

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

INQUIRY INTO LOBBYING

SUBMISSION RECEIVED FROM PAGODA PUBLIC RELATIONS LIMITED

Q1 Have there been significant changes over the last decade in the way that lobbying is carried out?

The definition of lobbying and what constitutes lobbying is ever expanding and increasingly incorporates a growing number of professionals, not just within agencies, but also from within organisations in the public, private, and third sectors.

The re-establishment of the Scottish Parliament in 1999 and the transfer of more devolved areas of responsibility to Holyrood from Westminster since has resulted in the Scottish Parliament and government taking on further responsibility for areas of public policy. This has created an increase in engagement with MSPs to ensure they are fully informed of the various arguments surrounding issues, bills and regulations before them.

The rapid growth of digital/social media has compelled organisations to re-consider how best to engage with stakeholders and shifted what is seen as the traditional realm of lobbying from parliament and government out into the public sphere, such as through the use of social and mainstream media. Rather than face-to-face meetings behind closed doors, public campaigns are perceived as increasingly effective.

Lobbying activity often exists as a two-way dialogue that benefits both parties by informing debates and stimulating discussion, which also helps to improve knowledge among political decision makers of what lobbying is, and how lobbyists can contribute towards a greater understanding of issues and subjects which they are expected to act upon in the wider public interest.

There has been an increase in the sophistication of political parties engaging with lobbyists, for example through party conferences and other corporate efforts to attract revenue. Over the last Parliament we have seen much more evidence of Government, political parties and MSPs initiating lobbying and wider engagement with companies and organisations. This may be to seek third party endorsement or to actively influence the policies of major corporates.

However, this does mean that it is often difficult to clearly identify who is lobbying who as both parties may have persuasive intent. Indeed, one of the limitations of Neil Findlay's original proposal is the difficulty of disaggregating lobbying from consultation and routine stakeholder engagement.

Q2 Is there a problem or perceived problem with lobbying in Scotland? If so, how can this best be addressed? If not, do steps still need to be taken to address any problem arising in future?

The current lobbying sector in Scotland is widely acknowledged as being characterised by good practice that is ethical, honest, trustworthy, and transparent. There has been little evidence in recent years of a problem with the existing lobbying environment in Scotland.

The reputation of the lobbying sector has been called into question elsewhere in the UK, due to various journalistic stings, even when no legitimate public affairs company was involved.

Perceived problems tend to stem from a lack of understanding of what lobbying constitutes, why it exists and is a necessary part of the democratic decision making process, and the activities that public affairs practitioners are involved in.

It is the responsibility of both industry and those being lobbied to ensure they uphold the highest possible standards of integrity, and it would appear that is generally the case.

The ethical reputation of lobbying practice is of vital importance to lobbyists as it provides reassurance to both clients and the stakeholders they wish to engage with. Most importantly, it contributes towards building mutual respect with stakeholders, providing the foundations for long-term relationships to develop.

Q3 To what extent will the introduction of a register of lobbyists address any problem or perceived problem with lobbying?

Pagoda PR is supportive of measures to ensure that lobbying in Scotland is made as open and transparent as possible. However, as noted above, we do not perceive significant problems with the current lobbying environment in Scotland and believe a statutory register would therefore have limited impact.

There are already a range of self-regulated voluntary registers that exist in Scotland through various industry membership bodies, such as the Chartered Institute for Public Relations (CIPR), Association for Professional Political Consultants (APPC), and the Public Relations Consultants Association (PRCA).

We do however believe in an absolute requirement of any third party representatives to be entirely transparent in terms of who they are representing. This should be made clear as part of any engagement and, in the case of agencies, client names should feature on their website. This requirement should extend to legal practices engaged in parliamentary work.

Q4 To whom should such a register apply? Should it be voluntary or compulsory? How should it be maintained and who should maintain it? What level of information should be on it? Should thresholds be set for registration? If so what should they be? What are the likely cost implications of registration for groups that lobby?

If a register comes into effect it should apply to all professionals undertaking what is perceived to be lobbying activity. This includes professionals working both in-house and for consultancies, covering organisations and companies in the public, private and third sectors.

The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill 2013-14 currently progressing through the Westminster parliamentary process fails to recognise the role of in-house lobbyists, and risks creating a system that discriminates against consultancy lobbyists.

Given that the regulations in question would affect MSPs, we believe a register should be maintained and enforced by a body independent of parliament, whether that is a new or existing body, to ensure credibility in the eyes of industry and the public.

Creating thresholds for registration based on the amount of time spent on lobbying activity, or financial expenditure spent on lobbying activity is likely to prove impossible to regulate given the difficulty in defining lobbying activity in any meaningful way.

Q5 What sanctions should there be for failure to register lobbying activity? How will the register sit alongside the UK register? How will compliance be monitored?

For the reasons set out above we believe that it may prove difficult to ensure compliance because of an inability to demonstrate whether lobbying is taking place and whether the quantum of that lobbying exceeds any given threshold.

Sanctions for failing to comply with the regulations of the register should be a matter for the independent body responsible for enforcing and administering its terms. A committee or executive for that body should be charged with deciding if activity contravenes the principles set out in the register, and decide upon the extent of the disciplinary action. The company, organisation or individual in question should also have the right to appeal any verdict with an appeals panel.

The details of The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill 2013-14 have yet to be set in statute, however the UK Bill fundamentally differs from the proposed Scottish Bill. It is fairly common for consultancies in Scotland to lobby both MSPs and MPs. The UK Bill's current proposal for a statutory register of lobbyists is limited in scope, covering only consultant lobbyists undertaking activity that involves making direct contact with ministers and permanent secretaries.

The two Bills appear to be entirely removed from one another, which could lead to an administrative burden. Therefore it will be important that the industry clearly understands the differences between the UK Bill and any potential Scottish Bill for compliance purposes.

Q6 What are the implications of a register for (a) the Parliament, (b) MSPs, (c) organisations that lobby and (d) Ministers and civil servants?

For all of the above, awareness of the new regulations will be important, particularly if the register compels companies and organisations to disclose who they have been contacting and the reason for doing so. This will allow those being lobbied to verify meetings and achieve the aim of increasing transparency.

Existing codes of conduct for companies, organisations, MSPs, Ministers, and civil servants would need to be revised to reflect the obligations of the register and to provide guidance on compliance procedures and responsibilities.

Cost implications will occur for the body charged with administering and enforcing the regulations contained within the register. An administrative burden will be placed on those who lobby to regularly update the register with lobbying activity, and potentially also a financial cost of registering for those required to do so.

Q7 Whether other changes could be made to improve transparency in lobbying in Scotland? What, if any, changes should be made to Section 5 of the Code of Conduct for Members of the Scottish Parliament?

Transparency of the sector is improved through education and the familiarisation of lobbying activity. The professionalisation of lobbying in recent years has resulted in an increasing number of educational opportunities and training courses, and qualifications, such as the diploma in public affairs. With education comes an awareness of the responsibilities associated with the profession, good ethical practice, and the importance of transparency.

Responsibility for ensuring transparency also falls with elected officials, who should ensure they fully abide by accepted codes of conduct.

As noted above, it is important that the full scope of lobbying activity is recognised. Any references to lobbyists in the code of conduct for MSPs should accurately reflect the fact that lobbying is not limited to commercial interests but also encompasses other professionals and in-house practitioners, such as NGO's and third sector organisations.

Q8 Should there be a Code of Conduct for lobbyists? Should it be statutory or voluntary?

Numerous codes of conduct already exist within the sector in Scotland from bodies such as the Chartered Institute for Public Relations (CIPR), Association for Professional Political Consultants (APPC), the Public Relations Consultants Association (PRCA), and the Association for Scottish Public Affairs (ASPA). As a company, we pay for all our employees' membership to the CIPR, and encourage

participation in training courses. As members, our employees must abide by the CIPR code of conduct which has strict guidelines for maintaining professional standards in the industry, and consequences for those who do not.

Codes of conduct set by industry have the advantage of flexibility and the ability to change at short notice. Codes can be adapted quickly to changing circumstances within the sector, faster than regulation or conduct that is set in statute, requiring lengthy process to bring about change.

PAGODA PUBLIC RELATIONS LIMITED
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