

Public Relations and Communications Association (PRCA) response to the Office of the Registrar of Consultant Lobbyists (ORCL) information retention consultation

Introduction

- The PRCA is the UK professional body representing PR, communications, public affairs, and lobbying practitioners. Our membership includes consultancies (including around 75% of the “PR Week Top 150”), in-house teams (including banks, charities, and the entire Government Communications Service), and individual practitioners. We represent over 400 consultancies and 300 in-house teams. We are the largest association of our type in Europe.
- There are currently 103 members on the PRCA Public Affairs and Lobbying Register. They include the largest consultancies such as MHP Communications, Weber Shandwick, H+K Strategies, and Edelman, alongside specialist and smaller organisations. We also represent in-house teams for organisations as diverse as the NSPCC, John Lewis, Visa, and the Local Government Association.

Consultation

Archive of Register - When my current guidance was issued, it was my intention to archive the registration information of all those registered, at end of each calendar year, and the quarterly return information, at the end of each quarter. In practice, sensible logistics have dictated that content of the Register as it stands on 31 December each year is freeze-framed and archived so it can be accessed via my website for interested parties, and quarterly return information is archived at the end of each quarter. I said that it was my intention to retain this information for a period of five years and that I would review that period in the light of requests for information received and questions asked. **Is five years an appropriate period to retain archived details of the Register? If not, what do you think the retention period should be?**

- Five years is a reasonable period to retain archived details on the statutory register. As per the National Archives’ advice on retention, information should be retained only as long as it is needed for business, legal, or historical purposes. Furthermore, a retention policy needs to be devised and applied to all information held. The Registrar’s retention period of five years is classified as a “medium” retention period according to the National Archives. Previous PRCA Public Affairs and Lobbying Registers are hosted on our website: the earliest quarterly return available is December 2009 to February 2010.
- We do not foresee the need to archive records for longer periods due to business, legal, or historical needs. However, the Registrar must consider this caveat when retaining archived details and it right to note that the policy will be considered in light of requests for information.

Information on website - I also said that I would retain information on my website for 12 months, unless it is in the public interest for it to remain. However, currently all information issued still appears on the News section of my website. I am minded to remove all information older than 12 months from the News section (and then delete it), and to retain official publications (such as my business plan and statement of accounts) in the Publications section for two years (to support any requirement for

comparisons). **Do you agree with this proposal, and if not, what alternative publication/removals period would you propose?**

- We agree with the proposal to retain the most general information on the website for 12 months, as this will likely make navigating the website an easier process which is in the public interest. We also agree with the proposal to keep any such information as long as it is in the public interest to do so.
- However, official publications have a greater public value than general information on the website. Therefore the decision to keep official publications on the website for only two years merits further consideration: consultation outcomes, for instance, continue to be relevant and are of interest to those engaging with lobbying legislation. Similarly, business plans offer some scope of work already carried out, intentions going forward, and offer some useful complementary information for those reviewing the progress and evolution of the Register of Consultant Lobbyists.

Periods of data inaccuracy - I previously said that when inaccuracies were identified in Register information, that the correction would be published at the earliest opportunity with the dates during which the information was incorrect. Whilst the date of change is being properly recorded, it has not proved practical to record the dates during which the information was incorrect. I therefore intend to continue with current practice. **Does this present any problems for stakeholders?**

- The statutory register – as we understand it to be – functions as a live document for the absolute majority of users; that is, it is chiefly consulted for current information as per the intentions of the Transparency of Lobbying, Non-Party Campaigning, and Trade Union Administration Act 2014.
- We agree with the proposed approach here to documenting data inaccuracy: the very nature of the statutory register means that changes should, indeed, be indicated. In most cases, the period of inaccuracy can be inferred by the date of correction but some consideration should be given to cases where it is the public interest, or in the interest of the registrant, to indicate the exact period of inaccuracy.

Publication of registration information - I previously said that in the event that a registrant ceases the business of consultant lobbying, the whole record will continue to be published for a period of 12 calendar months, from the date that registration ceased. What has actually happened is that those organisations that have left the Register continue to appear on it. For practical purposes, I propose to remove those organisations from the Register at the next point the Register is archived, after 12 months have elapsed (so on 1 January each year, those organisations that have not conducted the business of consultant lobbying for more than 12 months will be removed from the current Register going forward). In the event that a past registrant resumes the business of consultant lobbying, the past dates of its registration will be shown on the new registration record. **Do you agree with this proposal, and if not, what alternative removals period would you propose?**

- The PRCA believes that in the interest of transparency and accuracy, any organisation that has ceased the business of consultant lobbying (as defined the Act) should not appear on the statutory register for longer than is needed: it is concerned with just one definition of lobbying and should

therefore not include organisations which are not hitting that definition. The PRCA Public Affairs and Lobbying Register, to give an example, does not include nil-returns entries and so organisations can theoretically come “on and off” as required. If the statutory register did include such information, it would be theoretically difficult to justify its inclusion: there is, effectively, no difference between an organisation that has never carried out lobbying (as defined by the Act) and one which previously lobbied but currently does not (again, as defined).

- Such a situation would confuse the end user and therefore work to defeat the intention of providing accurate and transparency information on the statutory register.
- The Registrar’s intention, therefore, to remove these organisation from the statutory register after 12 months once the statutory register is archived makes clear sense, as does indicating previous dates of registration should an organisation reappear on the statutory register at a future date.

Publication of quarterly updates - I previously said that client information or nil returns would be published for 12 calendar months from the date the information was first published or when the registrant ceased the business of consultant lobbying, whichever is the latest. What has actually happened is that all client returns since registration continue to appear on the Register. I note however that retention of this information provides useful practical information for stakeholders, and so I now propose to retain client information returns for a maximum of three years. In practical terms, this would mean the removal of client returns each quarter once they reach their third anniversary. **Do you agree with this proposal, and if not, what alternative removals period would you propose?**

- Given the fact the statutory register does not record all employees carrying out lobbying work or the UK Ministers or Permanent Secretaries being lobbied, client information is the central information of interest to the end user. It is, ultimately, that client work which leads to organisations appearing on the statutory register in the first place.
- We have no objections to the proposed retention period for client information. The recent technical update to include a drop-down menu for clients should ensure that the end user can more readily see which organisations are working for which clients and at which time.

Offences - I previously said that if I were to impose a civil penalty, as a matter of normal practice, I would intend to publish that decision (including the reasons why the penalty notice was imposed) on my website, as soon as the recipient has decided to accept that penalty or the timescale for appeals has passed, and to annotate the Register accordingly (e.g. record updated on date in accordance with penalty notice reference). I made no proposal about where the information would be published on my website or the appropriate length of time for information to be retained. In practical terms, information about civil penalties is being retained on the Register currently indefinitely, and details of organisations concerned appear in my Statement of Accounts. I make no other public statements or references except where it is in the public interest to do so. I now propose to remove information about civil penalty notices from the Register at the next point the Register is archived, after 12 months have elapsed from the point at which the fine was paid (on 1 January each year). Information will continue to be retained in the archived Registers and Statements of Accounts. I propose that information regarding criminal convictions would be retained until the conviction is regarded as

“spent”. A spent conviction is a conviction which, under the terms of the Rehabilitation of Offenders Act 1974, can be effectively ignored after a specified amount of time. The amount of time for rehabilitation depends on the sentence imposed, not on the offence. **Do you agree with these proposals, and if not, what alternative removals periods would you propose? Are there any other matters regarding my guidance on information publication and retention which you think need amending?**

- The PRCA Arbitration and Disciplinary Procedures note the circumstances in which a disciplinary decision (and sanctions) would be published: “Where suspension or termination of membership is the outcome, then following appeal the terms of censure will always be published. If the decision is to warn, admonish or reprimand then an additional vote must be taken as to whether or not following appeal the terms of the censure will be published”. In practicality, the PRCA publishes all outcomes.
- Given the focus on providing current information rather than all historical information, the proposals are reasonable: some returns periods will have elapsed since the penalty (or, in the case of criminal convictions, such a lengthy period that the conviction is considered spent) and there are clear reputational dynamics to consider. Evidently, there is also a clear difference between information existing in the public domain and information being presented to the end user seeking details of the lobbying of UK Ministers and Permanent Secretaries that is currently taking place. Ultimately, these proposals mean that the information remains public in some form but that the actual entries on the statutory register do not feature information which is heavily outdated simply because it relates to some form of penalty.