

## **Consultation on Lobbying Transparency**

Invicta Public Affairs  
Consultation Response



## CONSULTATION QUESTIONS

### **Question 1 – Do you agree that the Government’s three core principles are appropriate to inform the delivery of an effective and proportionate lobbying registration regime in Scotland?**

The three core principles proposed by the Scottish Government provide a sound basis from which an appropriate lobbyist registration regime can be developed. Any proposed regime should indeed be compatible with existing regimes that govern the conduct of those in public office and should avoid erosion of parliament’s principles of openness and accountability. A register of lobbyists and any subsequent industry codes should not impinge on the rights of any others, outside of the lobbying industry, to engage with government. This should be about improving the conduct of professionals who are paid to lobby not limiting the scope of the public to make their views known to those who they elect.

### **Question 2 – Do you agree that a publicly available register of lobbyists should be introduced in Scotland?**

Invicta Public Affairs is supportive of moves to introduce a statutory register of consultant lobbyists, such as that which was introduced by the UK Parliament in 2014. 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. As such we would welcome the situation in Scotland being brought into line as we operate across the UK as whole, on UK national and devolved national level.

Any register introduced in Scotland should be brought in line with that already in place for the UK as a whole. Invicta Public Affairs, like many other organisations engaging in consultant lobbying, works with clients across the whole of the UK and in the EU. As a single market economy, coherency between registers would be preferable and ensure consistency in practices across the UK as a whole and in the four home nations.

As a company we believe that legislation will help address perceived problems even if, in reality, there is not the same issues with lobbying at the Scottish Parliament as we have sadly seen at Westminster. However the industry in Scotland and the Scottish Government should not be complacent and should seek to improve standards as a means to avoid the problems experienced in the UK parliament in recent years. In short public confidence must be maintained.

Furthermore, beyond the political realm we believe that standards of professional practice and the quality of lobbying services to clients can be improved through proportionate regulation. By seeking to improve the standards of lobbying practices in Scotland and across the UK, clients will be exposed to less risk and the the industry as a whole can become more transparent and better valued. All parties have a right to representation in a democratic system and Invicta exists to ensure that our clients engage with decision makers purposefully and ethically. We operate within the rules as they are and would welcome the rules being more consistently applied to others in our industry.

In welcoming the introduction of a register of lobbyists in Scotland and being already included within the UK register, Invicta has set itself apart from many in the

industry who take the view that nothing needs to change. We are happy to challenge our own industry which is wrong in trying to argue for self regulation only. We must move with the times and take account of the wider public interest given the potential impact of our work on the democratic process.

**Question 3 – Do you agree that no fee should be payable by lobbyists for registering or updating the register?**

Invicta Public Affairs does not believe that private organisations should be subsidised by the public purse. As such, the burden of maintaining standards and quality of service in the industry should fall on the organisations who would require to be on the lobbying registers. The only way that can be fairly levied is through a flat fee for all organisations who are required or who choose to register. This fee should be annual and cover all costs including maintaining the register.

We suggest that it should be possible for organisations to carry their membership across different registration bodies without having to pay duplicate fees. Given that many organisations, including Invicta, work across the whole of the UK, this structure will ensure that regulation of the industry is proportionate and will not lead to a dual system of registration that would be costly and bureaucratic to administer. We would like to see the UK Parliament and Scottish Parliament working on this and in time the Welsh Assembly and Northern Ireland Assembly being brought into line under one consistent regime.

The cost of registration for the UK register is approximately £600.00 per annum, which is a relatively modest fee. Under the model suggested above, this annual fee would allow organisations to be included within a Scottish register also. It may be necessary to increase this fee to allow single or multiple registration and the fee adjusted accordingly.

**Question 4 – What are your views on whether the onus to register should lie with individuals who lobby as part of their work, or organisations who lobby?**

**Please provide reasons in support of your response.**

We believe that the onus of registration should lie wholly with organisations who lobby rather than those employed by organisations to lobby as a paid role. Many of those engaging in consultant lobbying within an organisation will hold junior and middle-level positions and, as such, should be protected from unwanted scrutiny, particularly media scrutiny that could come from their personal details being disclosed.

Responsibility for services offered to any client by an organisation lies with the employer as does the protection of employees. It would be inherently unhelpful to employers to have a lobbying code impinge on the employee / employer relationship.

Furthermore, registration by organisations will bring the proposed regulation in line with company law. Ultimately it is the corporate entity and the directors of that entity who should accept responsibility for the actions of the entity and its employees. It is also the corporate entity that is accountable to the client for the services provided.

At Invicta Public Affairs, employees' information and activities are protected and only their name and role within the company disclosed. Invicta also implements its own ethical code which employees must adhere to and which ensures reasonable sanctions where necessary. In short if an employee breaks our code of conduct then we sanction them by reprimand or in serious cases dismissal.

**Question 5 – Should both consultant lobbyists and in-house lobbyists be required to register?**

**Please provide reasons in support of your response.**

Without a doubt, consultant lobbyists as corporate entities should be required to register. However, the option for in-house lobbyists to register should be left open as in time it will probably be appropriate for them to be included.

As a starting point, voluntary registration should be offered to in-house lobbyists, with the potential for this to be made a requirement if deemed necessary in the future. This would reunite the registration of consultant lobbyist to have been proven to be a success.

**Question 6 – Should any types of in-house lobbyist be exempt from registration?**

**Please provide reasons in support of your response.**

As is stated above, registration for in-house lobbyists should start as voluntary.

One role within a company may encompass many tasks and activities, including lobbying when this is necessary. Given that many in-house lobbyists will only be undertaking lobbying activities infrequently, registration should remain voluntary until their role becomes focussed on that task on a regular basis.

**Question 7 – Do you agree that the register should cover the lobbying of MSPs and Ministers?**

**Please provide reasons in support of your response.**

Given that a register in place for the UK covers the lobbying of UK Government Ministers and senior civil servants (Permanent Secretaries), Invicta suggests that Scottish Parliament should apply the same measures to consultants operating in Scotland.

It is Ministers and permanent secretaries who ultimately have decision-making responsibilities which have a direct impact on the public. Furthermore, we have not had the same problem in Scotland as has been experienced in the UK parliament with high-profile backbenchers who have been providing their services on a freelance basis to firms and third parties. The inclusion of the lobbying of MSPs would be an unhelpful intrusion into their role, and could potentially be detrimental to the work they carry out in constituencies and on behalf of constituents in Scotland. It may lead to MSP's feeling unable to emerge and therefore being less informed.

**Question 8 – What types of communication do you think should be covered by a statutory register?**

Face-to-face meetings should be covered by any proposed statutory measure, as it is this form of communication which differentiates a consultant lobbyist from a citizen.

Indeed, a register of lobbyists and a regulatory system should not impinge upon the rights of member of the public to engage with government and, as such, the communication monitored by a register should be different to that which is experienced by citizens.

In addition to face-to-face communication being disclosed in the register, it should also be disclosed in Ministers' diaries to increase transparency.

**Question 9 – Do you agree with the Government's view that paid lobbyists should be required to register?**

**Please provide reasons in support of your response.**

Yes, all consultant lobbyists should be required to register.

**Question 10 – Do you agree that the register should also allow for voluntary registration by lobbyists not required to register?**

**Please provide reasons in support of your response.**

Voluntary registration should be an option for those who might engage with the government infrequently. A register should not simply seek to be solely a regulatory body, it should also seek to drive up standards in the industry. Voluntary registration will help to drive up the quality of service offered by the industry, decreasing risk for clients.

**Question 11 – What are your views on what kind of information each lobbyist should be required to provide on registration?**

**Please provide reasons in support of your response.**

Invicta Public Affairs believe that disclosure of information should be done on a case by case basis. The person engaged with, who the organisation is acting on behalf of and the purpose of the engagement should all be disclosed on the register. This is in line with the information disclosed in the UK register.

There should be no routine disclosure of a list of all clients a consultant works with, as it is not reasonable for our clients to be compared to one another when their only link is the use of the same advisor. A law firm and their clients would not accept full disclosure of a client list and neither should consultant lobbyists. There is a duty of care and confidence to clients which organisations must seek to uphold, such disclosure would go against this.

Furthermore, in terms of the business contract between the consultant and their client, we believe there should be no disclosure of fee income between a consultant and client as this will only lead to a race to the bottom with competitors and dilute standards.

**Question 12 – How often should lobbyists be required to provide a return detailing their lobbying activity?**

**Please provide reasons in support of your response.**

As is the case with the UK register, a quarterly return would be appropriate and certainly no more than that.

**Question 13 – Do you agree that the Parliament should introduce a Code of Practice for lobbyists setting out guidance on the registration regime and expected standards of behaviour?**

**Please provide reasons in support of your response.**

Invicta Public Affairs is supportive of a code of Practice for lobbyists, as it would be the beginning of a coherent development of professional industry standards and would ultimately improve the quality of service for clients.

Due to the fact that there is no universal industry Code of Practice presently, Invicta Public Affairs operates to its own code of conduct and this is made publicly available for all to see through our company website. We also have a complaints procedure in place should any member of the public wish to raise a concern about the way in which a member of our staff has behaved.

If the Scottish Parliament decided to introduce a specific Code of Conduct for lobbyists Invicta Public Affairs would of course be pleased to adopt this code and ensure adherence to it by our staff and advisors.

**Question 14 – Do you agree that a register should include the facility for lobbyists to indicate if they already subscribe to any industry Codes of Conduct?**

**Please provide reasons in support of your response.**

Yes, as is mentioned above, Invicta Public Affairs operate to its own code of conduct, which it would continue to do so alongside a Scottish Government Code of Practice if it were to be introduced.

However, an industry wide Code of Practice introduced by the Scottish Government should seek to ultimately replace individual codes practiced by organisations.

**Question 15 – Do you have any views on the Committee's proposals for who should be responsible for upkeep and oversight of the Register?**

As is the case with the UK register, an independent body would be best placed to

take responsibility for the upkeep and oversight of a register.

The existing body within the UK, the Office of the Registrar of Consultant Lobbyists, could in fact assume this role in Scotland. Again, this would increase coherence across the country and avoid dual systems of regulation which increase bureaucracy.

**Question 16 – Do you have any views on what enforcement mechanisms and sanctions should be available in connection with the registration regime?**

**Please provide reasons in support of your response.**

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 undertaken by an organisation should be dealt with by the police and the procurator fiscal.

An appropriate sanction for failure to adhere to an industry code would be removal from the register of consultant lobbyists, with this being on a permanent basis if the offence was serious. 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.

**Question 17 – Do you have any views on whether Parliament, by resolution, should be able to adjust the scope and operation of the registration regime once established?**

Any registration regime which is introduced should be operational for the duration of a parliamentary term. Review of the regime should take place no more than once per parliamentary term, as any more than this would create undue and unnecessary interference within the lobbying industry.

**Question 18 – Do you have any views on whether there could be impacts on equalities groups as a result of the proposals outlined?**

**Please draw on specific evidence and/or wider knowledge, experience and expertise.**

Invicta Public Affairs does not foresee this being an issue as it is only consultant lobbyists who will be required to register. There should be no restrictions on those outside the industry who wish to engage with government as result of the introduction of registration regime.

**Question 19 – Do you have any views on whether there could be any additional costs or other implications for businesses as a result of the proposals outlined?**

**Please draw on specific evidence and/or wider knowledge, experience and expertise.**

As is discussed above, the burden for maintaining a regulatory body and upholding standards should fall on the organisations. However, the cost for registration should be modest and proportionate, as should the requirements on what information is disclosed.

An annual fee of £600 which allows for transference of membership across bodies is proportionate. It is unreasonable to expect organisations to disclose all of the information related to their clients and activities, as such, only engagement with Ministers should be disclosed on a case by case basis.

**Question 20 – Do you have any other comments on the general operation of a register of lobbyists, or on any of the proposals put forward by the Committee or the Government?**

Invicta Public Affairs is already included within the UK register of lobbyists and would welcome the introduction of a similar regime in Scotland. We work across the whole of the UK and, as such, believe in helping to drive up standards in what is a UK-wide industry.

Invicta Public Affairs is happy to work with the Scottish Government throughout its consultation into a register for consultant lobbyists. Indeed, we have been working with the government to date and will continue to do so.