



## **PRCA response to Public Administration and Constitutional Affairs Committee post-legislative scrutiny of the Lobbying Act 2014 and related matters**

### **Who we are:**

1. The Public Relations and Communications Association (PRCA) welcomes the opportunity to contribute to this inquiry. The PRCA is the world's largest professional PR body. We represent and regulate more than 35,000 PR professionals in 70 countries worldwide.
2. Within the PRCA is the PRCA Public Affairs Board (PAB), the voice of the public affairs and lobbying industry, which includes representatives from across the Nations. The PRCA PAB's role is to ensure transparency through our quarterly Public Affairs Register; to enforce high standards through our Public Affairs Code; and to promote a wider understanding of public affairs and the contribution it makes to public life across the UK and including the devolved nations. The PRCA's public affairs membership totals 152 organisations, employing approximately 2,500 practitioners, and working for approximately 3,400 clients.
3. Our members register their clients on a quarterly basis, and all staff of member agencies receive training in our [Public Affairs Code](#). We promote the highest standards of activity and we operate an independent complaints procedure, funded by the industry, to deal with potential violations of the code.

### **Summary**

- The PRCA have consultancy and 'in-house' public affairs members who all follow our [Public Affairs Code](#) and are treated the same. The general public view lobbying activity the same way, regardless of who is conducting it, and we believe all lobbying activity should be reported to ensure the same high standards are met across the industry and regain public confidence.
- The lobbying industry has made concerted efforts to improve transparency and we support reporting activity that is effective. By effective, we mean transparency is a good thing if it is proportionate and helps to fulfil the objective of giving public, business, and politicians reassurance of ethical lobbying.
- We believe that the interactions covered by the [Act](#) should be expanded to include Special Advisers and senior civil servants, from Director General level up.
- The Government should extend the existing limitations on former Ministers taking paid lobbying positions and institute a five-year ban, including on in-house

roles. Former Ministers should consistently behave in the spirit of the Nolan Principles.

- The Registrar of Consultant Lobbyists should no longer allow registrants to declare self-written and self-policed codes which are neither independent nor independently enforceable.

### **Detailed Commentary:**

The PRCA are pleased to contribute to this inquiry and specifically respond to the proposals contained within the Government's response here:

<https://committees.parliament.uk/publications/41052/documents/199899/default/>

Our overarching principles are that the public should have confidence in the lobbying system. We believe that this can be achieved through stronger transparency, the robust application of ethical codes and a focus on the act of lobbying rather than on the person carrying it out. The general public do not distinguish between who is conducting lobbying; they only see the act of lobbying itself. The PRCA believe all lobbying activity should be reported in a transparent way to build trust in the industry.

### ***The Business Appointments Rules and the Advisory Committee on Business Appointments (ACOBA)***

The PRCA is pleased to see the Government introducing some changes to modernise the system for Business appointments through strengthening the powers of The Business Appointment Rules and the Advisory Committee on Business Appointments (ACOBA).

The way in which the Rules will be applied at the start of contracts is welcomed, and the development of a Deed of Undertaking for current Ministers is promising in that its aims are to be more enforceable with a view to tightening the legal framework to include further sanctions, such as financial penalties, in the future if needed.

We are pleased that the Government has recently provided more resources to ACOBA to enable it to function more effectively. The commitment to more transparency in ministerial appointments is also welcomed, and the tightening of the process through the Advisory Assessment Panel to extending requirements on future employment, although we would have rather seen an amendment to prohibit two year appointments where the applicant has 'significant and direct' responsibility for policy regulation or the

award of contracts, as recommended by the Standards Committee.  
(recommendation11).

The Government has explained that instituting a 5 year ban on Ministers taking lobbying positions after leaving office without bringing in-house lobbying in line with consultant lobbyists would be unfair and we welcome the recognition by the Government on this point. Page 8<sup>1</sup> states 'banning all lobbying firms would be disproportionate given a role as an 'in-house' [lobbyist] is functionally the same [thing].' Indeed, we remain of the view that lobbying firms and in-house lobbying are the same thing in the eyes of the public and should be consistent with each other. When the Government accepts this anomaly in classifying the institution, rather than the act of lobbying itself, we will support a 5 year ban on lobbying for up to five years for Ministers.

The general public does not distinguish between whether a particular practitioner is 'in-house' or a consultant, and in fact both in-house and consultant providers sign up to the PRCA Code. The public recognise that it is the acts of lobbying that is important. To have different classes of practitioners does not reassure the public and gives less oversight to one over the other.

### ***The regulation of public appointments***

Although the Government has made steps towards making sure Ministers are accountable to Parliament for public appointments, and given a stronger degree of accountability where the Advisory Assessment Panel deems an appointment inappropriate, not including additional reporting requirements for Senior Independent Panel Members to report to the Commissioner is a missed opportunity to tighten regulation in this area.

The PRCA welcome the publication of Department Ministerial Appointments. However, an annual cycle is not sufficient to provide enough transparency to be up to date, and we therefore support a monthly publication.

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<sup>1</sup> <https://committees.parliament.uk/publications/41052/documents/199899/default/>

## ***Transparency around Lobbying and the Register of Consultant Lobbyists***

We are pleased to see that the Cabinet Office is developing a single platform for departments' transparency returns and will be publishing this as a single source, as opposed to the previous system of separate publications.

We would want to know that the additional regulatory burden required to declare the ultimate beneficiary of lobbying and its subject matter was something that is actually valued by the public. Additional information required from our members would need to be proportionate with regard to its usefulness and so far, we have not seen any evidence that this is the case.

In any case, we would find this additional reporting acceptable only if it were extended to include all people carrying out lobbying activity, including people working within their organisation in advocacy and public affairs roles and other organisations involved in research and policy development such as think tanks.

Consultant lobbyists already publish regular returns and in the case of PRCA members there are potential sanctions for a failure for timely reporting. We believe that the public is more likely to mistrust occasions where organisations operate outside a Code of Practice and are not subject to regular reporting requirements. It would seem that the obvious next step would be to ensure that everyone undertaking lobbying should be subject to the same rules.

The system for reporting needs to be clearer and more equal. We are in favour of transparency but it feels like the focus on those who already abide by the rules and takes the focus away from areas where there is little regulation.

Under the new plans, there will still be no obligation for those employed in-house to record their lobbying activity, which is a missed opportunity. The PRCA campaigned for The Lobbying Act to be expanded to cover all of those engaged in lobbying. We gave evidence to support the Act being expanded to cover those working in-house in charities, campaigning groups, think tanks, trade unions, business, organisations and private companies. We believe that the current register fails to capture all activity accurately while this is excluded. It is therefore very disappointing to see that the Government is not planning to extend the Act to cover all those engaged in lobbying.

Particularly (as mentioned above) on page 8, 1.2 <sup>2</sup> the Governments cite the reason for not issuing a lobbying ban on Ministers for five years to lobbying firms because 'banning all lobbying firms would be disproportionate given a role as an 'in-house' is functionally the same.'

Here the Government is acknowledging that lobbying firms and in-house lobbying is functionally the same thing, which provides a strong case for including in-house on the register.

### ***The Register of Consultant Lobbyists***

We are really pleased to see a removal of the exemption for those that fall below the VAT threshold that covered the 'incidental lobbying' exemption. The PRCA gave evidence to the PACAC committee on this issue which identified this loophole being used by lobbyists to avoid declaring lobbying activity and accepting payment for lobbying services. The Registrar of Consultant Lobbyists must not be inhibited from pursuing those who seek to break the rules for lobbying and the removal of this exemption strengthens their ability to fulfil that role.

The PRCA believes strongly that there needs to be a mandatory code of conduct for all those who conduct lobbying. We believe that our own Code sets minimum standards in the industry and helps to provide a level of guidance to police behaviour in the industry. The Government's refusal to accept that this is much needed, and instead rely on the industry's codes, is disappointing indeed.

A mandatory code of conduct for all those who conduct lobbying is much needed as compliance is optional for lobbyists who are not PRCA members. At the very least a mandatory code of conduct would set minimum standards for the industry and help to provide a level of guidance to police behaviour.

### ***Statutory Basis for Ethics Regulation***

The PRCA are disappointed to see that the opportunity to place the Commissioner for Public Appointments on a statutory basis by introducing primary legislation has been rejected. The reason given that bodies are independent and accountable to Parliament and that legislation then risks drawing the Courts into political matters is a weak excuse. The lack of ethics in lobbying has been highlighted many times in the public domain in

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<sup>2</sup> [\\*Strengthening Ethics and Integrity in Central Government \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/public-administration-and-constitutional-affairs/committees/post-legislative-scrutiny-of-the-lobbying-act-2014-and-related-matters/)

recent years and further scrutiny with sound legislation to support it is needed to strengthen the sector. We urge the Government to introduce primary legislation to cover this oversight.