

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

Introduction

- The PRCA welcomes this opportunity to contribute to the consultation. We are a UK-based PR and communications membership body, operating in 66 countries around the world. Representing in excess of 30,000 people, the PRCA is the largest PR membership Association in the world. The PRCA promotes all aspects of public relations and communications work, helping teams and individuals maximise the value they deliver to clients and organisations. The Association exists to raise standards in PR and communications, providing members with industry data, facilitating the sharing of communications best practice and creating networking opportunities. All PRCA members are bound by a Professional Charter and Codes of Conduct, and benefit from exceptional training. The Association also works for the greater benefit of the industry, sharing best practice and lobbying on the industry's behalf.
- Within the PRCA is the Public Affairs Board, the voice of the public affairs and lobbying industry. The Public Affairs Board came into being last year when the Association of Professional Political Consultants voted to merge with the PRCA. The Board's role is to ensure transparency through its quarterly [Public Affairs Register](#); to enforce high standards through its [Public Affairs Code](#); and to promote a wider understanding of public affairs and the contribution it makes to public life. The PRCA's public affairs membership totals 124 organisations, employing approximately 2000 practitioners, and working for approximately 3000 clients. As such, our membership covers the considerable majority of the industry, a position reflected by the fact that the majority of ORCL registrants who adhere to a Code, adhere to the PRCA Public Affairs Code.

Consultation

What makes a code of conduct 'relevant'?

The Act defines a 'relevant code of conduct' as one 'which governs the carrying on of the business of consultant lobbying (whether or not it also governs other activities)'.

Current practice allows codes of conduct that set out general good, professional behaviour such as the SRA Code of Conduct or the ICAEW Code of Ethics to be declared as codes of conduct by registrants. Other registrants name a code that deals explicitly with lobbying, such as the Public Affairs Code of the PRCA's Public Affairs Board. Others declare their own company-specific codes.

The Registrar is considering amending the guidance so that in order to be 'relevant' under the Act, a code must go beyond setting out general good professional behaviour and must provide guidance or a framework that is of particular and specific relevance to consultant lobbying activity.

Question 1: What is your view of this proposed change?

Question 2: What would be appropriate tests as to whether a code of conduct is relevant in that it 'governs the carrying on of the business of consultant lobbying'?

The PRCA is strongly of the view that in order to be relevant, a Code must make specific reference to lobbying regulation. The statement of general principles in itself is inadequate. We therefore support this proposed change.

Appropriate tests would be the specific applicability of rules and sanctions to the lobbying industry as compared to business in general. It also seems to us vital that there is a third-party involvement here, with independent sanctions available. This in itself excludes companies referring to their own Codes.

What is an 'undertaking' to comply with a relevant code of conduct?

The Act requires registrants to state 'whether there is in place an undertaking by the person to comply with a relevant code of conduct'.

The Registrar currently simply asks new registrants to state which code of conduct they subscribe to and where it can be inspected.

Question 3: Should 'undertaking' require a more formal commitment or is current practice sufficient?

Question 4: If you believe there should be a more formal commitment, what form should this take?

We have two significant concerns here.

The first is accuracy and the second is enforceability.

The most recent version of the Register includes declarations from 137 organisations. Of that number, registrants detail the following Codes:

PRCA Public Affairs Code: 65 organisations

No Code: 37 organisations

Own Code: 13 organisations

CIPR Code: 10 organisations

Solicitors Code: 6 organisations

ICAEW Code: 2 organisations

APPC Code: 4 organisations

There are multiple errors within this:

The APPC no longer exists following the merger with the PRCA, and has not existed for any period covered by this declaration of Codes. Of the four agencies declaring adherence to the non-existent APPC Code, three are PRCA members and adhere to our Code. One adheres to no Code that exists.

Of the 65 declaring the PRCA Code, only 64 are members. One agency declaring the PRCA has not been a member for any period covered by this declaration. One member declaring its adherence to no Code actually adheres to ours.

We will address the CIPR Code issue under questions 7 and 8.

It is clear to us simply from the PRCA and APPC examples that there are obvious inaccuracies in the register. We are not in a place to say whether or not those claiming to adhere to other professional

bodies' Codes do so, as we are unaware of the membership of those organisations. Therefore, there may be more inaccuracies than we have identified.

Secondly, given for example -those claiming to adhere to our Code but not being a member; the second most referenced Code being 'no' Code; the third most referenced Code being an organisation's own; and the fourth most referenced Code being the CIPR Code which governs only individuals and not organisations- the enforceability of the referenced Codes is questionable and variable. For a Code to be relevant it must surely be enforceable. Marking one's own homework through having one's own Code surely is irrelevant. And claiming to adhere to the Code of Conduct of an organisation you do not belong to again surely makes that irrelevant.

A key part of the PRCA Code is that sanctions are enforceable -including expulsion for the most serious breaches. If a company adheres to our Code but is not a PRCA member, then how does it enforce transgression? It cannot, after all, expel itself.

We would therefore urge two changes. First, that if a business references a Code, it must be an enforceable one. So, it cannot be its own Code. Instead of referencing their own internal Codes, companies should declare that they adhere to 'no' relevant Code.

Secondly, if a registrant declares the Code of a professional body, the organisation must be able to prove that it is a member of that body. This need not be at all onerous and we, as the professional body to which more registrants refer than any other, would be happy to engage constructively, for example by verifying quarterly to ORCL that a registrant was indeed a member.

There are quite frankly too many registrants giving the illusion of adhering to an enforceable, relevant Code when they are not. Put simply, the public is being misled.

The content of codes of conduct

The Registrar's view is that the Act does not give the Registrar the right to comment on or shape the content of codes of conduct – the only test he can apply is relevance, as defined by the Act.

Question 5: Do you agree with this view? If not, why not?

We would be happy to take the Registrar's view on the content of our Code and would expect other organisations to share that positive attitude.

We would repeat our strong belief that to be relevant, Codes must be judged independently and have sanctions. That cannot be the case where organisations declare that they subscribe to internal Codes - Codes which in two cases on the current register are available only 'on request', or where no link is provided.

Which codes of conduct may be declared?

The Registrar's view is that the Act does not give the Registrar the right to restrict which codes of conduct may be declared. So long as a code is relevant, a registrant can declare it on the Register. This means that codes might come from a trade or professional body or be self-written by the registrant.

Question 6: Do you agree with this view? If not, why not?

We would reiterate our previous comments that self-written, self-policed Codes are Codes in name only. It is our strong belief that they cannot possibly be described as 'relevant'. Organisations referencing them should therefore be compelled to declare 'No Relevant Code'.

How can a code of conduct for individuals be adopted by a registrant?

Some codes of conduct govern the behaviour of individual members of a professional body, rather than a business as a whole. The Registrar's guidance says that 'a code of conduct for individuals can only be declared on behalf of an organisation if every member of that organisation subscribes to that code'.

Question 7: Do you agree with this? Why or why not?

Question 8: If you agree with the guidance, how can adoption by every member of the organisation be demonstrated?

The Registrar's Guidance here is being ignored.

We chose a business declaring the CIPR Code at random. We then compared the names of Directors listed on the ORCL declaration with the CIPR member directory, available freely to the public. Of the five names listed by the registrant, only one is a CIPR member. Therefore, it is incorrect of this company to reference the CIPR Code.

If the Guidance is to remain as constituted currently, registrants must be able to prove that all of their staff subscribe to the relevant Code.

We would suggest however that it would be in the interest of regulation and transparency if only business-wide Codes rather than individual ones were deemed relevant.

Final comments

For a number of years prior to its creation, we advocated the introduction of ORCL, and we commend it for the good work it is doing. We believe that its scope should be widened to include all who lobby rather than just third-party advocates, but that issue sits outside of the scope of this consultation.

We believe that ORCL's impact could be even greater with small changes, all of them cost neutral to the taxpayer, and all of them increasing transparency and public confidence in the lobbying industry – an industry which we know to be overwhelmingly ethical, professional, and in the public interest.

We strongly believe that a Code is not relevant if it is policed internally.

We strongly believe that a Code is not relevant if the business referencing it is not a member of the professional body which administers that Code.

We strongly believe that if a business references an individual-centric Code, then every employee must be covered.

In the latter two areas, registrants are either deliberately or inadvertently submitting false information. We would encourage ORCL to take action in the public interest here.



We would more fundamentally encourage ORCL to press ahead with the changes it is recommending. We stand ready to cooperate in whatever way necessary to make those changes as effectively, rapidly, and easily as possible, in the interests of the industry and of the public good.

Neha Khatwani MPRCA
PRCA Public Affairs, Policy, and Research Manager
12th August, 2019