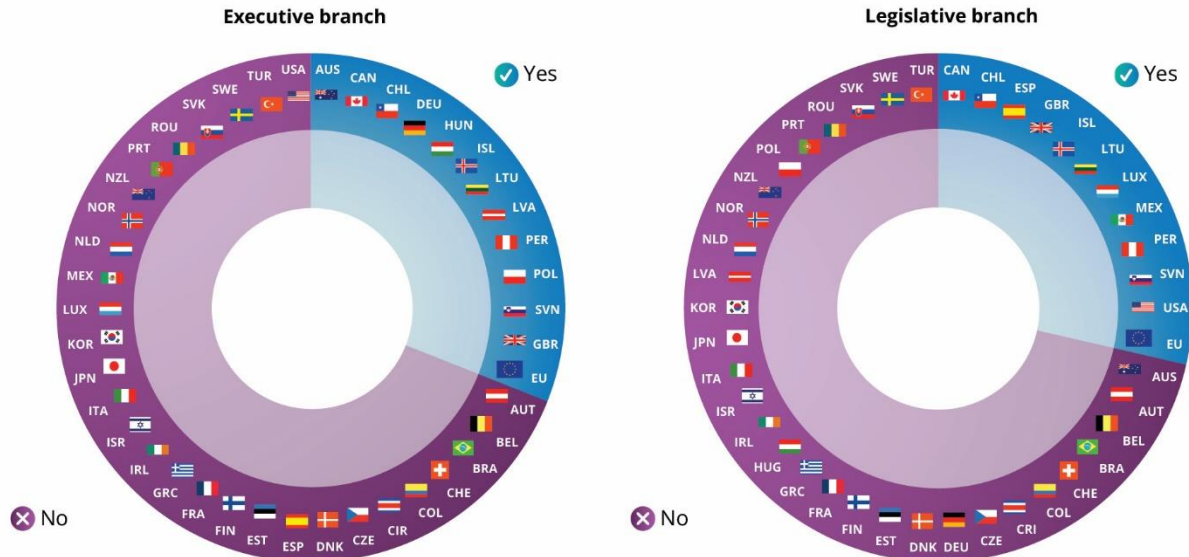
In Brazil, the Code of Conduct for the Senior Federal Administration sets explicit standards of conduct to ensure “the integrity and fairness of the governmental decision-making process”. The Code applies to ministers and secretaries of state, executive secretaries, presidents and directors of national agencies, as well as state-owned companies.

Source: (Government of the United Kingdom, 2018^[4]); OECD 2020 Survey on Lobbying.

Specific standards, in the form of principles, rules or procedures, are needed to regulate lobbying activities. The Lobbying Principles indicate that Adherents should provide such standards to give public officials clear directions on how they are permitted to engage with lobbyists. Integrity standards and ethical obligations on lobbying may be included in a specific lobbying law or lobbying code of conduct, or included in the general standards for public officials, such as laws or codes of conduct for public officials. Only a few countries have developed such specific standards (Figure 3.1 and Table 3.2).

Figure 3.1. More standards are needed for public officials on their interactions with lobbyists

Specific duties and standards of conduct related to lobbying activities for public officials



Source: Additional research by the OECD Secretariat.

Table 3.2. Specific standards for public officials on their interactions with lobbyists

	Executive branch	Legislative branch
Australia	Australian Government Lobbying Code of Conduct	No specific standard
Austria	No specific standard	No specific standard
Belgium	No specific standard	No specific standard
Brazil	No specific standard	No specific standard
Canada	Prime Minister's Guide on Open and Accountable Government (for ministers and ministers of state)	Conflict of Interest Code for members of the House of Commons Ethics and Conflict of Interest Code for Senators
Chile	Law regulating lobbying and the representation of private interests before authorities and civil servants.	Law regulating lobbying and the representation of private interests before authorities and civil servants.
Colombia	No specific standard	No specific standard
Costa Rica	No specific standard	No specific standard
Czech Republic	No specific standard	No specific standard
Denmark	No specific standard	No specific standard
Estonia	No specific standard	No specific standard
Finland	No specific standard	No specific standard
France	No specific standard	No specific standard
Germany	Anti-Corruption Code of Conduct (Annex 1 to the Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration)	No specific standard
Greece	No specific standard	No specific standard
Hungary	Governmental Decree (50N/A2013 (II.25)) on the system for management of integrity in administrative bodies and rules of procedure for reception of lobbyists	No specific standard
Ireland	No specific standard	No specific standard
Iceland	Code of Conduct for Staff in the Government Offices of Iceland	Code of Conduct for Members of the Althingi
Israel	No specific standard	No specific standard
Italy	No specific standard	No specific standard

	Executive branch	Legislative branch
Japan	No specific standard	No specific standard
Korea	No specific standard	No specific standard
Latvia	Cabinet Regulations No. 1 “Values of State Administration and Fundamental Principles of Ethics”	No specific standard
Lithuania	Law on Lobbying Activities	Law on Lobbying Activities
Luxembourg	No specific standard	Code of conduct for Luxembourg MPs on financial interests and conflicts of interest
Mexico	No specific standard	Rules of Procedure of the Senate and the House of Representatives, and related Agreements on Lobbying
Netherlands	No specific standard	No specific standard
New Zealand	No specific standard	No specific standard
Norway	No specific standard	No specific standard
Peru	Law regulating the management of interests in public administration	Law regulating the management of interests in public administration
Poland	Act on Legislative and Regulatory Lobbying	No specific standard
Portugal	No specific standard	No specific standard
Romania	No specific standard	No specific standard
Slovak Republic	No specific standard	No specific standard
Slovenia	Integrity and Prevention of Corruption Act	Integrity and Prevention of Corruption Act
Spain	No specific standard	Code of Conduct for members of the Congress and the Senate
Sweden	No specific standard	No specific standard
Switzerland	No specific standard	No specific standard
Turkey	No specific standard	No specific standard
United Kingdom	Seven Principles of Public Life Civil Service Code	Code of Conduct of the House of Commons Code of Conduct for Members of the House of Lords
United States	No specific standard	House of Representatives Ethics Manual Senate Rules and Standards of Conduct
EU	EC Transparency Rules	Rules of procedure of the European Parliament (Rule 11 Members’ financial interests and Transparency register)

Source: OECD 2020 Survey on Lobbying and additional research by the OECD Secretariat.

Depending on the type of document in which they are included, standards for public officials and their interactions with lobbyists may include:

- the duty to treat lobbyists equally by granting them fair and equitable access
- the obligation to refuse meetings with unregistered lobbyists
- the obligation to report violations to competent authorities
- the duty to register their meetings with lobbyists (through a lobbying registry or open agendas) (Annex Table A A.5).

Public officials require additional guidance to assess the reliability of information

In their interactions with public officials, lobbyists share their expertise, legitimate needs and evidence about policy problems and how to address them. This provides public officials valuable information on which to base their decisions. At times, they may abuse this legitimate process to provide unreliable or inaccurate information. For example, lobbyists may highlight selective findings of scientific studies, dismissing any doubts or criticisms in these studies. They may also support and promote studies that challenge scientific arguments unfavourable to their interests, or highlight the results of studies financed by their own centres and institutes and other organisations, such as think tanks. Findings of studies funded

by a related industry have been shown to be more likely to be favourable to that industry (Vartanian, Schwartz and Brownell, 2007^[5]), with a benefit/risk balance up to four times higher than studies conducted independently (Lexchin et al., 2003^[6]). Public officials may not be aware that the external analysis they consider useful guidance may be biased by private actors, or they may simply not have the time to assess the credibility of sources, and as a result base their decision on biased or false evidence.

When asked about the main risks involved when stakeholders influence policy making, more than a quarter of Parliamentarians cited biased evidence and data (26%), narrowly behind privileged access to policy makers (30%) and lack of transparency (29%). A study conducted in Canada found that 60% of Canadian Parliamentarians consider the challenge of navigating information that may be biased or spun to influence their thinking one of the main barriers to effective, evidence-based decision making (Box 3.2).

Box 3.2. How Canadian Members of Parliament use information

In Canada, an NGO promoting the transparent use of evidence by governments conducted a research project exploring how Canadian Members of Parliament (MPs) find and use information in their work. Based on one-on-one interviews, the study found that while MPs display a commitment to using strong evidence, nearly 60% noted the challenge of evaluating information that may be biased or spun to influence their thinking as a major barrier to effective evidence-based decision making in practice. Credibility was cited by MPs as the most valuable factor in evaluating a source, while managing time constraints and information overload in using science and evidence in their work were also cited as issues.

Among other recommendations, the study suggests that training for policy experts on how to evaluate information could be helpful, especially for policy makers with no background in scientific research.

Source: (Girling and Gibbs, 2019^[7]).

Many governments lack the necessary infrastructure to build connections between the supply and demand for evidence in the policy-making process (OECD, 2020^[8]). Moreover, few governments provide concrete standards for public officials in assessing evidence provided by third parties. In the Netherlands, the Code of Conduct on Integrity in Central Government reminds public officials to consider indirect ways they may be influenced by special interest groups, for example, by financing research (Box 3.3).

Box 3.3. The Dutch Code of Conduct reminds public officials to consider indirect influence

Dealing with lobbyists

“You may have to deal with lobbyists in your work. These are advocates who try to influence decision making to their advantage. That is allowed. But are you always aware of that? And how do you deal with it?”

Make sure you can do your work transparently and independently. Be aware of the interests of lobbyists and of the different possibilities of influence. This can be done very directly (for example by a visit or invitation), but also more indirectly (for example by co-financing research that influences policy).

Consult with your colleagues or supervisor where these situations may be present in your work.

Sometimes it is in the public interest to avoid contacts with lobbyists.”

Source: Extracts from the Dutch Code of Conduct on Integrity in Central Government, <https://zoek.officielebekendmakingen.nl/stcrt-2019-71141.html>.

Similarly, in November 2019, Australia published specific guidelines to counter foreign interference in the Australian university sector, in order to, among other objectives, “deter and detect deception, undue influence, unauthorised disclosure or disruption” to research in Australian universities (Box 3.4).

Box 3.4. Australia’s guidelines to counter foreign interference in the universities

In August 2019, the Australian Government set up a taskforce to provide guidelines for universities against foreign interference, including representatives of universities, national security organisations and the Department of Education. In a context where “foreign actors are pursuing opportunities to interfere with Australian decision makers across a range of sectors in Australian society – including the university and research sectors”, the guidelines published in November 2019 aim to support universities and decision makers in assessing and providing adequate responses to the risks of foreign interference. They focus on four main areas:

- cybersecurity
- research and intellectual property
- foreign collaboration
- culture and communication.

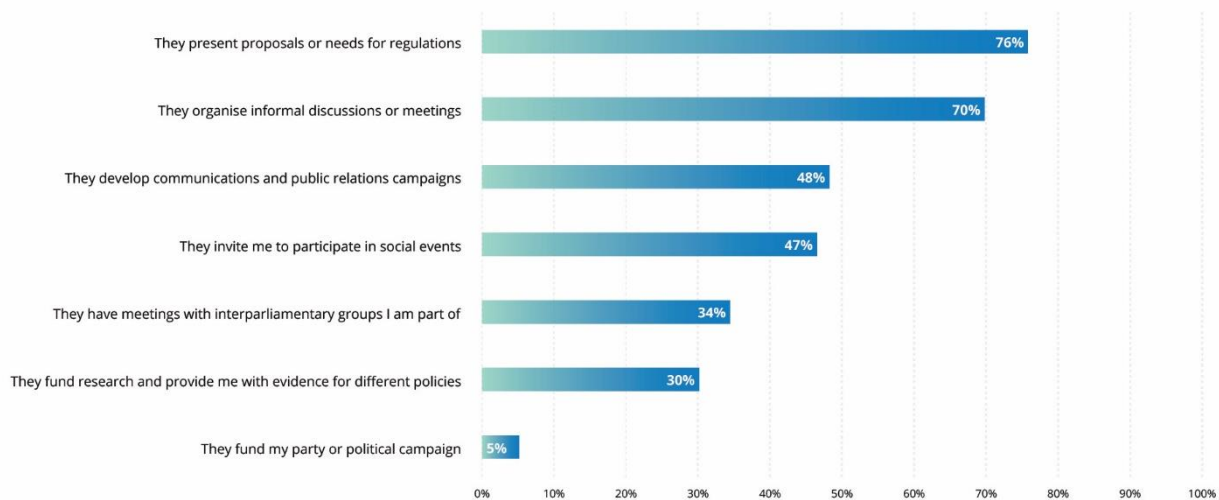
Source: Australian Government Department of Education, Skills and Employment, The University Foreign Interference Taskforce, <https://www.education.gov.au/ufit>.

During the COVID-19 crisis, some countries developed detailed guidelines, at the government or the organisational level, for policy makers and health authorities on decision making in times of crisis. For example, Ireland’s Department of Health published an “Ethical framework for decision making in a pandemic”, which includes ethical principles and procedural values to be applied in decision-making processes during a pandemic (Government of Ireland Department of Health, 2020^[9]).

Rules on gifts, invitations and hospitalities are robust, but need continued attention

Beyond direct engagement with public officials, an additional strategy for influencing public officials is to offer incentives such as gifts and benefits. This strategy also involves creating opportunities for public officials and lobbyists to engage with each other, for example by inviting decision makers to participate in seminars and conferences. Members of Parliament surveyed noted that issuing invitations to participate in social events was a common practice used to influence their decisions (Figure 3.2).

Figure 3.2. Common practices used to influence Members of Parliament’s decisions



Note: Members of Parliament were asked to answer the following question (three answers possible): “It is common for parliamentarians to be approached by lobbyists and other actors with the aim of influencing their decisions. What are the three most common practices that actors use to influence your decisions?”

Source: OECD 2020 Survey on Lobbying.

In most countries, a gift and benefit policy is set out in specific civil service laws or codes of conduct (Box 3.5). These provisions usually include the following aspects:

- a prohibition on accepting gifts, or on accepting gifts beyond a certain value;
- a duty to report gifts received and/or a threshold under which gifts can be accepted without being reported;
- specific provisions and conditions on invitations to participate in public events and associated social events.

Box 3.5. The Dutch Code of Conduct on Integrity has guidelines on accepting gifts and benefits

In relation to specific gifts, the Netherlands' Code of Conduct on Integrity in the Central Public Administration notes that public officials may receive invitations (excursions, trips, dinners and invitations to events) from third parties and encourages government officials to discuss these invitations in advance with their manager. As an example, the Code cites "attending a sports event in the VIP lounge at the invitation of an external business relation" as a sensitive issue.

The Code of Conduct also recognises that it may be useful and desirable for civil servants to be invited for their expertise as a speaker or member of an expert panel, in commercially organised conferences and symposiums, for example, if the activity is important for developing, explaining or disseminating policies. However, the Code also includes principles for accepting requests for speaking at conferences. Public officials must discuss this in advance with their manager, who then determines whether the invitation can be accepted. The public official should not receive any financial compensation.

The final decision lies with management; here too, transparency and openness are necessary to make a detailed assessment.

Source: Netherlands Code of Conduct for Integrity in the Central Public Administration, <https://www.government.nl/documents/decrees/2017/02/10/code-of-conduct-for-integrity-in-the-central-public-administration-2016>.

Countries with a specific framework on lobbying and rules on the acceptance of gifts, benefits and other advantages may impose specific conditions and/or restrictions on such activities by lobbyists. This is the case, for example, in the United States. The ethical rules of the U.S House of Representatives impose stricter rules on gifts and travel offered by a registered lobbyist or an agent of a foreign principal (Box 3.6).

Box 3.6. US House of Representatives' rules prohibiting gifts and travel from lobbyists

The US House of Representatives Ethics Manual explicitly prohibits gifts offered by lobbyists. A Member, officer or employee of the House of Representatives may not accept any gift from a registered lobbyist, agent or a foreign principal, or a private entity that retains or employs such individuals. Other gifts that are expressly prohibited include:

- anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer or employee of the House;
- charitable contributions made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation or other specification of a Member, officer or employee of the House;
- a contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer or employee;
- a financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat or similar event, sponsored by or affiliated with an official congressional organisation, for or on behalf of Members, officers or employees of the House.

Members, officers and employees may accept virtually any gift below USD 50 from other sources, with a limitation of less than USD 100 in gifts from any single source in a calendar year.

Invitations to travel, both in their official and personal capacities, are considered as gifts to Members, officers and employees, and are thus subject to the same prohibitions as other gifts.

Source: US House of Representatives Gift Rule.

The revolving door is still a concern, despite strict standards for managing conflicts of interest.

A “conflict of interest” involves a conflict between the public duty and private interests of a public official, in which public officials have private-capacity interests that could improperly influence the performance of their official duties and responsibilities (OECD, 2004^[10]). In this case, the influence is not exercised by another party or lobbyist, but by the private and conflicting interests of the public official. The Lobbying Principles state that public officials should disclose relevant private interests and avoid conflicts of interest. All countries have standards, rules and procedures to deal with conflicts of interest (OECD, 2015^[11]). Given their discretionary powers, elected officials and senior civil servants are at greater risk of facing conflicts of interest. In general, a majority of countries have set up regulations specifically dealing with conflicts of interest for members of cabinet, senior civil servants, appointed public officials, and members of parliament (Figure 3.3). At the EU level, rules dealing with conflicts of interest also apply to Members of the European Commission (EC), Members of the European Parliament, as well as all EU civil servants.

During the COVID-19 crisis, some countries have included conflict-of-interest provisions in the stimulus packages that prohibit funds from being allocated to businesses controlled or owned by senior public officials and certain immediate family members. For example, the Coronavirus Aid, Relief and Economic Security (CARES) Act in the United States includes conflict-of-interest rules to ensure that companies in which high-level public officials have an equity interest may not be eligible for emergency relief.

Figure 3.3. Regulations dealing with conflicts of interest for certain categories of public officials

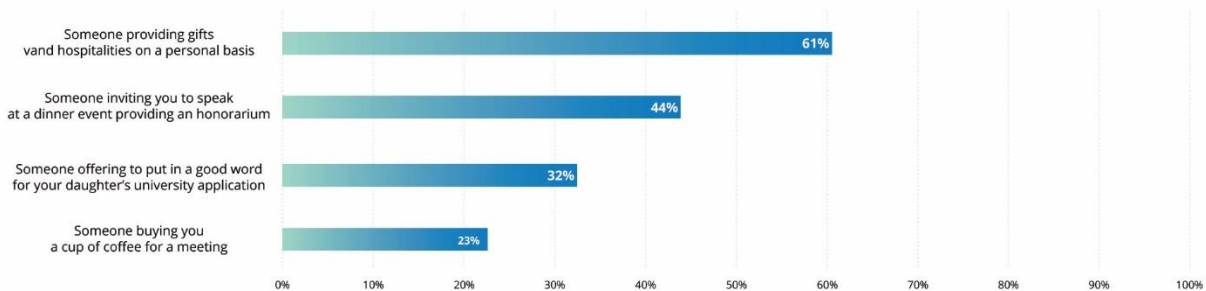
	A specific conflict of interest regulation applies to members of legislative bodies	A specific conflict of interest regulation applies to ministers or members of the cabinet	A specific conflict of interest regulation applies to appointed public officials (e.g. political advisors and appointees)	A specific conflict of interest regulation applies to senior civil servants (not elected)
Australia	✓	✓	✓	✓
Austria	✓	✓	✗	✗
Belgium	✗	✓	✓	✓
Brazil	✗	✓	✓	✓
Canada	✓	✓	✓	✓
Chile	✓	✓	✓	✓
Colombia	✓	✓	✓	✓
Costa Rica	✓	✓	✓	✓
Czech Republic	✓	✓	✓	✓
Denmark	✗	✓	✓	✓
Estonia	✓	✓	✓	✓
Finland	✗	✓	✓	✓
France	✓	✓	✓	✓
Germany	✗	✓	✗	✗
Greece	✓	✓	✓	✓
Hungary	✓	✓	✓	✓
Iceland	✗	✓	✓	✓
Ireland	✓	✓	✓	✓
Israel	✓	✓	✓	✓
Italy	✗	✓	✓	✓
Japan	✗	✓	✗	✓
Korea	✓	✓	✓	✓
Latvia	✓	✓	✓	✓
Lithuania	✓	✓	✓	✓
Luxembourg	✓	✓	✓	✓
Mexico	✗	✓	✓	✓
Netherlands	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓
Norway	✗	✓	✓	✓
Poland	✗	✗	✗	✓
Peru	✓	✓	✓	✓
Portugal	✓	✓	✓	✓
Romania	✓	✓	✓	✓
Slovak Republic	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓
Spain	✓	✓	✓	✓
Sweden	✓	✓	✓	✓
Switzerland	✓	✓	✓	✓
Turkey	✗	✗	✗	✗
United Kingdom	✓	✓	✓	✓
United States	✓	✓	✓	✓
✓ Yes	29	39	36	38
✗ No	12	2	5	3

Source: OECD Product Market Regulation Indicators, 2018, and additional information provided by delegates of the Working Party of Senior Public Integrity Officials (SPIO).

Conflict of interest standards normally require that a public official identifies the conflict and reports it, usually in the first instance to their manager, so the conflict can be managed or resolved (either through removal, recusal, transfer or resignation). Standards, rules and procedures require public officials to disclose their private interests to ensure transparency and allow scrutiny. Such disclosure systems are widespread throughout OECD governments. Public disclosure of interests before or upon entry into and at the end of public functions can help determine whether a public official's decision has been compromised by a private interest, such as former or outside employment, board memberships or financial investments. This helps inform the public about the public officials' interests, links and potential biases in policy making, thereby providing an additional mechanism for accountability and scrutiny. The information made public can then be reused for investigative purposes by political opponents and journalists, for research by academia and think tanks, or for accountability reasons by civil society organisations.

Even if rules and procedures have been established, public officials may still face difficulties with ethical dilemmas and unanswered questions on how to behave in specific circumstances, and to avoid putting themselves in a conflict of interest. For example, 39% of legislators surveyed declared that they have no concrete guidelines on how to behave when they are offered gifts and benefits, and 56% when being invited to speak at an event with an honorarium (Figure 3.4).

Figure 3.4. Legislators note a lack of guidelines on dealing with specific integrity dilemmas



Note: Legislators were asked the following question: "Are there any guidelines on how to react (for example: Accept offer/ Accept and include in public agenda/ Do not accept / Do not accept and report the person who offered) in everyday situations."

Source: OECD 2020 Survey on Lobbying.

One of the main risks and concerns related to conflicts of interest is the revolving-door phenomenon. The Lobbying Principles state that "[c]ountries should consider establishing restrictions for public officials leaving office in the following situations: to prevent conflict of interest when seeking a new position, to inhibit the misuse of 'confidential information', and to avoid post-public service 'switching sides' in specific processes in which the former officials were substantially involved. It may be necessary to impose a 'cooling-off' period that temporarily restricts former public officials from lobbying their past organisations. Conversely, countries may consider a similar temporary cooling-off period restriction on appointing or hiring a lobbyist to fill a regulatory or an advisory post." Movement between the private and public sectors results in many positive outcomes, notably the transfer of knowledge and experience. However, it can also provide an undue or unfair advantage to influence government policies if not properly regulated.

Ensuring integrity in the policy-making process and lobbying activities also involves establishing both rules of procedure for joining the public sector from the private sector and vice versa, as well as cooling-off periods tailored to the level of seniority.

Post-public employment

Post-employment restrictions and prohibitions can help prevent use of insider information to disadvantage a former employer or competitors, to discourage influence peddling, and to avoid the suspicion of rewarding past decisions that may benefit a prospective employer. They can take several forms:

- prohibition from conducting any lobbying activity or prohibition from influencing or defending the cause of their new company, client, business associate or employer with members of the government and staff of a public organisation with which the public official was connected;
- prohibition from using information not available to the public and obtained during their time in office;
- prohibition from giving advice using information not available to the public and obtained during their time in office, or on entities in which they were employed or had a substantial relationship;
- restrictions on certain private activities, such as accepting board membership or employment in entities with which they had significant official dealings, or engaging in consultant activities.

One of the challenges in setting-up post-employment provisions lies in finding an adequate balance between codifying rules and restrictions to safeguard the integrity of public decisions, without unduly affecting individuals' careers or public service efficiency.

In Germany, the Civil Service Act stipulates cooling-off periods for civil servants after they have left public service or have reached retirement age. For members of the government and parliamentary state secretaries, the federal government may prohibit, either wholly or in part, taking up gainful or other employment for the first 18 months after leaving office, where there is a concern that such employment will interfere with the public interest. Decisions on a prohibition are taken after a recommendation from a three-member advisory body.

In Spain, the legal framework is used to encourage companies to comply with post-public employment legislation. Law 9/2017 on public sector contracts reinforces the obligation to post the employment activities of high-ranking officials, to minimise conflicts of interest. In particular, companies that have hired anyone who is under the two-year cooling-off period and violates the prohibition on providing services in private companies directly related to the competencies of the position formerly held are prohibited from contracting with any public administration, if the violation has been published in the Official State Gazette. The prohibition on contracting will remain for as long as the person is hired, with the maximum limit of two years from their termination as a high-ranking official.

Most countries have established cooling-off measures for public officials in the executive branch, but fewer have adopted provisions for members of legislative bodies (Figure 3.5). Similarly, revolving-door measures at the EU level are provided for members of the EC, although there is no cooling-off period for Members of Parliament (Box 3.7). In the Netherlands, a circular adopted in October 2020 – “Lobbying ban on former ministries” – prohibits ministers and any officials employed in ministries to take up employment as lobbyists, mediators or intermediaries in business contacts with a ministry representing a policy area for which they previously had public responsibilities. The length of the lobbying ban is two years. The objective of the ban is to prevent retiring or resigning ministers from using their position, and the knowledge and network they acquired in public office, to benefit an organisation employing them after their resignation. The secretary-general of the relevant ministry has the option of granting a reasoned request to former ministers who request an exception to the lobbying ban (Overheid.nl, 2020_[12]).

Figure 3.5. Provisions on cooling-off periods

	Members of legislative bodies	Ministers and members of Cabinet	Appointed public officials	Senior civil servants
Australia	✗	✓	✓	✓
Austria	✗	✗	✗	✓
Brazil	✗	✓	✓	✓
Belgium	✗	✗	✗	✗
Canada	✓	✓	✓	✓
Chile	✗	✗	✗	✗
Colombia	✗	✓	✓	✓
Costa Rica	✗	✗	✗	✗
Czech Republic	✗	✓	✓	✓
Denmark	✗	✗	✗	✗
Estonia	✗	✗	✗	✗
Finland	✗	✗	✗	✗
France	✗	✓	✓	✓
Germany	✗	✓	✓	✓
Greece	✗	✗	✗	✓
Hungary	✗	✓	✓	✓
Iceland	✗	✓	✓	✗
Ireland	✗	✓	✓	✓
Israel	✓	✓	✓	✓
Italy	✗	✗	✓	✓
Japan	✗	✓	✗	✓
Korea	✓	✓	✓	✓
Latvia	✓	✓	✓	✓
Lithuania	✓	✓	✓	✓
Luxembourg	✗	✓	✗	✗
Mexico	✗	✓	✓	✓
Netherlands	✗	✓	✗	✗
New Zealand	✗	✗	✗	✗
Norway	✗	✓	✓	✓
Poland	✗	✓	✗	✗
Portugal	✓	✓	✓	✓
Romania	✗	✗	✗	✓
Slovak Republic	✓	✓	✗	✗
Slovenia	✓	✓	✗	✗
Spain	✗	✓	✓	✗
Sweden	✗	✗	✗	✗
Switzerland	✗	✗	✗	✗
Turkey	✗	✗	✗	✗
United Kingdom	✗	✓	✗	✓
United States	✓	✓	✓	✓
✓ Yes	11	26	20	25
✗ No	30	19	21	16

Notes:

Countries were asked the following question: "Is there a national regulation establishing a cooling-off period after leaving office that applies to the following public officials?"

The data was extracted from the OECD Product Market Regulation Indicators (2018).

Source: OECD PMR 2018.

Box 3.7. Post-employment rules at the EU

Members of the EC

The Code of Conduct for Members of the EC observes a two-year “[scrutiny period](#)” (three years for the former Commission President) during which commissioners must notify the EC of the professional activities in which they intend to engage during this period. If the intended activity is linked to the commissioner’s former portfolio, the Commission must first consult an Independent Ethical Committee before approving the activities.

Members of the European Parliament

The Code of Conduct for Members of the European Parliament (MEPs), Article 6, requires former MEPs who engage in professional lobbying activities directly linked to the EU decision-making process to inform the Parliament. During the period they are engaging in those activities, they may not benefit from the facilities and privileges granted to former MEPs. These include, for example, access to Parliament premises and use of Parliament documentation.

European civil service

Members of the European civil service leaving their position and beginning a new job within two years must obtain authorisation from the relevant institution. If the activity is related to work carried out during their last three years in service and might conflict with the legitimate interests of the institution, the institution may forbid it or approve it, subject to conditions.

Senior officials (directors-general and directors) are prohibited, in the 12 months after leaving service, from engaging in lobbying activities targeting their former institutions on matters for which they were responsible in their last three years in service.

Source: Code of Conduct for Members of the EU; Code of Conduct for Members of the European Parliament; Staff regulations for Members of the European civil service.

In cases where public officials who choose to seek private employment face a period of inactivity, it is also the practice in some countries to provide proportionate arrangements, such as indemnities, allowances or compensations involving all or part of the former salary. In France, members of the government receive an allowance for three months after termination of their public functions; the allowance is equivalent to their former monthly salary if they filed their end-of-function asset declaration to the relevant authority. However, these arrangements usually do not cover the whole cooling-off period, nor do they apply to the whole scope of functions covered by revolving-door regulations (OECD, 2020^[3]). In Norway, senior public officials can be given a “temporary disqualification” for up to six months from taking a new role outside the public sector. In such cases, the official receives remuneration for this period.

Not all countries apply sanctions for violating cooling-off periods. For example, a breach of cooling-off statutory provisions is not considered an offence under the Lobbying Act in Ireland, and the Standards in Public Office Commission cannot impose sanctions on those who fail to comply with these provisions.

In countries with post-employment restrictions and established responsible functions in charge of monitoring, only 20% of governments reported that most detected breaches are in fact sanctioned. Practical challenges arise in checking all notifications of future employment or remunerated activity, and the ability of the responsible institutions to issue an informed approval, or disapproval, and sanction former officials in cases of violations. In addition, the absence of a notification, where public officials are bound by legal requirements to notify of any new private employment, and in situations that the legal framework does not cover (e.g. the former public officials are no longer within the legal period covered by the requirement

but still have useful “insider information” or the networks they have established as a public servant) pose additional challenges in enforcing revolving-door provisions.

Pre-public employment

Private sector representatives joining the public sector can also pose significant risks of conflict of interest. In some countries, revolving-door regulations also cover lobbyists joining the public sector. Provisions covering them take the form of a pre-public employment cooling-off period. Most pre-public employment measures take effect during the recruitment processes (OECD, 2015^[11]). They can take various forms, such as bans and restrictions for a limited period, interest disclosure prior to or upon entry into functions, ethical guidance, pre-screening integrity checks or reference checks (Box 3.8).

Box 3.8. Restrictions on private-sector employees being hired to fill a government post

France

In France, Article 432 of the Penal Code places restrictions on private-sector employees appointed to fill a post in the public administration. For a period of three years after the termination of their functions in their previous employment, they may not be entrusted with the supervision or control of a private undertaking, with concluding contracts of any kind with a private undertaking or with giving an opinion on such contracts. They are also not permitted to propose decisions on the operations of a private undertaking or to formulate opinions on such decisions. They must not receive advice from or acquire any capital in such an enterprise. Any breach of this provision is punished by two years’ imprisonment and a fine of EUR 30 000.

In 2020, the High Authority for Transparency in Public Life (HATVP) was tasked with a new “pre-nomination” control for certain high-ranking positions. A preventive control is carried out before an appointment to one of the following positions, if an individual has held positions in the private sector in the three years prior to the appointment:

- director of a central administration and head of a public entity whose appointment is subject to a decree by the Council of Ministers.
- director-general of services of regions, departments or municipalities of more than 40 000 inhabitants and public establishments of inter-municipal co-operation with their own tax system with more than 40 000 inhabitants.
- director of a public hospital with a budget of more than EUR 200 million.
- member of a ministerial cabinet.
- collaborator of the President of the Republic.

United States

Once they have taken office, former private-sector employees and lobbyists are subject to a one-year cooling-off period in situations where their former employer is a party or represents a party in a particular government matter. This restriction applies not only to former private-sector employees and lobbyists, but also to any executive branch employee who has, in the past year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee of an individual, organisation or other entity.

In the case of an employee who has received an extraordinary payment exceeding USD 10 000 from their former employer before entering government service, the employee is subject to a two-year cooling-off period with respect to that employer.

Israel

The restrictions imposed on private sector employees hired to fill a post in government vary according to the circumstances of each case. A candidate who was a partner in a law firm or an accounting firm before being appointed to public office is required to retire from the partnership and to refrain from dealings involving that business, its other partners and its employees for two years. In addition, the candidate must undertake to forgoing professional relations with the business, its partners and its employees, and not to view the accounting records, documents or any other information relating to the business. A candidate who, prior to appointment, was part of the management of a private corporation, will be required to resign from this position and to refrain from dealing with issues related to the organisation and the holders of controlling interests in the corporation for two years. These restrictions are defined in an internal document prepared (and updated) by the Ministry of Justice and are used by all government ministries and their subsidiary units.

Source: Additional research by the OECD Secretariat.

Tailored guidance and support for future public officials is also essential and may take various forms. For example, pre-public employment screening can yield tailored recommendations for portfolio or personal arrangements, to avoid potential conflicts between officials former and prospective functions. However, the effectiveness of such mechanisms depends on the human, technical and financial resources devoted to them.

Guidance, capacity building and awareness raising can be increased

The Lobbying Principles call on Adherents to raise awareness of expected rules and standards, and enhance skills and understanding of how to apply them. Guidance and training material, as well as advice and counselling, serve to provide clarity and practical examples, facilitate compliance and help avoid the risk of misinterpreting standards and policies. They give public officials the knowledge and skills necessary to manage integrity issues appropriately, and seek out advice when needed.

Most countries do provide guidance, build capacity and raise awareness of integrity standards and values for public officials. This may include induction or on-the-job training, disseminating the code of conduct, and issuing posters, computer screen-savers, employee boards, banners, bookmarks and printed calendars. Training opportunities offered to public officials and members of parliament commonly include guidelines on values and standards, expected behaviour, and concrete examples of good practices, ethical dilemmas and descriptions of potentially problematic situations. The content and regularity of training on integrity for public officials varies, and depends on the overall size of the public service, the human and financial resources dedicated to capacity-building, and whether integrity training is mandatory or voluntary, or intended for categories of public officials exposed to specific risks (OECD, 2020^[3]).

Guidance and consultation are also provided by dedicated integrity bodies, units or personnel. The integrity advisory function can take different forms: within a central government body, through an independent or semi-independent specialised body; or through integrity units or advisors within line ministries. Their role is usually to provide advice on solving ethical dilemmas and to help public officials understand the rules and ethical principles of the civil service (OECD, 2020^[3]).

These approaches generally cover the standards of conduct and values of the public service, but they could further enhance understanding and knowledge on the risks associated with lobbying and the behaviour expected of public officials. In countries that have developed specific integrity standards on lobbying, the majority also provide guidance on how to apply regulations and guidelines. Assistance may be available online, or by calling a specific hotline or e-mailing a dedicated contact (Figure 3.6).

Figure 3.6. Guidance for officials, lobbyists and citizens on interactions with lobbyists, in selected countries

	On a website/dedicated webpage	Calling a hotline or e-mailing an identified contact	Training opportunities offered by public authorities
Australia	✓	✓	✗
Austria	✓	✓	✗
Canada	✓	✓	✓
Chile	✓	✗	✗
France	✓	✓	✓
Germany	✓	✓	✗
Hungary	✓	✗	✓
Iceland	✗	✗	✗
Ireland	✓	✓	✓
Latvia	✗	✗	✗
Lithuania	✓	✓	✓
Luxembourg	✗	✓	✗
Mexico	✓	✗	✗
Peru	✗	✗	✗
Poland	✓	✓	✗
Romania	✓	✗	✗
Slovenia	✓	✓	✓
Spain	✗	✗	✗
United Kingdom	✓	✓	✓
United States	✓	✓	✗
EU	✓	✗	✓

Source: OECD 2020 Survey on Lobbying.

As for legislators, the majority have declared they can rely on an integrity function within their organisation or a specialised institution to guide their interactions with lobbyists. In France, for example, the HATVP provides individual confidential advice upon request to the highest-ranking elected and non-elected public officials falling within its scope, and provides guidance and support to their institution when one of these public officials requests it, within 30 days of receiving the request (HATVP, 2016^[13]). In Ireland, the issue of guidance to promote awareness and understanding is embedded in the Lobbying Act, and the Standards in Public Office Commission provides tailored guidance to various categories of public officials (Box 3.9).

Box 3.9. Tailored guidance for public officials in Ireland

In Ireland, Article 17 of the Lobbying Act specifies that “the Commission may issue guidance about the operation of this Act and may from time to time revise or re-issue it”, and “may make available specific information to promote awareness and understanding of this Act”.

The website www.lobbying.ie contains specific guidance for public officials covered by the provisions of the Law (“designated public officials”), including:

- general guidance for public officials to ensure that they understand how the system works, how they fit into it and how they can assist in supporting implementation of the legislation
- guidance for Members of the Dáil, Members of the Seanad and Members of the European Parliament representing the Irish government
- guidance for Local Authority Members
- guidance on the cooling-off period.

Source: <https://www.lobbying.ie/help-resources/information-for-dpos/>.

Integrity trainings specifically addressing interactions with lobbyists are rare. Of legislators surveyed, 64% reported that they had not received training or information on how to engage with lobbyists. Most countries surveyed provide training and awareness-raising activities on specific issues, such as integrity in interactions with third parties on an *ad hoc* basis. In Slovenia, lobbying rules are reviewed twice a year at a seminar organised by the Administrative Academy (Box 3.10).

Box 3.10. Slovenia’s Commission for the Prevention of Corruption training for public officials

In its mission to prevent corruption, the Commission for the Prevention of Corruption offers free education and training opportunities for all public sector organisations in Slovenia.

Once a public institution has identified specific needs, such as conflict-of-interest rules, whistle-blower protection, lobbying regulation or any other area in the scope of the commission, the entity may issue a request to the commission. The request should also highlight the specific ethical dilemmas or concerns of the institution, as well as issues that public officials have encountered in their work.

After careful examination of the needs, issues and concerns, the commission presents training options and programs to the requesting institution.

The commission regularly invites all public officials to attend a seminar organised twice a year by the Administrative Academy. All areas of the Integrity and Prevention of Corruption Act are reviewed, as well as safeguards for integrity in interactions between public officials and lobbyists. The commission is also available at any point to provide ongoing guidance and answer questions.

Source: (Commission for the Prevention of Corruption, 2020^[14]).

Companies and lobbyists need a full integrity framework to engage in policy making

Companies and lobbyists are critical actors in the policy-making process, providing government with insights, evidence and data to help them make informed decisions. However, they can also at times undermine the policy-making process by abusing legitimate means of influence, such as lobbying, political financing and other activities. The Lobbying Principles call on lobbyists, and their clients, as the ordering party, not to abuse legitimate means of influence. To that end, in-house and consultant lobbyists “should conduct their contact with public officials with integrity and honesty, provide reliable and accurate information, and avoid conflict of interest in relation to both public officials and the clients they represent, for example by not representing conflicting or competing interests.”

Companies and lobbyists are under an increasingly high degree of scrutiny from all stakeholders, notably their own employees, investors and the public. This has significantly increased the expectations regarding their level of and their commitment to integrity in engaging with the policy-making process. Their business culture and long-established lobbying practices face the following challenges:

- Companies and lobbyists need comprehensive, detailed integrity standards.
- Misalignment between companies’ public commitments and lobbying practices reduce trust in public decision making.

Companies and lobbyists need comprehensive, detailed integrity standards

Lobbyists (whether in-house or as part of a lobbying association) require clear standards and guidelines that clarify the expected rules and behaviour for engaging with public officials. This ensures integrity in the policy-making process. As in the 2014 report, codes of conduct are the chief support of integrity in the lobbying process. Of the 144 lobbyists surveyed, 80% stated that they follow a code of conduct. This code of conduct might be issued by their employer, the lobbying association (Box 3.11), whereas or the government (Table 3.3). In some cases, lobbyists stated that they followed all three.

Box 3.11. Code of Conduct of the Society of European Affairs Professionals (SEAP)

In 1997, SEAP adopted a Code of Conduct, (since revised), that includes seven articles: integrity, transparency, accuracy, confidentiality, conflicts of interest, former EU personnel, and compliance. All SEAP members are bound by the Code.

Under the article on integrity, SEAP members are required:

- to act with honesty and integrity at all times, conducting their business in a fair and professional manner across all channels, including social media;
- to treat all others, including colleagues, competitors, and staff, officials or members of the EU institutions, with respect and civility at all times;
- not to exert improper influence on, nor offer to give, either directly or indirectly, any financial inducement to staff, officials or members of the EU institutions.

Under the article on transparency, SEAP members are required to:

- maintain the highest standards of professionalism in conducting their work with the EU institutions;
- be open and transparent in declaring their name, organisation or company, and the interest they represent;
- neither intentionally misrepresent their status nor the nature of their inquiries to the EU institutions nor create any false impression in relation thereto;
- strongly consider registering on the EU Transparency Register.

Under the article on accuracy, SEAP members are required:

- to take all reasonable steps to ensure the truth and accuracy of all statements made or information provided by them to the EU institutions;
- not to disseminate false or misleading information, either knowingly or recklessly; exercise proper care to avoid doing so inadvertently and to correct any such act promptly;
- not to obtain any information from the EU institutions by illicit or dishonest means.

Source: SEAP, <https://seap.be/about-seap/our-code-of-conduct/>.

Table 3.3. Standards for lobbyists developed by countries

	Lobbyists
Australia	Australian Government Lobbying Code of Conduct
Austria	Lobbying and Advocacy Transparency Law
Belgium	Code of Conduct appended to the Chamber of Representatives' Rules of Procedure
Canada	Lobbying Act Lobbyists' Code of Conduct
Chile	Law regulating lobbying and the representation of private interests before authorities and civil servants (<i>Ley que regula el lobby y las gestiones que representen intereses particulares ante la autoridades y funcionarios</i>) Code of practice for lobbyists (<i>Código de buenas prácticas para lobbistas</i>)
Colombia	No standard
Czech Republic	No standard
Denmark	No standard
Finland	No standard
France	Ethical obligations listed in Law No. 2013-907, Law on transparency, the fight against corruption and the modernisation of the economy Senate Code of Conduct for interest representatives National Assembly Code of Conduct for Interest representatives
Germany	Principles of honest representation of interests and Code of Conduct
Greece	No standard
Hungary	No standard
Ireland	Regulation of Lobbying Act Code of Conduct for persons carrying on lobbying activities under the Regulation of Lobbying Act
Iceland	No standard
Israel	Knesset Law, 57-541994, Chapter 12
Italy	Regulation of interest representation activities in the offices of the Chamber of Deputies, and associated guidelines
Japan	No standard
Korea	No standard
Latvia	No standard
Lithuania	Law on Lobbying Activities (Article 4, "Rights and duties of lobbyists"); Code of Ethics for Lobbyists
Luxembourg	No standard
Mexico	Rules of Procedure of the Senate and the House of Representatives, and related agreements on lobbying
Netherlands	No standard
New Zealand	No standard
Norway	No standard
Peru	Regulation of Law No. 28 024 regulating the Management of Interests in the Public Administration (<i>Reglamento de la Ley N° 28 024 que regula la Gestión de Intereses en la Administración Pública</i>)
Poland	No standard
Portugal	No standard
Slovak Republic	No standard
Slovenia	Integrity and Prevention of Corruption Act
Spain	No standard
Sweden	No standard
Switzerland	No standard
Turkey	No standard
United Kingdom	Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act
United States	Lobbying Disclosure Act
EU	Code of Conduct for lobbyists

Source: OECD 2020 Survey on Lobbying and additional research by the OECD Secretariat.

As for the standards governments adhere to, the ethical obligations and integrity standards for lobbyists usually include:

- Ethical obligations related to registration, for example the duty to certify that the information disclosed is correct.
- Standards of conduct on how they interact with public officials, for example the obligation to inform public officials that they are conducting lobbying activities and the interests they represent, a duty to present accurate information or not to make misleading claims (Annex Table A A.6).

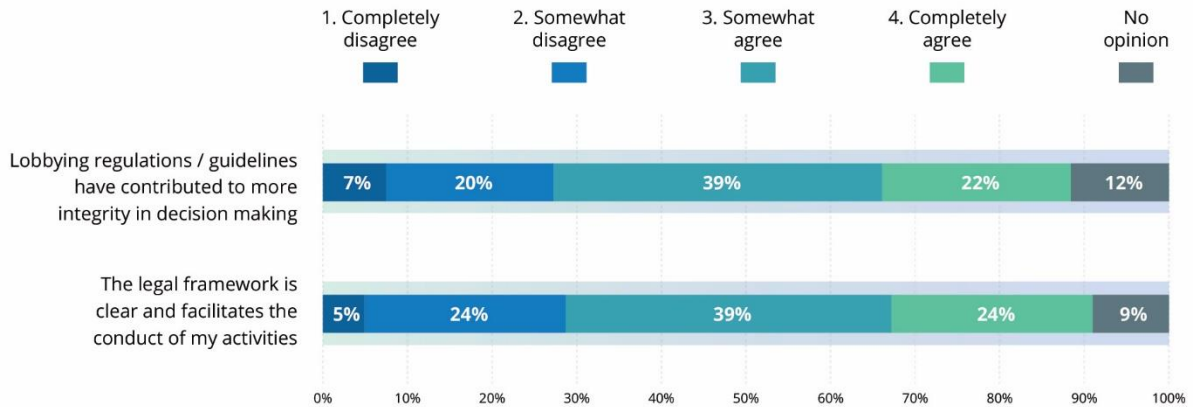
While the specific content of the standards varies depending on the organisation, there have several characteristics in common, including transparency about who the lobbyist is representing, compliance with the organisation or association's ethical principles, providing truthful and evidence-based information, and where applicable, registering in the applicable jurisdiction's lobbying register. However, in instances where lobbyists are covered by more than one code of conduct, issues of coherence and interpretation may arise. Some lobbyists noted variations in terms and definitions, as well as expectations for conduct.

Moreover, multinational companies vary widely in the lobbying policies that detail the standards they expect, depending on the industry and the region where a company is headquartered. Companies in the oil and gas, pharmaceuticals, agriculture and tobacco sectors tend to have detailed policies, while companies in the banking and finance and renewable energy sectors tend not to establish policies on lobbying. Likewise, companies that have headquarters in regions with established regulations on lobbying tend to have more detailed policies, whereas companies whose headquarters lie outside such jurisdictions often have less robust or even no policies at all to guide lobbying practices.

The divergences in these standards, coupled with inconsistent coverage, raise concerns about the quality of the standards in place for lobbyists, and suggest a need to improve standards to help lobbyists engage with integrity in their interactions with policy makers. To some degree, governments are providing guidance to lobbyists to support compliance with lobbying regulations and policies. However, the lobbyists surveyed indicated that this guidance is limited to providing instructions on how to register on the relevant portal or webpage. Only a few governments provide training on compliance, and this guidance is only forthcoming when the government itself has lobbying regulations and policies in place.

These findings suggest that additional guidance on integrity in lobbying could be of benefit to lobbyists. Only a minority of lobbyists surveyed felt that the existing regulations and guidelines were adequate to ensure integrity in decision making (Figure 3.7). Some noted difficulties in engaging with public officials and legislators, since such officials felt uncomfortable talking to lobbyists. Others noted that the regulations were not clear, failing to specify who was a lobbyist and what lobbying entailed. To address such concerns, governments must set standards to clarify what lobbying is, which rules apply, and to whom.

Figure 3.7. Lobbyists' opinion on how far lobbying regulation and policies have helped promote integrity in decision making



Source: OECD 2020 Survey on Lobbying.

While lobbying has been a core tool for engaging with governments, it is not the only method companies use to influence the policy-making process. For example, they can channel their influence by financing political parties or election campaigns, or by funding research or think tanks to generate knowledge and insights on particular policy issues. Just as with lobbying, using such measures to engage in policy making is legitimate and helps inform the policy-making process. However, financing of political parties or election campaigns that exploits legal loopholes, or funding of think tanks or research to manipulate data or evidence, is a clear violation of integrity principles. In companies with inadequate governance standards, unconstrained activities to influence policy-making processes, carried out directly or indirectly, can have serious repercussions and raise concerns for shareholders, investors and consumers. Governments could thus consider establishing standards that clarify how to ensure integrity, with a range of measures companies can use to influence public policy. Standards could cover issues such as ensuring the accuracy and plurality of views, promoting transparency in the funding of research bodies and think tanks, and managing and preventing conflicts of interest in the research process (Box 3.12). One option would be to address issues concerning the use of evidence and data, since impartial and reliable evidence is critical for designing, implementing and assessing public policy decisions (OECD, 2017^[15]). The legislators surveyed noted that academic papers (78%) and think tanks' contributions (42%) are important or very important sources for formulating public policy. However, 27% of respondents also saw biased evidence and data as a major risk emerging from stakeholders who seek to influence policy making. Setting clear standards for companies on providing data and evidence could help ensure integrity in decision making.

Box 3.12. Using evidence to shape policy making: The UK's Royal Society and Academy of Medical Sciences

“Evidence synthesis” refers to the process of gathering information from a range of sources and disciplines to inform debates and decisions on various issues. Recognising the challenge of providing quality evidence synthesis to inform policy making, the Royal Society and the Academy of Medical Sciences in the United Kingdom developed a set of principles outlining the core features of good evidence synthesis to inform policy making. The aim is to ensure that those who provide research and advice to policy makers do so in an inclusive, rigorous, accessible and transparent manner.

Inclusive:

- Policy makers are involved and the information is relevant and useful to them.
- Many types and sources of evidence are considered.
- A range of skills and people are used.

Rigorous:

- The most comprehensive, feasible body of evidence is used.
- Biases are recognised and minimised.
- Evidence is independently reviewed as part of a quality assurance process.

Accessible:

- The synthesis is written in plain language, is available in a suitable timeframe and is freely available online.

Transparent:

- The research question, methods, sources of evidence and quality assurance process are clearly described.
- Complexities and areas of contention are communicated.
- Assumptions, limitations and uncertainties, including any gaps in the evidence, are acknowledged.
- Personal, political and organisational interests are declared and managed.

Applying these principles makes evidence “likely to be more credible, replicable and useful”.

Source: The Royal Society and the Academy of Medical Sciences, 2018, <https://royalsociety.org/topics-policy/projects/evidence-synthesis/>.

Companies and trade associations can also influence policy making by recruiting former public officials on the basis of their expertise in an area, or because of their connections. Their connections, however, represent a grey area that can give rise to conflicts of interest. While many countries have established policies to address this issue, only a minority of companies have such policies. Companies and lobbyists could strengthen their recruitment policies to ensure that integrity values are applied. For example, Nestlé has clarified the expectations for recruiting former public officials in its lobbying policy, noting that “If employing former public officials, measures should be taken to fully understand and comply with the rules and regulations laid down by the government, the relevant institution and with established best practices, in particular with regards to confidentiality and potential conflict of interest” (Nestlé, 2017^[16]).

Companies are under significant public scrutiny for a variety of reasons. Reviewing a company's lobbying activities is becoming standard practice. For example, some shareholders of publicly listed companies have become particularly active in recent years by putting resolutions to vote and demanding increased transparency in lobbying activities (Australasian Centre for Corporate Responsibility, 2020^[17]; Bloomberg, 2020^[18]). Investors have similarly started to consider lobbying activities when assessing a company's sustainability profile, as well as the use of tools to improve transparency and to challenge questionable behaviour. Investors such as the Climate Action 100+, a group of 545 investors responsible for nearly USD 52 trillion in combined assets under management, have similarly started to consider lobbying activities in assessing a company's sustainability and risk profile (InfluenceMap, 2020^[19]).

This higher level of scrutiny needs to be accompanied by better standards and accountability mechanisms to ensure that lobbying activities do not conflict with companies' broader societal engagements. While numerous benchmarks are used to measure companies, if applied inconsistently, they can prevent forming a coherent and comprehensive approach, leaving too companies with too many risks and uncertainties. The Lobbying Principles' further standards, which are comprehensive, detailed and realistic, may be needed to guide lobbyists and companies' progress in this area.

Misalignment between companies' public commitments and lobbying practices reduce trust in public decision making

The Lobbying Principles state that lobbyists and companies also have an obligation to encourage a culture of integrity in lobbying, and maintain trust in public decision making in their relations with public officials, with other lobbyists and companies, and with the public. However, a company that publicly commits itself to an issue, then simultaneously lobbies against it, can compromise its relationship with the public. Trust in the public decision-making process also suffers. This misalignment can raise serious credibility issues for companies, and have an impact on investor and consumer decisions. The main cause of such misalignment is often due to a lack of co-ordination between the company's government affairs branch and the corporate social responsibility branch (Favotto and Kollman, 2019^[20]).

Misalignment is not a new concern (Favotto and Kollman, 2019^[20]; Lyon et al., 2018^[21]; UN Global Compact, 2013^[22]; UN Global Compact, 2005^[23]; WWF, 2005^[24]) and has prompted initiatives on responsible lobbying, calling for better and more consistent alignment within a company (Box 3.13). Yet, such misalignments remain and are now more evident than before, given the increased demand for transparency and scrutiny of companies' conduct.

Box 3.13. The United Nations Global Compact: How to align a company's broader vision and its government affairs agenda

In 2005, the UN Global Compact introduced a framework on responsible lobbying with a six-step lobbying “health check”:

1. Alignment: are the lobbying positions of the company in line with their strategy and actions, and universal principles and values?
2. Materiality: is the company lobbying on issues that affect its organisation and stakeholders?
3. Stakeholder engagement: is the company open and responsive to stakeholders in developing and debating their lobbying positions?
4. Reporting: is the company transparent about its lobbying positions and practices?
5. People: does the company know who is conducting lobbying activities on its behalf and where its spheres of influence are?
6. Processes: are management systems and guidelines in place to ensure that a company's practices are effective and align with their core strategies and policies?

Source: (UN Global Compact, 2005^[23]).

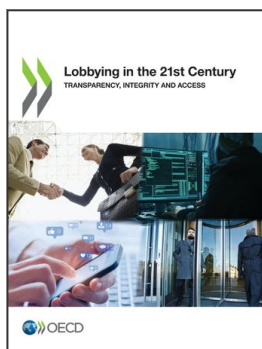
In addition to in-house misalignment, misalignments may also occur between a company and the industry associations to which it belongs. This is probably more relevant to the integrity of lobbying activities, given that it is often industry associations that are doing most of the lobbying, rather than individual companies. Such misalignment can also occur due to the diversity of interests represented in such associations. Where an association's membership is divided on an issue, the position lobbied may risk becoming the “lowest common denominator,” since oppositional voices are often the loudest. This trend appears to be particularly salient in the context of climate change lobbying, where an industry association can adopt a position that directly contradicts a member company's broader sustainability agenda and undermines stakeholder trust. The “lowest common denominator” trend also runs the risk of distorting policy development, as it presents policy makers with a position that appears to represent the full membership of an industry association, but only represents a small minority of interests. As a result, certain companies have started reviewing their alignment with industry associations. For example, Shell reviewed its relationship with 19 industry associations (of the more than 100 to which it belongs) to assess whether its participation in industry associations was undermining the goals of the Paris Agreement. The review showed that Shell's position was aligned with nine industry associations and had “some misalignment” with nine others. As a result, the company decided not to renew its membership with one industry association (Shell, 2019^[25]). Total and BP have also withdrawn from some industry associations.

In addition to reviewing the membership, it may be necessary to go further and introduce disclosure requirements, so that industry associations make policy makers aware of positions that represent only some of their members. More-detailed integrity standards on lobbying for lobbyists and companies may be needed, to specify the due diligence requirements companies should undertake to make sure that their government affairs and sustainability agendas, as well as those of the lobbying and industry associations they participate in, are in line with one another.

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From:
Lobbying in the 21st Century
Transparency, Integrity and Access

Access the complete publication at:

<https://doi.org/10.1787/c6d8eff8-en>

Please cite this chapter as:

OECD (2021), "Integrity", in *Lobbying in the 21st Century: Transparency, Integrity and Access*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/6fc7abd2-en>

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