

Invicta Public Affairs - Lobbying (Scotland) Bill Call for Evidence

1. Do you agree that the Bill is necessary and that the establishment of a Lobbying Register is desirable?

Invicta Public Affairs is supportive of moves to introduce a statutory register of consultant lobbyists in Scotland. However, we believe that any register introduced in Scotland should be brought into line with the UK Register of Lobbyists, and restricted to consultant lobbyists only.

We do not see the case for extending the register to others who are engaged in lobbying activity, such as charitable organisations, equalities groups, trade unions and trade bodies. It is unclear to what extent these organisations engage in lobbying, as it will be part of a range of services offered and will not necessarily be undertaken on a formal and continuous basis. However, we do welcome the fact that the register is limited to organisations and is not extended to individual employees. Ultimately it is a matter for Parliament to judge who should be included within the register.

It is also important to note that, as a company, we do not consider there to be a problem with the lobbying industry in Scotland. The profession has not experienced the same issues at the Scottish Parliament as it has in Westminster. However, we are in favour of normalising and formalising the lobbying profession in Scotland through the introduction of a register. Increased transparency within the industry will help to improve the standard of engagement, as well as the quality of service provided to our clients.

Invicta Public Affairs is already included within the UK Register of Lobbyists and, as such, our activities in engaging UK Ministers have been made transparent and are available for the public to view with regard. This transparency is welcome as it helps us to improve our operating practices more effectively.

2. How will the Bill affect you or your organisation?

Invicta Public Affairs is already fully compliant with the UK Register of Lobbyists and provides information returns on a quarterly basis. As such, we are not concerned about the regulatory burden of a register in Scotland.

However, a six monthly return will significantly increase the administrative burden on Invicta Public Affairs, in particular if MSPs are to continue to be included within the Bill. Given the number of MSPs we engage with over a period of six months, the volume of information required would be difficult to manage. In turn, this would increase the likelihood of human error, which could be mistakenly construed as a deliberate attempt to mislead.

It should also be noted that the purpose of a register is to monitor engagement which could affect how decisions are made and what decisions are made by the Scottish Government. MSPs do not have a decision making role within Government and have to abide by a different code of conduct to Ministers.

Furthermore, MSPs are the representatives of the electorate and, as such, they are the first point of contact for their constituents. By including MSPs within the Bill the difference between engagement by consultant lobbyists and engagement by the civilian population is blurred. The distinct roles between Ministers and MSPs is not recognised in this Bill.

As such, Invicta Public Affairs believes that engagement with MSPs should be removed from the Bill and that the register should work on the basis of a quarterly return. This would align the administrative burden with the UK register, and avoid the accidental omission of any information.

3. Registration is triggered only when lobbying is being done in exchange for payment (either as a consultant or an employee) and does not capture lobbying carried out in the course of voluntary work or when it is done by an individual on his or her own behalf. Do you agree with this approach?

Invicta Public Affairs agrees that payment for lobbying activity should be the point of demarcation, as it is clear and quantifiable. However, there is a distinct difference between consultant lobbyists who are paid solely for undertaking lobbying activity and charitable organisations, equalities groups, trade unions and trade bodies who provide a range of services.

Currently the Bill is too broad with regards to the membership of the register. It is less clear to an employee of a charitable organisation or campaign group when they are engaging in regulated lobbying activity, as they are paid for undertaking their job role - a small part of which may include lobbying. On the other hand, a company like Invicta Public Affairs is paid a fee by other companies and organisations to specifically undertake lobbying activity.

Due to this distinction between consultant lobbyists and those who engage in lobbying as part of a job role or organisation, Invicta Public Affairs believes that any register introduced in Scotland should be restricted to the former.

Furthermore, we believe that a code of conduct should only be introduced if the register is restricted to consultant lobbyists. It is not possible to compare the practices of a company like Invicta Public Affairs, whose purpose it is to engage in lobbying activity, and those organisations / employees who do so as part of a much larger remit. As such, it would be difficult to apply the same code of conduct across the broad membership currently proposed in the Bill.

However, voluntary registration should be offered for those individuals, organisations and groups who partake in lobbying activity but are not paid a specific fee for this particular service. This will allow for transparency while recognising the difference between those who are paid to lobby and those who do so on their own behalf or as part of a larger remit / job role.

4. Do the provisions set out in the Bill succeed in striking a balance between capturing information of value and ensuring that access and participation with the work of Parliament and Government is not discouraged?

A balance has been struck with regards to the information that is required for submission. Indeed, Invicta Public Affairs welcomes the fact that no financial disclosure is required, and that the onus is on employers to register their organisation rather than on individual employees.

Both of these measures allow for employers to continue implementing their duty of care to their clients and their employees. Furthermore, the increased responsibility on organisations will encourage self regulation and will help improve standards in the lobbying industry.

We also welcome the fact that regulated lobbying activity is restricted to face-to-face engagement. Only this kind of direct engagement allows for influence of the kind which should be monitored by the register. Unsolicited engagement via emails and phone calls do not exert the same influence over decision makers as face-to-face meetings.

Moreover, the recording of this type of engagement will allow for a process of double disclosure, as any Ministerial meetings are already recorded within the Ministerial diary. This will increase transparency within the lobbying industry and allow for any information omissions to be flagged up.

If MSPs are to continue to be included within the Bill it is important that regulated lobbying activity on this level is also restricted to face-to-face engagement. Otherwise, the volume of work required for information returns would be too difficult for a company like ours to manage.

It should be noted that Invicta Public Affairs never issues communications it would not be comfortable disclosing to the public.

5. Do you feel that the definitions and exclusions are sufficiently clear? Do they, for example, allow individuals and organisations to easily know whether their activity requires to be registered?

Yes. However, Invicta Public Affairs believes that the requirement to register is currently too broad and that it should be restricted to consultant lobbyists.

6. The Bill's Policy Memorandum states the Bill aims for a "light touch, educative approach" and that "criminal offences and penalties [are] provided for as a last resort". What are your views on this approach?

Failure to adhere to a Code of Practice is a civil matter and, as such, should be dealt with through a civil sanction. Any criminal activity will be picked up by the Bribery Act 2010 and should be dealt with by the police and the procurator fiscal.

An appropriate sanction for failure to adhere to an industry code would be the issuing of a fine and / or removal from the register of consultant lobbyists, depending on if the fine is paid and the seriousness of the offence. The organisation removed should also be named by the register as having failed to adhere to the Code of Practice.

This is a proportionate civil sanction which is transparent, exposing organisations who have failed to meet industry standards to clients, who may form their own judgements and act upon them accordingly.

7. Are there any unforeseen consequences of the Bill as currently drafted?

If MSPs are included within the Bill, there would be a large administrative burden on organisations and a significant volume of meaningless information submitted. In turn, this could result in the accidental omission of information due to the volume of meetings undertaken with local representatives on a six monthly basis.

MSPs have a distinctly different role to Ministers, in that they are not decision makers and can in fact partake in lobbying activity through their engagement with Government. Their roles are not comparable and, as such, MSPs should not be included within the Bill.

8. Are there any amendments that would, in your view, enhance the Bill?

Invicta Public Affairs would propose the removal of MSPs from the Bill, as well as the restriction of obligatory registration to consultant lobbyists.