

RESPONSE TO CONSULTATION ABOUT CODES OF CONDUCT WHICH MAY BE DECLARED IN THE REGISTER OF CONSULTANT LOBBYISTS

As the Registrar of Consultant Lobbyists, I recently consulted stakeholders to establish views on the issue of “relevance” regarding declaration of codes of conduct. I have now carefully considered the responses which I received in respect of that consultation, and wish to thank all those organisations that took the time to inform my work. I received nine responses in total.

It is the Act itself which references the term “relevant” (not the Registrar). The requirement at Section 4 (2) (g) is:

“...a statement of (i) whether there is in place an undertaking by the person to comply with a relevant code of conduct...”

Section 4(6)(b) goes on to state that:

“...a “relevant code of conduct” (in subsection (2)(g)) is a code of conduct which governs the carrying on of the business of consultant lobbying (whether or not it also governs other activities) and is open to inspection by members of the public...”

For those who commented that the term “relevance” is unhelpful, it is merely a statement of what the law requires (as outlined above), rather than any re-interpretation by the Registrar.

In the consultation, I asked whether other codes should be added to the existing list provided in the drop-down menu provided by the Register. There were no respondents who proposed additional codes to be added. The inclusion of European codes was not generally felt to be relevant to UK consultant lobbying. I agree with this perspective, since the legislation applies to UK Government consultant lobbying only.

I then asked whether the category of “other” codes of conduct should be retained and whether if it were to be retained, whether there were any reasons why certain codes might be precluded.

Responses to this issue were, as expected, at opposite ends of the spectrum, including disparate views from membership organisations. Some of those who wished to retain the “other” category argued that those organisations which did not belong to a trade body or professional association and wished to declare a code of conduct, might therefore feel obligated to join one, which might place a financial penalty on organisations which could not afford the membership fees. It was further suggested that membership organisations might see the removal of “other” as a marketing opportunity. For those organisations declaring a code associated with their affiliation to a larger corporate group, they argued that such codes could be more far-reaching in terms of best practice.

On the other side of the argument, membership organisations argued (variously) that in order to be relevant, codes must have relevance to public affairs and be supported by effective disciplinary mechanisms which are open to the public.

I have carefully considered all sides of this argument, taking into consideration that the most important issue is that the position regarding a code of conduct should be entirely transparent to users of the Register. Users should have access to all the information they need to make up their minds about the organisation concerned. I am further mindful that the legislation makes no judgement about organisations which do not declare a code at all-it is left to the user to make up their own mind about the presence or absence of a code and what kind of code it is.

It seems to me therefore that it is not my role to further interpret the legislation from what it currently states, but to ensure that the Register properly fulfils its role to provide the fullest possible information to enable users to make up their own mind. Therefore, I need to ensure that the content and wording of the Register properly deliver this objective.

Currently, an example of the wording that appears on the face of the Register in this regard is as follows:

“...Relevant code of conduct details

Is there in place an undertaking by this organisation to comply with a relevant code of conduct?

Yes

Details of where the code of conduct could be inspected:

This organisation adheres to the Association of Professional Political Consultants' (APPC) code of conduct.

Relevance of a code of conduct is determined in relation to the business of consultant lobbying. This means making communications personally to a Minister of the Crown, Permanent Secretary (or equivalents), regarding the functions, policy or legislation of the Government on behalf of a paying client...”

I intend to give further consideration to the clarifying wording used on the face of the Register-at the very least to be expanded to “...*the business of consultant lobbying of the UK Government...*”.

I have also decided that for an online Register access to the code of conduct should if possible be provided by a hyperlink from the Register itself; in my view, this provides optimal transparency for the user. This applies to all codes, and I will work with membership associations to enable this at the first available opportunity.

I also intend to conduct a more detailed review of all those organisations declaring an “other” code of conduct to ensure that such codes are relevant to governing the business of consultant lobbying as defined in the legislation. At the date of writing, 16 organisations fell into this category (13% of the Register).

I have already accepted that the professional codes of lawyers and accountants are “relevant” even though they do not specifically reference public affairs activity. It was highlighted by various respondents that the term “public affairs” has different definitions, and I note that there is no reference to the term in the legislation, so it would not be appropriate for me to infer or provide one. I am not therefore minded to change my view that these professional codes remain relevant, and that registrants can continue to declare them.

It was pointed out to me that by naming further specific codes I might inadvertently confer relevance or approval on those codes, where none was intended. Further that an inference might be drawn that any code listed under “other” in some way lacked robustness or was of a lower order (when no such inference was intended). I wish to state categorically that no such inferences should be drawn or are intended.

I have determined to retain the “other” category for codes of conduct: when an organisation joins the Register and wishes to use that category, I will review the proposed code (a copy of which will be held by the Office, and may also be available by hyperlink from the Register) to satisfy myself of its relevance, on a case by case basis. I will consider whether the code may properly be said to govern the carrying on of the business of consultant lobbying, having regard to factors including (but not limited to):

- Relevance to the business of consultant lobbying of the UK Government;
- Regularity of review (therefore ensuring the code remains relevant);
- Compliance processes to ensure the code is properly applied and remains relevant to all those that subscribe to it.

I reserve the right to consider other issues on a case-by-case basis if it appears that a proposed code may not be relevant to governing the business of consultant lobbying of the UK Government.

Finally in the consultation, I asked whether an appetite existed for the design of a voluntary code, and if so, who should undertake both its design and subsequent administration. There was no appetite amongst respondents for any such initiative by

the Registrar or indeed, any other body, so I have no intention of pursuing that option any further.

During the next year, it is my intention to refresh my registration guidance. I will undertake that exercise in the light of the conclusions I have drawn in this consultation response and make amendments where necessary. I will also consider whether there will need to be changes to the technical capability of the Register, and if necessary, those will be implemented in due course.

ALISON J WHITE

Registrar

30 March 2017