

Law firms which provide public affairs services and the potential need for registration on the Register of Consultant Lobbyists

Many law firms advertise public affairs services on their websites. Further investigation shows that many of these websites are global, and that the services offered are provided in jurisdictions outside the UK or that where the services are UK services, they rarely, if ever, involve communications with Ministers or Permanent Secretaries. Some law firms have their own public affairs practice, either in support of other services provided or standalone. Even if this is the case, it does not automatically follow that relevant communications are being made.

Some law firms have taken a direct decision not to involve themselves in any activities which might bring them within the requirements of the Lobbying Act - in those circumstances, they work behind the scenes to advise their clients or to draft letters, but never attend meetings personally, even if they have arranged them for their clients. In some cases, marketing departments have taken the opportunity to optimise their presentation of the nature of services being provided-detailed exploration occasionally reveals a degree of what one might describe as “poetic licence”.

The question cropped up as to whether the public affairs activities of law firms might be incidental to their main business (law). Registration guidance clearly states:

*“...The making of communications is **not** considered to be incidental when it is a substantive part of the main business, even if it is not the largest part. There is no specific threshold for the amount of interaction that would meet the definition of lobbying: the definition is qualitative, not quantitative.*

Situations may arise in which the main focus of a business may be 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 Government Relations team, lead Partner or any 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: it is the making of relevant communications that is significant..."

It has proved very rare in discussion with law firms for them to argue that consultant lobbying is incidental to their main business; most clearly see such activity as a key part of the overall basket of services being provided to clients.

A key issue for law firms to consider is whether their compliance processes are sufficiently robust to ensure that if relevant communications are being considered, that registration takes place in advance. Registration must be pre-emptive, which means that any ministerial or permanent secretarial communications being contemplated, must always trigger a question about potential registration in the minds of all partners and staff. Compliance officers need to keep on top of providing up to date guidance and regular communications, and ensuring that if there are any points of clarification needed, that they contact the Office for advice. It is clear that some compliance processes merit further attention to detail, and it is recommended that all compliance officers check that their processes are robust and up to date.

There are currently seven law firms out of 125 registrants in total. These organisations clearly recognise that on occasion the nature of services they provide for clients will require them to be registered. It is unlikely therefore, that in most cases, declaring clients will be done regularly, and those organisations will more usually submit nil returns. This needs to be kept under review but is correct practice where direct communications only take place occasionally.

If law firms are unsure whether they should be registering, then they should read the registration guidance at: <http://registrarofconsultantlobbyists.org.uk/guidance/foreword/> and if they are still unsure, should contact the Office for help. The Registrar often meets potential registrants and provides written and verbal guidance to raise awareness and answer specific questions.

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