

Navigating the lobby labyrinth

A guide to transparency and ethics for MEPs



CHECKLIST

| No. | Theme | Do | Don't |
|-----|--------------------------------|--|--|
| 1. | Code of Conduct | Do make fullest possible declaration | Don't leave fields blank |
| 2. | Conflicts of interest | Do think carefully about possible conflicts of interest - and act to avoid these | Don't hold onto private interests which could create a future conflict with MEP work |
| 3. | Second jobs and shareholdings | Do disclose all second jobs | Don't hold side employments and shares that might create potential conflicting interests with your public mandate, such as positions or shares in companies or organisations involved in EU lobbying |
| 4. | External funding | Declare all external support | Don't accept external funding for office |
| 5. | Revolving doors | Do adopt a voluntary 2 year cooling off period on lobby jobs | Don't accept the transitional allowance if you have found a new job |
| 6. | Unregistered lobbyists | Do encourage unregistered groups to join register | Don't meet with unregistered lobbyists |
| 7. | Tobacco industry lobby | Do declare that you will not meet tobacco industry lobby | Don't meet with tobacco lobbyists |
| 8. | Meetings with lobbyists | Do prepare well | Don't be misled |
| 9. | Proactive transparency | Do promptly publish lists of meetings held | Don't meet with lobbyists who refuse to be transparent |
| 10. | Legislative footprint | Do publish a 'live' legislative footprint when acting as rapporteur or shadow | Don't wait until the report is already finalised to publish the Legislative Footprint |
| 11. | Right of access to documents | Respond openly to requests for access to documents | Don't refuse to respond to requests for legalistic reasons |
| 12. | Cross-party groups | Do treat with caution | Don't join secretive, industry-funded groups |
| 13. | External amendments | Do treat with caution | Don't table external amendments verbatim |
| 14. | Hospitality | Do treat with caution | Don't accept industry-funded trips |
| 15. | Hosting events | Do treat with caution | Don't host industry events |
| 16. | Unethical lobbying | Do report it | Don't give in to pressure |
| 17. | Consult all sectors of society | Do gather varied opinions | Don't exclude citizens from decision-making |

1. Comply fully with the current Code of Conduct for MEPs

It goes without saying that the current MEP Code of Conduct¹ should be adhered to at all times by MEPs and used as a minimum standard for ethical and transparent behaviour.

According to the Code of Conduct users' guide², MEPs should submit updated declarations of interest within 30 days if there are any major material changes in their outside interests. But it is also good practice for MEPs to review and submit an updated declaration every three to six months, so that citizens can be confident that the declarations remain an accurate reflection of all MEPs' current declarable interests.

In particular, we strongly recommend that MEPs **submit declarations of interest that are detailed, complete and disclose:**

- ▶ All remunerated occupations held by Members, and all non-remunerated directorships, board positions, trustee and advisory roles
- ▶ All sources of additional income, even if it does not exceed the €5000 threshold set out in the code
- ▶ Shareholdings
- ▶ Assets (property, investments, life insurance policies, business assets)

In boxes where an MEP has nothing to declare, **it is better to write this** than to leave it blank.

¹ http://www.europarl.europa.eu/pdf/meps/201206_Code_of_conduct_EN.pdf

² http://www.europarl.europa.eu/pdf/meps/CoC_Users_Guide_draft4web_EN_rev.pdf

2. Tackle conflicts of interest

The Code of Conduct Article 3.2 says that *"Any Member who finds that he or she has a conflict of interest shall immediately take the necessary steps to address it, in accordance with the principles and provisions of this Code of Conduct. If the Member is unable to resolve the conflict of interest, he or she shall report this to the President in writing. In cases of ambiguity, the Member may seek advice in confidence from the Advisory Committee on the Conduct of Members, established under Article 7."*

However, the MEPs' users' guide only stipulates that conflicts of interest must be declared, as opposed to

eliminated outright³. While we fully support transparency, it is not sufficient to be transparent about conflicts of interest – these should be **proactively addressed and eliminated**.

ALTER-EU believes that it is **inappropriate for MEPs to have any conflicts of interest and that they should divest themselves of all outside interests which could improperly influence or conflict with their work as an MEP**. This most obviously arises where MEPs hold second jobs and/or shareholdings that may put them, or risk putting them, in a situation of conflict of interest.

³ http://www.europarl.europa.eu/pdf/meps/CoC_Users_Guide_draft4web_EN_rev.pdf

3. End second jobs and/ or shareholdings that risk causing conflicts of interest

MEPs are banned from being paid to influence or vote on European parliamentary activities, under Article 2 of the Code of Conduct. Providing paid or otherwise rewarded advice to someone involved in lobbying the Parliament is therefore a direct breach of this rule.

However, the Code of Conduct is ambiguous when it comes to defining conflicts of interest that may arise from shareholdings or second jobs, which is why ALTER-EU recommends that the Code be revised. Until then, we recommend that **MEPs do not undertake roles such as sitting on advisory boards, providing lobby advice, or acting as a lawyer for clients, if these are involved in influencing policy-making at the EU level.**

We further consider that MEPs should not own shareholdings that could provoke a conflict of interest with their work as an MEP, for example if these enterprises are involved in EU lobbying. New MEPs should divest themselves of such shareholdings when taking office.

Many MEPs earn additional income from writing, giving occasional lectures, or even from small family businesses such as farms. We do not think MEPs should be banned from second jobs that are not related to EU policy-making. However, all additional income should be declared and time-consuming second jobs should be avoided, so that voters are assured that MEPs devote the maximum amount of time to their important parliamentary work.

ALTER-EU recommends that Article 2 be extended so that MEPs cannot hold lobby or representation jobs that invoke a **fiduciary duty that requires them to act in the interest of another individual or organisation.** This is because such roles could provoke the risk of a conflict of interest by impinging on the MEPs' duty to act solely in the interest of their voters and the public at large. To see our full list of recommendations on how to improve the MEP Code of Conduct, visit <http://www.alter-eu.org/documents/2015/03/reform-of-code-of-conduct-for-meps>.

4. Refuse office funding from external sources

MEPs must declare any material external support received towards office costs or staff salaries, according to Article 4.g of the Code of Conduct. ALTER-EU considers that **no MEP should accept funding from any external source** (other than their political party) towards these

costs. Our view is that MEPs already receive generous publicly-funded allowances and they should not jeopardise their independence by accepting other contributions, particularly if these external actors are involved in EU lobbying.

5. Put a stop to the ‘revolving door’

The members of the ALTER-EU coalition are very concerned about the way in which former EU-insiders are recruited by lobby firms or big business as part of their influencing strategies.

Unfortunately the MEP Code of Conduct has very little to say about this ‘revolving door’ phenomenon, so we recommend that **MEPs be cautious about the possible conflicts of interest (or public perceptions of conflicts of interest) that could arise from MEPs moving into private sector jobs that are related to their previous EU portfolios.**

MEPs who wish to avoid accusations that they may abuse their political position to secure future careers should follow these guidelines:

- ▶ Adopt a voluntary two year cooling-off period after leaving office before accepting any EU-related lobby job
- ▶ Do not negotiate or accept new job contracts while still in office
- ▶ Do not accept the transitional allowance if you have accepted a new job with equivalent pay

In addition, the Code of Conduct for MEPs (Article 6) prevents ex-MEPs from using their lifelong access pass for lobbying purposes. You should take action if you suspect that a former MEP is lobbying without a lobbyist badge, for instance by alerting the Advisory Committee on the Conduct of Members.

6. Avoid meetings with unregistered lobbyists

The MEP Code of Conduct does not prevent or restrict MEPs from meeting anyone and currently, the EU only has a voluntary lobby register.⁴

However, we believe that it is good practice for **MEPs to refuse to meet with lobby organisations that are eligible to join the lobby register but have failed to do so**. At the moment, too many lobbying consultancies, law firms engaged in lobby work, and major companies, refuse to sign up to the register. MEPs are uniquely placed to stop this from happening, simply by refusing meetings with unregistered lobbyists.

In line with the register itself, we strongly recommend that if an organisation is in any way engaged in “*activities carried out with the objective of influencing the policy*”

⁴ <http://ec.europa.eu/transparencyregister/info/homePage.do>

formulation and decision-making processes of the European institutions”, it should register. ALTER-EU has produced a guide to help organisations to make the fullest possible transparency register declaration⁵.

However, there are some exemptions to the need to register. Individual citizens, SMEs or small grassroots constituents’ groups could be exempt from this, especially when they only occasionally approach EU institutions. But formal organisations, businesses or campaign groups (even those within constituencies) that do attempt to influence EU policies should register, and MEPs could actively encourage them to do so.

⁵ http://www.alter-eu.org/sites/default/files/documents/2012 ALTER-EU_CSCG_guidelines_Transparency_Register.pdf

7. Avoid contacts with the tobacco industry

MEPs should **avoid meetings and contacts with the tobacco industry lobby as far as possible.**

MEPs are bound by World Health Organisation guidelines on tobacco-related public health policies, which seek to limit regulators' contacts with the tobacco industry lobby in almost all circumstances.

The World Health Organisation Framework Convention on Tobacco Control requires, in Article 5.3, that all parties *“act to protect these [tobacco-related] policies from commercial and other vested interests of the tobacco industry in accordance with national law”*. The WHO's accompanying guidelines stipulate that decision-makers *“should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.”*

The guidelines state *“where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently”*.

This means that MEPs should rarely have a need to meet with members of the tobacco industry lobby. Yet, ALTER-EU discovered that during the discussion on the Tobacco Products Directive in the previous Parliament, no less than 233 MEPs (almost one third) had met a Philip Morris International lobbyist on at least one occasion. The EU is bound by the WHO FCTC and as such, MEPs should **avoid meetings and contacts with the tobacco industry lobby as far as possible. In any case, MEPs should always be transparent about such lobbying contacts, as detailed below.**

8. Prepare well for meetings with lobbyists

We recommend that before meeting with a lobby group **MEPs check various sources of information to learn more about the group** and to ensure that you are well briefed. Such sources might help identify front groups or other deceptive lobbying tactics. For example, some lobby organisations use seemingly neutral names to imply that they are independent or grassroots in nature, when they are in fact set-up and funded by lobby firms or big business.

Where to find information about lobby groups:

- ▶ EU Lobby transparency register entry: <http://ec.europa.eu/transparencyregister/public/homePage.do>
- ▶ LobbyFacts.eu
- ▶ Openinterests.eu
- ▶ Lobbypedia.de (in German)
- ▶ Powerbase.info
- ▶ National lobby registers

EXAMPLE BEES BIODIVERSITY NETWORK

In June 2012, days before an important UN summit on sustainable development, the European Parliament played host to the “European Week of the Bee and Pollination”. This included a high-profile conference inside the European Parliament and a large flower garden in front of the Parliament building, organised by a group called the **Bees Biodiversity Network**. However, the Bees Biodiversity Network is in fact a front group with close links to a large agrochemical corporation that produces pesticides and which has a strong interest in downplaying their harmful role by drawing attention to other causes of bee starvation.

9. Publish lists of meetings with lobbyists online

There are already some examples of good practice among current MEPs who are **proactively transparent about meetings and / or correspondence with lobbyists** and we strongly encourage all MEPs to follow suit and **adopt procedures to maximise the information in the public domain about the lobbying that you encounter as an MEP**.

Good practice examples

- ▶ Green MEP [Sven Giegold](#) lists all the interactions he has had with lobby groups, including the name of the group involved, a list of all invitations, requests for meetings, correspondence, the decision they are targeting, and information about how those proposals were dealt with.
- ▶ S&D MEP [Richard Corbett](#) publishes information about meetings with lobbyists and other organisations every three months on his website. He demands that the organisation is on the EU transparency register before agreeing to a meeting.
- ▶ The UK conservative group twice per year publishes a list of lobby meetings held by its MEP members on <http://conservativeeurope.com/transparency>

To be most effective, such proactive transparency systems should be updated as regularly as possible and should be published online in a way that allows members of the public to download, export and compare the data.

10. Enact a legislative footprint

The legislative footprint, as currently defined, is an annex to a European Parliament proposal, dossier or report, which details the stakeholders that have been consulted and had an important role during the preparation of the report.

The European Parliament adopted a Resolution in 2008 in which it calls on rapporteurs to enact legislative footprints on a voluntary basis. It also recommends that the Commission do the same with legislative files.

We believe that any **MEPs acting as rapporteur or shadow rapporteurs should produce a legislative footprint for each of their reports**. Other transparency organisations such as Transparency International have made similar recommendations.

The legislative footprint report should be **detailed enough to show citizens how a piece of legislation was shaped, and by whom**. Ideally, this information would be published **well before the final report is adopted**, so that citizens can follow the ‘live’ decision-making process in detail, and not after it is already adopted.

It is worth noting that many legislative proposals do not lead to the adoption of a piece of legislation. In fact, some lobbying activities can kill legislative proposals, meaning that legislation is not enacted. This is why it is so important to routinely provide information about lobby contacts.

11. Respect the right of access to information and EU documents

Article 15.3 of the Treaty on the Functioning of the European Union guarantees that EU citizens have a right of access to documents held by the EU institutions, offices, bodies and agencies, “whatever their medium”.

The right of access to information is a fundamental human right that is necessary for the exercise of freedom of expression. Furthermore, without **information**, citizens cannot participate in the EU’s decision-making processes or hold EU officials to account.

EU Regulation 1049/2001 on public access to EU documents applies to the European Parliament, but not to individual MEPs per se. The Parliament is obliged to respond to requests for information within 15 working days and can only refuse access to information that is covered by a particular exemption. **The premise is that public access to information is the norm and secrecy the exception.**

ALTER-EU recommends that **MEPs respond to citizens’ requests and questions in a manner that is consistent with the right of access to information**, so that citizens are better able to know what their elected representatives are doing with the power entrusted to them.

12. Cross-party groups: handle with care

As an MEP, you will be aware that there are two kinds of cross-party groups operating in and around the European Parliament: formal intergroups which have preferential access to Parliamentary resources and facilities in Strasbourg, and informal groups.

Informal cross-party groups, in particular, can be lobbying vehicles set-up and funded by industry lobbies and thus they should be treated with caution. We suggest that when invited to an intergroup or cross-party group, MEPs should check if the group is transparent and open: Is it clear who the members and funders are, who sponsors meetings and publications made in the name of the group, and who provides secretarial and administrative services etc?

ALTER-EU advises **against joining any intergroup or cross-party group that is not transparent** about these matters.

13. Amendments drafted by lobbyists: handle with care

It is a widespread practice in the European Parliament for lobbyists (both industry and NGOs) to send proposed amendments to MEPs that often get submitted for voting. This is not an illegal practice, nor it is intrinsically negative, but it can be potentially problematic.

Industry lobbyists in particular are able to devote huge resources to drafting large numbers of detailed, technical amendments and to spend time getting them tabled. Often, several MEPs table identical amendments, or the office of an MEP has tabled hundreds of amendments, raising serious questions about whether the MEP is genuinely understanding and agreeing with what they are submitting or whether they are simply **acting as a channel for external interests**.

ALTER-EU recommends that **MEPs exercise extreme caution and vigilance when using externally-drafted texts**, and they should be sure that they understand and agree with the changes being proposed by outside groups before tabling amendments. We would suggest that externally drafted amendments are gathered as part of the MEPs consultation with stakeholders and then only used verbatim if the MEP fully agrees with the position that they are tabling as a formal amendment. It is important that **any MEP tabling an externally-derived amendment is transparent about its original source, for**

example by listing the organisations and individuals who have suggested amendments to be tabled.

MEPs may wish to submit any draft amendments, voting recommendations or lobby materials to the external website LobbyCloud, which is an online repository of lobby documents that was coded by OpenDataCity and is supported by the EFA/Green group: <https://lobbycloud.eu/>

Alternatively, MEPs could publish these on their own websites.

EXAMPLE Louis Michel

In late 2013, Belgian TV revealed that MEP Louis Michel had tabled no less than 229 amendments to the EU's data protection directive (which regulates the use of online personal data for commercial purposes), including 158 amendments that were strongly anti-privacy. The amendments had been written by two Belgian business lobby groups. The MEP claimed that he was unaware of the amendments being tabled in his name and blamed his advisor, who resigned a few months later. Michel ended up withdrawing part of the amendments.

14. Invites to paid hospitality and travel: handle with care

As you will know, hospitality and travel accepted by MEPs have to be disclosed under the current Code of Conduct. Hospitality offers (from dinners and cocktail parties to all-expenses-paid trips funded by external parties) can be attempts by wealthy interests to influence MEPs and for this reason we recommend that a cautious and **critical approach be taken when considering such invitations**. MEPs should **adopt full transparency around hospitality and travel** regardless of whether or not the cost was greater than €150.

ALTER-EU believes that the MEP Code of Conduct should be revised to reduce the acceptable gift value from €150 to €50 and that MEPs should also be required to estimate the value of the hospitality they are offered by outside actors. To see our full list of recommendations on how to improve the MEP Code of Conduct, visit <http://www.alter-eu.org/documents/2015/03/reform-of-code-of-conduct-for-meps>.

EXAMPLE: Azerbaijan trip

In 2014, seven MEPs became the focus of numerous critical media articles after they failed to disclose travel and hospitality paid by the government of Azerbaijan, which has a problematic human rights record. The seven MEPs were accused not only of violating the Parliament's Code of Conduct, but also of being unduly influenced by the Azerbaijani regime to endorse its elections as "free and fair". In the end the Parliament's president decided not to sanction these MEPs because they updated their online declarations after the fact.

15. Lobbyists asking for help to host events in the Parliament: treat with caution

Sometimes lobbyists will ask an MEP for their help to host events in the European Parliament in the expectation that association with parliamentary premises will give its lobbying activities greater authority and respectability. MEPs are of course free to host any event that they choose, but they should take care to only sponsor events that they genuinely support.

In the past, some MEPs have offered private interests considerable help with organising events, and in some cases this can be controversial. For example, in 2012, the Bees Biodiversity network organised an event hosted by MEP Franco Gaston which caused major controversy when it was revealed that the network was actually a front group for the chemicals giant BASF.

ALTER-EU recommends that MEPs treat such requests with caution; and that **requests for support from lobby groups are carefully analysed on a case-by-case basis so that the MEP knows what interests they are supporting.** In any event, if support is provided, this should be made known to the public and **should be fully transparent.**

16. Challenge unethical lobbying proactively

The Code of Conduct for lobbyists⁶, which is part of the EU lobby register, states that lobbyists should “not obtain or try to obtain information, or any decision, dishonestly, or by use of undue pressure or inappropriate behaviour”. No further information is given about what might constitute inappropriate behaviour.

We consider that unethical or inappropriate lobbying includes actions or activities by lobbyists that **infringe upon the private sphere or personal life of a policy-maker in an attempt to exercise influence**. Examples that have been provided to us by MEPs include unsolicited phone calls to home residences or private numbers (when the MEP has not proactively shared these numbers); seeking-out personal acquaintances in a bid to access decision-makers; or employing “middlemen” to engage in lobbying activities so that it is not clear which interests are being represented.

We strongly recommend that MEPs **speak out if they see unethical or inappropriate lobbying** taking place. This could mean reporting it to the Advisory Committee on the Conduct of Members; submitting complaints to the Parliament’s president; publishing an article; reporting it to transparency watchdogs like ALTER-EU; informing the media etc.

⁶ http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=CODE_OF_CONDUCT

17. Seek input from all sectors of society

Please don’t get stuck in the Brussels bubble!

We know that MEPs are bombarded by paid lobbyists and many have little chance to hear from citizens about their views on topics being debated in Brussels. We recommend that you **actively reach out to citizens at home for guidance on EU decision-making** and don’t rely on paid lobbyists for all your information. **MEPs should open up channels for citizen participation and ensure that they seek multiple viewpoints and sources of information** in order to be better placed to balance the different interests seeking to influence decision-making process.

A word or two about ALTER-EU's own lobbying

ALTER-EU publishes on its website (<http://alter-eu.org>) its position papers, all briefings sent to MEPs and correspondence with key decision-makers such as commissioners.

ALTER-EU may occasionally send MEPs suggestions on how to draft questions for hearings or legislative amendments. We do this in the full hope that MEPs will re-write them according to their own views and we advise all MEPs using such materials to publicly attribute them to ALTER-EU.

Please join our campaign to demand a revised MEP Code of Conduct. In our view, this should include:

- ▶ Stricter regulation of conflicts of interest including second jobs
- ▶ Better declarations
- ▶ Control over revolving doors
- ▶ Independence of oversight

Please contact us if you have any feedback on this guide or would like further information about any aspect of it.

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Navigating the lobby labyrinth

A guide to transparency and ethics for MEPs

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) is a coalition of over 200 civil society groups and trade unions concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe.

ALTER-EU has produced this guide to help Members of the European Parliament (MEPs) navigate the Brussels bubble while maintaining their independence and integrity, especially when it comes to contacts with lobbyists or interest representatives.

The guide is intended to help MEPs demonstrate their commitment to transparency and fulfil their obligations to be receptive to public opinion, open to public scrutiny, and fully independent in order to defend the public interest. It contains tips on what MEPs could do if they want to show leadership in ethics and transparency and highlights potentially problematic lobby areas where ALTER-EU recommends that MEPs exercise caution.

The guide highlights examples of good practice in the fields of ethics and transparency and includes suggestions that go further than the current MEP Code of Conduct.

Since the Code of Conduct for MEPs was introduced in 2011 after the cash-for-amendments scandal, which was widely reported in European media and which caused citizens to question the integrity of the European Parliament, **ALTER-EU has been calling for its improvement.**

ALTER-EU **recommends that the MEP Code of Conduct be revised and strengthened, specifically to avoid and address conflicts of interest.** While this paper provides guidance to MEPs on how best to handle lobby contacts, we believe that revising and strengthening the Code of Conduct, as well as its enforcement mechanisms, is the only way to properly ensure full compliance by all MEPs with sound ethical practice. To read ALTER-EU's detailed recommendations on reforming the MEP Code of Conduct, visit our website: www.alter-eu.org or <http://www.alter-eu.org/documents/2015/03/reform-of-code-of-conduct-for-meps>

