

Dear Stakeholder

ADVICE NOTE FOR PROVIDERS OF SUPPORT SERVICES FOR ALL PARTY PARLIAMENTARY GROUPS

For some time, I have been specifically considering the circumstances in which there is a requirement for those that provide support services for All-Party Parliamentary Groups (APPGs) to be registered in the Register of Consultant Lobbyists (under the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014). Currently, there are organisations which provide such services which are registered and declare clients; and those which are registered which do not; and there are those that are not registered at all. All of these situations may be entirely compliant with the Act, and therefore, the purpose of this advice note is to provide clarity about the circumstances when registration (and declaration of clients) is required, and in those cases, how the declaration should be made, in order that there is consistency between declarations on the Register.

Generally speaking, providers of services that support APPGs should always be most sensitive to the possible need for registration in those circumstances where they communicate directly with Ministers and/or Permanent Secretaries, as possible situations that require registration. Communications may be face to face, by telephone, by electronic means and social media, or in writing. They may be formal or informal. They may be planned or unplanned. They may or may not concern the work of the APPG. “Lobbying” does not need to be referenced at any stage. The important issue is that if ministerial communications are made by the provider of support services (or other members of that support service organisation) on behalf of the APPG (in their own name or that of the APPG), then those communications may be registrable. It should be noted that if the support service provider is not registered, then relevant ministerial communications must not take place until after registration—the requirement for registration is pre-emptive.

In the event that direct ministerial communications do take place, the next area for consideration is whether those communications are “relevant”. In other words, do they relate to:

- *The development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation;*
- *The development, adoption or modification of any other policy of the government;*
- *The taking of any steps by the Government in relation to any contract, grant, financial assistance, licence or authorisation; or*
- *The exercise of any other function of government.*

It is important to note that the context of relevant communications is broad, but there must be a substantive connection between the communication and the issue of government business in question. All communications will be assessed by the Registrar on a case-by-case basis.

So for example, if the role of the support provider is to arrange meetings, prepare agendas, meet and greet guests, undertake administrative arrangements and take minutes: none of those activities are registrable, whether a Minister is present or not. If the support provider drafts letters, reports or agendas, and these are signed by (for example) the Chair of the APPG or a sponsoring organisation (and not by the support provider), again these activities are not registrable. Support providers should however be alive to the possibility of being engaged by a Minister at any time on an issue of government policy-if such a possibility exists, then the organisation should be registered. Organisations should consider protecting themselves by making the fact that they are not registered, and therefore not able to directly communicate with Ministers on relevant issues at any time, known on their websites and in client contracts.

By way of further example, if a letter is attached to a covering email from the support service provider, which outlines or explains its content, and is then sent to the Minister's email address; or if the support provider discusses government business with a minister alongside the Chair of the APPG or sponsoring organisation, then potentially those activities could be registrable.

If there is any possibility that the administrative work might lead the support provider into relevant communications, then registration must take place ahead of those communications. It is unlawful to so communicate without registration.

The next issue for consideration is whom the client might be. The client is the person(s) or organisation(s) on whose behalf communications are made (which may or may not be the person making the payment). In most cases, support services and other activities (including relevant communications) for APPGs are paid for by sponsorship by charities and/or commercial organisations. In most cases, it is the sponsoring organisation(s) which is/are the client(s). In such cases, my preferred wording for client declarations would read: "... x client(s), sponsoring the provision of support services for the x APPG...". If there are a large number of sponsoring organisations, please contact the Office for further help with describing the clients. There are occasional circumstances where the APPG is itself the client, and should be declared as such.

Sometimes support services may be funded by fees collected from associate memberships of APPGs. The number of associate members could be very large, potentially hundreds of members. Such arrangements introduce a much higher degree of complexity into determining whether support service providers need to register, and whom their clients might be.

I have determined that the Act does not require any particular link to be established between the payments received by the support services provider and any relevant communications that it makes on behalf of its client(s). According to the legislation, payment may be direct or indirect; it does not matter whether the person making the payment is the person on behalf of whom the communications are made and it does not matter whether a particular payment relates to any particular communication. The critical issue is that if there are relevant communications taking place, the organisation must be registered, however complex its funding model might be. It is not possible for consultant lobbyists to avoid the need to register by structuring their business to circumvent registration. What matters is whether, ultimately, the support service provider receives payment in return for making relevant communications on behalf of its client(s).

When it comes to declaring the clients of that support service provider, the names of all those associate members which contributed to the provision of support services (through their associate membership fees) would be required to be included in the client declaration. Due to the difficulty of establishing on whose behalf specific communications are being made, best practice dictates that all members should be declared to avoid the risk of breach.

There are circumstances where support service organisations might be exempt from registration. The most obvious exemption is for an organisation which is not registered for VAT. Assuming the organisation is VAT-registered, then it should consider whether it acts generally on behalf of persons of a particular class or description (such as a trade body); and receives its income wholly or mainly from that source, and whether making relevant communications is an incidental (happening as a minor accompaniment) part of that activity. Determining whether all three activities are, or are not, the case is often complex, and so I would expect any organisation finding itself in this position to seek detailed advice from the Registrar.

If after having read this advice and my registration guidance, which may be accessed at: <http://registrarofconsultantlobbyists.org.uk/guidance/foreword/introduction/>, you remain unsure about whether you need to register, please contact my Office by emailing enquiries@orcl.gov.uk -I am happy to engage in clarifying the individual circumstances of any organisation.

Finally, I wish to draw your attention to my guidance on compliance: <http://registrarofconsultantlobbyists.org.uk/guidance/guidance-on-compliance/>. I have the power to serve Information Notices on any unregistered organisation which I

believe to be conducting the business of consultant lobbying. I continue to conduct investigations to ensure that all those that are required to register, do so.

In the event that you require a meeting or further discussion, please contact my Office to organise a mutually convenient date.

Yours sincerely,

ALISON J WHITE

Registrar of Consultant Lobbyists