

Lobbying and law firms

21/07/2016

Practice Compliance analysis: Alison White, registrar of consultant lobbyists, answers questions on some of the issues surrounding political lobbying and law firms.

What action should compliance officers in law firms be taking to ensure their firm/lawyers don't fall foul of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014?

Guidance about registration can be found via the Office of the Registrar of Consultant Lobbyists. If there are further questions, contact my office for assistance.

How many firms have now signed up to the register of consultant lobbyists?

There are currently six law firms and 120 registrants in total.

The number of law firms signed up seems quite low given that the register is mandatory for all law firms involved in consultant lobbying. Why do you think this is the case?

The register is only mandatory if defined communications are being conducted (the definition can be found in the guidance on registration requirements). Registration does not mean the organisation is a lobbyist, only that they are providing services which fall within the definition for their clients.

How will law firms that haven't signed up to the register but should have done be identified/treated?

It is mandatory for any organisation that is conducting relevant communications to be registered before it conducts them—this is very important. I have set out my approach to compliance in my guidance on compliance.

I have been reviewing the websites of many law firms to establish the public affairs services they provide for their clients and meeting them where appropriate to understand how, when such services are provided, that compliance is ensured. I also cross-check with ministerial diaries and the records of government departments, and have statutory powers to call for further information if I need to.

If a firm is involved in lobbying but has come to the decision the work they do for their clients doesn't fall within the statutory definition of 'consultant lobbying', what evidence of this decision-making process would you be looking for if you approached this firm with the view that they should actually be registered?

Those organisations I have spoken to have provided frank information about the nature of services they provide, and the internal guidance they have put in place for their partners and staff about how to comply with the legislation. Where I have identified individual instances where I think relevant communications might have taken place (eg from ministerial private office information), I ask for further detailed information about these situations to satisfy myself as to whether registration is required. All organisations have a defence of due diligence, and so I am always interested in the compliance processes and relevant documentation which organisations have put in place.

Do all law firms with a government relations or public affairs team need to register?

No. It is entirely possible that such teams do not conduct relevant communications with ministers or permanent secretaries.

How does the 'incidental exception' apply to law firms?

I explain this term in my registration guidance. The key issue is that 'incidental' is not about quantum—so far I have not found any organisation that is seeking to invoke this exemption.

The Solicitors Regulation Authority (SRA) published a brief statement in March 2016 reminding law firms to think about whether they needed to register. Are you expecting further more detailed guidance to be issued by the SRA?

I have met the SRA but, as with other organisations, I would like them to direct law firms to my guidance.

What should law firms do if they aren't sure whether they should be registering or not?

If they have read my registration guidance and are still unsure, please contact my office for help. I meet many potential registrants and provide written and verbal guidance to raise awareness and answer questions.

If you could give one piece of advice to law firm compliance officers about lobbying what would it be?

If law firms have any contact with ministers or permanent secretaries they should carefully consider whether registration is required. If in doubt, check.

Interviewed by Alex Heshmaty.

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