

Public Relations Consultants Association (PRCA) response to the Office of the Registrar of Consultant Lobbyists (ORCL) Consultation on Information Publication and Retention

Executive summary

- + We welcome, as always, the opportunity to share our members' views and our direct experience.
- + When a registrant ceases the "business of consultant lobbying", the statement proposed in this consultation should be amended to make clear that other public affairs work might still be taking place.
- + Given the uncertainty of outcome, we agree with the proposals to keep the issuing of Information Notices, responses and cancellations confidential.
- + We do not disagree with the spirit of transparency that signposting represents; any signposting, however, must be a positive, informative process and not contribute to a false narrative about lobbying.
- + The discussion around sanctions and criminal penalties forms a much wider debate concerning the appropriateness of the legislation. In addition, any proceedings should be framed by the fact the PRCA Public Affairs Register is the strongest sign of sound ethics and a commitment to best practice.

Introduction

- + The PRCA is the UK professional body representing lobbyists and communications professionals. Our membership includes consultancies (including around 75% of the "PR Week Top 150"), in-house teams (including banks, charities and the entire Government Communications Service) and also individual practitioners. We represent around 350 consultancies and 250 in-house teams. We are the largest association of our type in Europe.
- + Of our 18,000 individuals who are members of the PRCA, around 1,500 are lobbyists.
- + There are currently 103 members on the PRCA Public Affairs Register. This includes the largest consultancies such as MHP Communications, Weber Shandwick, H+K Strategies and Edelman, alongside specialist and smaller organisations. We also represent in-house teams for organisations as diverse as the NSPCC, AXA, Visa, Local Government Association and Nationwide.

1. Do you agree with my proposed approach to publication and retention of registration information, and if not, what changes would you propose?

- + From our experience of running the industry's voluntary register, substantive information (e.g. a member of staff ceasing lobbying) is indicated, whereas small administrative errors or alterations are corrected without record. The Office's proposals would therefore be in-line with the industry's own best practice.
- + In the event that a registrant ceases the "business of consultant lobbying", we would suggest that the Register reads: "NAME ceased the business of consultant lobbying – as defined by the Lobbying Act – on DATE. Wider communications work, public affairs, PR, lobbying and political work may still be taking place". Such an addition to the statement proposed in this consultation would properly locate the Act in the contexts of modern business practices. It would also avoid any confusion from the public, politicians and businesses when they see a third party organisation offering political services despite not appearing on the Register.

2. Do you agree with my proposed approach to publication and retention of quarterly client information / nil returns, and if not, what changes would you propose?

- + It is right that publication of quarterly returns be delayed if there is a significant problem to be clarified: it benefits both the organisation conducting lobbying (to ensure that they can act in such a way to protect their reputation and properly confirm the information they are publically declaring) and the public (who are not, therefore, subject to a period of flux where the Office has published the information according to the Act's "8 working day" requirement yet still needs to clarify that information).
- + Our response to Q1 of this consultation considers the administrative and substantive changes.

3. Do you agree with my proposed approach to publication of Information Notices and retention of information about them, and if not, what changes would you propose?

- + The PRCA has the power – as defined in our PRCA Arbitration and Disciplinary Procedures – to, alongside termination of membership, warn, admonish or reprimand. These may be published and we have chosen to do so in every recent case. Fuel PR, for instance, had its membership terminated in September 2015 and their managing director was stripped of her PRCA fellowship. At every stage, the PRCA published information relating to the case.
- + This procedure is clearly laid out alongside the PRCA Code of Conduct and members are obliged to familiarise themselves with both of these: professionals are not compelled to join the PRCA, and therefore these requirements represent something voluntarily taken on by the member when they join.
- + Given this, we agree with the Registrar's proposed approach of keeping the issuing of Information Notices, responses and cancellations confidential. They add nothing to transparency themselves and if they have, indeed, led to disclosure this will clearly exist in the form of an entry on the Statutory Register.

4. Do you agree with my proposed approach to publication and retention of information about civil penalties and if not what changes would you propose?

- + The PRCA has consistently campaigned for a Statutory Register that includes sanctions. In our experience running the industry's PRCA Public Affairs Register, errors are promptly corrected once highlighted and subsequently not repeated. An educative approach – even against the backdrop of moving to a compliance regime – is the most effective.
- + We agree with the proposed approach of keeping procedures confidential until they have concluded. There is no benefit in publishing information if no further action was taken; it is, however, reasonable to publish an outcome which directly relates to (and alters) the information which features on registrant's entry.
- + As previously raised and in the contexts of how many registrants feature voluntarily on the Register, we believe that members should not fall-foul of civil penalties when an educative approach would – consequentially – achieve far more.

5. Do you agree with my proposed approach to publication of publication and retention of information about criminal penalties, and if not, what changes would you propose?

- + The PRCA Code of Conduct invokes sanctions against members who contravene the rules. The most powerful sanction is to revoke membership, as happened to Fuel PR In October 2015 (in this case, we also removed the Fellowship honour from that organisation's Managing Director).
- + The PRCA is in favour of sanctions – used only when appropriate – and the proposed approach to the publication and retention of information about criminal penalties seems reasonable. Given the industry's commitment to transparency and openness, we do not foresee any issues for our members and any proceedings should be framed by the fact the PRCA Public Affairs Registers is the strongest sign of sound ethics and a commitment to best practice.
- + Any criminal penalties also call into question the adequacy of the current regime: consequentially, why is it appropriate for a third party lobbyist to face criminal penalties for same actions as an in-house lobbyist?
- + Our response to Q3 of this consultation addresses admonishments and publishing outcomes. Our response to Q6 of this consultation considers the appropriateness of signposting on the Register.

6. Do you agree with my proposed approach to compliance with the Freedom of Information Act, and if not what changes would you propose?

- + The PRCA has previously raise the issue of Freedom of Information Act (FOIA) requests with the Registrar in meetings. In addition, it has featured heavily in discussions between the PRCA and its members centred on commercial advantages or disadvantages resulting from the Statutory Register.
- + FOIA requests are an important tool used by all campaigners since their inception. The recent Independent Commission on Freedom of Information received more than 30,000 submissions

- many of them from PR and Lobbying professionals – which goes some way to show how integrated requests are into modern communications.
- + Balancing bureaucracy and disclosure is challenging, but it is important that (in respect of the former) registrants, politicians and the public have confidence in the Office.
- + We believe that it is important to keep the Statutory Register itself free of FOIA requests: at worst, they imply that information about a registrant required this course of action to make it public. Given the information found on the PRCA Public Affairs Register, or the registrants own website, this can be false. Ensuring that they feature on the website is the correct thing to do.
- + As stated in our response to the Office’s consultation on compliance, we do not disagree with the spirit of transparency that signposting represents. However, any signposting must be a positive, informative process and not contribute to a false narrative that our industry might seek to avoid disclosure.

7. Do you agree with my proposed approach to conformance with the Data Protection Act, and if not what changes would you propose?

- + PRCA members and other registrants should be permitted to – in light of the Act – adopt an approach which protects their integrity and reputation. Members already go above and beyond what is required of them through their disclosure on the PRCA Public Affairs Register.
- + It is right, therefore, that the Office recognises that erroneous information is “detrimental” to transparency. Given the industry’s own work on disclosure and transparency precedes the Lobbying Act by decades, it would be deeply unfortunate should a registrant suffer through absolutely no fault of their own.
- + In terms of the proposed availability of the entire Register for a period of five years, the PRCA Public Affairs Register publically available records currently go back to 2009 with no intention of archiving or deleting this information. Whilst five years could be an adequate timeframe, this should be properly reviewed after the Statutory Register has been operated for five years. This review should be framed precisely by the requests received, and questions asked, over that period.

8. Are there any other issues of information publication and retention that you wish me to consider?

- + In the FT on Wednesday 27th January, Alison White, the Registrar, noted that the “legislation is quite narrowly drafted”. We agree and believe that any approach has to take into account the fact that it is so narrow that not all of the traditional “lobbying industry” will be covered. Similarly, we would reiterate our previous point that our industry must not be unduly targeted.
- + With the above in mind, work on information publication and retention must take into account the fact that a great many will require the educative approach taken by the Office and the Registrar to continue, even as we move into a more regular compliance regime.