

## **Public Relations and Communications Association (PRCA) response to Public Administration and Constitutional Affairs Committee inquiry into propriety of governance**

### **Who we are:**

- The Public Relations and Communications Association (PRCA) welcomes the opportunity to contribute to this inquiry. The PRCA is the world's largest professional PR body. We represent and regulate more than 35,000 PR professionals in 70 countries worldwide.
- The PRCA promotes all aspects of public relations and communications work, helping organisations and individuals to maximise the value they deliver, within an ethical and professional framework. The Association exists to raise standards in PR and communications, providing members with industry data, facilitating the sharing of communications best practice, and creating industry understanding. All PRCA members are bound by our Professional Charter and Codes of Conduct. The Association works for the greater benefit of the industry and society, representing the profession, and lobbying on its behalf.
- Within the PRCA is the PRCA Public Affairs Board (PAB), the voice of the public affairs and lobbying industry. The PRCA PAB's role is to ensure transparency through our quarterly Public Affairs Register; to enforce high standards through our 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 127 organisations, employing approximately 2000 practitioners, and working for approximately 3000 clients.

### **Executive Summary:**

- As the voice of the public affairs and lobbying industry, we believe that lobbying is integral to a thriving democracy and contributes positively to the decision-making process. However, the Government must make a number of reforms to improve transparency, accountability, and trust in the UK political system.
- The Lobbying Act should be expanded to cover all of those engaged in lobbying – the inclusion of in-house lobbyists is crucial for public confidence. The interactions covered by the Act should be expanded to include Special Advisers and senior civil servants, from Director General level up. The Registrar of Consultant Lobbyists should no longer allow registrants to declare self-written and self-policed codes which are neither independent nor independently enforceable.
- The Government should extend the existing limitations on former Ministers taking paid lobbying positions and institute a five-year ban, including on in-house roles. Former Ministers should consistently behave in the spirit of the Nolan Principles.
- Ministers should stop ignoring the rules under which they are legally obliged to publish Ministerial Diaries in a timely manner.
- The process governing the award of Parliamentary Passes should be reviewed and tightened significantly.

### **Detailed Commentary:**

The PRCA's response addresses the following issues:

- Do the Codes governing the conduct of Ministers, Special Advisers and Officials properly reflect the behaviours we want them to display in this area? How well understood are they by those to whom they apply and how well are they complied with by them?

- How are potential conflicts of interest of current and former Ministers, Special Advisors and Officials identified and managed and how effective is this? Are there gaps in the current system?
- Is the scope of the Business Appointment Rules broad enough? Do the Rules apply to all those to whom they should? Is ACOPA's application of the Business Appointment Rules sufficiently effective and robust?
- How should lobbying activity be regulated? How far does the Lobbying Act provide an effective statutory basis for the regulation of lobbying? Are the scope and remit of the Registrar of Consultant Lobbyists adequate? Are key aspects of lobbying omitted and, if so, how can they be addressed?

### **PRCA Public Confidence Plan for Reform**

As the voice of the public affairs and lobbying industry, we believe that lobbying is integral to a thriving democracy and contributes positively to the decision-making process. The PRCA has long called for the Lobbying Act to be reformed. The Greensill scandal proves that this reform is urgently needed.

The PRCA recently published its 'Public Confidence Plan for Reform' in order to improve transparency, accountability, and trust in the UK political system. We called on the Government to urgently implement the following recommendations:

1. The Lobbying Act should be expanded to cover all of those engaged in lobbying – the inclusion of in-house lobbyists is crucial for public confidence. The scope of the Act should be expanded to cover those working in-house in charities, campaigning groups, think tanks, trade unions, business, organisations, and private companies.
2. The interactions covered by the Act should be expanded to include Special Advisors and senior civil servants, from Director General level up.
3. The Government should extend the existing limitations on former Ministers taking paid lobbying positions and institute a five-year ban, including on in-house roles. Former Ministers should consistently behave in the spirit of the Nolan Principles.
4. Ministers should stop ignoring the rules under which they are legally obliged to publish Ministerial Diaries in a timely manner.
5. The process governing the award of Parliamentary Passes should be reviewed and tightened significantly - the PRCA will conduct its own study given the lack of Government and Parliamentary progress on this issue.
6. The Registrar of Consultant Lobbyists should no longer allow registrants to declare self-written and self-policed codes which are neither independent nor independently enforceable.

## **The Lobbying Act**

In its current state the Lobbying Act is unfit for purpose. Due to the limited scope of the Act, the legislation has had a limited effect on the industry. Its narrow remit means that it is irrelevant to in-house practitioners, who make up the majority of the industry.

The PRCA has consistently called for all those who lobby to be included within the scope of the Act, this ensures a level playing field and increases transparency. Therefore, the scope of the act should be broadened to cover those working in-house in charities, campaigning groups, think tanks, trade unions, business organisations, and private companies.

In addition, we are concerned by the fact that certain organisations are evading registration due to a loophole in Schedule 1, Part 1, paragraph 1(1) of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 to avoid classifying themselves as consultant lobbyists.

It is well known that practitioners such as lawyers, accountants, and management consultants carry out the business of consultant lobbying, yet few are captured under the scope of the Act. This loophole must be addressed in order to capture those who do lobby under the scope of the Act.

However, the main issue is that the Lobbying Act does not fully represent the industry, therefore the inclusion of in-house lobbyists is crucial.

Similarly, the interactions covered by the Act are currently limited to interactions with Ministers and Permanent Secretaries. The Act should be expanded to cover interactions with Special Advisors and senior civil servant from Director General onwards. If the Act is to be truly representative and transparent, it must also cover a larger number of declarable interactions.

The statutory register in its existing form is nowhere near transparent as the industry PRCA Public Affairs Register. The PRCA requires all of its member to declare their public affairs activity, naming staff and clients, once a quarter on the PRCA Public Affairs Register. Unlike the statutory register, our members must declare all of their public affairs clients, and not just the ones on whose behalf they contact Ministers and Permanent Secretaries. The PRCA Register also includes members who are not covered by ORCL.

Finally, those who appear on the Register should also be subject to an independent recognised code of conduct that governs their behaviour, such as the PRCA Public Affairs Code. Currently, the Act does not require registrants to sign up to a code (registrants may wish to declare a relevant code).

The PRCA Public Affairs Code applies to all members equally and any breaches to the code are investigated under a thorough and independent complaints procedure. Registrants should demonstrate their commitment to ethical lobbying by signing up to a code.

We also believe that Registrants should not be allowed to declare self-policed codes. A key aspect of the PRCA Code is that sanctions are enforceable by an independent body -including expulsion for the most serious breaches. Self-written and self-policed Codes are not enforceable and cannot possibly be described as 'relevant'.

As it stands, the PRCA Code is the only code that is automatically recognised by the Registrar and 74 registrants declare our Code on the Register. The PRCA code is independent and enforceable with sanctions available for minor to serious breaches of the Code. The PRCA Code is reviewed regularly to ensure it is relevant and robust in its application. We believe that any code declared on the Register should enforce similar high ethical standards.

It is clear that the industry's standards are far more transparent than the Government's. Not only do our members declare more information on our register but a greater variety of organisations are featured on it as well. It is also worth pointing out that our members have declared this information for years and are committed to transparency. The issues mentioned above must be addressed urgently if the Register of Consultant Lobbyists is going to be transparent and representative of the lobbying industry.

**Finally, it is also worth pointing out that had the Government implemented the PRCA's recommendations during the pre-legislative scrutiny of the Act, and included in-house lobbyists, Mr Cameron would have been required to register with the Registrar of Consultant Lobbyists.**

### **Business Appointment Rules**

The PRCA believes that the current Business Appointment Rules are not broad enough and the rules regarding the lobbying activities of former Ministers and Prime Ministers are unfit for purpose. They should be strengthened as a matter of urgency. Transparency and accountability are essential elements of an ethical approach to lobbying.

The current rules prevent former Ministers from lobbying Government for two years. The PRCA recommends that the lobbying ban should be extended to five years and should also cover in-house roles. These changes are crucial if the Government is to restore public confidence in the political decision-making process. The impact of the recent reports regarding Mr Cameron, Greensill, and civil service second jobs extend beyond the Westminster bubble and has created widespread public concern.

Furthermore, former Ministers should consistently behave in the spirit of the Nolan Principles. PRCA members observe the most rigorous ethical standards. Former Ministers should be expected to behave in a similar ethical and transparent manner.

PRCA members are prevented from employing MP, MEP, Member of the House of Lords, or any member of the Scottish Parliament or Senedd Cymru or the Northern Ireland Assembly or the London Assembly to conduct public affairs services. In addition to this, members who do employ elected officials must now make use of any Privileged Information made available or known to them as a result, including in their dealings with the staff, associates, clients, new business prospects, and/or other contacts of the Member.

PRCA members must declare if their employee hold constituency-level political office. They must also declare if their staff are councillors or have an advisory role within a Government department.

This is yet another example in which industry ethical standards exceed Government standards.

### **Ministerial Conduct**

The Government should remind Ministers and government departments of their obligations under the Ministerial Code.

For example, according to clause 8.14 of the Ministerial Code:

Departments will publish quarterly, details of Ministers' external meetings. Meetings with newspaper and other media proprietors, editors and senior executives will be published on a quarterly basis regardless of the purpose of the meeting.

The PRCA has reviewed a number of transparency publications from various government departments and found that these are not updated in timely manner.

For example, the Cabinet Office's most recent transparency publication of ministerial gifts, hospitality, travel, and meetings covers the period July to September 2020. Similarly, the Department of Health and Social Care's most recent transparency publication covers the period between October and December 2020.

It is entirely unacceptable for departments and Ministers to ignore the rules on transparency publications. The industry declares its lobbying activity on the PRCA Public Affairs Register and the Register of Consultant Lobbyists every quarter in a timely manner. There is no reason why Ministers should ignore the rules they are subject to.

### **Parliamentary Passes**

While the issue of parliamentary passes sits outside the scope of the Committee's consultation, we believe it is an important issue that must be addressed. The PRCA's research suggests that more than 200 Parliamentary passes have been granted to representatives of organisations likely to be engaged in lobbying, including think tanks, business groups, and commercial enterprises. An analysis of the Lords and Commons Registers of the interests of staff reveals that 210 passes have been granted to individuals with links to organisations outside Parliament.

PRCA members cannot hold parliamentary passes unless there are truly exceptional circumstances. We believe it is simply wrong for a lobbyist to hold a Parliamentary pass.

The issue of parliamentary passes must be urgently reviewed and we are calling on the Government to:

1. Urgently review each passholder who has a second job to assess whether it is appropriate for them to continue to hold a pass.
2. Remove passes from anyone whose other roles make it inappropriate for them to have access to the Parliamentary estate.
3. Reform the rules around passes to ensure this abuse is ended permanently, and that passes are only issued to people who genuinely need them for their work for Peers or MPs.

### **Use of contractors and consultants in Government**

The Government has a defined roster of communications consultants via which it may secure call-off services or formally procure services competitively. This is a transparent and competitive process which works well. Procuring communications services outside of this framework should not be accepted.