

# Response from the Whitehouse Consultancy to the Political and Constitutional Reform Select Committee inquiry

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## *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill*

### Summary

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- The Whitehouse Consultancy's position is that there should be a statutory register of lobbyists underpinned by a code of conduct, applying to all individuals paid to advise others on political lobbying – with an independent body empowered to enforce the code of conduct.
- Our view is that the legislation has an incredibly narrow definition and misunderstands the nature of lobbying. It should apply to those who lobby professionally and who provide advice on how to lobby. It should apply to a wider range of officials and include non-Ministerial Parliamentarians.
- The “mainly non-lobbying business” exception is a significant loophole as public affairs agencies also provide services such as event management or public relations. Large PR companies could set up a small public affairs arm which would not be covered by this legislation as currently drafted.
- It is essential that there is a code of conduct. It seems bizarre the Registrar could issue a stronger penalty for submitting information a few days' late but do nothing about grossly unethical behaviour.
- We also make further points regarding the Association of Professional Political Consultants' conflicted role; the nature of current “lobbying scandals”; the timeframe for submitting information; the background of the Registrar; privileged access to the Parliamentary Estate; and the inappropriateness of Parliamentarians having a financial interest in a lobbying company or undertaking lobbying work.

### Introduction

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1. The Whitehouse Consultancy was established in 1998 as a specialist public affairs agency, and has since expanded to deliver integrated communications and events services for our clients across the fields of public affairs and political communications, EU political and policy engagement, public relations, media relations, and events management.
2. The Whitehouse Consultancy has a range of clients including global brands, pan-European alliances, national trade associations, companies, charities and campaign groups. These are from a range of sectors including food and nutrition through media and communications to infrastructure and project finance.
3. The Whitehouse Consultancy is a member of the Association of Professional Political Consultants (APPC), and rigorously upholds the highest ethical standards in all of our activities. In particular, when our staff are carrying out communications listed in clause 2(3), we have a company policy of referencing both our own company name and the relevant client, to any individual or organisation we approach.

4. However, we continue to be concerned by the inherent conflict of interest held by the APPC acting as holding a code of conduct by which members should abide (a regulatory role), and as the trade body responsible for promoting the commercial interests of the sector.
5. Our position is that there should be a statutory register of lobbyists, underpinned by a code of conduct, which should apply to all individuals who are paid to advise others on political lobbying. An independent body should be empowered to enforce the Code of Conduct.

## **Answers to questions**

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### **Is the definition of “consultant lobbyist” in clause 2 of the Bill likely to lead to a register that enhances transparency about lobbying?**

6. Our view is that the definition in the bill is incredibly narrow, which will cover only consultant lobbyists whose business is predominantly lobbying, and who themselves lobby only the most senior civil servants – permanent secretaries or equivalent – or Ministers.
7. As a consultancy, our practice is that we advise our clients on how to lobby and support them in doing so, rather than lobbying directly ourselves. Thus, while we advise and coordinate our clients’ relationships with Ministers and senior civil servants, such as by preparing draft letters or advising on topics to discuss in a face-to-face meeting, the letter or email would be sent in the client’s name and it would be the client discussing their concerns with the Minister or official.
8. Our clients would also want to develop relationships with other officials and policymakers, such as those at Director-General level or below, and with Members of both the House of Commons and House of Lords who are not ministers. Such people are not covered by clause 2(3). Our clients would also want to make contact with leaders of relevant executive agencies, non-departmental public bodies, local authorities, and other senior officials.
9. Public affairs agencies, including the Whitehouse Consultancy, increasingly offer other related services including political event management or public and media relations, so it becomes less likely that they would be included under the exception of being “mainly a non-lobbying business”, in Schedule 1, paragraph 3(1)(a), despite still carrying out work which would be conventionally understood as “lobbying”. Conversely, a large public relations company establishing a new public affairs arm would not be covered despite potentially having revenues significantly larger than small agencies that only provide public affairs services.
10. If the register is to enhance transparency about lobbying, it must cover those who lobby professionally and also those who provide professional advice on how to lobby. It would cover meetings with all officials at Senior Civil Servant (SCS) rank and above, as well as members of both Houses, and should include an absolute income test for inclusion on the register – whereby any company or individual that receives more than £10,000 in one quarter from professional lobbying or providing professional advice about lobbying should be included.

### **Are the definition of “consultant lobbyist” in clause 2 of the Bill and the list of exceptions in schedule 1 of the Bill likely to have any unintended consequences?**

11. The scope of the definitions is too narrow. Their scope does not cover “in house” or trade association lobbyists (it does not seem unlikely that some large companies or trade associations would employ more public affairs staff than the smallest public affairs agencies). Thus, the statutory register would cover fewer organisations and individuals than are currently

registered in the self-regulatory regime operated by the Association of Professional Political Consultants.

12. We understand the Government's position is that such people would not be included as it is more clear on whose behalf they are lobbying – i.e. their employer. But, typically agencies provide professional advice on lobbying and the Government's position raises the question of why, if a consultant lobbyist were to communicate with a Minister or permanent secretary, the target of that approach would not seek clarity on whose behalf the person is lobbying before or during any exchange of information.
13. An additional issue, relating to the relative size of public affairs services, is raised in paragraph 9 above.
14. We note that the recent "lobbying scandals" have rarely involved consultant lobbyists, as they are defined in the Bill. They have instead been instances of unethical behaviour by politicians.

**Is the information that the Bill requires to be listed on the register sufficient to enhance transparency about lobbying?**

15. It might theoretically enhance transparency about lobbying for those who register and are not currently registered. It will do nothing to enhance transparency about lobbying for the majority who carry out lobbying or give professional advice on lobbying who would not be required (or even permitted) to register. It would reduce transparency in cases where companies are currently registered but would not meet the criteria for registration in the future.
16. We also note that the timeframe for submitting information would, at its longest point, be up to 14 weeks after a new client signs a contract, given the requirement for quarterly returns with a two week deadline for submission. Conversely, All Party Parliamentary Groups are required to register changes – including financial benefits – within 28 days. We see no reason why the Register of Consultant Lobbyists should not operate a similar timeframe.

**Are there any potential problems with the role envisaged for the Registrar?**

17. We note the requirement in Schedule 2, paragraph 4(1) for the Registrar to not have carried out in the previous five years the business of consultant lobbying. We agree that it is essential that the Registrar does not give the impression that they are too close to the public affairs industry, but it will be important that such a person is thoroughly aware of current lobbying practices which are in general based around giving professional advice to clients rather than meeting Ministers or permanent secretaries on their behalf.

**Does the absence of provision for a statutory or hybrid code of conduct in the Bill present any problems?**

18. Yes, it poses a fundamental problem in that without any code of conduct the only requirement that a company must meet is a financial one. There is no mechanism for removing consultants who act in an unethical manner. It seems bizarre that the Registrar could issue a worse penalty for submitting information to the Registrar a few days' late – though we agree that doing so is of concern – than carrying out thoroughly unethical behaviour which is not technically illegal.
19. In the event of a media storm about unethical practices carried out by an actual consultant lobbyist, it remains unclear what the Government or Registrar would be able to do about such

a lobbyist remaining on the statutory registrar and continuing to benefit from the implied endorsement of being on a statutory register.

**Are there any further issues raised by Part 1 of the Bill, including drafting issues, that you would like to draw to the Committee's attention?**

20. We would invite the Committee to consider a recommendation that no person involved in the commercial provision of lobbying or public affairs consultancy services should be permitted to hold an official pass giving privileged access to the Parliamentary Estate.
21. Whilst outside the scope, perhaps, of the Committee's current focussed inquiry, we would take the opportunity to reiterate our view that it is inappropriate for Members of either House of Parliament to have a financial interest in a lobbying company and/or to undertake paid lobbying work for any client.