

# GOOD PRACTICE IN COMMUNICATING WITH LOBBYISTS FOR OFFICIALS

## Introduction

Lobbying and communication with stakeholders are part of the democratic decision-making process. To ensure that lobbying and communication with stakeholders would be transparent and comprehensible to all, officials must be guided by the principles established below.

## Definitions

**Lobbying** – the direct or indirect structured and organised communication of lobbyists with officials (civil servants, policy-makers, or their representatives) to influence policy decisions and protect their interests. Lobbying does not involve the meetings of officials with citizens to resolve personal matters unless such meetings concern the citizens' wider business interests. Lobbying does not include communication between representatives of the executive power of the state or communication with members of the Riigikogu or representatives of local governments.

**Policy decisions** – in this good practice, policy decisions include, for example, legislation and its drafts, strategic documents (directions, strategies, concepts, programmes, action plans, etc.), and other policy decisions in the area.

**Lobbyist** (including advocate) – either a natural or legal person who, through lobbying, is engaged in standing for interests, whether those of the private sector, the public sector, or any group of society, with or without remuneration. For example, the following are considered lobbyists:

- lawyers, consultants, public relations specialists, etc.;
- chambers of commerce and industry;
- professional and commercial associations;
- trade unions;
- non-governmental organisations;
- other organisations, associations, and persons representing interests that have an impact on public life.

Officials, civil servants, diplomats, and political parties are not be considered lobbyists in the course of their duties.

**Related person** – a natural or legal person, the list of which is given in section 7 of the Anti-corruption Act; this term also extends to those who otherwise influence the official or with whom they are interdependent.

## Application

The good practice in communicating with lobbyists applies to members of the management of the ministry, the Secretary of State, and heads of other government authorities and their deputies (hereinafter: official).

## Principles

1. The **official follows** the **principles of equal treatment** and **transparency** when planning and implementing policy decisions. Transparency includes openness, communication, and accountability of public authorities and requires information on the authority's activities, processes, rules, and plans.

*The government has endorsed the Good Practice of Involvement, which aims to involve stakeholders and the public in shaping decisions that affect them to ensure the best possible quality and legitimacy of decisions. This provides a general*

framework for shaping public decisions and is also the basis for this 'Good Practice in Communicating with Lobbyists for Officials', but covers a wider range of policy decisions (e.g. supports) than just drafts and strategies.

**Consistent with the guidelines**

*When preparing an amendment to the law, the official meets with stakeholders in the field representing differing opinions to make a decision. The decision will ultimately be made by the minister, informed of the views of those stakeholders, while respecting their political convictions and programme and justifying their choices.*

**Not consistent with the guidelines**

*Before amending the law, the official agrees to meet only with the stakeholders supporting their position.*

2. The **official** or a person related to them **must not accept or ask for any gifts** or other benefits from the **lobbyist** with whom they are in contact as a result of their duties or the persons the lobbyist represents, except for usual courtesies. Any gifts intended for the authority will be enlisted in accordance with the applicable procedure.

*The Anti-corruption Act only allows for professional benefits that can be considered a common courtesy, otherwise they will be considered income derived from corrupt practices. Common courtesy means, for example, souvenirs with a company logo, a box of candies, etc., which are given to one's cooperation partners and for which there is no question of anyone's special treatment or desire to influence. For example, paying for a foreign visit by a stakeholder may be questionable. However, the official's actions must not only be honest but also appear honest. Gifts can be directed to both the authority and a specific official. For example, a painting provided by a foreign delegation is likely to be for the authority and must be registered with the authority.*

**Consistent with the guidelines**

*The official participates in a fair with entrepreneurs, where they introduce the state user experience. The costs of the official's participation in the fair are covered by the ministry.*

**Not consistent with the guidelines**

*A former business partner of the official, who currently works as a lobbyist in the official's area of responsibility, wishes to meet them. A few months later, the official and the lobbyist travel together for a business trip and the official's expenses are paid by the lobbyist.*

3. **If an official has worked as a lobbyist** or in the interests of persons represented by a lobbyist immediately before assuming office, **they must refrain from actions** or decisions regarding the lobbyist or the persons represented by the lobbyist **for a year**.

*The revolving door effect is a form of corruption that involves a change of position, where information, networks, etc. obtained at the previous position significantly affect the next one and can culminate in so-called regulatory capture. The revolving door effect can occur both when moving from the public sector to the private sector and vice versa. This case is about a person who has worked as a lobbyist who continues their hobby activities in a public office, for example, belonging to an NGO and pursuing their policy in the ministry. In such a case, the official should withdraw from the decisions and actions for at least a year. A 'direct' job as a lobbyist or advocate refers to a recent activity, and the definition of time must be based on the principle of reasonableness – it may mean the job that preceded the current job, but in some cases also earlier if the time spent at the previous job was very brief, for example.*

**Consistent with the guidelines**

*The official's previous job was in a non-profit association, which was actively involved in the protection of its interests towards the ministry and also received support from the ministry. As an official of the ministry, they withdraw from decisions to prepare and grant support.*

**Not consistent with the guidelines**

*The official's previous job was as a consultant in an association of entrepreneurs. They propose an amendment to the law in the ministry that directly promotes the interests of the previous employer (e.g. increasing supports, lowering taxes, etc.).*

4. The **official must not enter into a contractual relationship** with a **lobbyist** or the persons they represent with whom they have direct professional contact and who affects them.

*The Government of the Republic Act prohibits members of the government from combining certain positions, but allows them to work research and teaching. The Civil Service Act allows officials to carry out ancillary activities, limiting them in certain cases, e.g. if the volume or nature of the ancillary activity prevents the regular performance of official duties and if the ancillary activity results in a breach of duties of employment. The Anti-corruption Act prohibits decisions and actions regarding related persons, who may also be lobbyists. These guidelines recommend that officials refrain from engaging in ancillary activities with lobbyists with whom they have direct contact. This restriction does not apply if the authority has a contract with a lobbyist, but the official's duties are not affected by communication with that lobbyist. If the official has a contractual relationship with a lobbyist (engages in consultation, etc.) and while in office, the official has to make a decision regarding the lobbyist, then in cases of a permanent relationship, they must give up the ancillary activities, while in a one-time case, they need to follow the Anti-corruption Act and withdraw from the decisions, i.e. apply a procedural restriction (section 11 of the Anti-corruption Act).*

**Consistent with the guidelines**

*From time to time, the official acts as a consultant to a law firm whose clients include a company whose interests the law firm represents before the official's employer. The official themselves has no contact with this area.*

**Not consistent with the guidelines**

*From time to time, the official acts as a consultant to a law firm whose clients include a company whose interests the law firm represents before the official's employer and which operates in a field for which the official is responsible.*

5. Upon leaving office, the **official refrains from being employed** by a lobbyist or the persons they represent in respect of whom they made direct decisions during their last year in office, with which an advantage or benefit is involved that affects solely the lobbyist or the persons they represent.

*This is also a case of the revolving door effect – the official moves from the public to the private sector. This restriction avoids, for example, a situation where the official is later given a job with the lobbyist in return for standing up for the interests of the lobbyist. This restriction does not prevent the official from going to work for the lobbyist and the persons they represent if they did not make direct decisions in relation to the lobbyist or did not directly influence the formation of those decisions. This means that the official can go to work in a law firm where they established professional contacts during the preparation of a draft, but did not make decisions on the proposals of the law firm in the framework of lobbying. In addition, the official is able to work for a lobbyist who was one of many recipients of a benefit, not the main or only one. Working for a lobbyist is not recommended if the lobbyist is the sole recipient of the benefit (e.g. specific support for a specific company). This means that on the basis of the collective decisions of the government and general principles (e.g. support schemes and an order affecting numerous persons), the restriction to work for a lobbyist or and the persons they represent does not apply. The restriction is valid until one year after leaving office (a so-called cooling period). The restriction does not preclude the official from returning to their former job (e.g. in a consulting firm) in the private sector if the conditions set out in this clause are met.*

**Consistent with the guidelines**

*After leaving office, the official goes to work in a company that operates in the same field they curated as an official.*

**Not consistent with the guidelines**

*The official who was influenced by a lobbyist to waive an increase in excise duty takes up employment with the company which hired the lobbyist within one year of leaving office.*

6. The **official refrains from lobbying** with regard to their former authority for at least one year after leaving office.

*This clause complements the previous one. If the official goes to work with a lobbyist, etc., they cannot lobby towards their former authority for one year – at that time, they may still have relatively up-to-date inside information and knowledge of planned policy decisions, which must be avoided in the interests of impartiality.*

**Consistent with the guidelines**

*After leaving office, the official works for a new employer, but withdraws from the tender by which the new employer participates in the procurement process for a contract with their former authority.*

**Not consistent with the guidelines**

*The official shares with the new employer the information received as an official that has not yet been published, which allows the new employer to easily set its strategic goals.*

7. **The official informs the public** at least quarterly on the authority's website of any meeting with stakeholders and lobbyists that takes place in the course of their professional activity (official meetings).

7.1. The following information must be published:

- the topic of the meeting;
- the name and organisation of the lobbyist or the persons they represent;
- the name of the official;
- the date of the meeting.

7.2. An official does not have to inform the public about participation in public events if the information is already available to the public.

7.3. Information about meetings or communications will be kept on the website until it is no longer necessary.

7.4. Information, the disclosure of which is prohibited by law, including information that would damage the state's foreign relations or endanger national security, must not be disclosed.

- *Information on the meetings that have taken place is published on the websites of authorities on a quarterly basis.*
- *Each government authority is responsible for disclosing such information itself, i.e. no central lobby register is established.*
- *As a general rule, formal meetings that have been agreed in advance will be made public. This means that information about meetings held in the course of official activities must be published, for example meetings in the official's calendar or those agreed on by prior arrangement. There is no need to report private meetings or meetings that take place at random, such as a casual meeting in a gym, during someone's birthday, in a theatre, etc. Meetings that took place digitally and conference calls must also be reported.*
- *The following information must be published:*
  - *the topic of the meeting (e.g. the draft Income Tax Act, the draft environmental charges, the privatisation of state land, the provision of support to dairy farmers, etc.);*
  - *the name of the lobbyist or the persons they represent (e.g. Kaarel Tamm – MTÜ Loomaarstid);*
  - *the name of the official;*
  - *the date of the meeting.*
- *The information must be public on the Internet until the need has passed, i.e. until the relevant draft, decision, etc. has been adopted.*
- *It is not necessary to publish information about conferences and other public events where the official makes a presentation or participates in a roundtable about which the information is already known to the public (e.g. there is a public announcement about it, etc.). However, private meetings in the context of a conference aimed at lobbying should be made public.*
- *Disclosure of information must comply with the law and is not permitted if the meetings concern classified information or in cases where disclosure would endanger the country's foreign relations or national security.*

### *Implementation*

8. The **official** who is subject to this good practice **must read through** this **practice** upon assuming office.

9. The **head of the authority ensures** the **implementation of** this **practice** and the functioning of supervision measures in their authority.