Written evidence from the Chartered Institute of Public Relations (CIPR) (LOB12)

Public Administration and Constitutional Affairs Committee
Post-legislative scrutiny of the Lobbying Act 2014 and related matters inquiry

1. The Chartered Institute of Public Relations (hereafter CIPR) welcomes the opportunity to respond to the PACAC Select Committee inquiry into "Lobbying and Influence: post-legislative scrutiny of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (hereafter 'the Lobbying Act') and related matters". The CIPR signalled before the Lobbying Act was passed that it would not serve the purpose of restoring public trust in the institutions of government, a view which we continue to argue.

2. The CIPR is the professional and Chartered body for public relations practitioners in the UK, with 9,500 members involved in all aspects of public relations including lobbying. The CIPR advances the public relations profession by making its members accountable through a Code of Conduct and a disciplinary process to be used in the event of any breach of this Code, developing best practice, representing its members, and raising standards through professional development including training, qualifications, and chartership. The CIPR has several sectoral groups, one of which is the CIPR Public Affairs Group. This has more than 800 members and is made up of communications professionals who have regular interactions with the Government, or the institutions of government, in its very widest sense.

3. The CIPR is a proactive contributor to the ongoing debate about lobbying transparency, and related issues, in the UK. It supports legislation and regulation that requires lobbying activity to be open, transparent and publicly disclosable. In July 2015, following the closure of the UK Public Affairs Council (UKPAC), the CIPR launched the UK Lobbying Register (UKLR), a new universal voluntary lobbying register available to all professionals engaged in lobbying within the UK.. This register operates as a free public service. Anyone engaged in lobbying can register and all CIPR members who engage in lobbying are required to register. The UKLR is the only free and 'open to all' register of lobbying activities in the UK. The CIPR envisages that the UKLR will remain a registration post for lobbying activities until the present system of registration and regulation is overhauled, when hopefully it will no longer be needed.

3. Over recent years, there has been much political and public scrutiny of the ways in which the UK lobbying industry works, including the work of the Boardman Inquiry, GRECO and the Committee on Standards in Public Life and its Standards Matter 2 Review. The CIPR agrees that the Lobbying Act is just part of the "wider web of

regulations, codes and guidance that aims to ensure the propriety of the engagement between those in government with external bodies". Nevertheless, the Lobbying Act is a crucial part of unlocking transparency, openness and accountability in the UK's lobbying process; or it should be. Our views are critical to the debate and reflect those of our membership and are consistent with other bodies who believe the Lobbying Act is ineffective and - because of its narrow scope - does very little, if anything, to increase transparency and openness in the lobbying process. Therefore, the Lobbying Act is failing to build trust and failing to capture much of the lobbying activities involving those who have 'direct contact' with Ministers and others but are not currently defined as 'consultant lobbyists' under it.

4. Before examining the current regime, the CIPR would suggest that there is a need for a more robust debate on what ethical lobbying means, in terms of accountability and transparency. The CIPR has published a policy position paper exploring this but would welcome a wider debate on the principles and rules that lobbyists should follow, the responsibilities of regulators, legislators, Ministers and civil servants, and institutions of government, and the question of regulating lobbyists who are currently unregistered, including former Parliamentarians and Ministers.

5. Since the PACAC "Greensill Inquiry", there has been further debate arising, including a recent consultation of ORCL's "incidental exception" and further transparency on APPG secretariats, which the CIPR welcomes. Those consultations were timely and necessary and further commentary is outlined below. Nonetheless, there remains an overarching question about the purpose of ORCL, as defined and restricted, by the Lobbying Act.

6. The CIPR considers the Lobbying Act, and by natural default, ORCL, not fit for purpose. The Act has fundamentally failed in delivering an accountable and transparent registration scheme for lobbying activities in the UK. Significant questions have been raised about ORCL's approach to Codes of Conduct. As a result, the public is given false assurance about the integrity of the application of "voluntary codes" of conduct and the current oversight proves to be inadequate, if not non-existent. It is important to recognise that ORCL registrants who are CIPR and PRCA members are already signed up to a robust Code of Conduct which is supported by disciplinary measures if there is a breach of their respective codes. For those who are not members, there is neither any policing by ORCL or a complaints process linked to their codes. This is an important issue to be looked at by the PACAC. How can the Lobbying Act provide for a level playing field whereby specific rules and conduct – which everyone must apply when lobbying – can be introduced and adhered to?

7. It is to be regretted that many years after the introduction of several forms of well-intentioned and focused self-regulation of the UK lobbying industry, we are still in the position where the reputation of lobbying activities is sullied by unacceptable

behaviour of those not covered by CIPR and PRCA membership (as self-regulatory bodies); and those who have chosen not to register with ORCL, as a statutory register; but also because the scope of the Lobbying Act is not adequate in identifying and recording lobbying activity. To only be required to register with ORCL if "direct communications" are made with Ministers and Permanent Secretaries (or their equivalents) does little to make lobbying more open and transparent. The CIPR argues that ORCL should be replaced with an Office of the Registrar of Lobbying (ORL) which would capture all lobbying activities, rather than be confined to the activities of consultant lobbyists. The new rules would require that all those who engage with the institutions of government are registrable: this would include lobbyists working in-house for businesses, charities, management consultants, law firms, trade unions and other organisations not yet required to register under the Lobbying Act. This would create a level playing field and deal with so-called "invisible lobbying". The "institutions of government" includes Westminster & Whitehall, not just Ministers and Permanent Secretaries (or their equivalents) but civil service engagement, as well as Special Advisers, Peers, Select Committee Chairs, APPG Chairs, MPs, devolved National States and the new devolved institutions in England, such as Regional Mayors.

Additionally, the CIPR has long taken the view that the register should be expanded to capture all lobbying activity (defined as oral, written or electronic communications with the objective of influencing, and in relation to Government or Parliamentary function). Current regulations fall short in monitoring modern forms of social communications, such as WhatsApp. Its shortfalls can be reflected in the Committee on Standards in Public Life's Final report of the Standards Matter 2 review, which recommended that the Government should update guidance to make clear that informal lobbying, and lobbying via alternative forms of communication such as WhatsApp or Zoom, should be reported to officials.

Technological/digital solutions should be explored to minimise any administrative burden of widening the registration of lobbying activity, but in broad terms the CIPR supports key recommendations of the Standards Matters 2 Review, numbers 26, 27, 28, 29, 30, 31, 33 and 34.

The CIPR recommends that lessons are learned from registration and regulatory schemes in the devolved Nation States and that for all lobbyists, and practitioners, a merged accountability and transparency process is developed in the spirit of good governance across the UK.

Furthermore, the CIPR finds it unacceptable that those individuals and organisations/businesses which are not VAT registrable are exempt from the current ORCL registration process. This creates a perverse incentive to employ lobbyists who are not required to register for VAT in order to sidestep the statutory registration requirement.

It is also necessary to ensure that no lobbyist has a Pass to the Parliamentary Estate. The system continues to be abused and exemptions should be closed down. This suggests that no one who acts as part of the Secretariat to an All-Party Parliament Group, should be a passholder. There needs to be enhanced scrutiny of the alleged abuse of this system.

Allied to this, the CIPR believes that no Parliamentarians should be allowed to be paid to provide Parliamentary advice, taking on roles such as a Parliamentary adviser, consultant or strategist and supports the view that Parliamentarians should have a written contract, in acceptable advisory positions, where there is no lobbying undertaken on behalf of the employer. At present, the Register of Member's Interests does not provide sufficient transparency. These written contracts should be published allowing for public scrutiny, ensuring greater accountability and transparency.

Lobbying is a two-way activity, and those being lobbied also have a responsibility to ensure it is carried out in an ethical and transparent way. Ministers are required to publish their diaries, but publication is often not timely or contains only limited information. We believe those being lobbied should be required to publish their diaries in a timely manner, with meaningful information about what topics were discussed and with whom. Technological/digital solutions should be explored to minimise any administrative burden on the registration of lobbying activity or the publication of diaries.

Those being lobbied must also declare interests on the Parliamentary Register of Interests (or other register as appropriate) and comply with the Nolan Principles on public life.

8. As already outlined above, the CIPR does not believe the Lobbying Act is fit for purpose. Inevitably, that would indicate that ORCL is not fit for purpose either. It seems under-resourced, lacking focus and 'scatter-gun' in how it looks at, and achieves, registration. The CIPR would argue that its focus of trying to identify minor transgressions from registered consultants fails to address what seems to be the fundamental issue of loopholes that make it easy for consultants/ organisations to avoid being on the register, whether deliberate or otherwise. Recent coverage seems to support this argument involving SpectrumX (https://www.theguardian.com/politics/2022/aug/25/tory-peer-faces-second-investigation-over-lobbying-allegations). It is important to note that despite being fined by ORCL, there is still no obligation for SpectrumX to be signed up to the ORCL register.

9. Further, the definition in the Lobbying Act of making "direct communications" the trigger for registration is illogical, confusing and without real focus. If the UK had a

system where engagement with the institutions of government was a registrable requirement, fewer resources would be spent on seemingly pointless ORCL activities. There remains no coherent definition of what "direct communication" actually means, leading to a lack of transparency about "invisible lobbying" but also an over-emphasis on how to define simple administrative engagement with Ministers and Permanent Secretaries (or their equivalents). This critique supports the CIPR's argument for a major review of the Lobbying Act and the establishment of an Office of the Registrar of Lobbying, to diversify registerable entities and therefore deliver a more accountable and transparent regime.

The CIPR recognises that ORCL is reviewing the ways in which it operates, within the confines of the Lobbying Act. The recent consultation on "incidental lobbying" was of interest, in that ORCL's consultation stated that "if lobbying is a small proportion of an organisation's activities but makes a significant contribution to non-lobbying activities, it will not be incidental. The CIPR welcomes this although raised concerns with ORCL that the definition remains loose to satisfy organisations wishing to avoid registration.

Linked to this, there is an inherent misunderstanding of how good lobbying works. In particular, a lack of understanding of how events, such as those during the party conferences season, are organised, managed and delivered. ORCL does not seem to understand that administrators organise these events, and out of necessity have to have "direct communications" with the offices of Ministers [this is not lobbying per se but it is registrable]. Perversely those who do attend are likely to be "off the radar" and have "direct communications" on specific lobbying issues – as interpreted by ORCL. This is just another example of how the registration process doesn't provide for full disclosure with the institutions of government, and therefore fails. An enhanced Ministerial registration regime would go some way to addressing this anomaly, but the CIPR would argue that having a register of all those who engage with the institutions of government would be more comprehensive and transparent.

Under separate cover, the CIPR has responded to the consultation regarding All-Party Parliamentary Groups.

In summary, the CIPR is arguing for:

- Complete reform of the Lobbying Act to put in place legislation which is fit for purpose, raises standards and drives greater transparency and openness

- Greater openness and transparency in public life and the public's trust rebuilt in the lobbying and democratic process

- A level playing field where all lobbying activity is – not just that of consultant lobbyists – is captured by a statutory lobbying register, overseen by a new Office of the Registrar of Lobbying (ORL), enhancing the limited present scope of ORCL.

The CIPR is willing to provide further evidence if required, including orally.

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