



## FREQUENTLY ASKED QUESTIONS

### SEAP Code of Conduct

The EU Institutions and the register of interest representatives

Other third parties

## SEAP CODE OF CONDUCT

### 1. Why do lobbyists need a code of conduct?

It is a question of ethics. The Commission issued a Communication in 1992 on “an open and structured dialogue with special interest groups”. In the document, the Commission stated that there is a need for the lobbying industry to carve out principles of good behaviour, and that officials should know who is who and who does what. The European Parliament’s provisions on lobbying draw up a similar overview of good behaviour for lobbyists.

The lobbying profession responded to the needs of these institutions by setting up SEAP. The aim was to demonstrate that the profession behaves ethically and that self-regulation is effective. This was achieved via lobbyists membership in SEAP and their adherence to its code of ethics.

The need for such a demonstration was further reinforced by the Commission’s 2008 European Transparency Initiative which established registration and again called on lobbyists to have a code of conduct.

### 2. Who wrote the SEAP code of conduct and how has it developed over time?

The original code was drafted by members of SEAP when the association was set up in 1996. It was revised in 2003 and 2009 under the direction of SEAP’s code of conduct committee. All revisions were approved by the SEAP General Assembly.

The code is intentionally succinct: it lays down principles not a list of do’s and don’ts. The innovation of the 2003 revision was the introduction of sanctions for non-compliance: the ultimate sanction is expulsion from SEAP. The 2009 revision clarified some wording and improved the readability of the code.

### 3. Who is bound by the code of conduct?

All SEAP members are signatories and proud to be bound by the SEAP code.

### 4. How would you define “improper influence” on EU officials (article 1)?

The role of a public affairs professional is to participate in the democratic process, imparting information and influencing the decision-making process. The professional argues for the interests they represent and seeks influence based on the strengths of that dialogue.

Improper influence is when persuasion moves beyond dialogue to bribery, intimidation, misrepresentation or other acts of bad faith. An improper act constrains the ability of the official to take a decision freely.

#### **5. Does the restriction on offering financial inducements apply to normal business hospitality (article 1)?**

There is no hard and fast rule. An inducement is something given with the intention of causing the recipient to act in a way that they would not have done without the inducement.

Normal business hospitality cannot be defined neatly: norms vary between cultures and countries. However, for example, the following may be considered acceptable:

- inviting officials to a business lunch or dinner
- inviting officials to a reception you are hosting

Whether the official accepts is another question.

For example, the following should be considered not acceptable:

- paying for an official to go on holiday for a week
- frequent invitations to the most prestigious restaurants
- hotel and travel expenses that are more generous than those paid to other participants at the same event.

A good test is to ask yourself: "Does this hospitality give the *impression* of undue influence?"

#### **6. Is it acceptable to make a small payment to public-officials to encourage them to take part in research (article 1)?**

The first question to ask is the following:

Is the research an activity that takes place in the context of "making representations to the EU institutions" ?

- If the answer is yes, then the SEAP code under article 1.3 forbids any payment: the size of the "financial inducement" is irrelevant.
- If the answer is no, then a further question follows:

Is the payment intended to influence the outcome of the research?

- If the answer is yes, then the SEAP code under article 1.3 forbids any payment: this is "improper influence".
- If the answer is no, it is just a thank you for the time spent, then there is no prohibition under the SEAP code.

SEAP advises:

- erring on the side of a high ethical stand: a better way to thank an official for neutral participation in research would be to offer to make a payment to a charity nominated by that official from a list of suggested charities;
- that any SEAP member contracting a third party to conduct research ensures the third party is aware of the above guideline to the SEAP Code;
- that any SEAP member contracting a third party to conduct research has reasonable knowledge of the way in which that research will be conducted.

#### **7. Why is there a prohibition on selling documents obtained from the EU institutions to third parties for profit (article 4)?**

It is not ethical to sell for profit documents that have been placed freely in the public domain, nor documents which have been obtained in confidence.

**8. How would SEAP define a conflict of interest (article 5)?**

It is impossible to provide an exhaustive list of what constitutes a conflict of interest. In general terms a conflict of interest arises when someone simultaneously follows two or more competing interests which makes it problematic to represent any one of them objectively.

**9. What are the rules on employing former EU officials (article 6)?**

The Code does not prevent SEAP members from employing former officials of the EU institutions. It does, however, require SEAP members to ensure that when they do employ former officials, the rules of the EU institution are complied with. The Commission's staff regulations stipulate that officials shall "continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments". If an official accepts an offer of employment within two years of having left the service of the Commission, they must notify the Commission. Indeed, if the new employment is related to work done in the last three years and if this could lead to a conflict of interest, the Commission may forbid the official from taking the job.

**10. What will SEAP do about transgressions of the code (article 7)?**

SEAP has an established procedure for dealing with reports of transgressions. Sanctions range from a written warning to expulsion from SEAP.

**11. What can SEAP do about incidents involving non-SEAP members?**

SEAP is unable to take action against a public affairs professional who is not a member of the association.

## **THE EU INSTITUTIONS AND THE REGISTER OF INTEREST REPRESENTATIVES**

**12. What codes do the EU institutions themselves have?**

Each of the institutions has its own regulations, rules of procedures or codes of conduct.

**13. What is the limit on gifts that EU officials can accept?**

The European Commission staff regulations state that officials should not accept from a third party "any honour, decoration, favour, gift or payment of any kind". Commissioners, however, have set themselves a limit of €150 for gifts, with an exception applying to diplomatic gifts.

Likewise the MEP's code of conduct, states that they "shall refrain from accepting any other gift or benefit in the performance of their duties".

**14. What contact does SEAP have with the EU institutions?**

SEAP is in frequent contact with the EU institutions on matters generic to the profession. In the Commission the main points of contact are with the Commissioner

responsible for transparency and the Secretariat General, which is responsible for the implementation of the register of interest representatives. In the European Parliament contact is typically with the Questors who are responsible for access passes. Events are also arranged where possible with each incoming Council Presidency.

#### **15. Does SEAP advise registration for its members on the Commission's Register?**

SEAP as the organisation has registered. SEAP leaves it to its members to decide whether they wish to participate in this voluntary registration. However, for those who do SEAP has issued guidelines to help with definitions, the calculations of financial disclosures and the avoidance of double counting. Where SEAP members do register they should refer to their compliance with the SEAP code of conduct in preference to the Commission's narrower code. SEAP is also in dialogue with the Commission on operational improvements to the register.

#### **16. What improvements in the Commission's Register does SEAP recommend?**

SEAP has written to the Commission and proposed *inter alia* the following improvements:

- guidance from the Commission (in line with SEAP's guidance) to define "direct lobbying"
- a tick box to indicate compliance with the SEAP or another specified code
- a statement that registration should have no effect on any assessment of national VAT liability
- a joint EC and EP register and acceptance of the EP access badge to gain entry to Commission buildings
- an independent body including SEAP representatives to decide upon suspensions from the register according to a transparent procedure.

#### **17. Does SEAP favour a "lobbying disclosure act" along the lines of the USA?**

No. SEAP supports self-regulation made effective by a Code of Conduct, peer-review and sanctions for infringement. Moreover, drawing parallels between Brussels and Washington DC is problematic:

- lobbying receipts are of a different order of magnitude (in 2006 Commissioner Siim Kallas quoted annual figures of €60-90 million in Brussels versus \$5.6 billion in the US)
- the culture of financing politicians and fund raising for political parties in Washington DC is wholly different to the culture of Brussels
- funds used for Brussels lobbying are for advocacy not payments to politicians: such payments are forbidden under the SEAP code.

## **OTHER THIRD PARTIES**

#### **18. What contact does SEAP have with other associations of lobbyists?**

SEAP collaborates closely with:

- the European Public Affairs Consultancies Association EPACA [www.epaca.org](http://www.epaca.org)
- the International Public Relations Association IPRA [www.ipra.org](http://www.ipra.org)
- the European Centre for Public Affairs ECPA [www.publicaffairs.ac](http://www.publicaffairs.ac)

SEAP, EPACA and IPRA presented a common set of principles to Commissioner Kallas in 2007.

Revised September 2009