

Guidance on registration and quarterly information returns June 2019

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1. Introduction

This guidance sets out the main requirements for registering and providing information as a consultant lobbyist under the [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014](#) ('the Act').

The Act sets out two key obligations on those who engage in [consultant lobbying](#) as defined by the Act:

- To register as a consultant lobbyist before conducting any consultant lobbying activity.
- To submit details each quarter of clients on whose behalf they have lobbied or been paid to lobby for in that period.

The definition of [consultant lobbying](#) in the Act can include the activities of some who would not necessarily consider themselves to be lobbyists. The test is whether the activity falls within the definition.

This guidance should be read alongside the Act and other guidance issued by the Registrar of Consultant Lobbyists. It does not aim to deal with unusual or complex situations and the Office of the Registrar of Consultant Lobbyists ('the Office of the Registrar') is happy to provide further information or guidance in specific cases.

This guidance supersedes the *Requirements to register* guidance dated November 2015

2. Requirement to register

2.1. Who must register?

Any person or organisation carrying out the business of [consultant lobbying](#) as defined by the Act must be entered in the Register of Consultant Lobbyists.

Individuals making communications in the course of their employer's business do not need to register - only the employer is required to be registered. Those who are lobbying on behalf of their own organisation (in-house lobbyists) do not need to register.

It is an offence to carry on the business of consultant lobbying if an individual or organisation is unregistered. It is also an offence if an entry in the Register is incomplete or inaccurate. See Guidance on compliance, offences and penalties.

2.2. The criteria for consultant lobbying

Organisations and individuals are considered to be carrying out the business of consultant lobbying if they fulfil these three tests:

- 1) They make oral, written or electronic communications personally to a Minister of the Crown or Permanent Secretary (or equivalents specified in the Act), relating to:
 - a) the development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation
 - b) the development, adoption or modification of any other policy of the government
 - c) the taking of any steps by the government in relation to any contract, agreement, grant, financial assistance, licence or authorisation; or
 - d) the exercise of any other function of the government.

and

- 2) The communication is made in the course of a business and in return for payment on behalf of a client, or payment is received with the expectation that the communication will be made at a later date.

and

- 3) They are registered under the Value Added Tax Act 1994.

2.3. What communications are registerable?

Communications made personally:

Making communications personally means communicating with a UK Government Minister or Permanent Secretary (or equivalent) by name or by title, using oral, written or electronic communication. This means that:

- Communications made to a government department, special adviser, administrator, private secretary or private office, are not registerable. However,

communications addressed to a Minister but sent via a private office would have to be registered.

- Communications sent by a client (whoever drafted them) or a communication from a Minister or Permanent Secretary (even if sought via an RSVP), do not need to be registered.
- If the communication is an invitation and contains material that meets the criteria for consultant lobbying, then it is registrable.
- Informal communications (for example at a social event or conference) are registerable, if they otherwise meet the criteria for consultant lobbying.
- ‘Lobbying’ does not need to be mentioned – the test is the nature of the activity.

Subject matter:

A communication only needs to be registered if it relates to government business as defined in the criteria. Government business does not include matters purely relating to local government, such as writing to a constituency MP (who is also a Minister) about a local planning issue. But if that planning issue is called in for decision by the Secretary of State then any communications from this point would need to be registered as they then involve a function of government.

If the criteria for [consultant lobbying](#) are met, a communication triggers the requirement to join the Register whether or not:

- the subject of the communication is related to the Minister’s portfolio or Permanent Secretary’s department
- the subject is considered to be a party issue
- the Minister is considered – or considers themselves - to be acting as a constituency MP or in any other non-Ministerial capacity

Email and social media:

Emails that are sent directly to a Minister’s or Permanent Secretary’s email address will trigger registration. If a social media message is directed to an official or personal account and fits the criteria for [consultant lobbying](#), this will require registration. However, if a message refers to an account indirectly, such as mentioning that the Minister is speaking at an event and tagging the Minister’s account, then this would not require registration.

Location:

It does not matter where the communication is made, or whether the context is formal or informal - it could be a face-to-face meeting, within a government office, at a restaurant, at a party conference, or made from overseas. If the criteria for [consultant lobbying](#) are met, then this will trigger the requirement to join the Register.

Planned or not:

Direct communications can be planned or unplanned – a chance encounter with a Minister would be registerable if all the other criteria are fulfilled.

Timing:

Only communications to a Minister or Permanent Secretary (or equivalents) in post at the time when an act of consultant lobbying is carried out need to be registered. Any communications made before they are in post or after they have left their post will not trigger the need for registration.

Who initiates:

If a Minister or Permanent Secretary initiates communication with an organisation and in the subsequent course of the exchange, the criteria for [consultant lobbying](#) are met, then the organisation is required to join the Register. It does not matter that the Minister initiated the communications (and that the initial contact from the Minister is not itself registerable) if the response and/or subsequent communication meets the criteria.

2.4. What are positions ‘equivalent to’ Permanent Secretary?

Communications to those in positions equivalent to Permanent Secretary are registerable. The Act defines these as:

- Cabinet Secretary
- Chief Executive of Her Majesty’s Revenue and Customs
- Chief Medical Officer
- Director of Public Prosecutions
- First Parliamentary Counsel
- Government Chief Scientific Adviser
- Head of the Civil Service
- Prime Minister’s Adviser for Europe and Global Issues.

2.5. Communicating on behalf of multiple clients

A consultant lobbyist might make a communication on a single issue on behalf of multiple clients. If the consultant lobbyist is being paid by all clients for this communication, they have to register each client’s name in their Quarterly Information Return.

2.6. When is a communication considered to be made?

A communication is considered to be made when it is sent to a Minister or Permanent Secretary (or equivalent), It does not matter if the recipient does not receive the communication. If the criteria for [consultant lobbying](#) are met, then the communication is registerable.

2.7. What constitutes payment?

Lobbying “in the course of a business” means that an individual or organisation is engaged in lobbying as a commercial activity and in return for payment.

Payment can be in any form and can be made directly or indirectly, so a consultant lobbyist cannot avoid registration by receiving payments via a third party. Payment might be made for a specific communication or as a retainer for a range of work only part of

which includes one or more relevant communications. It makes no difference whether the person or organisation making the payment is the person or organisation on behalf of whom the communications are made, though there must be some expectation on the part of the payer that there will be relevant communication made on behalf of the beneficiary of that communication.

Lobbying which is conducted without payment, for example as pro-bono, is not required to be registered.

If an employee is on annual or unpaid leave or is seconded to or working for a Minister or client, but is still under the direction of their employer, any activity within the definition of Consultant Lobbying would be registerable. By contrast, if they were under the direction of the Minister or client the activity is not registerable.

In the case of indirect payments, it is the nature of the relationship and expectation of the client, which are important. The fact that direct communications are not listed specifically in a contract or an invoice would not preclude the requirement to register, if the client's expectation was that direct communications with a Minister or Permanent Secretary would take place.

3. Registering and keeping information up to date

3.1. When to join the Register

The Act specifies that an individual or organisation must not carry on the business of consultant lobbying unless they are entered in the Register of Consultant Lobbyists. The criteria for [consultant lobbying](#) are set out in part 2 of this guidance.

Any person or organisation intending to conduct the business of consultant lobbying must be entered into the Register before doing so. They may register in advance of carrying out lobbying activities (or receiving payment to do so) even if there are no specific lobbying activities envisaged at the point of registration, if such activities are envisaged at some point in the near future.

3.2. Pre-registration quarter

The Act requires registrants to declare if they were paid for consultant lobbying in the three months before they applied to join the register. For the avoidance of doubt, such activity would be a breach of the provisions of the Act which require registration before any consultant lobbying is conducted.

3.3. Information required at point of registration

This information is required at the point of registration:

Companies:	<ul style="list-style-type: none">• Name, registered number and address of registered office• The names of directors and any secretary and shadow directors*
Partnerships:	<ul style="list-style-type: none">• The names of all partners and the address of its main office or place of business
Individuals:	<ul style="list-style-type: none">• The individual's name and the address of their main place of business or, if there is no such place, their home or business address where they may be contacted
All	<ul style="list-style-type: none">• VAT registration number
All	<ul style="list-style-type: none">• Any other name or names under which the person or organisation carries on business as a consultant lobbyist
All	A statement of: <ul style="list-style-type: none">• whether there is in place an undertaking to comply with a relevant code of conduct, and• if so, where the code may be inspected

*A shadow director, is a person in accordance with whose directions or instructions the directors of the company are accustomed to act.

3.4. Trading divisions and subsidiaries

If the consultant lobbying activity is carried out by a trading division of a parent company, the directors of the parent company should be declared if the trading division is not itself a company and does not have its own legal personality.

Only the directors of the trading division need to be declared if it is a company with a distinct legal personality.

Senior managers of a trading division (such as Managing Director or Head of Practice) need to be declared if they are also directors or shadow directors of the parent. A senior manager of a trading division who makes important final decisions on lobbying activity should be considered for this purpose a shadow director of the parent and should be declared.

3.5. Declaring a code of conduct

When joining the Register, registrants have to declare whether they subscribe to a relevant code of conduct and if so, where that code can be found. This requirement can be fulfilled either by giving a link to a code which is available online or the address where the code can be inspected.

Relevance is determined in relation to consultant lobbying and a code of conduct may apply to organisations or individuals. A code of conduct for individuals can only be declared on behalf of an organisation if every member of that organisation subscribes to that code.

If an organisation subscribes to multiple codes of conduct the registrant should declare the one code that they feel is most relevant.

If the registrant does not subscribe to a code of conduct, the Register will state this.

3.6. Updating register information and contact details

The information that registrants must declare about themselves on the register is shown in 3.3 of this guidance. It is the responsibility of registrants to keep this up to date by including all changes in their next Quarterly Information Return. It is an offence to fail to do this.

The Act requires the Registrar to use the address that the registrant gives on the register for a number of formal communications. It is therefore important that registrants receive mail from their registered address. If that address changes, registrants should notify the Office of the Registrar immediately and must also include the change on the next Quarterly Information Return.

In addition to the published information on the register entry, most registrants also provide the Office of the Registrar with contact details (emails and phone numbers) for one or more contacts. This allows the Office of the Registrar to contact registrants easily and quickly. If a registrant provides such information it is their responsibility to keep this up to date by emailing or calling the Office of the Registrar with any changes as soon as they

occur. Failing this, registrants risk not receiving important information from the Office of the Registrar.

3.7. Leaving the Register

If a registrant discontinues the business of consultant lobbying, they may advise the Registrar that they wish to be removed from the Register. The effective date of leaving the Register will be the date on which the notification is received by the Office of the Registrar.

- After leaving the Register, a note will appear on the registrant's page confirming that they have discontinued the business of consultant lobbying.
- Historical registration information will be kept on the live Register until the end of the calendar year, when that Register is then archived. Archived copies of the Register are kept by the Registrar for five years.
- Should they leave the Register part way through a calendar year, the registrant will be paid a pro rata refund of the remainder of the year's fee.
- If the registrant wishes to recommence the business of consultant lobbying, they must reapply to join the Register and pay the appropriate fee.

4. Quarterly Information Returns

Registered consultant lobbyists must submit a Quarterly Information Return within 14 days after the end of each quarter (but not before the end of the quarter), starting with the quarter immediately prior to registration. This means:

<i>Quarter to which QIR relates</i>	<i>Period during which QIR must be submitted</i>
1 January – 31 March	1 - 14 April
1 April – 30 June	1 – 14 July
1 July – 30 September	1 – 14 October
1 October – 31 December	1 – 14 January

4.1. Contents of the Quarterly Information Return

The following information must be provided in each Quarterly Information Return:

- The names of clients in relation to whom payment was received in the quarter for consultant lobbying activity, whether or not the lobbying has yet been done (but see note on retainer payments below).

And

- The names of clients on whose behalf consultant lobbying was done during the quarter, whether or not payment has yet been received.

Or

- A statement that the registrant did not engage in lobbying or receive payment for lobbying during the quarter.

Each Quarterly Information Return must also include details of any changes to the registrant's information on the Register.

Clients' names must be provided correctly and in full, without using acronyms, unless the acronym is the registered name of the client. Client names must be provided consistently across quarters.

A single act of consultant lobbying on behalf of a client triggers the need to submit the name of that client in the Quarterly Information Return. Registrants do not need to list how many individual communications were made on behalf of a client.

A client must be declared if either lobbying has taken place or payment has been received in a quarter. This means that the same client may be declared in two different quarters for the same lobbying activity. However, a retainer payment does not trigger the need for a client declaration unless relevant direct communication has taken place.

4.2. Client confidentiality

The disclosure of clients' names is required by the Act irrespective of expectations of client confidentiality. Consultant lobbyists who are required to register may need to inform

their clients accordingly. There may be particular circumstances where the Registrar might consider restriction on publication if this was clearly not in the public interest.

4.3. Nil returns

Registrants who have not conducted any registerable activity that meets the criteria of [consultant lobbying](#) within a quarter must still submit a nil Quarterly Information Return within 14 days of the end of the quarter. The nil return will be displayed on the register

If a registrant makes two successive nil returns, the Registrar will mark the registrant's entry on the register 'This registrant is not an active consultant lobbyist'.

Registrants who remain on the register but are inactive continue to have the same obligations under the Act as active consultant lobbyists, including paying the annual fee and making Quarterly Information Returns.

An inactive registrant may, of course, decide to leave the register (see 3.7 of this guidance). The Registrar retains the power under section 6(6)(b) of the Act to remove an entry from the register.

5. Exceptions from registration

The Act provides that the following categories of activity do not require registration:

5.1. Lobbying that is incidental to non-lobbying activities

A person does not carry on the business of consultant lobbying when they make a communication if:

- a) they carry on a business which consists mainly of non-lobbying activities, and
- b) the making of the communication is incidental to those activities.

Incidental means ancillary or a minor accompaniment to the main focus of a business (which is not lobbying).

The making of communications is not incidental when it is a substantive part of the main business, either by volume or significance to the client offering. Therefore, if lobbying is a minor proportion of an organisation's activities, but is an important part of its client offering, it is unlikely to be 'incidental'. And if lobbying is a significant proportion of a business's activities it will not be 'incidental' even if clients see it as a minor component of the organisations offering.

It may be that the main focus of a business is law, accountancy, management consultancy or any other, but the subjects on which the organisation communicates with Ministers or Permanent Secretaries and/or the method and frequency of the communications, requires them to register.

For example, the organisation may have a team, lead partner or other employee, whose job it is to communicate with Ministers and Permanent Secretaries on behalf of the firm's clients. The fact that the firm considers this service incidental to their business does not mean that they are not lobbying.

5.2. Membership organisations

Organisations that represent a particular class or body of people, whose income is derived wholly or mainly from those people and who communicate on behalf of those people in a way that is an incidental part of that general activity are exempt from the requirement to register.

Both parts of the test must be satisfied for the exemption to apply: the lobbying is on behalf of a class or body of people and is also incidental to the organisation's activities.

The 'class or body of people' includes, for example, workers, professional-body or trade-body members or club members.

If lobbying is conducted on behalf of a client who is not represented by that trade or membership organisation, this is an act of consultant lobbying and will need to be registered, regardless of whether or not they are a trade or membership organisation.

5.3. Governments outside the UK and international organisations

If the communicator is an official or member of staff of a sovereign power or government outside the UK or an international organisation, registration is not required.

However, a consultant lobbying organisation representing a government outside the UK or an international organisation would be required to register and declare this government or organisation as a client if they meet the criteria of [consultant lobbying](#).