

Scottish Parliament Lobbying Register

Clàr Coiteachaidh
Pàrlamaid
na h-Alba



Annual Report 2021

Aithis Bhliadhnail 2021

LOBBYING REGISTER

| CLÀR-COITEACHAIDH



The Scottish Parliament
Pàrlamaid na h-Alba

**SCOTTISH PARLIAMENT
LOBBYING REGISTER
ANNUAL REPORT 2021**

**CLÀR COITEACHAIDH
PÀRLAMAID NA H-ALBA
AITHISG BHLIADHNAIL 2021**

Third report on the operation of The Lobbying (Scotland) Act 2016

Covering the period 13 June 2020 to 12 June 2021

An dàrna aithisg air obrachadh Achd Coiteachadh (Alba) 2016

A' dèiligeadh ris an ùine 13 Ògmhios 2020 gu 12 Ògmhios 2021

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- David McGill, Clerk/Chief Executive, Scottish Parliament

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FOREWORD



Welcome to the third Annual Report on the Scottish Parliament's Lobbying Register.

As was the case when publishing last year's annual report, we all continue to be dealing with the impact of the COVID-19 pandemic.

Information Returns published on the Lobbying Register during the period of the pandemic will provide a useful snapshot in years to come, highlighting how organisations from varied sectors engaged with Scottish Ministers, MSPs, and key officials during this critical time.

The Lobbying Register Team has continued to operate from home, making use of video conferencing facilities that we have all now become very familiar with. Looking ahead, the team expects to resume compliance workshops for registrants soon, albeit in a virtual setting.

The team are also working on enhancements for the Lobbying Register website, to be introduced over the coming year. These enhancements are informed by the evidence provided, and outcomes of, the Public Audit and Post-legislative Scrutiny Committee's review of the first two years of the operation of the Lobbying (Scotland) Act 2016. We hope the changes will provide an improved user experience to both registrants and the public alike.

I would like to thank you for taking the time to read this Annual Report and continue to offer my best wishes during these unprecedented times.

David McGill
Clerk/Chief Executive
The Scottish Parliament

FACAL-TOISICH



Fàilte dhan Treas Aithisg Bhliadhnail aig Clàr-coiteachaidh Pàrlamaid na h-Alba.

Mar a bha nuair a bhathar a' foillseachadh aithisg na bliadhna an-uiridh, tha sinn fhathast a' dèiligeadh ri buaidh galar COVID-19.

Bheir Toraidhean Fiosrachaidh air fhoillseachadh air a' Chlàr-choiteachaidh ri linn a' ghalair dealbh feumail anns na bliadhnaichean ri teachd, a' sònrachadh mar a rinn buidhnean à caochladh roinnean ceangal ri Ministearan na h-Alba, agus ri oifigearan aig an àm chudromach seo.

Chùm sgioba a' Chlàir-choiteachaidh orra ag obair bhon taigh, a' cur feum air goireasan cho-labhairtean bhidio air a bheil sinn uile air fàs gu math eòlach a-nis. A' coimhead air adhart, tha an sgioba an dùil buidhnean-obrach mu choileanadh a thòiseachadh a-rithist do luchd-clàraidh ann an suidheachadh bhiortail.

Tha an sgioba cuideachd ag obair air leasachaidhean air làrach-lìn a' Chlàir-choiteachaidh thairis air a' bhliadhna romhainn. Tha na leasachaidhean seo air an stèidheachadh air an fhianais agus na toraidhean a thug an t-ath-bhreithneachadh le Comataidh Sgrùdaidh Phoblaich agus Iar-reachdail air a' chiad dà bhliadhna de dh'obrachadh Achd Coiteachaidh (Alba) 2016. Tha sinn an dòchas gun toir na h-atharrachaidhean piseach air cleachdadh do luchd-clàraidh agus don phoball le chèile.

Bu mhath leam taing a thoirt dhut airson an ùine a ghabhail gus an Aithisg Bhliadhnail seo a leughadh agus tha mi a' guidhe mo dhùrachdan a-rithist aig an àm seo gun a shamhail roimhe.

David McGill
Clàrc/Ceannard
Pàrlamaid na h-Alba

UPDATES ON THE LOBBYING REGISTER

Parliamentary review – Scottish Government actions

The Scottish Parliament's [Public Audit and Post-legislative Scrutiny Committee](#) (the "review Committee") started its statutory review of The Lobbying (Scotland) Act 2016 with a call for evidence on 17 June 2020. The Lobbying Registrar and Assistant Lobbying Registrar appeared in person before the [Committee](#) on 26 November.

The review Committee published its final [report](#) on 22 March 2021.

Firstly, the review Committee asked the Scottish Government to consult early in Session 6 on changes that could be made to some of the existing exemptions the Scottish Government introduced within the existing Act.

Secondly, the review Committee has asked the Scottish Government to commission an independent impact assessment of the Act and report back to the Parliament. This is to include:

- a full and comprehensive analysis of the impact on registered organisations;
- a view on whether the Act has delivered its broader transparency and public accountability objectives;
- an assessment about extending the Register to include other communications, such as telephone calls, texts or written correspondence;
- an assessment on adding additional levels of the civil service within the scope of the Act (just now it only covers the most senior civil servant in the Scottish Government, its Permanent Secretary);
- an opinion on whether information about expenditure on lobbying activity could be proportionally included in the register;
- and, further information about whether government funding to individual organisations could also be declared in the Lobbying Register.

The review Committee did not give a date on when this impact assessment should be completed by the Scottish Government but has asked they clearly set out the next steps required.

Finally, further legislative changes identified by the review Committee (asking again for the Scottish Government to consult early in Session 6) included:

- the shortening of the reporting timetable from a six-month to a potential quarterly basis, to ensure information on the Register is more topical;
- harmonising the reporting deadlines for all organisations (following a suggestion made by the Lobbying Registrar, when giving oral evidence to the Committee).

Parliamentary review – Scottish Parliament actions

Upgrades and simplifications to the existing Lobbying Register IT were sought by stakeholders and recommended by the Committee. The Lobbying Register Team has responsibility for this area and have planned in a number of improvements for the financial year 2021-22, including:

- changes to the online Information Return form to further minimise manual input and provide in-form ‘ghost text’ guidance to help with the completion of a return;
- an improved and expanded search facility;
- a new ‘dashboard’ function for organisations, to help users manage the flow of returns and see key information about their organisation’s activity;
- upgrading the look and feel of the current site and making accessibility improvements.

The review Committee also asked that future Parliamentary Guidance be clear on the tone of language expected for Information Returns, to make sure they accurately reflect the lobbying actually undertaken and avoid generalities. The Parliamentary Guidance will be revised to reflect these recommendations and the significant changes in IT being made.

Further updated Parliamentary Guidance will also be required where changes result from the Scottish Government’s consultation on changing exemptions and the independent impact study it has been asked to commission.

COVID-19 coronavirus pandemic

At the start of the pandemic in March 2020, the Parliament moved quickly to consider the implications and uncertain times ahead for registered organisations – aware that many would be operating in very difficult circumstances, particularly those with trading status concerns or who would be losing or furloughing key staff who normally administered regulated lobbying requirements for the organisation.

As part of our administrative response to ease the burden on organisations during the height of the pandemic, those organisations with final day deadlines for a statutory period between 16 March and 6 September 2020 were notified that we would not issue any correspondence about non-compliance during this period, given these extenuating and unprecedented circumstances. Throughout the pandemic, organisations have been able to contact the Lobbying Register Team, which remained fully functioning from home and available to registrants for all concerns or queries, by phone, email or in person via video-conferencing.

Given the wide-ranging effects of the pandemic on society overall and working lives in particular, it is perhaps not a surprise to note a significant increase in the number of compliance issues the Lobbying Register Team has had to deal with, in this very challenging year. Further analysis and discussion of that is included within the **Six-month statutory period and non-compliance** section in this report.

Outreach activities

Inevitably, the restrictions of COVID-19 also brought a sudden and necessary halt for all 'in person' engagement by the Lobbying Register Team.

However, the Lobbying Register Team have continued to make themselves available to meet with registrants by video conference to provide face-to-face advice and interaction and to participate in webinars and other online events.

The team's intention is to return to running in person workshops as soon as rules permit, including working directly with specific sectors. However, they are also developing a new workshop format with the emphasis on shorter, online sessions.

Registrations

Clàraidhean

REGISTRATIONS

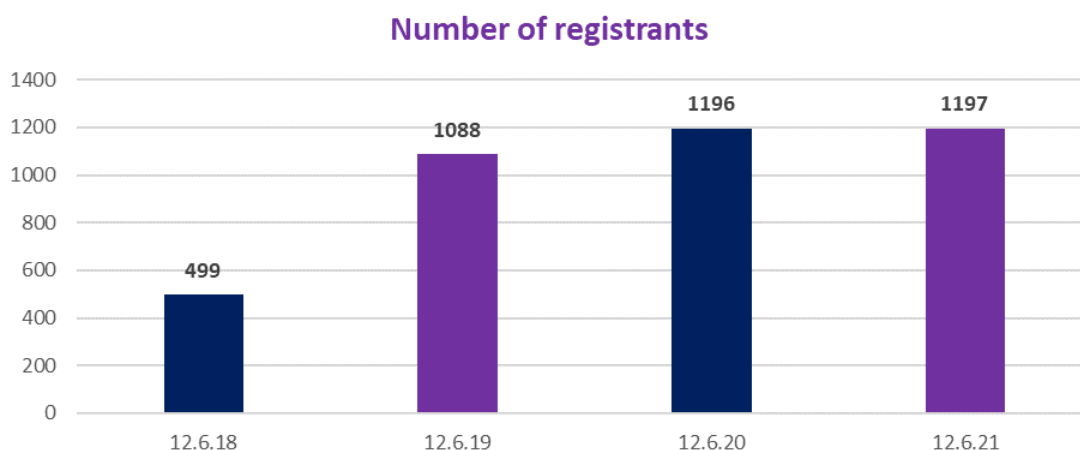
The Register launched on 12 March 2018. This report covers data from that start date up until **12 June 2021** (i.e. three years and three months of full activity).

Any company, organisation or other eligible individual (e.g. a sole trader), likely to engage in regulated lobbying, can register an account on the Lobbying Register website at www.lobbying.scot. Registrations can be made in advance of any regulated lobbying being undertaken. However, if lobbying has already been undertaken in advance of an application for registration, it is a legal requirement to submit a return covering that ‘first instance’ within 30 days of the date of that lobbying.

A registration is completed online, with one account only per organisation. The organisation’s details submitted are assessed by the Lobbying Register Team. Once the team has checked the relevant details, the account is made ‘active’ – it is at this point the new ‘registrant’ organisation can submit Information Returns on the Register.

Registrants by number

As of 12 June 2021, the Lobbying Register contained **1197** registrants, a net increase of **1** from the previous year. The table below shows the yearly number of registrants since 12 March 2018.



Inactive registrants

It is also possible for registrants to become ‘inactive’ in line with requirements set out in [Section 12](#) of the Lobbying (Scotland) Act 2016. Prior to taking the significant step of applying to do so, organisations are asked to first consider two key points:

- To remember that it was the organisation **itself** that made the choice to register, because it was engaging (or considered at the time it would engage), in the regulated lobbying of MSPs, or the Scottish Government’s Ministers, Special Advisers or Permanent Secretary. If engaging, it is a legal requirement to report on this.
- That if the organisation does not engage in regulated lobbying during any statutory six-month period, then that organisation simply needs to submit a ‘nil’ return, which is not a difficult or lengthy process.

Nil returns also provide an important transparency purpose. By providing nil returns and remaining on the Register, organisations are providing evidence, through a nil declaration, that they have not engaged in regulated lobbying, within any particular time period.

However, where an organisation does determine that it is no longer going to be engaged in regulated lobbying and wishes to be made ‘inactive’, then they must formally notify the Lobbying Register Team that they wish to do so, by making an application to that effect.

All outstanding Information Returns (or a nil return) must be submitted up to the date of that request, before the organisation is made inactive. All published Information Returns remain on the Lobbying Register.

By 12 June 2021, a total of **85** organisations had been made inactive. These are identified in the associated data document supplied in support of this annual report.

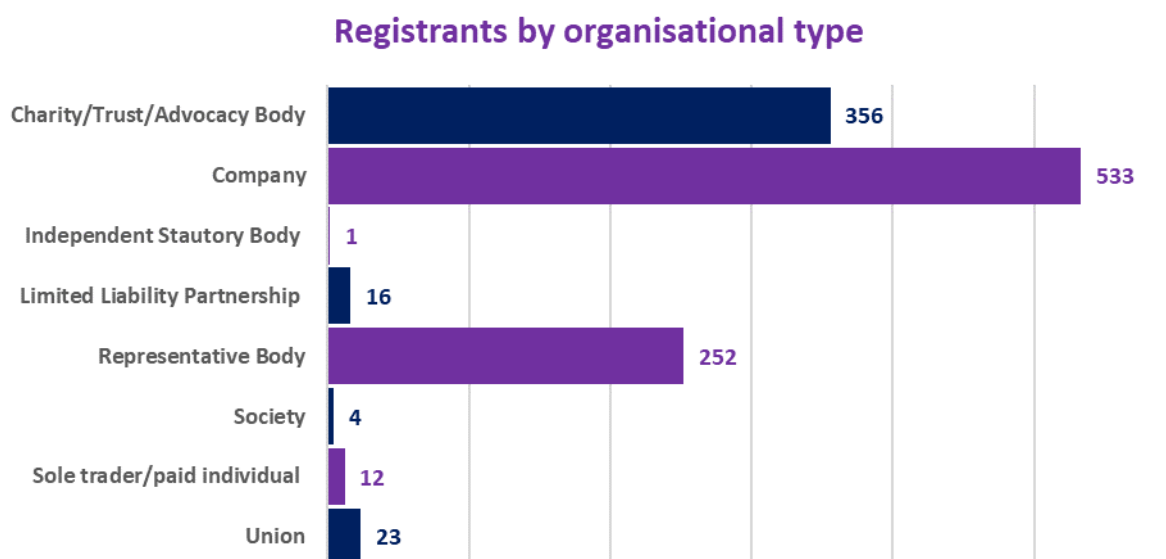
Voluntary registrants

We currently also have **6** voluntary registrants. Voluntary registrants are permitted under [Section 14](#) of the Lobbying (Scotland) Act 2016, as long as the applicant is not already an active registrant.

Not all oversight and enforcement conditions for being an active registrant apply to voluntary registrants. Assistance on these matters is provided to any potential applicant before proceeding.

Registrants by organisational type

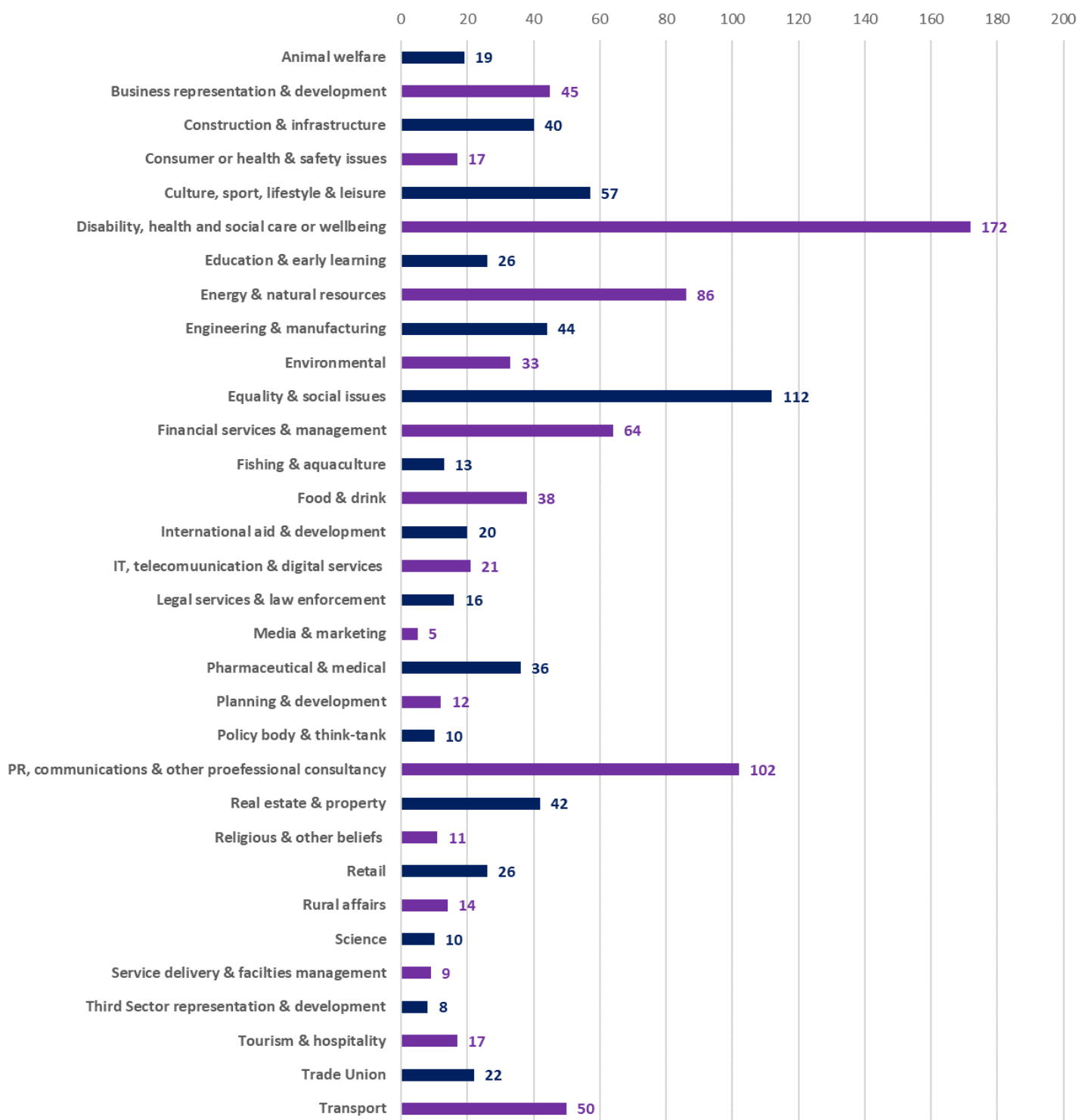
The organisational type of active registrants (as at 12 June 2021) is reflected in the table below. This information is based on the primary role of any company, organisation or individual registered.



Registrants by sector

The table below shows registrants split into different types of sector (reflecting the primary sector they operate within) as of 12 June 2021.

Registrants by subject area (primary)



Information Returns

Aithrisean Fiosrachaidh



INFORMATION RETURNS

The Act sets out when a person engages in what is referred to as ‘regulated lobbying’. Not all forms of lobbying are covered by the Act. The ‘**Five Key Steps**’ contained within the [Parliamentary Guidance](#), provide a ‘quick guide’ to help registrants assess whether, or not, they have engaged in regulated lobbying.

If a communication made by a registrant fits with all the Five Key Steps, then that indicates the registrant will need to submit an Information Return, detailing what the regulated lobbying undertaken was.

Information Returns are completed by individuals logging into their organisation’s account on the Register at www.lobbying.scot; creating a new Information Return and submitting this online to the Lobbying Register Team for initial checking.

Assessing an Information Return

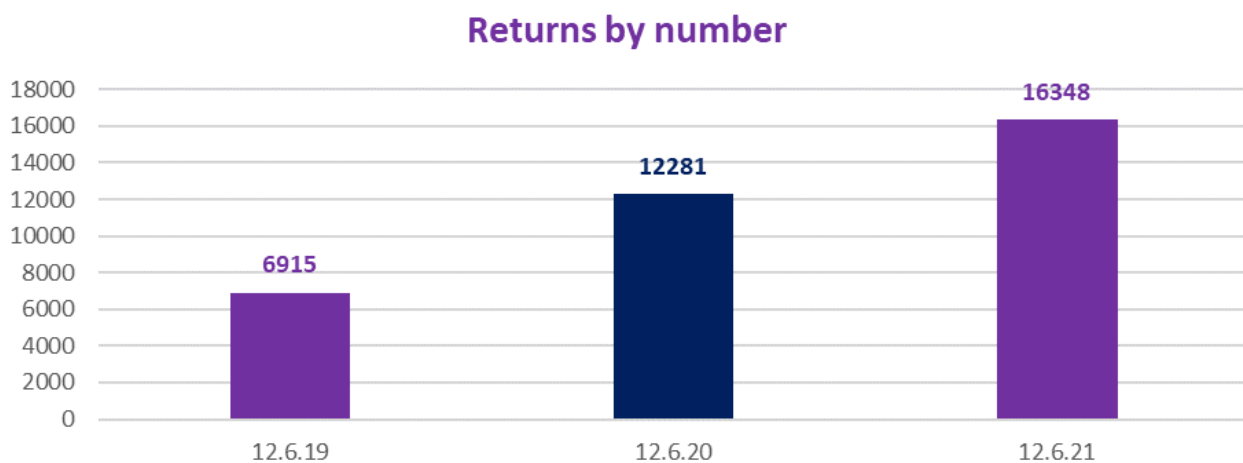
Once an Information Return is submitted by the registrant it is reviewed by the Lobbying Register Team to check whether the activity outlined amounts to regulated lobbying, as set out by the Act.

This check includes an analysis of the details provided and consideration of whether any exemptions in the Act might apply. Feedback is then offered to the registrant where required and changes sought before final publication.

Refinements are made by the Lobbying Register Team and published without recourse, as part of a pragmatic approach to assist registrants.

Information Returns by number

By 12 June 2021 the number of Information Returns published was 16,348, an increase of **4,067** on the previous year.



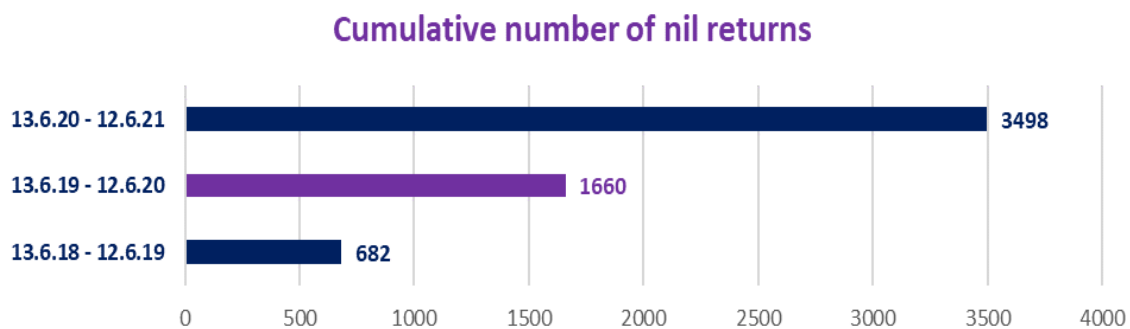
Nil Information Returns

The table below shows the total number of published returns, split between substantive Information Returns and Nil Information Returns, as of 12 June 2021.



The COVID-19 pandemic has had a significant effect on the number of nil returns being submitted by organisations. As such we have added some additional data this year about nil returns.

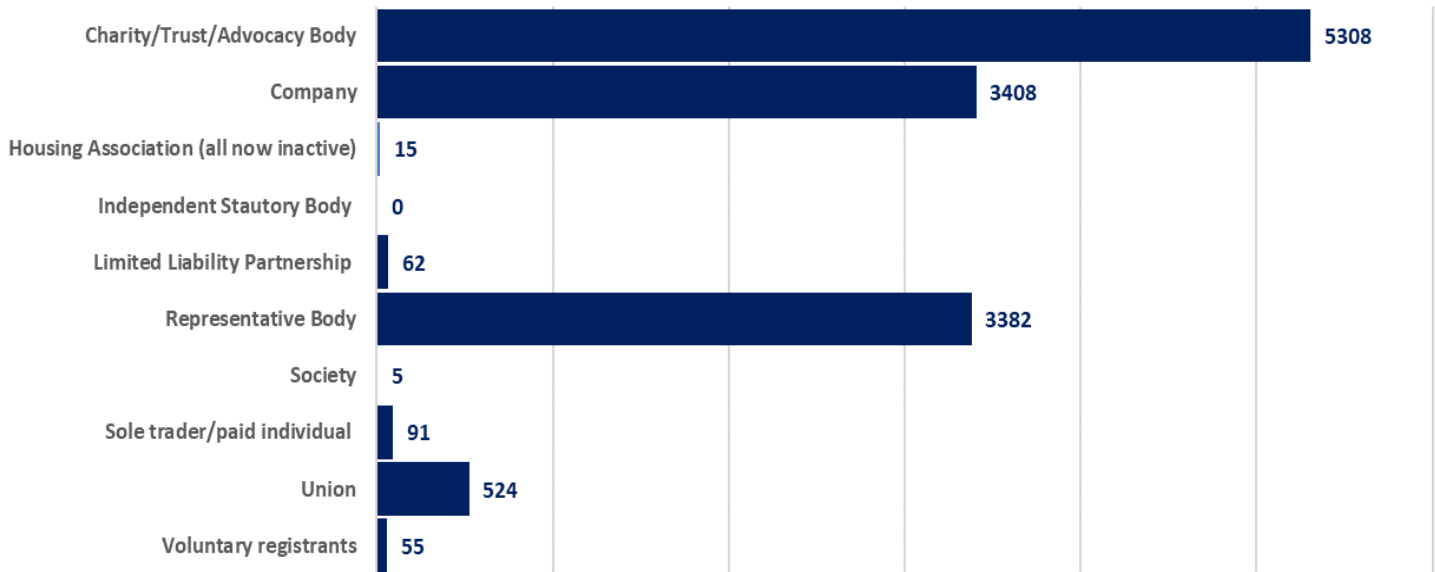
This chart below highlights the year-on-year increases in numbers of nil returns now on the Register. The rise reflects that regulated lobbying has been much more limited, given the conditions and limitations caused by the pandemic.



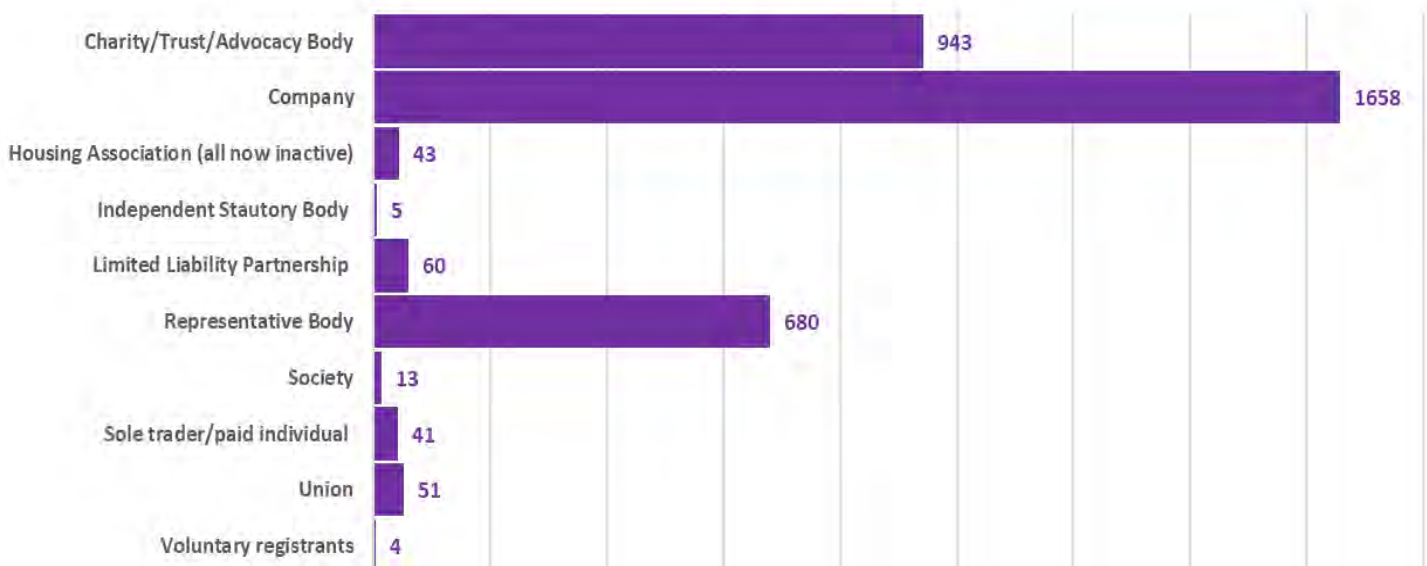
Information Returns by organisational type

The two charts below show published Information Returns split into different organisational types – first, substantive returns and secondly, nil returns, as of 12 June 2021.

Substantive returns by organisational type



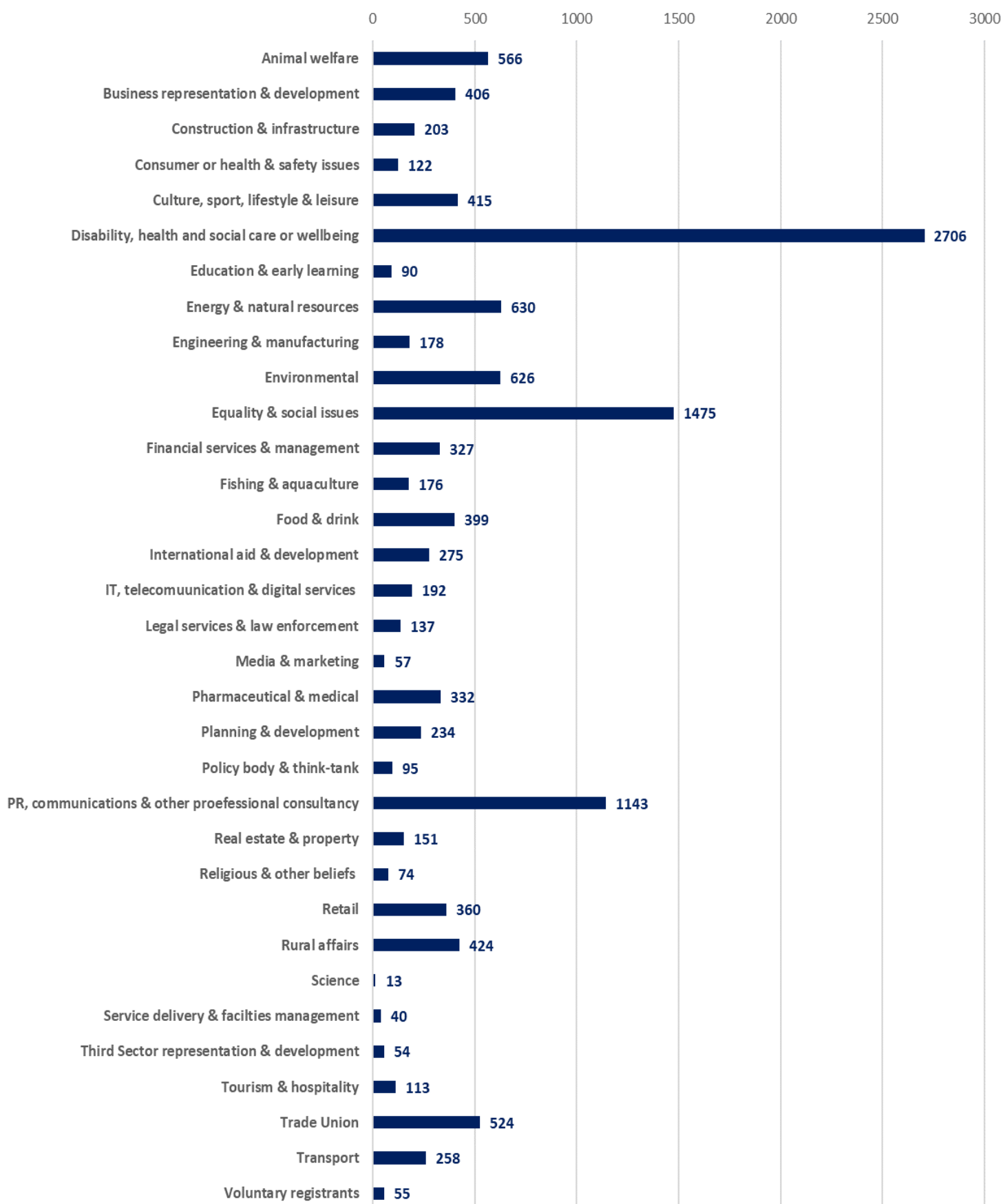
Nil returns by organisational type



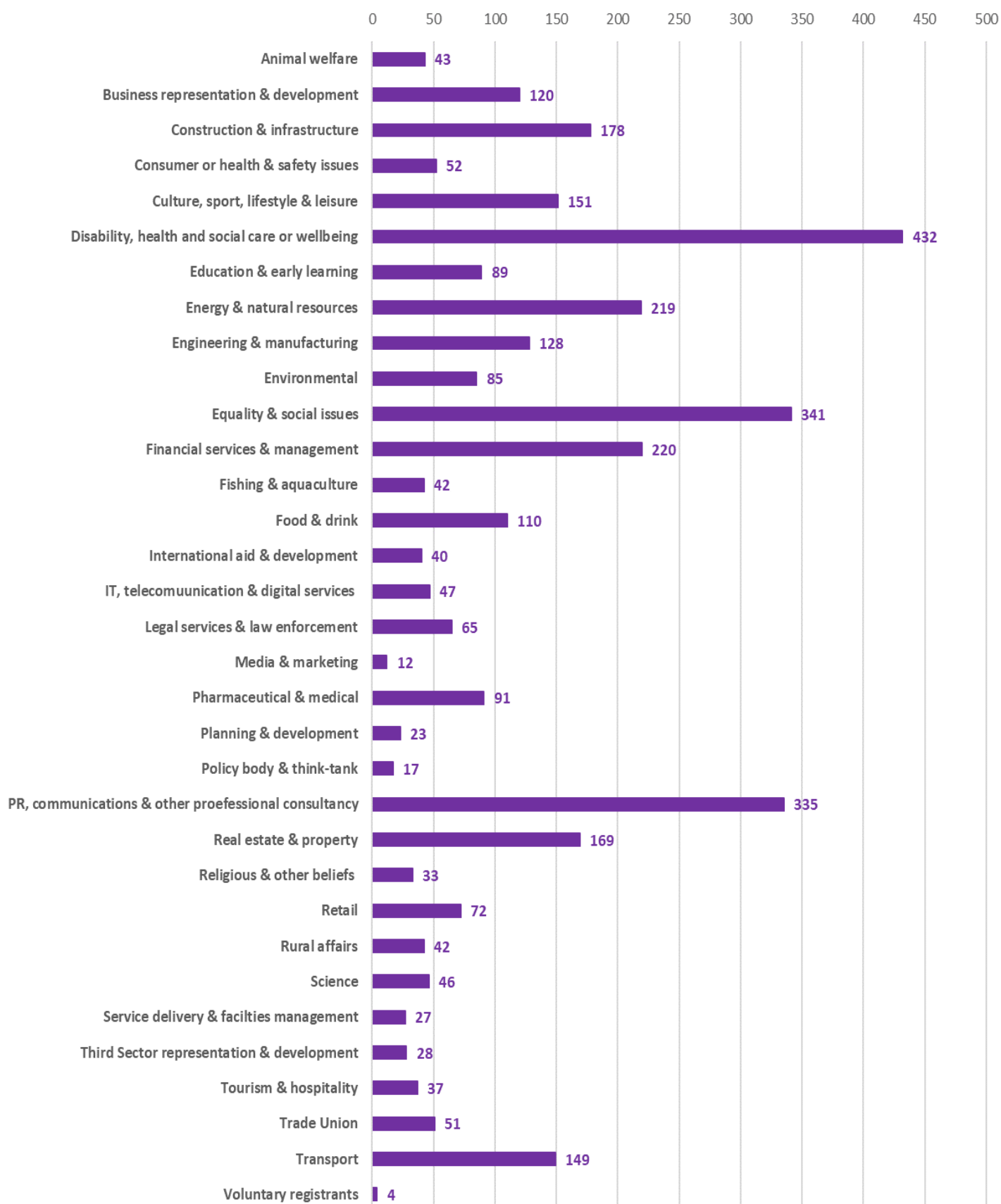
Information Returns by sector

The tables on the following two pages show published Information Returns split into different types of sector (reflecting the primary sector they operate within) – first, substantive returns and secondly, nil returns, as of 12 June 2021.

Substantive Information Returns by subject area (primary)



Nil Information Returns by subject area (primary)



SIX-MONTH STATUTORY PERIODS AND COMPLIANCE

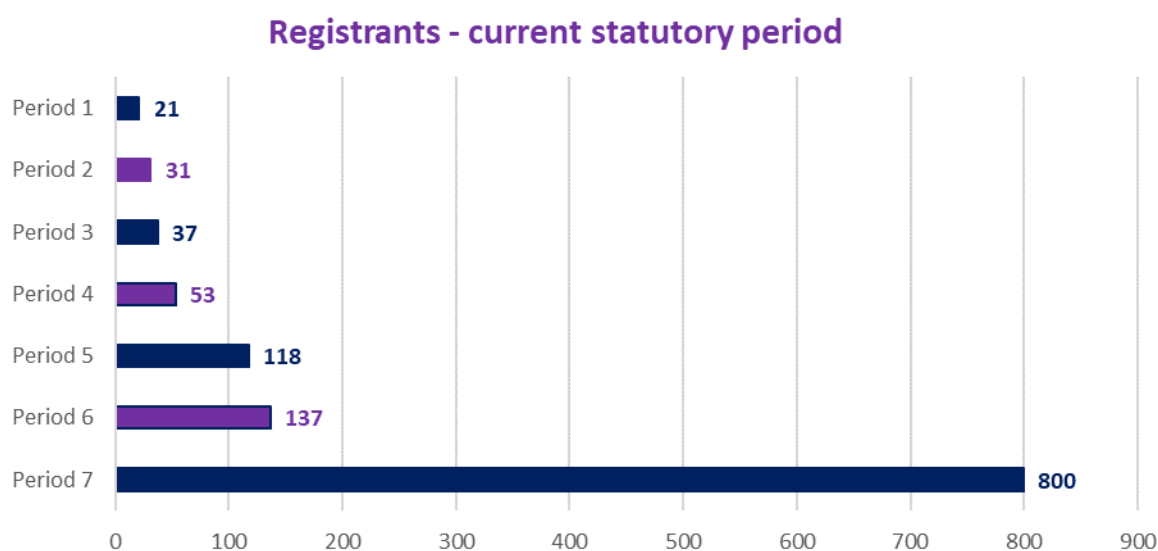
Current timescales, process and performance

Every registrant is required to submit at least one Information Return during their statutory 6-month period - the start and end dates of which are unique to each registrant. The first 6-month period for any registrant starts on the date of application to join the Register. However, if regulated lobbying by an applicant took place in advance of this, the first date on which any regulated lobbying took place becomes the start date, instead.

Registrants are notified of these timescales during the registration process. In addition, an email reminder is also sent to the registrant's email account, two weeks before the end date for every 6-month period. Information Returns can however be submitted at any time and the Lobbying Register Team encourage Information Returns to be submitted on a regular basis, rather than waiting until the end of a 6-month period.

In cases where the registrant has not engaged in regulated lobbying during a 6-month period, the requirement to submit at least one return is covered by the submission of a nil Information Return. This nil return acts as a public declaration by the registrant that they have not taken part in any regulated lobbying during that 6-month period.

This table sets out which period each organisation was within, on 12 June 2021.



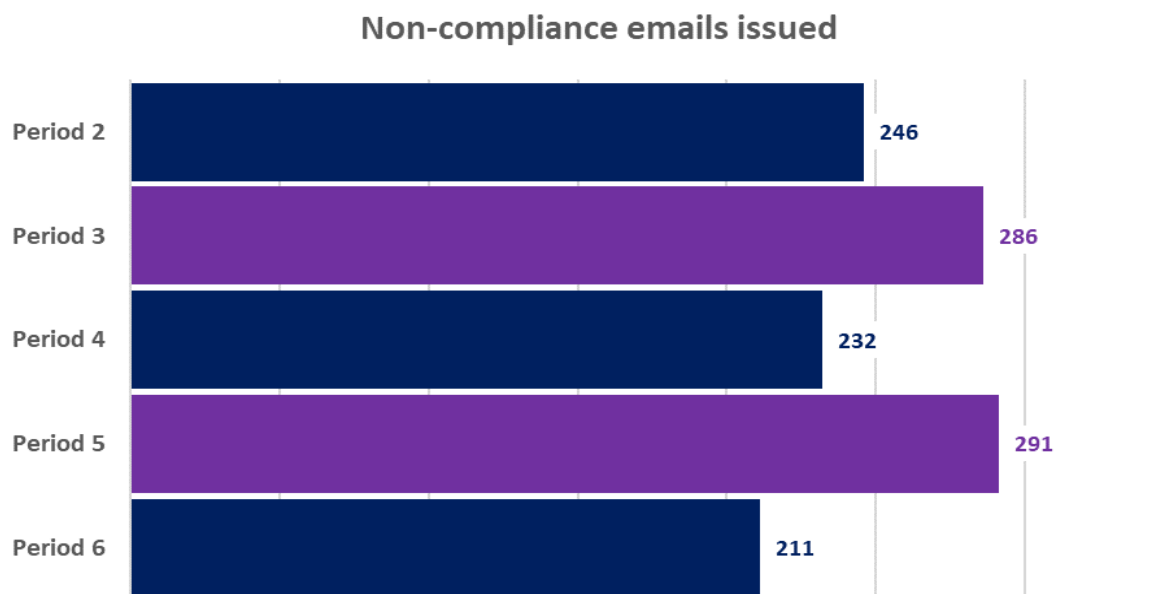
Following the end date of a statutory six-month period, registrants have a further two weeks to ensure they submit all relevant returns for that period (or provide a nil return, instead). Failure to do so is a breach of the Act and therefore non-compliance.

When a registrant has failed to provide any return by that final day, the Lobbying Team will email the registrant asking for appropriate action to be taken.

If no reply is received, this is followed up by a recorded delivery letter to a senior individual in the organisation (currently this letter is sent by email only, due to home working arrangements).

Future performance and proposals

This approach has been effective to date. However, time spent on compliance work is still much higher than should be the case. The number of non-compliance emails issued by the Lobbying Register Team, for each period by 12 June 2021, is shown in the table below:



As covered earlier in this report, the circumstances faced by many organisations during the COVID-19 pandemic has inevitably meant many have faced difficult times, especially those with trading status concerns or which have lost or furloughed key staff who normally administer regulated lobbying requirements.

As such, we intend to do more analysis during the next six-month statutory period (Period 7), the final day deadlines for which will start commencing from 25 September 2021. This will include looking in detail at those organisations with repeat breach behaviour. This analysis will allow us to assess how to further address and build-in improved compliance. This is of some added importance, given the recommendation in the review Committee’s report to shorten the reporting timetable from a six-month to a potentially quarterly basis.

One option to help improve compliance already proposed is to move all organisations to identical, harmonised reporting dates. This would replace the current legislative position, where organisations all have different dates, depending on when they registered or first lobbied. This was outlined by the Lobbying Registrar in evidence during the parliamentary review, and the Committee report was supportive of making this change to the legislation.

A further suggestion was made in the Lobbying Register Team's response to the review Committee's initial draft report. This was to make added provision in the legislation for a few extra items of registration information, to make contact details and organisational responsibility clearer on the Register. These suggested additions are:

- a contact telephone number
- the organisation's website; and,
- details for a 'Responsible Person' to be provided within each registered organisation.

This final item in particular stems from many compliance issues relating to individuals moving on from organisations and an insufficient handover of duties being planned for or provided. The Committee suggested these registration additions seemed reasonable and asked the Scottish Government to consult on this suggested legislative change.

The Lobbying Register team will continue to do what it can to seek improvements, including re-affirming the importance of compliance through our outreach work and through the development of the new 'dashboard' function for organisations, covered further above in this report.

The Lobbying Registrar also wrote to the CEO (or equivalent) of each active organisation in Autumn 2020, to provide notification of the intention to provide each with a statement on the activities, and unresolved actions if any, of their organisation. These letters started issuing (electronically only for now, due to home working) earlier this year and each organisation will eventually receive such a letter. Any past compliance issues are outlined within the statement letter. In cases of ongoing non-compliance and where appropriate, the use of Information Notices as a means of requiring outstanding information is also under consideration.

The Lobbying Register Team has worked on the premise that with time, experience and the appropriate reminders issued, the non-compliance rates set out further above should naturally fall. If that were not to be the case, once we emerge from the issues resulting from the pandemic, then there would be a valid argument for exploring whether additional enforcement tools or sanctions need to be added to the Act.

Further information is provided in the associated data document supplied in support of this annual report.

ADDENDUM

ADDENDUM

Data for the Report

The data for this report covers the period 12 March 2018 until 12 June 2021 and is published as an accompaniment to the Report, within a searchable excel spreadsheet. This includes:

- Registrant: true registration date (i.e. date of registration or first day of lobbying)
- Registrant: name
- Registrant: type
- Registrant: (primary) subject area
- Registrant: final dates for end of Periods 1-6
- Registrant: number of substantive Information Returns published (at 12 June 2021)
- Registrant: number of nil Information Returns published (at 12 June 2021)
- Registrant: compliance in Periods 2-6 (as applicable).

Conclusion from the Lobbying Registrar

Despite the ongoing difficulties caused by the pandemic, we were pleased to be able to meet with the Public Audit and Post-legislative Scrutiny Committee in November 2020, to provide our evidence in person, during its parliamentary review of the Lobbying (Scotland) Act 2016.

The Committee made some key recommendations. For our part, we are busy working on improvements and refinements to the online Register and parliamentary guidance, which do not need legislative change. We will continue to update stakeholders of those developments as they happen.

When able, we also hope to see and welcome back many of you to Parliament itself and to re-start our wider outreach activities.

In the meantime, on behalf of all our team, I pass on my best wishes to all we engage with and offer the reminder that we remain here to help you, despite current difficulties.



Billy McLaren
Lobbying Registrar