



## Statutory Register of Consultant Lobbyists: Consultation on the Scope of Guidance for the Register of Consultant Lobbyists.

### Response by the Chartered Institute of Public Relations

#### Introduction

Founded in 1948, the Chartered Institute of Public Relations (CIPR) is the professional body for public relations practitioners in the UK. With around 11,000 members involved in all aspects of public relations, it is the largest body of its type in Europe. The CIPR advances the public relations profession in the UK by making its members accountable to the public through a [code of conduct](#) and [searchable public register](#), and setting standards through best practice guidance, and the provision of education and training. The CIPR was granted its Royal Charter by the Privy Council in February 2005. We welcome this consultation and we welcome the fact that the Registrar of Lobbyists has begun her tenure in a spirit of dialogue.

In the process of drafting the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, the Government failed to properly engage lobbyists or their representative organisations and made little effort to understand the industry. The result is an ill thought through piece of legislation and the flaws in the Act may well shape the outcomes more decisively than the original intentions behind the legislation. The net result could well be a Statutory Register that effectively reduces transparency by undermining UKPAC's voluntary register and excluding significant numbers of lobbyists. In doing so, it will fail to meet public expectations that the Statutory Register should provide more information about the interests seeking to influence policy and law. Many sensible measures that might assist in creating a workable Statutory Register take the Registrar outside their remit as set out in the legislation.

Members of the CIPR are committed, through their accountability to our Code of Conduct, to transparency in their professional activities. We believe that ethical lobbying takes place in plain view, which includes the disclosure of client relationships. We also believe that lobbying is a necessary and important part of the democratic process in this country and that the public have a right to know more about it. The CIPR is committed to assisting the Government and the

Registrar in developing a Statutory Register which provides useful information to the public about lobbying activity. We will maintain this commitment, despite the probability that the Statutory Register, thanks to the decision to focus on the activities of a minority of lobbyists, will be unsustainably small and expensive.

Registration should be as simple and uncomplicated as possible. We welcome the early indication from Alison White that “pre-registration” and “nil-returns” (however phrased) may become features of the Statutory Register. We believe these could be sensible steps that help registrants to manage the compliance burden and potentially make the Statutory Register a better source of information.

We also concur with her assessment that the “spirit of the legislation would be better served if the public were able to identify which client’s interests were being represented in a particular communication” and agree that this “would also allow registrants to publicly subscribe to a level of transparency and ethical business-practice beyond what is required by the legislation.” We believe that this will serve the ambitions of the lobbying industry to be better understood by its stakeholders and the wider public. We accept in principle her recommendation for additional information to be included in the Statutory Register.

Any new compliance regime will bring burdens on business both large and small, in addition to the cost of registration. We welcome the attempts to clarify the nature of requirement to register, but there is still considerable uncertainty about who will have to register and what sort of activity will trigger the need to register, among the consultant lobbyists who will have to come to terms with compliance. We ask that the initial Statutory Register focuses on the information required in the legislation and that any additional information is considered later. A period of 6-12 months after the establishment of the Statutory Register would allow consultant lobbyists to manage the initial steps into a new compliance regime and to work with the Registrar to assess the practicality of providing the additional information. This point would offer a sensible opportunity to initially review the Statutory Register based on the legislation and to see whether or not it is making a difference in terms of transparency in lobbying, which the CIPR would be willing to help facilitate.

We also point out that the additional information is unlikely to address the fundamental flaws that may mean the Statutory Register is unsustainably small and that it could well fail in its original mission of increasing the amount of information about lobbying that is available to the public.

We look forward to further consultation, particularly on the critical question of the likely cost to register and the structure of fees that will apply.

## Questions

### **Registration Process**

#### **1) Is there any aspect of the proposed information that is unclear or that you disagree should be provided?**

The proposed information is clear. However, concerns have been raised about the need for an individual working at home to declare their residence to the Registrar. This could lead to intrusions or security concerns, due to the individual's practising a profession where sensitivity and media interest are not uncommon, and their right to privacy and family life should be considered. We would like to see the guidance confirm that independent consultants and freelancers will be able to use the registered address of their professional association (eg CIPR HQ in Russell Square, London for which we already provide such a service to our members) and/or a PO Box.

We believe the part relating to any registered person's undertaking to comply with a relevant code of conduct should be clarified and hope there will be an opportunity for the Registrar to give us more information on their intentions in this regard.

### **Timing of Registration**

#### **2) Do you agree that registration could happen ahead of an organisation carrying out specific lobbying activity?**

Although this goes beyond the requirements of the Act, we agree with the Registrar's assessment that Consultant Lobbying firms and sole traders may register ahead of any specific lobbying activities taking place. This is desirable on the basis that it would increase the amount of information available to the public about lobbying, give greater continuity, reduce the potential compliance burden, limit the complication of administering the Statutory Register and widen the pool of registrants. This would mean that the entire cost of the Statutory Register is not borne by a small and frequently changing group. It would allow consultant lobbyists to err on the side of transparency.

**3) Do you think organisations would be willing to register ahead of having carried out any specific lobbying activities?**

We believe that organisations and sole traders may take the opportunity to register in advance if it genuinely helps them to manage the burden of compliance.

### Information Updates

**4) Is there any aspect of the proposed information that is unclear or that you disagree should be provided (please read the clarification which follows later in the document before answering this question)?**

It would be helpful if the Registrar were to keep an open mind about the need for further clarification on the question of the nature of the communication with Ministers and Permanent Secretaries which is to be the trigger point for disclosure of lobbying activity (See Q9 below). The clarification in the consultation document makes a good start in this direction, but more questions will arise as lobbyists seek certainty over what will and will not need to be recorded.

### Providing Additional Information

**5) Do you agree with the principle behind disclosing the identity of the Minister with whom a particularly communication was made?**

We are in agreement with the principle behind disclosing the identity of the Minister (or Permanent Secretary) with whom a particular communication was made. We also point

that this is beyond the remit of the Act and whilst we accept the Registrar's point that this was 'intended', we note that there were several opportunities for Government to include this information during the Parliamentary passage of the legislation and it chose not to do so.

**6) Would you provide this additional information if given the ability to do so?**

It will not be possible for the CIPR to make such disclosures since we enjoy an exemption from the Statutory Register. However, we believe it would good lobbying practice and will encourage CIPR members to do so where they will be required to register.

**Nil Returns**

**7) Do you agree that this information should be provided?**

Again, it goes beyond the letter of the Act, but we agree and support the idea of 'Nil Returns'. Similar to the possibility of pre-lobbying registration (see questions 2 and 3, above) we feel this could be a useful way for registrants to manage the burden of compliance.

**8) Is there any aspect of the proposed information that is unclear or that you disagree should be provided?**

In relation to 'Nil Returns', no.

**9) With references to questions (i-iv) above and their respective answers, what are the outstanding areas of definition that are unclear?**

The exact nature of communication made directly to Ministers and Permanent Secretaries which will trigger the need to register in informal situations remains unclear, particularly where dialogue may take place through a chance meeting. We accept that a reasonable assessment of the intention of the lobbyist can be made in most circumstances and also that the guidance will need to be tested as situations arise, but more thought could be given in the guidance to foreseeable circumstances in which

communication may take place that is not planned but might reasonably be queried under the Act. We would particularly like to see the Registrar address specific scenarios, such as Party Conferences or meetings that take place during election periods and to consider a providing more advice particularly as the Statutory Register is established.

**10) Do you have any further questions of clarification or definition?**

See Q9 above. Also, it is not clear whether each and every communication will have to be listed if each occurs on a separate time and date. For example, one communication to request a meeting, the meeting itself and then a follow-up communication – does that count as three?

What steps will be taken to ensure that other third-party consultants, such as lawyers and management consultants register appropriately?

How will the Registrar assess the relevance of Codes of Conduct to be included in the Statutory Register?

There needs to be further dialogue with the industry about costs and fee structures as it becomes clearer how many lobbyists will be required to register.

**11) Based on your understanding of the requirement to register, how many organisations or individuals do you estimate would be required to register?**

It is not possible for us to estimate this with any certainty. However, we concur with the Registrar's assessment that the number of registrants could be lower than 100.

Further Comments

The CIPR remains concerned that there is the strong possibility that the Statutory Register could fail. Although measures like pre-registration and 'nil-returns' could be useful, nothing proposed in the consultation appears to tackle the fundamental problem the Statutory Register is facing. As we have consistently said throughout this process, the limited nature of the

Statutory Register means it could be unsustainably small and lacking in credibility. In the meantime those who will participate will be expected to pay the entire cost of the delivery of the Statutory Register. This risks distorting the market if the cost of registration is high and clients have the option of using non-traditional lobbyists who might be exempt from registration. We note that the Statutory Register is skewed against smaller businesses and sole traders who operate only as consultant lobbyists and will therefore need manage a greater compliance burden in terms of the Statutory Register. These consultants offer affordable public affairs expertise to small companies/organisations. They do not have the resources at hand that larger companies have there is a danger that some of the compliance burden being asked of them could undermine their business. Meanwhile, larger multi-disciplinary firms such as legal partnerships and firms that offer of communications work may avoid registration. We do not believe in our discussion with Ministers this is what is intended.

On top of this we are concerned that any “flat fee” charging regime will be unfair on its impact on sole traders. Further, the VAT exemption could be counterproductive, acting as an invitation to avoidance for traders who wish to conduct consultant lobbying while not being required to register.

The lack of clarity over the costs of registration is a genuine concern for many members. This concern is exacerbated by the uncertainty felt by many members over whether they will be required to register. Many individuals or organisations may desire to register even if they are not legally required to but may be deterred by the cost of registration if this is disproportionately high.

As stated above, we are committed to assisting the Government and the Registrar to deliver a Statutory Register that meets public expectations and addresses the intentions behind the legislation. To this end, we believe there should be a further consultation to address issues around the charging structure, the assessment of “relevant” codes of conduct and any further outstanding issues. We welcome the level of engagement we have enjoyed with the Registrar and her officials in the short time since they were appointed and would urge them to maintain a



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productive dialogue with the industry.

12 December 2014

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