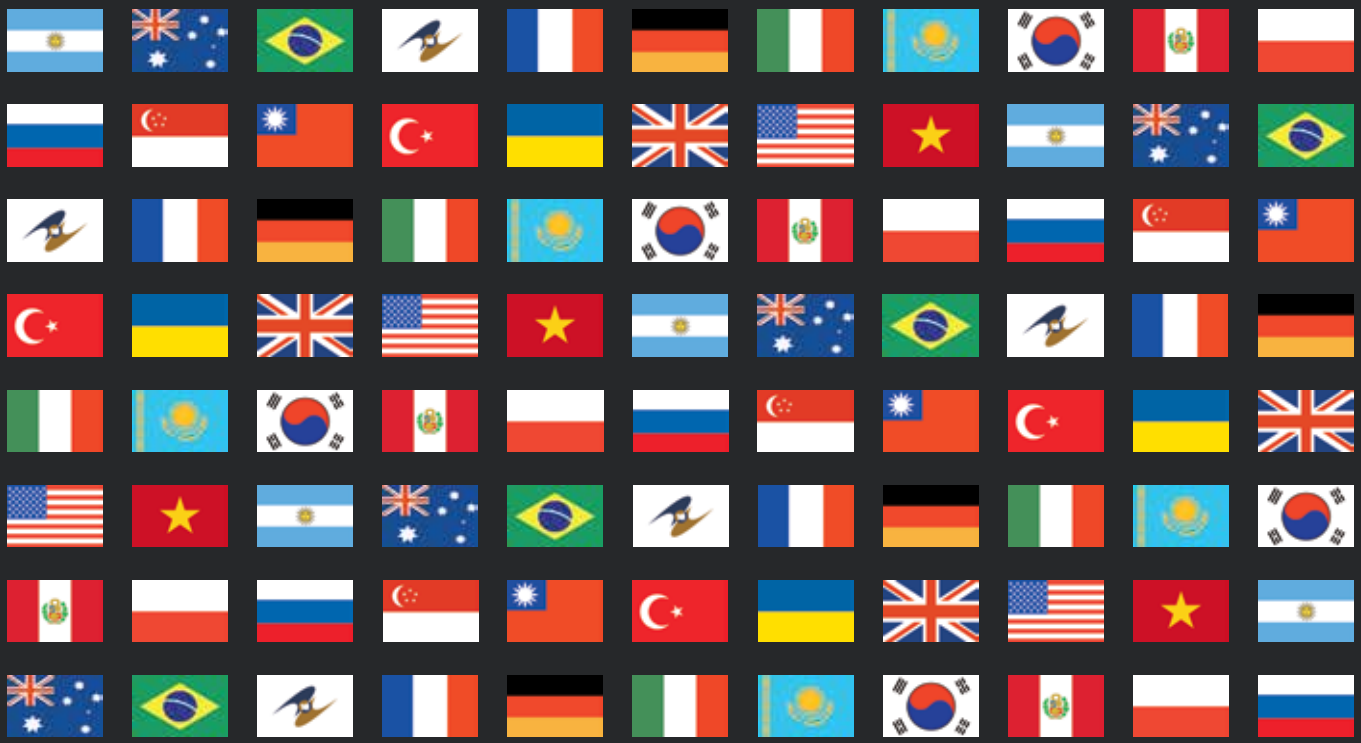
Government Relations

Contributing editor
Charles L Landgraf



2018

GETTING THE DEAL THROUGH

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Government Relations 2018

Contributing editor

Charles L Landgraf

Arnold & Porter Kaye Scholer LLP

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For further information please contact editorial@gettingthedealthrough.com

Publisher
Tom Barnes
tom.barnes@lbresearch.com

Subscriptions
James Spearing
subscriptions@gettingthedealthrough.com

Senior business development managers
Adam Sargent
adam.sargent@gettingthedealthrough.com

Dan White
dan.white@gettingthedealthrough.com

Law Business Research

Published by
Law Business Research Ltd
87 Lancaster Road
London, W11 1QQ, UK
Tel: +44 20 3780 4147
Fax: +44 20 7229 6910

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Preface

Government Relations 2018

First edition

Getting the Deal Through is delighted to publish the first edition of *Government Relations*, which is available in print, as an e-book and online at www.gettingthedealthrough.com.

Getting the Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique **Getting the Deal Through** format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

Getting the Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.gettingthedealthrough.com.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to Charles L Landgraf of Arnold & Porter Kaye Scholer LLP, the contributing editor, for his assistance in devising and editing this volume.

GETTING THE DEAL THROUGH

London
February 2018

United Kingdom

John Cooper, Kieran Laird and Meena Makh
Gowling WLG

Form of government

1 Constitution

What is the basic source of law? Describe the scope of, and limitations on, government power relevant to the regulation of lobbying and government relations.

The United Kingdom does not have a codified constitution. Rather, its constitutional arrangements are comprised in a set of statutes, judicial decisions, EU and international laws, principles and customary practices. These arrangements create the institutions of the state and regulate their interaction, both with each other and between themselves and citizens.

The UK does not have a constitutional court with an inalienable right to strike down laws that are unconstitutional. The UK Parliament is therefore unconstrained and can enact or repeal any law, which may then be amended by a future Parliament. This concept of parliamentary sovereignty lends a certain fluidity to the UK's constitutional arrangements, which can – and do – continue to develop over time as new legislation is enacted. Although the courts can set aside laws passed by Parliament that conflict with EU law, this is only because Parliament has previously legislated that this should be the case, and that position will change following the UK's exit from the EU.

The power to regulate lobbying is constrained by the laws and conventions that are currently in force, with the proviso that any constraint can be removed by Parliament if it so chooses. At present the law protects freedom of speech and assembly, and provides a right to petition Parliament.

2 Legislative system

Describe the legislative system as it relates to lobbying.

Legislative power formally resides in the Crown in Parliament. Bills are passed in the name of the Sovereign acting on the advice of Parliament. In practical terms, bills are passed by Parliament and sent to the Sovereign for his or her assent, though this assent is now a mere formality.

The UK has a bicameral Parliament comprised of a directly elected lower chamber (the House of Commons) and an upper chamber made up of a mix of hereditary and appointed members (the House of Lords). Legislation is passed where it secures the assent of both chambers, although there are some constraints in both law and custom as to the circumstances in which the House of Lords can block legislation.

The executive is drawn from, and accountable to, Parliament. After each parliamentary election the Sovereign will invite the leader of the political party that has won the most seats in the House of Commons to become Prime Minister and to form a government. The Prime Minister will then appoint Members of Parliament to a cabinet, which acts as the executive. Decisions made at cabinet, and cabinet committee, level are usually binding on all members of the executive.

Although legislative power resides with Parliament, it may legislate to delegate lawmaking power to the executive. Such delegated power must be exercised within the limits specified by Parliament in the enabling statute and will often be subject to some form of parliamentary scrutiny.

3 National subdivisions

Describe the extent to which legislative or rule-making authority relevant to lobbying practice also exists at regional, provincial or municipal level.

During the 1990s, the UK Parliament devolved certain legislative powers to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. Each of these legislatures is directly elected and their legislative competence is set out in statute. There are some differences between them as to the scope of their legislative competence. However, in broad terms each of the devolved legislatures may legislate for the part of the UK for which it is responsible in the following areas:

- health and social care;
- education and training;
- local government;
- housing;
- transport;
- agriculture, forestry and fisheries;
- the environment and planning;
- tourism, sport and heritage; and
- economic development.

Some of the devolved legislatures also have competence in additional areas. Over time, there has been a tendency for more legislative power to be devolved, and this may continue in the future.

The UK Parliament retains the authority to legislate on any issue, whether devolved or not. However, by convention, it will not normally legislate with regard to devolved matters except with the agreement of the relevant devolved legislature.

Some decision-making and rule-making power has also been delegated to directly elected local councils at city, county or district level throughout the United Kingdom. Within the parameters set at the national and devolved level, local councils have the power to set local policy in matters such as policing, passenger transport, education, social services and planning. However, they have very limited revenue-raising powers that are independent of central government.

Some regions of England have combined authorities made up of constituent local councils that are empowered by legislation to take collective decisions across council boundaries. Each combined authority has a bespoke package of additional powers and resources devolved to it by government under the relevant legislation. Some combined authorities are chaired by a directly elected 'metro mayor' to whom particular powers can be devolved on a personal level, rather than to the combined authority itself. Examples of such powers include transport, housing and planning, education and skills, and health and social care.

4 Consultation process

Does the legislative process at national or subnational level include a formal consultation process? What opportunities or access points are typically available to influence legislation?

There is no requirement for the UK Parliament or the devolved administrations to undertake formal public consultation as part of the legislative process. However, where Parliament has delegated lawmaking

powers to the executive, it sometimes requires consultation to be undertaken before those powers are exercised.

In advance of introducing an important or controversial bill to Parliament, the executive will sometimes issue a Green Paper to seek feedback on policy or legislative proposals, or a White Paper setting out proposals in a more developed form.

Once a bill has been introduced to Parliament, it will normally be considered by one or more committees. Such committees will often undertake consultation through general calls for written evidence and invitations to specific persons to present oral evidence.

Less formally, and subject to the restrictions set out below, an interested party may approach a member of the executive, another Member of Parliament or a senior member of the Civil Service to discuss proposed legislation and suggest amendments. However, the decision on any amendment lies with Parliament.

5 Judiciary

Is the judiciary deemed independent and coequal? Are judges elected or appointed? If judges are elected, are campaigns financed through public appropriation or candidate fundraising?

Along with the executive and the legislature, the UK judiciary is one of the three branches of state. There is an explicit statutory duty on the executive to uphold the independence of the judiciary and ministers are specifically barred from trying to influence judicial decisions through any special access to judges.

An independent Judicial Appointments Commission has effective responsibility for selecting judges, although formally the Commission makes recommendations to the Lord Chancellor (a member of the executive).

An independent Judicial Appointments and Conduct Ombudsman is responsible for investigating and making recommendations concerning complaints about the judicial appointments process, and the handling of complaints about judicial conduct.

Although independent, the judiciary is not coequal with Parliament. The power to make laws resides primarily with Parliament. The judiciary interprets and applies the laws that Parliament enacts but also has a lawmaking function through the common law. Parliament can, with some possible constitutional exceptions, legislate to override the common law. However, the only circumstance in which the UK courts can set aside an Act of Parliament is on the basis that it does not comply with EU law, a power unlikely to survive the UK's departure from the European Union.

The courts can, however, disapply delegated legislation made by the executive or a public authority where it offends certain principles of UK public law – for example, it is beyond the lawmaking power granted in the enabling statute or has been made for a purpose outside of, or contradictory to, the purpose intended by Parliament.

Regulation of lobbying

6 General

Is lobbying self-regulated by the industry, or is it regulated by the government, legislature or an independent regulator? What are the regulator's powers?

In broad terms, direct lobbying of government or senior officials undertaken by third parties for payment (consultant lobbying) is regulated under the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (the 2014 Act) under which a Registrar of Consultant Lobbyists (the Registrar) is appointed to supervise and enforce certain registration and reporting requirements described below. The Registrar may give guidance about how he or she proposes to exercise his or her functions.

It is an offence to carry on the business of consultant lobbying if an individual or organisation is unregistered, or to fail to submit an accurate quarterly return. It is also an offence if an entry in the register is incomplete or inaccurate, although there is some leeway with regard to administrative errors.

Commission of an offence may result in a fine imposed by either a court or the Registrar. The maximum fine that may be imposed by the Registrar is £7,500.

For lobbyists who fall outside the statutory regime, the Chartered Institute of Public Relations (CIPR) operates a voluntary UK Lobbying Register. Those registered are expected to behave in accordance with a code of conduct. The CIPR will investigate complaints about lobbyists on its register and can expel those found to be in breach of the relevant code.

7 Definition

Is there a definition or other guidance as to what constitutes lobbying?

Under the 2014 Act, consultant lobbying is defined as communicating directly (whether orally or in writing – see question 9):

- with government ministers or certain senior civil servants;
- on behalf of another person; and
- for payment (directly or indirectly).

The CIPR adopts a broader definition of lobbying for the purposes of its register, which covers activities carried out in the course of a business for the purpose of influencing the government or advising others how to influence the government.

8 Registration and other disclosure

Is there voluntary or mandatory registration of lobbyists? How else is lobbying disclosed?

Under the 2014 Act, consultant lobbyists are required to be listed on the register of consultant lobbyists before making any relevant communications. Registration is achieved by application to the Registrar with details of:

- the company, partnership or individual undertaking the lobbying;
- the VAT registration number; and
- any relevant code of conduct with which the consultant lobbyist must comply.

The intention behind the Act is to enhance the transparency of those seeking to lobby government ministers and senior officials on behalf of a third party.

Lobbyists who are not caught by the requirements of the 2014 Act may voluntarily apply to be listed on the UK Lobbying Register. This involves submission of an online form to the CIPR with similar information to that required for the 2014 Act register.

In addition, the Code of Conduct for Members of Parliament requires members to register details of family members engaged in lobbying the public sector.

9 Activities subject to disclosure or registration

What communications must be disclosed or registered?

To be caught by the 2014 Act, communications may be written or oral, and must relate to:

- the development, adoption or modification of any government proposal to make or amend primary or subordinate legislation;
- the development, adoption or modification of any other government policy;
- the government making, giving, issuing, or taking other steps in relation to any contract or other agreement, grant or other financial assistance, or licence or other authorisation; or
- the exercise of any other government function.

Communications must be made 'personally'. This means that where a person assists in the drafting of communications that are then sent by another party, or assists in the development of lines to take for a meeting which that person does not attend, then he or she will not be caught by the 2014 Act.

Communications must be made to:

- a minister of the Crown (the holder of an office in the government); or
- a permanent secretary (the most senior grade of the Civil Service) or a person of equivalent status. Equivalent roles include second permanent secretary, Cabinet Secretary, Chief Executive of Her Majesty's Revenue and Customs, Chief Medical Officer, Director of Public Prosecutions, First Parliamentary Counsel, Government Chief Scientific Adviser, Head of the Civil Service or the Prime Minister's Adviser for Europe and Global Issues.

Communications to other persons, such as Members of Parliament who are not ministers, are not caught.

It does not matter whether the person making or receiving the communication is outside the UK when it is made, or that the communication is irrelevant to the recipient's job or portfolio.

10 Entities and persons subject to lobbying rules

Which entities and persons are caught by the disclosure rules?

The 2014 Act requires an individual or organisation carrying on the business of consultant lobbying to be entered in the register, unless they fall within one of the following exceptions:

- individuals and organisations not registered for value added tax (VAT) in the United Kingdom;
- persons lobbying on behalf of their own organisation;
- persons not conducting lobbying for payment;
- individuals undertaking consultant lobbying in the course of their employer's business (only the employer is required to be registered);
- officials or employees of, or the government of, countries other than the United Kingdom, or of an organisation falling within as defined by section 1 of the International Organisations Act 1968 (such as the United Nations);
- individuals and organisations that carry on a business that is mainly non-lobbying and only make relevant communications on behalf of third parties in a way that is incidental to the main course of their business; and
- individuals and organisations that represent a particular class or description of people and whose income is derived wholly or mostly from those people, and where the lobbying is incidental to their general activity.

11 Lobbyist details

What information must be registered or otherwise disclosed regarding lobbyists and the entities and persons they act for? Who has responsibility for registering the information?

Under the 2014 Act a consultant lobbyist must supply the following information for the register before undertaking consultant lobbying activity.

Status	Information required
Company	• Its name, its registered number and the address of its registered office. • The names of its directors and of any secretary and any shadow directors.
Partnership	• The names of all the partners and the address of its main office or place of business (this can be the address from which lobbying is conducted).
Individual	• The individual's name and the address of the individual's main place of business (or, if there is no such place, the individual's residence).
All	• VAT registration number. • Any name or names, not included under paragraphs above, under which the person carries on business as a consultant lobbyist. • Any other information regarding the identity of the person as may be determined by the Registrar. • Details of any relevant code of conduct with which the consultant lobbyist must comply in relation to lobbying activities.

Responsibility for applying to be entered in the register of consultant lobbyists lies with the individual or organisation carrying on the business of consultant lobbying.

Similar details are required for the voluntary UK Lobbying Register.

12 Content of reports

When must reports on lobbying activities be submitted, and what must they include?

Under the 2014 Act, a consultant lobbyist must submit quarterly information returns to the Registrar giving the names of persons on whose behalf consultant lobbying has been undertaken – or from whom payment for lobbying has been received – as well as updates to any information given at registration.

No information is required on the subject of any lobbying undertaken or the amount of payment received.

Where no such lobbying has taken place, or payment received, a statement to this effect is required.

Persons on the UK Lobbying Register may also supply details of clients for whom lobbying is undertaking.

13 Financing of the registration regime

How is the registration system funded?

The registration system under the 2014 Act is funded through a mix of public funding, fees for registration and an annual fee to remain on the register.

The cost of the UK Lobbying Register is met by the CIPR and no fees are payable in relation to it.

14 Public access to lobbying registers and reports

Is access to registry information and to reports available to the public?

Both the register under the 2014 Act and the UK Lobbying Register are published online and searchable by the general public at no cost.

15 Code of conduct

Is there a code of conduct that applies to lobbyists and their practice?

Lobbyists are not under a legal obligation to subscribe to a specific code of practice.

Certain professional codes of practice – such as that for solicitors – may govern lobbying activities and the 2014 Act requires any such code to be listed in a person's entry on the register.

The CIPR requires lobbyists on the UK Lobbying Register to subscribe to either its own code or the code of the Association of Professional Political Consultants.

16 Media

Are there restrictions in broadcast and press regulation that limit commercial interests' ability to use the media to influence public policy outcomes?

Under the Communications Act 2003 (the 2003 Act), television and radio services (broadcast media) must not carry advertisements, with the exception of party political broadcasts, which are:

- by or on behalf of a body whose objects are wholly or mainly political in nature;
- directed towards a political end (such as influencing elections, referendums, changes in law or policy, or public opinion on matters of public controversy); or
- in connection with an industrial dispute.

The 2003 Act also regulates some video-on-demand services.

Ofcom is responsible for enforcing the prohibition on political advertising in broadcast media.

There is no restriction on material that concerns political issues in non-broadcast media, such as posters or newspapers.

There is no specific regulation of political advertising on the internet apart from spending rules around elections and referendums (see question 22).

Political finance

17 General

How are political parties and politicians funded in your jurisdiction?

Political parties in the United Kingdom are mainly funded through membership fees, donations and loans.

Public funding may also be available in the form of policy development grants or payments towards the administration costs of opposition parties in Parliament.

In practice, public funding is modest and party membership has declined significantly over the past few decades. Therefore, the main political parties in the UK have come to rely increasingly on donations.

Individual politicians may be funded by donations and loans, but public funding is not available.

18 Registration of interests

Must parties and politicians register or otherwise declare their interests? What interests, other than travel, hospitality and gifts, must be declared?

There are no requirements for political parties to register or declare their interests at an organisation level.

Under the Code of Conduct for Members of Parliament, individual members of the House of Commons are required to register their financial interests. Subject to some minimum financial thresholds, members must declare any relevant interest in any proceeding of the House or its committees, and in any communications with ministers, members, public officials or public office holders. Interests fall within the following categories:

- employment and earnings;
- donations and other support for activities as a Member of Parliament;
- gifts, benefits and hospitality from UK sources;
- visits outside the United Kingdom;
- gifts and benefits from sources outside the United Kingdom;
- land and property;
- shareholdings;
- any other financial interest or material benefit that might reasonably be thought by others to influence the member's acts or words;
- employed family members; and
- family members engaged in lobbying.

In addition, the Ministerial Code requires government ministers to disclose their interests for publication. This includes constituency interests, personal interests and connections and private interests whether financial or otherwise.

The Code of Conduct for Members of the House of Lords requires members to register all relevant interests – financial or otherwise – that might reasonably be thought to influence their parliamentary actions, and to declare any relevant interest when speaking in the House or communicating with ministers or public servants.

19 Contributions to political parties and officials

Are political contributions or other disbursements to parties and political officials limited or regulated? How?

Under the Political Parties, Elections and Referendums Act 2000 (PPERA), the Electoral Commission regulates donations and membership fees in relation to registered political parties, members associations (groups of party members) and holders of relevant elected offices.

The Electoral Commission has the power to investigate potential breaches of the rules and to take action where any breach has occurred. Such action includes the imposition of fines or requirements to take or desist from specified action. The Commission may also pass on details of a breach to the police or prosecuting authorities where it believes the breach has a significant impact on confidence in the transparency and integrity of party, and election finance.

20 Sources of funding for political campaigns

Describe how political campaigns for legislative positions and executive offices are financed.

Political parties are not permitted to use any public funding for campaigning purposes. Campaigns are funded through donations and loans.

Under the PPERA, donations are defined as money, goods or services provided without charge or on non-commercial terms, with a value of over £50. Parties, candidates and other regulated donees (members associations and holders of relevant elected offices) can only accept donations over £50 from individuals on the UK electoral register or UK registered organisations. However, Northern Ireland political parties may accept donations from individuals and organisations in the Republic of Ireland.

Details of donations over £50 and the donor must be recorded and provided to the Electoral Commission for publication.

Loans to candidates are not regulated. For parties and regulated donees the restrictions on the sources and reporting of loans over £500 are similar to those for donations.

Although Northern Ireland political parties must report donations and loans to the Electoral Commission, the Commission cannot currently publish this information. Draft legislation – the Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2018 – was laid before Parliament in November 2017 to bring the rules for Northern Irish parties into line with those elsewhere in the United Kingdom.

21 Lobbyist participation in fundraising and electioneering

Describe whether registration as a lobbyist triggers any special restrictions or disclosure requirements with respect to candidate fundraising.

There are no special fundraising restrictions or requirements related to registered lobbyists.

22 Independent expenditure and coordination

How is parallel political campaigning independent of a candidate or party regulated?

The PPERA (as amended by the 2014 Act) governs regulated campaign activity not aimed at a specific candidate in an election. This includes campaigning for or against political parties or categories of candidates, or policies or issues closely associated with a particular party or category of candidates. The types of activity caught include production or publication of material (including online), canvassing or market research, media events, transport with a view to obtaining publicity and particular public events.

For UK parliamentary general elections the rules usually apply within a regulated period beginning 12 months before polling day.

Any third party can spend up to £9,750 per constituency on regulated campaign activity within the regulated period. Those who wish to spend more than £20,000 in England, or £10,000 in Scotland, Wales or Northern Ireland, must register with the Electoral Commission. Once registered, a third-party campaigner must comply with rules on donations, spending and reporting. However, in general, only individuals on the UK electoral register or organisations registered in the United Kingdom can register with the Commission. Those that cannot register may not spend more than the applicable spending limits.

Third-party campaigning for or against one or more candidates in a particular ward or constituency is regulated under the Representation of the People Act 1983 (RPA), which imposes spending limits on activities such as leaflets, advertisements, meetings and websites. For parliamentary general elections the limit is £700 and applies from the date that Parliament is dissolved. Local campaigning is not regulated by the Electoral Commission and breaches of the RPA are handled by the police.

Ethics and anti-corruption

23 Gifts, travel and hospitality

Describe any prohibitions, limitations or disclosure requirements on gifts, travel or hospitality that legislative or executive officials may accept from the public.

Under the Code of Conduct for Members of Parliament, members of the House of Commons must register gifts, benefits or hospitality from any source inside or outside the UK with a value of over £300. They must also register multiple benefits from the same source if these have a value of more than £300 in a calendar year.

Under the Code of Conduct for Members of the House of Lords, members must register any gift to the member or their spouse or partner, or any other material benefit, with a value of over £140, from any source inside or outside the United Kingdom, which relates substantially to membership of the House. Under the Code, members should decline all but the most insignificant or incidental hospitality, benefit or gift offered by a lobbyist.

The Civil Service Code prohibits civil servants from accepting gifts or hospitality or receiving other benefits from anyone that might reasonably be seen to compromise personal judgement or integrity.

24 Anti-bribery laws

What anti-bribery laws apply in your jurisdiction that restrict payments or otherwise control the activities of lobbyists or holders of government contracts?

The Bribery Act 2010 makes it an offence for a person to offer or pay a bribe, or to receive or agree to receive a bribe, either directly or indirectly. It applies to transactions that take place in the United Kingdom and abroad, and to both the private and public sector.

It is also an offence to bribe a foreign official, and for a commercial organisation incorporated or carrying on business in the United Kingdom to fail to prevent a person associated with it committing bribery with the intent to obtain or retain business for the organisation or an advantage in the conduct of its business. It is, however, a defence for the organisation to prove that it had in place adequate procedures designed to prevent such conduct.

In addition, the Honours (Prevention of Abuses) Act 1925 legislates to prevent the granting of honours in return for private gain.

25 Revolving door

Are there any controls on public officials entering the private sector after service or becoming lobbyists, or on private-sector professionals being seconded to public bodies?

The Business Appointment Rules (BAR) prohibit ministers from lobbying government for two years on leaving office. The BAR also place a similar preclusion on senior civil servants and special advisers of equivalent standing. However, these restrictions may be modified by the Advisory Committee on Business Appointments (ACOBA) in an individual case.

More generally, the BAR require (former) public servants to seek advice from ACOBA – or, for junior civil servants, their former department – on the suitability of any new paid or unpaid appointment to be taken up within two years of leaving ministerial office or Crown service.

ACOBA (or the department) can recommend that an individual waits for up to two years before taking up an appointment, or restrict the types of activities that the former public servant may undertake (eg, using information to which the individual may have had access while in office). It can also advise that it considers a particular appointment 'unsuitable', but cannot prevent appointments being taken up.

Compliance with the BAR forms part of the ministerial codes for the UK, Scottish and Welsh executives, and is also part of the terms and conditions of appointment for civil servants and special advisers in those jurisdictions. However, the BAR have no statutory basis and there is no sanction for non-compliance.

Apart from security vetting procedures where necessary, there are generally no restrictions on private-sector professionals being seconded to public bodies.

26 Prohibitions on lobbying

Is it possible to be barred from lobbying or engaging lobbying services? How?

The Codes of Conduct for Members of Parliament and the House of Lords prohibit members from taking payment in return for advocating for a particular matter in Parliament. Furthermore, the Civil Service Code requires political impartiality.

Under the BAR, ministers, senior civil servants and special advisers of equivalent standing should not lobby government for two years after leaving office or the Civil Service. However, these restrictions can be modified by ACOBA upon application and there is no sanction for non-compliance.

Update and trends

Following the June 2017 general election, over 100 charities sent a joint letter to the government criticising the third-party campaigning rules around elections. The charities made renewed calls for the rules to be reformed to reduce the burden on charities during election periods. The letter described the rules as vague, confusing and burdensome and suggested that they had 'caused many organisations not to engage in the run up to the recent general election, and resulted in some important voices being lost from public debate'.

This criticism followed the publication in March 2016 of an independent review of third-party campaigning rules commissioned by the government which recommended changes to the PPERA.

However, in response to the charities' letter the government has indicated that there will be no change to the rules in the near future.

In terms of lobbying, the UK's exit from the European Union in 2019 is likely to see a significant increase in lobbying activity as organisations seek to ensure that their opinions are reflected both in the terms of the UK's future trade deal with the European Union and in any subsequent overhaul of the UK's domestic regulatory frameworks.

Recent cases and sanctions

27 Recent cases

Analyse any recent high-profile judicial or administrative decisions dealing with the intersection of government relations, lobbying registration and political finance.

These issues arose in the case of *Cruddas v Calvert* [2015] EWCA Civ 171. This was an action alleging libel and malicious falsehood, brought by a former treasurer of the Conservative Party (Mr Cruddas), against two journalists who had posed undercover as international financiers. The journalists had published articles about discussions with Mr Cruddas regarding making large donations to the Conservative Party (which was in government at the time) in return for political influence.

In summarising the law and practice governing donations to political parties, the court stated as follows:

> *[A]s a matter of realpolitik it is acceptable, indeed inevitable, that donors will have access on social occasions to senior members of the party which they support. ... What is not acceptable on such occasions is that (a) the politicians should reveal confidential information; (b) the views expressed by donors on policy issues should carry greater weight with politicians merely because the proponents are donors; (c) politicians should give any form of unfair commercial advantage or preference to donors during or after those social occasions.*

The court found that Mr Cruddas had effectively stated that significant donors to the Conservative Party would have an opportunity to influence government policy and to gain unfair commercial advantage through confidential meetings with the Prime Minister and other senior ministers. Although Mr Cruddas had not suggested any form of criminal offence under the PPERA, 'nevertheless, what he proposed was unacceptable, inappropriate and wrong'.

28 Remedies and sanctions

In cases of non-compliance or failure to register or report, what remedies or sanctions have been imposed?

The 2014 Act

The first civil penalty (£2,000) under the 2014 Act was issued in December 2015 to a company that had undertaken consultant lobbying activity prior to registration. In 2016 three companies were fined £300 each for undertaking continuing consultant lobbying activity having failed to pay the annual renewal fee to maintain their listings on the register.

The PPERA

The Electoral Commission seeks to work with those that it regulates to secure adherence to the relevant legislation and will often take informal action before resorting to its statutory enforcement powers. However,

following the 2015 parliamentary general election, Greenpeace and Friends of the Earth were fined £30,000 and £1,000 respectively for spending in excess of their controlled expenditure thresholds under the PPERA without having first registered with the Commission.

The Bribery Act 2010

In February 2016 the Sweett Group PLC became the first commercial organisation to be convicted under the Act. It was ordered to pay £2.25 million having pleaded guilty to failing to prevent an act of bribery intended to secure and retain a contract in the United Arab Emirates.

In January 2017, Rolls-Royce entered into a deferred prosecution agreement with the Serious Fraud Office (SFO) under which it will pay £497,252,645 plus interest over a period of up to five years, plus a payment in respect of the SFO's costs, in return for the suspension of prosecution of a number of offences, including the making of corrupt payments (under a pre-2010 Act bribery law) and failure by a commercial organisation to prevent bribery under the 2010 Act. The prosecution related to claims regarding payments to intermediaries to secure a number of high-value export contracts in various overseas markets.

GOWLING WLG

John Cooper **john.cooper@gowlingwlg.com**
Kieran Laird **kieran.laird@gowlingwlg.com**
Meena Makh **meena.makh@gowlingwlg.com**

Two Snowhill
Birmingham
B4 6WR
United Kingdom

Tel: +44 370 903 1000
Fax: +44 370 903 1099
www.gowlingwlg.com

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