



Office of the Registrar of Consultant Lobbyists: Consultation on Information Publication and Retention

ICAEW welcomes the opportunity to comment on the *Consultation on Information Publication and Retention* published by Office of the Registrar of Consultant Lobbyists on 23rd December 2015, a copy of which is available [here](#).

This ICAEW response of 28 January 2016 reflects consultation with the Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

In order to ensure that the discussion at which the response is considered takes into account the views of our very diverse membership, we ask our committee members to canvas views within their own firms and among their contacts locally. Committee meetings are generally held monthly, but sometimes less frequently, and time is needed after the meeting to ensure that all aspects of the discussion are understood and appropriately reflected. The committee supports ICAEW's Charter Objectives, including any further checking to ensure that the response reflects the public interest ethos of ICAEW. For this reason, although we believe our responses to be valuable in giving a considered consensus of the wide membership of ICAEW, we cannot ensure that it fully reflects the views of all our members.

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MAJOR POINTS

1. We welcome the general tenor of the Registrar's intentions; that is the publication of information generally limited to that which gives effect to the intentions of Parliament, makes the Register reliable and serves the public interest.
2. The public interest is mentioned in a number of places as the criterion for certain disclosures, and this is entirely appropriate. It should be noted, however, that this concept can have a number of interpretations in different contexts and it may, on occasion, be helpful for the Registrar to enlarge upon her reasoning in certain cases. ICAEW has put considerable thought into this issue, in furtherance of our Charter objectives. If we can be of help in this context, please let us know, and in the meantime you may be interested in our publication "The Public Interest: A Framework for Analysis" available from <http://www.icaew.com/en/technical/ethics/the-public-interest>

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do you agree with my proposed approach to publication and retention of registration information, and if not, what changes would you propose?

3. We agree in general with the proposals for the entry of registration information on to the public register, in accordance with the requirements of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (the Act).
4. In the case of large partnerships, it is laborious for both the firm and the Registrar's office for all partners to be listed on the Register, and we applaud the Registrar's intention that this should be replaced with a link to the record at Companies House, when this facility becomes available. This will only ever be available for Limited Liability and Limited Partnerships, of course, and we wonder if it could be possible to allow a link to lists of partners on a firm's website, especially in the case of large unlimited partnerships.
5. We agree that in the case of individual (sole practitioner) consultant lobbyists without a "main place of business", they should be able to give an alternate accommodation or "business address", rather than their place of residence, for the protection of their personal information.

Q2: Do you agree with my proposed approach to publication and retention of quarterly client information / nil returns, and if not, what changes would you propose?

6. We strongly agree that it will be entirely appropriate, and in consistency with the spirit of the Act, for the inclusion of Quarterly Return information on the Register to be delayed until after uncertainties and apparent inconsistencies have been clarified.
7. The consultation is unclear on whether it is proposed that the information contained (say) in the third quarterly return of the year will be retained on the active Register for a full calendar year, or archived with the rest of the historical information at the end of each year. It would be appropriate for the annual archiving to be carried out in relation to the previous calendar year, rather than the one just ending. For the avoidance of doubt, when "the entire Register" is archived, this should not apply to registration information.

Q3: Do you agree with my proposed approach to publication of Information Notices and retention of information about them, and if not, what changes would you propose?

8. We agree that information notices, responses and cancellations of them should be kept confidential subject to freedom of information requirements. We also agree that where an appeal against an information notice results in a Tribunal Decision which affects the

information on the Register, then this decision should be made available on the Registrar's website.

Q4: Do you agree with my proposed approach to publication and retention of information about civil penalties and if not what changes would you propose?

9. We agree that information on any civil enforcement procedures should only be published if and when a penalty is imposed. A decision to impose a penalty should be published on the Registrar's website, but so also should be the fact that an appeal has been made and is under consideration, if that is the case.

Q5: Do you agree with my proposed approach to publication of publication and retention of information about criminal penalties, and if not, what changes would you propose?

10. We agree that information on criminal investigations should be released only in accordance with the practice of the Crown Prosecution Office, but that convictions should be published on the Registrar's website and annotated on the register. In view of the level of culpability implicit in a criminal conviction, we suggest that in such cases a press notice should also be issued.

Q6: Do you agree with my proposed approach to compliance with the Freedom of Information Act, and if not what changes would you propose?

11. The Registrar notes that she intends to provide information requested under the Freedom of Information Act unless it is too costly or not in the public interest to do so. Please see our comments above, on the interpretation of "the public interest" in paragraph 2.

Q7: Do you agree with my proposed approach to conformance with the Data Protection Act, and if not what changes would you propose?

12. We approve the Registrar's determination that the information held will be accurate and that records will not be retained after a strictly limited period. However, we would question the assertion that no personal information is held by the Registrar. Personal information is likely to be held in relation to individual registrants and in relation to individuals implicated in, or questioned in relation to, civil or criminal investigations. Such information must be held securely, and used in accordance with the rights of the individuals concerned.

Q8: Are there any other issues of information publication and retention that you wish me to consider?

13. None that we have identified at this time.