

Consultation on codes of conduct

1. About the Registrar of Consultant Lobbyists

The purpose of the Office of the Registrar of Consultant Lobbyists is to ensure that there is transparency in the engagement of consultant lobbyists with UK Government Ministers and Permanent Secretaries (and equivalents) on behalf of their clients, in accordance with the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 ('the Act').

The Registrar is a statutory office holder, independent of government, the lobbying industry and others. Under the Act, the Registrar is required to:

- establish and manage the UK Register of Consultant Lobbyists;
- develop and publish detailed guidance for consultant lobbyists on their duties under the Act;
- monitor and enforce compliance with the Act's legal requirements; and
- publish an annual statement of accounts.

2. Background

When they join the Register, registrants have to declare whether they subscribe to a relevant code of conduct and if so, where that code can be found. There is no obligation under the Act for registrants to subscribe to a code of conduct.

The previous Registrar consulted on codes of conduct in 2016 and set out her response to the consultation in March 2017. Current practice is based on this.

The Registrar is now consulting further to ensure that current practice is as effective as possible in meeting the needs of stakeholders within the confines of the Act.

The Registrar will consider your response to this consultation before publishing any revisions to the guidance on codes of conduct.

3. How to respond

This consultation opens on 1 July 2019 and closes on 12 August 2019.

Please answer the questions in section 6 below. Bear in mind that any changes to practice can only be made within the framework of the Act. Therefore, please do not offer responses that would require a change in the law, as this is outside the powers of the Registrar.

You can respond by emailing enquiries@orcl.gov.uk or writing to Office of the Registrar of Consultant Lobbyists, 1 Horse Guards Road (Room 3.26), London SW1A 2HQ.

If you have questions about this consultation, please email enquiries@orcl.gov.uk or call 020 7271 8827.

4. Confidentiality and data protection

All consultation responses will be published on the website of the Office of the Registrar, including the name (but not the personal contact details) of the responding person or organisation. If you do not wish us to publish your name or all or part of your response, please indicate this and the reason for your preference.

5. Statutory provision and Registrar's guidance

Section 4 of the Act provides that:

(2) The entry for each registered person must include ...

(g) a statement of:

(i) whether there is in place an undertaking by the person to comply with a relevant code of conduct, and

(ii) if so, where a copy of the code may be inspected;

(6) In this section ... (b) a "relevant code of conduct" ... 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.

The Registrar's *Guidance on registration and quarterly information returns* (2019) provides that:

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.

6. Consultation questions

What makes a code of conduct ‘relevant’?

The Act defines a ‘relevant code of conduct’ as one *‘which governs the carrying on of the business of consultant lobbying (whether or not it also governs other activities)’*.

Current practice allows codes of conduct that set out general good, professional behaviour such as the SRA Code of Conduct or the ICAEW Code of Ethics to be declared as codes of conduct by registrants. Other registrants name a code that deals explicitly with lobbying, such as the Public Affairs Code of the PRCA’s Public Affairs Board. Others declare their own company-specific codes.

The Registrar is considering amending the guidance so that in order to be ‘relevant’ under the Act, a code must go beyond setting out general good professional behaviour and must provide guidance or a framework that is of particular and specific relevance to consultant lobbying activity.

Question 1: What is your view of this proposed change?

Question 2: What would be appropriate tests as to whether a code of conduct is relevant in that it *‘governs the carrying on of the business of consultant lobbying’*?

What is an ‘undertaking’ to comply with a relevant code of conduct?

The Act requires registrants to state *‘whether there is in place an undertaking by the person to comply with a relevant code of conduct’*.

The Registrar currently simply asks new registrants to state which code of conduct they subscribe to and where it can be inspected.

Question 3: Should ‘undertaking’ require a more formal commitment or is current practice sufficient?

Question 4: If you believe there should be a more formal commitment, what form should this take?

The content of codes of conduct

The Registrar’s view is that the Act does not give the Registrar the right to comment on or shape the content of codes of conduct – the only test he can apply is relevance, as defined by the Act.

Question 5: Do you agree with this view? If not, why not?

Which codes of conduct may be declared?

The Registrar's view is that the Act does not give the Registrar the right to restrict which codes of conduct may be declared. So long as a code is relevant, a registrant can declare it on the Register. This means that codes might come from a trade or professional body or be self-written by the registrant.

Question 6: Do you agree with this view? If not, why not?

How can a code of conduct for individuals be adopted by a registrant?

Some codes of conduct govern the behaviour of individual members of a professional body, rather than a business as a whole. The Registrar's guidance says that '*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*'.

Question 7: Do you agree with this? Why or why not?

Question 8: If you agree with the guidance, how can adoption by every member of the organisation be demonstrated?