

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

INQUIRY INTO LOBBYING

SUBMISSION RECEIVED FROM INVICTA PUBLIC AFFAIRS

Thank you for the opportunity to provide written evidence to the Scottish Parliament's Standards, Procedures and Public Appointments Committee's inquiry into lobbying.

Invicta Public Affairs is an independent owned company that has been in operation since its foundation by me in 2007. Invicta began operations based in Edinburgh and last year relocated to a new base in Glasgow's George Square. Whilst most of our business takes place in Scotland, we work across the UK and Europe as required. Currently Invicta employs seven full time staff and four retained advisors. Our focus is public affairs rather than public relations and this differentiates us from many competitors. More information on Invicta and our services is available on our company website - www.invictapa.co.uk.

Invicta has always operated to the highest professional standards and a clear statement is available on our website under 'ethics' - www.invictapa.co.uk/public_affairs/ethics. Invicta chooses to only work with private sector clients and we will not accept instructions from organisations subject to Ministerial Direction. We take this view to avoid conflicts of interest. I have answered the committee's questions below as set out in the call for evidence issued in 2013.

Please note that in this response I am using the definition of 'lobbying' published by the UK Public Affairs Council (UKPAC):

***Lobbying** means, in a professional capacity, attempting to influence, or advising those who wish to influence, the UK Government, Parliament, the devolved legislatures or administrations, regional or local government or other public bodies on any matter within their competence.*

More detail on this definition is available on the UKPAC website¹. Moreover, as a commercial advisor to my clients, I accept my conduct should be more accountable to them because I am paid to advise them. In that view, I see myself no different to any other professional advisor.

The Need for Change

- Have there been significant changes over the last decade in the way that lobbying is carried out?

In the last decade there has been changes in the way that lobbying is carried out through the introduction of new technology and, in particular, social media such as Facebook and Twitter. This has brought about huge change in the democratic

¹ <http://www.publicaffairsCouncil.org.uk/en/resources/lobbying-definition.cfm>

process as campaign groups and others use this new means of communication to full effect to advise those causes they wish to promote.

There has been greater self-regulation or attempts at self-regulation in the last ten years and this is primarily due to increased scrutiny of lobbying by the press, public and politicians. Self regulation for the industry has not worked (and will not work) because it will not pass the public credibility test.

- Is there a problem or perceived problem with lobbying in Scotland? If so, how can this best be addressed? If not, do steps still need to be taken to address any problem arising in future?

Lobbying in general is not widely understood. The majority of political engagement with members of the Scottish Parliament and other political representatives in Scotland is carried out by Non-Governmental Organisations, charities and third sector bodies. This reflects the responsibilities of the Scottish Parliament in particular funding the majority of public services in Scotland.

What evidence there is of concern about lobbying by the public and press points towards a generally negative attitude representative of wider public antipathy towards political representatives.

The Scottish Parliament has taken steps to embed openness and transparency at the heart of its procedures and has strong codes of conduct for MSPs. There are also measures in place for local government with the councillors' code of conduct and the standards regime put in place by legislation.

There are some signs of differing public attitudes towards MSPs and members of the UK Parliament at Westminster with some recognition that the problems of lobbying or 'sleaze' more generally do not affect the Scottish Parliament to the same extent.

The best way to prevent problems arising in future is for the Scottish Parliament to continue with its current regime whilst regularly reviewing this and benchmarking against international best practice for openness, transparency and good governance. I believe we should invest time in improving standards of engagement between business and those in public office.

Register of lobbyists

- To what extent will the introduction of a register of lobbyists address any problem or perceived problem with lobbying?

Invicta Public Affairs is supportive in principle of moves to introduce a statutory register of consultant lobbyists such as that proposed in the *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill* currently being considered by Parliament at Westminster.

As a company we believe that legislation will help address perceived problems even if in reality there is not the same issue with lobbying at the Scottish Parliament. We

also believe that standards of professional practice and the value of our services to our clients can be improved through proportionate regulation.

Invicta has written to the then Minister responsible at the Cabinet Office Chloe Smith MP supporting the principle of this Bill in so far as it applies to lobbying. Those aspects of the Bill covering non-party campaigning and trade union administration are not our concern and we have made no comment on them.

We have also written to the Minister for Parliamentary Business Joe FitzPatrick MSP supporting the principle of regulation for those seeking to lobby Ministers, MSPs and others in public office.

In taking this approach and welcoming the introduction of a register of lobbyists Invicta Public Affairs has set itself apart from many in the industry who take the view that nothing needs to change.

- To whom should such a register apply? Should it be voluntary or compulsory? How should it be maintained and who should maintain it? What level of information should be on it? Should thresholds be set for registration? If so what should they be? What are the likely cost implications of registration for groups that lobby?

Given that a register is being introduced by the UK Government for consultant lobbyists seeking to influence Government Ministers or senior civil servants (Permanent Secretaries) then Invicta suggests that a starting point would be for the Scottish Parliament to apply the same or similar measures to consultants operating in Scotland. The level of information collected and thresholds set for registration should be the same as for the rest of UK and we suggest the pricing structure be the same (currently an annual registration fee of £600.00 is proposed).

This will ensure that regulation of the industry is proportionate and will not lead to a dual system of registration that would be costly and bureaucratic to administer.

In terms of regulation of in-house lobbyists, I believe there is a case to be made however as it is not our market I do not wish to pursue discussion on in-house lobbyists.

In terms of the business contract between the consultant and their client, I believe there should be no disclosure of fee income between a consultant and client as this will only lead to a race to the bottom with competitors and dilute standards. There should be no disclosure of a list of all clients a consultant works with as it is not reasonable for our clients to be compared to one another when their only link is the use of the same advisor. Information regarding a consultant and their client who meets with Government Ministers should be made available to ensure transparency.

- What sanctions should there be for failure to register lobbying activity? How will the register sit alongside the UK register? How will compliance be monitored?

We propose that sanctions for failure to register will be aligned with those for the UK register. The regime for monitoring and compliance have still to be determined but it is likely that these will be in place before legislation by the Scottish Parliament is considered later in 2014.

- What are the implications of a register for (a) the Parliament, (b) MSPs, (c) organisations that lobby and (d) Ministers and civil servants?

The aim of the register is to increase transparency so that members of the public and other interested parties have wider awareness of lobbying activities being undertaken.

However this is only one side of the measures being put in place to have more open government in Scotland and other parts of the UK. Invicta suggests that all political representatives and those holding public office should be prepared to make available details of who and what organisations they are meeting in the course of their public duties. This is of course already being done in many instances. A register of lobbyists will increase transparency and openness more generally and is to be welcomed.

Other measures

- Whether other changes could be made to improve transparency in lobbying in Scotland? What, if any, changes should be made to Section 5 of the Code of Conduct for Members of the Scottish Parliament?

Transparency in lobbying is greatly assisted by open government. Whilst big steps forward have been made in recent years by the introduction of such measures as the Freedom of Information Act it is essential that these are built on. Most members of the public look to the Scottish Government to be as open and transparent as possible and in this respect measures taken by Ministers to publish their engagements have a disproportionate effect on the attitude of the public and are therefore to be encouraged.

- Should there be a Code of Conduct for lobbyists? Should it be statutory or voluntary?

As mentioned, Invicta Public Affairs operates to its own code of conduct and this is made publicly available for all to see through our company website. We also have a complaints procedure in place should any member of the public wish to raise a concern about the way in which a member of our staff has behaved.

If the Scottish Parliament decided to introduce a specific Code of Conduct for lobbyists Invicta Public Affairs would of course be pleased to adopt this code and ensure adherence to it by our staff and advisors.

Conclusion

I trust this submission is helpful and once again thank you for the opportunity to submit evidence to this inquiry. I would be very pleased to give oral evidence to the inquiry as required.

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