

Consultation on guidance, codes of conduct and compliance February 2021

A. 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 considers that transparent, ethical lobbying can be an important part of effective public policy formation and the work of the Registrar supports that by putting the activities of consultant lobbyists into the public domain.

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.

B. Background

This consultation seeks views on:

1. Clarity and completeness of the Registrar's guidance

In June 2019 and August 2020 the Registrar issued two updated pieces of formal guidance under the Act.

Both of these included significant changes to style and content and the Registrar now seeks views on the clarity of the guidance and any additional matters on which guidance would be useful. See questions 1 and 2 in section F below.

2. Provision of a template code of conduct for registrants

When they join the Register, registrants have to declare whether or not they subscribe to a relevant code of conduct.

Some registrants subscribe to a code of conduct provided by their professional or trade body, others work to a self-written code and others do not declare a code. In all cases the code must meet the criteria set out in the Act and in guidance.

The Registrar now seeks views as to whether it would be useful to registrants and supportive of the aims of the Act to provide a template code of conduct for registrants. See questions 3 and 4 in section F below.

3. Ensuring compliance

The overwhelming majority of those engaging in consultant lobbying fully comply with the requirements of the Act. The Registrar has a statutory duty to ensure compliance and his approach to this is set out below.

The Registrar is now seeking views as to whether there are additional or better mechanisms to support compliance. See question 5 in section F below.

The Registrar will consider responses to this consultation before making changes to guidance or practice.

C. How to respond

This consultation runs from 9 February 2021 to 9 March 2021.

Please answer the questions in section F below. Bear in mind that any changes to practice can only be made within the framework of the Act.

Please respond by emailing enquiries@orcl.gov.uk no later than 2300 on 9 March 2021.

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

D. 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.

E. Statutory provision and guidance on codes of conduct

Section 4 of the Act provides that:

... (2) The entry for each registered person must include ... (g) a statement of whether there is in place an undertaking by the person to comply with a relevant code of conduct, and if so, where a copy of the code may be inspected;

... (6) In this section ... 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 QIRs, including specialist guidance for think tanks and support service providers to APPGs](#) (August 2020) provides at section 3.5 that:

Under the Act a ‘relevant code of conduct’ is one that ‘governs the carrying on of the business of consultant lobbying’. Registrants will need to demonstrate that any code they wish to declare on the Register meets this test.

To be ‘relevant’ a code of conduct must:

- Go beyond setting out general, good professional behaviour and must contain provisions that are of particular relevance to the way that consultant lobbying activity is carried out. A code that fails to recognise a consultant lobbyist’s responsibilities to those to whom representations are made is unlikely to be ‘relevant’.*

- *Provide a mechanism for complaint about an alleged breach of the code of conduct by anyone affected by the registrant's consultant lobbying activities.*
- *Include some oversight or control of the process of handling complaints of alleged breach of the code, which is not carried out by the registrant themselves. This might be demonstrated in a number of ways, including, for example, by an external adjudication or arbitration process defined in the code, or by the mechanisms of a professional body. A registrant can choose to develop and adhere to a 'self-authored' code, but to be considered 'relevant' and to appear in the Register, it must contain this external element.*

F. Consultation questions

Clarity and completeness of published guidance

The Registrar has issued formal guidance under the Act:

- [Guidance on registration and QIRs, including specialist guidance for think tanks and support service providers to APPGs](#) (August 2020)
- [Guidance on compliance, offences and penalties](#) (June 2019)

The Registrar is seeking views as to the clarity and completeness of this guidance.

Question 1: How clear and comprehensible do you find the guidance? Where possible, provide examples of lack of clarity or ways in which clarity could be improved.

Question 2: What other areas do you think could usefully be covered by formal guidance?

Provision of a template code of conduct

Those registrants who wish to declare on the Register that they observe a code of conduct either undertake to comply with one provided by their professional body or with a self-written code. The Registrar decides whether a code meets the criteria set out in the Act and the guidance and may be declared on the Register.

The Registrar is seeking views as to whether it would be useful to those on the Register and to others to provide a template or framework code of conduct for registrants.

The Registrar envisages that any such template would set out provisions about the way that consultant lobbying activity is carried out, including the consultant lobbyist's responsibilities to those to whom representations are made. It would be open to the

registrant to amend these to suit their way of working. Registrants would need to add their own complaints process to any such template, setting out how they handle any complaints, including external oversight of the complaints process.

The Registrar would continue to decide in each case whether the code met the tests of the Act and guidance.

Question 3: If the Registrar provided a template or framework code of conduct would this be useful to you and/or registrants? What impact do you think this would have?

Question 4: What effect do you think this would have on clients, those being lobbied and others?

Ensuring compliance

The Registrar has a statutory duty to ensure compliance with the Act and the mechanisms he uses include:

- Engaging with those who are required to register, including providing clear information and guidance.
- Ensuring that systems and processes are as simple as possible in order to minimise the administrative burden on registrants.
- Publishing data about registrations and the information declared in Quarterly Information Returns.
- Cross checking the information declared by registrants against the published record of meetings held by Ministers and Permanent Secretaries.
- Carrying out formal investigations into organisations where there is reasonable information suggesting non-compliance.

Question 5: What additional or better mechanisms can you suggest that would support compliance with the Act?