

Introduction

1. Deryn Consulting Ltd welcomes the inquiry by the Standards Committee into the current arrangements relating to lobbying at the National Assembly for Wales and in this paper we outline our views for members to consider. We would also be pleased to provide the committee with oral evidence.

2. Established in 2012, Deryn is now one of Wales's leading Public Affairs companies. Our directors and staff have considerable cross party experience of politics, communications, campaigning and government in Wales and Westminster, and to a certain extent, Brussels.

3. We are members of the Association of Professional Political Consultants (APPC) and we comply with, and actively promote, its code of practice. We joined the APPC because we are fully committed to the principles of openness and transparency and have chosen to enter the name of our clients and consultants on a voluntary public register for that reason.

4. Deryn is also a member of Public Affairs Cymru (PAC), a membership organisation for public affairs professionals in Wales. Membership of PAC is open to all individuals within public affairs and government relations in Wales. The organisation has around 200 members from the public, private and voluntary sectors, including in-house and agency public affairs practitioners.

5. Deryn is fully supportive of any measures which are designed to raise standards and enhance openness and transparency as long as these measures are

- proportionate and fair
- applied to all lobbying activity undertaken, including all those who seek to engage
- enacted in such a way that ensures all information published is verifiable

- do not impose an unreasonable financial burden on those who engage, or a
- particular cohort of organisations that seek to engage.

A definition of lobbying and its purpose

6. We agree with the APPC's definition of lobbying:

Lobbying means in a professional capacity making any oral or written communication (including an electronic communication) to any member of the Government, advisers or officials or member of either House of Parliament or their staff or advisers with regard to the formulation, modification, or adoption of legislation; the formulation, modification, or adoption of any rule, regulation, order, policy, or position; the administration of any Government programme or policy, including the negotiation, award, or administration of a contract, grant, loan, permit, or license; or any other official act or decision.

7. For its statutory register of lobbying, the UK Government proposed a very narrow definition of lobbying which only covered consultant lobbyists whose business is predominantly lobbying and who themselves lobby Permanent Secretaries (or equivalent as specified by the Act) or Ministers of the Crown. We believe the definition should be wider and should apply to in house lobbyists, and anyone whose activities fall under the definition above.

8. Lobbying is a very important aspect of a healthy democracy, and the National Assembly for Wales has traditionally valued the openness and accessibility of its members. 9. With regard to our experience, we spend the majority of our time educating, informing and advising charities and companies on how to engage with the Welsh Government and the National Assembly for Wales, rather than lobbying on behalf of clients directly.

10. The main thrust of our work is to inform our clients of the political landscape in Wales and to provide strategic information and advice as to how decisions are made by democratic bodies and executives in Wales and how these decisions affect them – as well as to advise our clients on how they can engage effectively with these institutions and processes. In addition to this, we arrange events on behalf of our clients, provide senior strategic

communications advice and support and facilitate strategy sessions for senior management teams.

An Evolving Context

11. As the power and the influence of the devolved administrations has grown over time, so has the interest in the nature of the government in Wales and decisions taken.

12. There are many individuals within organisations who engage directly with the Welsh Government and the National Assembly as part of their wider professional and representational role – and this may represent the vast majority of direct engagement with Ministers and Assembly Members. Any registration of meetings or individuals that does not take this into account is likely to disregard the significant majority of what constitutes lobbying in Wales.

13. There has been a growth in the amount of in-house lobbying undertaken i.e. organisations employing public affairs staff to engage directly with politicians and to influence decision making. Public affairs consultants now often serve more as a source of additional capacity to in-house communications, public affairs or external affairs teams rather than being the only or primary mechanism of such activity.

14. The consultancy sector across the UK has become much more inter-disciplinary in its nature, with public affairs and political communications sometime integrated with a range of other services such as media advice, legal advice and event management.

15. Not all practitioners in Wales are of course members of the APPC.
APPC Members in Wales

16. The APPC has a membership of over 80 organisations throughout the UK, and the APPC Register for 1st September 2016–31st November 2016 includes six members who operate from offices in Cardiff.

17. Other APPC-registered companies located across the UK may have contact with Ministers or AMs, and the APPC is currently considering whether

it should amend its register to identify the institutions where its members are active. We would support this move, so that it is clear which APPC members operate in Wales. We would also support measures to promote membership of the APPC to all agency and individual practitioners, and the benefits of both a strong code of conduct and the independent scrutiny process that follows any complaints.

18. Its Code of Conduct regulates the conduct of all APPC members and these quarterly registers offer transparency to anyone wanting to find out which clients are represented by its members. The APPC has also established Complaints & Disciplinary Rules and Procedures which allows anyone to lodge a complaint against a member firm of the APPC. This process has an independent adjudication element. It is partly as a result of the leading role played by the APPC over more than two decades that the professional political consultancy business in the UK today has one of the best ethical track records of any in the world. The APPC has published a voluntary register of its members' clients for nearly 20 years.

19. There are a number of agencies and independent consultants who operate in Wales who are not members of the APPC, and are therefore not listed on any voluntary register, and have not signed up to comply with the Code of Conduct The APPC Code of Conduct

20. The principal condition of membership of the APPC is that the member firm should accept and abide by the APPC Code of Conduct. The Code regulates the conduct of all APPC members and promotes high ethical standards. It offers detailed rules based on two principles: transparency and an absolute ban on any financial relationship with politicians or their advisers. There are also rules including not holding passes and keeping separate any duties practitioners may have on behalf of political parties as office holders.

21. The Code is reviewed regularly and updated as required. All members must sign and endorse the Code (which binds firms, their staff and non-executive consultants) as a prerequisite for joining the APPC. All new staff must sign the Code and receive training when they sign their contracts of employment.

22. Members are required to re-endorse the Code of Conduct each year and to produce an annual statement of compliance. Each member must designate a senior executive as the firm's compliance officer. Members must provide an updated entry to the APPC Register every quarter, listing the names of staff and clients and complete an annual compliance procedure with the APPC Code of Conduct as at 31 May each year.

Reviewing lobbying practices in Wales

23. Although there have been unsubstantiated allegations made by one AM, we are not aware of any current problems, or a widespread perception of a problem, around lobbying in Wales. We are not aware of any breaches of the APPC's code of conduct by APPC members.

24. That does not however mean we are complacent. We continue to review how we work and promote transparency and openness in our day to day activities. We believe that from the perspective of maintaining high standards and ethical practices, the APPC Code of Conduct and Register is effective for those who comply with the former and sign up to the latter. We cannot account for the practices of those who are not APPC members.

25. A number of AMs have raised issues since the Assembly was established, where they believe there may have been a conflict of interest, or have challenged a decision by Ministers on specific matters such as funding or governance for individual charities or companies. It is important to note that in all these matters, consultant lobbyists have not been involved. Therefore, introducing new legislation that simply covers consultant lobbyists would not, in our view, be proportionate or effective.

26. We support wholeheartedly measures to promote transparency and openness. The APPC continuously seeks to enhance standards by reviewing and tightening its code of conduct and by actively seeking more consultants to operate within its framework. We would support a proposal made to the APPC to reform its register in order to explicitly list which organisations are active in Wales.

27. Deryn would also fully support the strengthening of the Public Affairs Cymru (PAC) Code of Conduct and a requirement that all PAC members sign this annually and abide by the code. PAC would subsequently hold a publicly available register of lobbyists in Wales who are signatories to the PAC Code of Conduct where members would routinely disclose their client list.

28. In strengthening the PAC Code of Conduct, Deryn would support a requirement that PAC members should not hold a pass to the Assembly. We would also endorse a requirement for practitioners to keep strictly separate from their activities, any personal activity or involvement in a political party, including as an office holder or candidate for office. In such circumstances, it would be incumbent upon PAC to promote the benefits of its membership among those who would qualify as lobbyists as described in paragraph (vi) above.

29. All should be mindful however, that there will always be individuals and organisations who choose not to seek membership of PAC, the APPC or any other organisation. If there is currently a perceived problem with of a lack of transparency, then such a register only of consultant lobbyists and in house public affairs practitioners. would not necessarily be sufficient to address such a perception. We believe that the vast majority of engagement activity with ministers, civil servants and AMs does not involve either cohort of public affairs professionals.

30. We believe that the publication of AMs and Ministers' diaries would be more valuable and efficient in serving this purpose. As such, we welcome the confirmation given on the 20th January 2017 that Ministers' meetings with external organisations and attendance at engagements will be published to the Welsh Government's website quarterly. We would urge the Assembly Commission to consider whether Assembly Members should require to do the same in light of the influence all parties potentially have on policy decisions, legislation and budgets due to the frequency of the election of minority governments in Wales.

31. Should the committee decide, however, to recommend that the Assembly Commission introduces a register in Wales, members may want to consider focusing on those who are lobbied rather than the lobbyists as there appears

to be much greater clarity over what constitutes an act of lobbying than there is in relation to the definition of a lobbyist. If there is to be a register then it should be one which provides information on who is lobbying whom and on what issues, and it should certainly address the weaknesses of the Westminster model by taking account of all those who undertake lobbying. This would cover not only public affairs and political communications consultants, but also those working for businesses, trade unions, management consultancies, charities, NGOs, planning consultancies, think tanks, trade associations, and in-house lobbyists.

32. A strong, professionally delivered consultancy sector means that essential help in steering a path through the political process is available to organisations of relatively modest means. But such services are easily eclipsed where very large organisations can afford sufficient in-house capacity to undertake their own engagement activities. If, as we would argue, the purpose of registration is to improve transparency, it would be counter-intuitive to exclude from the register those companies and organisations who probably have the greatest resources available.

33. Furthermore, any new regulations to this effect should be based on evidence, and to date, no detailed analysis of engagement with Ministers or AMs has been undertaken.

34. There should of course be an exemption for individuals who are lobbying AMs on personal or constituency matters in a non-professional capacity. However, should the committee be minded to recommend that a register is introduced, the information contained should extend wider than activities involving Welsh Ministers. As minority governments are a regular feature of Welsh democracy, it is fairly often the case that every AM has the potential to influence the decisions of the executive body. All Assembly Members should therefore be included within the scope of any such register.

Summary of recommendations

35. In summary, Deryn would recommend that the Committee considers the following course of action:

a) Continues to work with the APPC and PAC to enhance transparency within the industry, and to consider how to extend those voluntary registers to all

consultant lobbying and in-house practitioners, whilst recognising that this will only capture a small minority of lobbying that takes place.

b) Undertakes detailed research into the nature of engagement with Ministers and AMs before any regulations are considered.

c) Ensures that any regulations cover as broad a range of engagement and lobbying as possible, and is not restricted to consultant lobbyists and in-house public affairs professionals, otherwise the regulations will fail to include the vast majority of lobbying in Wales.

d) Recommends that the diaries of all AMs, as well as Ministers, are published with an exemption for information relating to individuals who are lobbying AMs on personal or constituency matters in a non-professional capacity