



Policy on Information Publication and Retention

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Introduction

The Register of Consultant Lobbyists was established by the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (“the Act”). The legislation sets out the information which is required to be included and published by the Registrar, but makes no comment on the ability of, or the requirement on, the Registrar to publicise changes or compliance activities, including information notices or responses received in relation to such notices. This guidance addresses issues of communication about enforcement activity, retention of information and how long disclosure should be in the public domain, and has been prepared taking into account the views of stakeholders through consultation.

The guidance includes the future approach I will take regarding the publication of changes to statutory information; the appropriate length and time that information should be published and the circumstances and length of time where matters of non-compliance should be published and retained. I draw a clear distinction between publishing information on my website or on the face of the Register, the latter being subject to the Act.

As Registrar, I subscribe to the Lord Chancellor’s Code of Practice on the management of records, and this policy sets out the approach I intend to take in that regard.

Data Retention into Perpetuity

Schedule 1 to the Public Records Act 1958 defines public records as “*records of any office, commission or other body or establishment whatsoever under Her Majesty’s Government in the United Kingdom*”. The list of bodies and establishments whose administrative and departmental records are public records includes the Registrar of Consultant Lobbyists. It follows that I have an obligation under the Public Records Act 1958 to identify records which ought to be permanently preserved and to transfer them to the National Archives.

I intend to archive the entire Register (the registration information of all those registered, at end of each calendar year, and the quarterly return information, at the end of each quarter), so it is available to search by interested parties for a period of five calendar years. I will review this period in due course in the light of requests for information received and questions asked, and then consult further if change is proposed. It is my intention that whatever period is finally determined for publication on my website, I will then subsequently transfer the information to the National Archive for permanent preservation.

Information on my website will be removed after 12 months, unless it is in the public interest for it to remain. Any such published information will have the date of next review published on the face of the document. Such information will not be transferred to the National Archive unless it is in the public interest to do so.

Data Protection Act

The Data Protection Act (DPA) controls how personal information is used by organisations, businesses or the Government. The Office of the Registrar of Consultant Lobbyists is registered with the Information Commissioner as a data controller. The DPA definition of “personal data” includes data relating to a living individual who can be identified from the data. This would include names and addresses of registrants and their clients, as well as other information relating to a living person from which they could be identified (such as, depending on the circumstances, a company name and residential address, and details of any convictions under the Act).

Credit card information and banking details are held by partner organisations which process payments on the Registrar's behalf. Registrants do not have to disclose a personal address (in order to assure their security).

Everyone responsible for using data has to follow strict rules called "data protection principles". They must make sure the information is:

- used fairly and lawfully
- used for limited, specifically stated purposes
- used in a way that is adequate, relevant and not excessive
- accurate
- kept for no longer than is absolutely necessary
- handled according to people's data protection rights
- kept safe and secure
- not transferred.

The Office of the Registrar of Consultant Lobbyists subscribes and adheres to these principles. Data obtained pursuant to the Act's requirements is treated as having been obtained fairly.

In the event that information which is held by the Office is found to be incorrect as a result of the work of the Office, and I consider that erroneous information is detrimental to transparency (anything other than the most minor administrative error), the correction will be published on the Register at the earliest opportunity with the dates during which the information was incorrect. Where the correction covers more than one registrant record, all affected records will be updated, clearly stating that the error was made by the Office. Guidance will be sought from the Information Commissioner as to whether any breach is reportable.

Freedom of Information

The Freedom of Information Act (FOIA) provides the right to access recorded information held by the Registrar. The Registrar of Consultant Lobbyists is named in Part VI of Schedule 1 to FOIA, and is therefore a public authority to which FOIA applies. Section 19 of FOIA provides that every public authority must adopt and maintain a publication scheme, specifying the classes of information which the public authority intends to publish, the manner in which information of each class is to be published and whether the material is intended to be available to the public free of charge or on payment. Details of the approach I take to FOIA may be accessed via my website, which provides a link to gov.uk, with the generic scheme across government organisations.

In summary, anyone can request information – there are no restrictions on age, nationality or where someone lives, although the Registrar can refuse the request if the information falls within an exemption under FOIA or the costs are too high (if it will cost more than £450 to find and extract the information, following standard Civil Service guidelines).

My general approach would be to provide information about any aspect of my work (including emails, other correspondence and internal documents) unless the cost is too high, or it is not in the public interest to do so. I do not intend to charge a fee for doing so. In accordance with FOIA, I am required to set out my reasons for any decision I make in writing to the person who requested the information, and that person has the right to ask me to review my decision, and to subsequently appeal to the Information Commissioner. It would not be my intention to publish my response at this stage.

In the event of a criminal case, it is normally not possible to use the FOIA to obtain copies of the case papers as these would contain personal data or legally privileged information. Further information may be found at:

<https://www.cps.gov.uk/publications/systems/foiaguidance.html#a09>

An individual directly involved in the case can obtain some of the case papers by lodging a subject access request. Further information on this process is available via the following link: <http://www.cps.gov.uk/foi/personal.html>

In the event that I provide information under the provisions of FOIA, it would be my intention to also publish my response at the same time on my website, but not on the

Register. In the event that the publication is as a result of intervention by the Information Commissioner, I would also publish that decision.

Publication of Registration Information

The Act requires that the following information is provided at the point of initial registration:

Company	<ul style="list-style-type: none"> • Its name, its registered number and the address of its registered office, and • The names of its directors and of any secretary and any shadow directors (see further clarification below);
Partnership	<ul style="list-style-type: none"> • The names of <u>all</u> the partners and the address of its main office <u>or</u> place of business (this can be the address from which lobbying is conducted);
Individuals	<ul style="list-style-type: none"> • The individual's name and the address of the individual's main place of business (or, if there is no such place, the individual's residence, or alternative business address where the individual may be contacted);
All	<ul style="list-style-type: none"> • VAT registration number;
All	<ul style="list-style-type: none"> • Any name or names, not included under paragraphs above, under which the person carries on business as a consultant lobbyist;
All	<p>A statement of:</p> <ul style="list-style-type: none"> • whether there is in place an undertaking by the person to comply with a relevant code of conduct, and • if so, where a copy of the code may be inspected.

According to section 6 (3), '*...where a person applies... to be entered in the Register, the Registrar must register the person before the end of the period of 4 working days beginning with the day after the day on which the application is received...*'

I have interpreted this requirement such that if there are significant problems of clarification of information about registration, it is reasonable to delay publication whilst those problems are being clarified.

Once the registration information has been published, and the registrant intends to continue the business of consultant lobbying, the record will continue unamended, unless and until, new information comes to light either from the registrant; from the administrative checks of the Office; or from other sources. If the change is an administrative error (e.g. a spelling mistake) it would be my intention to correct it, without recording the previous information. If the change is substantive (e.g. a change to a code of conduct), the previous information will be recorded on the Register (e.g. "previous Code of Conduct", with the date of change). The exception to this is when a link is provided to the Companies House list of partners of an organisation (in circumstances where the numbers of partners is very large), which may be constantly updated-it is my intention to offer this facility as soon as technically possible.

In the event that the registrant ceases the business of consultant lobbying, the whole record will continue to be published for a period of 12 calendar months, from the date that registration ceased. The entry in the Register will read: "Name ceased the business of consultant lobbying on date".

Publication of Quarterly Updates

According to Section 6(4) of the Act:

“... The Registrar must update the Register to include any information or change which is notified in an information return...” and in Section 5(2): *“... The information return for a quarter must contain- (a) either the client information for that quarter or a statement under subsection (5), and (b) details of any change in that quarter in the particulars included in the Register under section 4(2)...”*

and in Section 6 (5)

“... The Registrar must comply with subsection (4)-(a) if the return is received before the end of the period specified in section 5(6), before the end of the period of 4 working days beginning with the day after the day on which the return is received, or (b) if the return is received after the end of that period, before the end of the period of 8 working days beginning with the day after the day on which the return is received...”

I have interpreted these requirements such that if there are significant problems of clarification of information from quarterly returns, it is reasonable to delay publication whilst those problems are being clarified.

Once the quarterly information update or nil return has been published, the client information or nil return will be published for 12 calendar months from the date the information was first published or when the registrant ceased the business of consultant lobbying, whichever is the latest.

In the event that subsequent changes come to light, if the change is an administrative error (e.g. a spelling mistake), it would be my intention to correct it, without recording the previous information. If the change is substantive (e.g. a change to the name of a client, an additional client, or the removal of a client), the previous information will be recorded on the Register (e.g. “previous client details”).

Publication of Information Notices

According to Section 9 (1 and 2):

“... the Registrar may serve... (an “information notice”) on... any registered person; any person who is not entered in the Register, but whom the Registrar has reasonable grounds for believing to be a consultant lobbyist...”

According to Section 9 (7):

“...Where an Information Notice has been served on a person, the Registrar may cancel it by serving written notice to that effect on the person...”

I intend to keep the issuing of Information Notices, responses and cancellations confidential in the vast majority of circumstances. It would not be my intention to publish Information Notices, responses or cancellations, or to confirm that such have been issued, received or cancelled, as a matter of routine (though see section on Freedom of Information), although I do retain the right to publish if I feel that to do so would be in the public interest. In the event that information received as a result of an Information Notice, has an effect on the Register, I retain the right to annotate the Register accordingly (e.g. record updated on date in accordance with Information Notice number), if I consider it in the public interest to do so.

According to Section 11 (1):

“...A person on whom an Information Notice has been served may appeal to the Tribunal against the Notice...” The Tribunal in this case, is the General Regulatory Chamber.

According to Section 11 (2): *“...If an appeal is brought under this section, the person is not required to supply the information until the date on which the appeal is finally determined or withdrawn...”*

According to the rules of the General Regulatory Chamber, the recipient usually has 28 calendar days to submit an appeal from the date of the decision (to issue an Information Notice). The end to end process from when the appeal is submitted to when the appeal is heard (which may not be in public) is on average up to 30 weeks. Currently tribunals do not routinely publish their decisions, though I am advised that work is underway on a

decisions database where all tribunals will present their decisions for the public to be able to view.

In the event of an appeal made in respect of an Information Notice, I retain the right to publish the decision of the Tribunal on my website. For the avoidance of doubt, I would not intend to publish any information prior to the Tribunal decision. In the event that this decision (which is binding on all parties) has effect on the Register, I retain the right to annotate the Register accordingly (e.g. record updated on date in accordance with Tribunal decision reference), if I consider it in the public interest to do so.

Offences

According to Section 12 (1):

“...If a person carries on the business of consultant lobbying...whilst unregistered, an offence is committed...”

and in Section 12 (2) (a)

“...the person’s entry in the Register is inaccurate or incomplete in a material particular, and (b) the person has failed, when required to submit an Information Return under Section 5, to provide sufficient information...”

and in Section 12 (3):

“...Where a person is required to submit an Information Return under Section 5, it is an offence for the person-(a) to fail to do so within the period specified..., or (b) to provide information which is inaccurate or incomplete in a material particular...”

and in Section 12 (4):

“...Where an Information Notice has been served on a person, it is an offence for the person-(a) to fail to supply the required information on or before the date by which the person is required to do so, or (b) to provide information which is inaccurate or incomplete in a material particular...”

I intend to take the following approaches in respect of civil and criminal enforcement activity which I may pursue in respect of these offences:

Civil Penalties

According to Section 14 (1):

“...The Registrar may impose a civil penalty on a person...”

and according to Section 15 (1):

“...Before imposing a civil penalty..., the Registrar must serve on that person a notice stating that the Registrar proposes to impose the penalty...” and in Section 15 (2) (d):

“...inform the person that the person may, within a period specified in the Notice, make written representations in relation to the proposal...” and in Section 15 (3): *“...The Registrar must not impose the penalty before the end of the period specified under subsection 2(d)...”*

and in Section 15 (4):

“...The Registrar must consider any written representations received before the end of that period...”

According to Section 16 (1):

“...If the Registrar decides to impose a civil penalty, the Registrar must serve on the person a notice to that effect...” and in Section 17 (1): *“...A person on whom a penalty notice has been served may appeal to the Tribunal...”*

In the event that I decide to pursue civil enforcement procedures, I intend to keep those procedures confidential until they have been concluded. The conclusion could be to take no further action or to impose a penalty. If the outcome was to take no further action, I intend that there would be no publication of this information. If the outcome was to impose a penalty, as a matter of normal practice, I would intend to publish that decision (including the reasons why the penalty notice was imposed) on my website, as soon as the recipient has decided to accept that penalty or the timescale for appeals has passed, and to annotate the Register accordingly (e.g. record updated on date in accordance with penalty notice reference).

In the event that I decide to impose a penalty and the recipient appeals to the Tribunal, I intend to publish the decision of the Tribunal on my website as soon as it is available. In the event that this decision (which is binding on all parties) has effect on the Register, I intend to annotate the Register accordingly (e.g. record updated on date in accordance with Tribunal decision reference).

In both cases, however, I reserve the right to keep civil penalty matters confidential, if it is in the public interest to do so.

Criminal penalties

According to Section 12 (7):

“...A person guilty of an offence under any of subsections (1) to (4) is liable-(a) on summary conviction in England and Wales for an offence committed before the coming into force of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the fine under subsection (7) must not exceed the statutory maximum...”

The Crown Prosecution Service will only confirm the name of a defendant once they have been charged by the police. Once the case has reached court, anything that is said and the outcome of the case are matters of public record (subject to any reporting restrictions).

In the event that I decide to pursue criminal enforcement procedures, I intend to keep those procedures confidential until the case comes to court. In the event of a guilty verdict, I intend to publish that decision (including the salient facts of the case) on my website as soon as the judgement has been made and to annotate the Register accordingly (e.g. record updated on date in accordance with criminal case reference). Given the level of culpability implicit in a criminal conviction, I would also consider issuing a press notice.

In the event of a not guilty verdict, I intend to keep that matter confidential, unless it is in the public interest not to do so. For the avoidance of doubt, in such a case, it would be only in the rarest cases that I would publish anything at all.

Conclusion

I have set out in this policy my intended approach regarding the publication of changes to statutory information; the appropriate length and time that information should be published and the circumstances and length of time where matters of non-compliance should be published and retained. I draw a clear distinction between publishing information on my website or on the face of the Register, the latter being subject to the Act.