**Annex 1**

**Call for Evidence: summary of questions asked, responses and our current views on them**

**Issue 1: The name of the new Code**

What’s the issue?

The PA Code covers our members who carry out a defined subset of broader public affairs activities - essentially activities that seek to influence government. Some people and some Codes - including the Chartered Institute for Public Relations’ standards - refer to these types of activities as “professional or political lobbying.” We therefore asked the question whether the PA Code should be called something like “Professional Standards of Lobbying” rather than a “Public Affairs Code” and the members within its scope “professional lobbyists” or something similar.

What did our responders say?

Our responders had a range of differing views on this issue. The majority were in favour of calling them the Standards/Code for Professional Lobbying, some were in favour of retaining the current title and some were agnostic. Those in favour considered that the term ‘lobbying’ was more clearly understood and more descriptive of the type of work covered by the Code. They also felt that the current complex definition of “public affairs” was difficult to understand by both practitioners and the public. Finally, some also felt that we should not be shy of using the term ‘lobbying’ and reclaiming it as a positive term on behalf of the industry. Those against changing the title were mainly concerned about the possible narrow interpretation of the word ‘lobbying’ as only meaning the process of actively seeking to change legislation before Parliament. They felt that it might not cover the types of wider activities that are undertaken by our Members to influence government. They also felt that using the term lobbying might be interpreted as only applying to consultancies whereas it should also capture charities, trade associations and others involved in lobbying activity. Those that were agnostic pointed out the current overlap and possible confusion between the PRCA’s role and register and ORCL’s role. One suggested using a wholly different term like "Standards for professional political consultants".

What’s our current view?

Our view is that the PA Code should be renamed the ‘ Code for Professional Lobbying’. We believe that this will be clearer to both our Members and the public. Although we appreciate that some dislike the term ‘lobbying’ because of the negative press that has resulted from unethical lobbying practices in the past, we believe that ethical lobbying has an important role to play in our democracy, and we should not be nervous of using the term.

We agree that the rules should cover a wider range of work than the public might understand from the headline term. This is made clear in our definition of professional lobbying (which is now part of the Code rather than a standalone document). We appreciate that there is a degree of overlap and possibly a lack of clarity between ORCL’s role and our role. However, ORCL’s statutory remit is narrow and our remit – and those subject to our register – much wider. We are seeking to persuade the Government that ORCL’s role should be extended to cover a broader spectrum of lobbying work – as we believe this encourages transparency and accountability in the industry and will continue to advocate for this.

Another key point is that all Members of the PRCA – irrespective of the work they deliver – must comply with our Code of Conduct. This covers the high ethical standards of behaviour that we require of all of our Members, including those who are doing public affairs work – in its broadest sense. The Code for Professional Lobbying’s remit is different – its aim is to set out additional rules for those of our Members who are involved in activities that are aimed at influencing relevant public bodies. So all members of the PRCA must behave with honesty and integrity, respect confidentiality, avoid conflicts of interest and meet a range of other common ethical standards.

**Issue 2 : The activities that are in scope**

We think that the current definitions are not very clear - especially in two areas: in its definition of ‘government” and what should be fairly excluded from the definition of influencing government.

What does Government mean ?

What’s the issue?

The current definition of ‘government’ says :

*(4) In this section “government” includes, within the United Kingdom -*

*a) central government, devolved government, local government,*

*b) members and staff of either House of Parliament or of a devolved legislature,*

*c) ministers and officials, and*

*d) public authorities (within the meaning of section 6 of the Human Rights Act 1998).*

The definition is intentionally wide as it is meant to cover professional lobbying activities and interactions with those institutions which make decisions that affect us all. It is a basic democratic principle that important decisions of the state are not subject to undue influence and are made through processes which as transparent as possible. How far this goes in practice and where the line is drawn is a matter of debate and we were interested in views on this. We also considered that in particular our members and the public would not easily understand what is meant by subsection d) - “public authorities (within the meaning of section 6 of the Human Rights Act 1998)”.  We asked for views on this.

What did our responders say?

Most of our responders agreed that the definition could do with clarification – especially the reference to subsection d). There was a mixed response as to what should be included here, with the majority suggesting that those in scope should be widened out to include arms-length bodies, special advisers and Non-Governmental Organisations. One responder suggested that d) be replaced with the Government’s own definition of a Public Body: “a formally established organisation that is publicly funded to deliver a public or government service, though not as a ministerial department”. Another suggested that the definition should reflect the more international focus of our work, for example by including “relevant government bodies in countries and regions where members operate”. There was also a view that the definition should be supported by guidance - in particular what was meant by ’ local government’.

What’s our current view?

We have proposed that the definition of government should be renamed as “Relevant Public Bodies” and extended to now include special advisers as they often have a key role in developing government policy, and may be in frequent contact with public affairs agencies. We have also suggested a clearer the definition in sub section d) by referring to “bodies exercising functions of a public nature”.

What’s not “influencing Government” ?

What’s the issue?

To try to make sure that the definition of public affairs activity is not too wide the definition seeks to exclude a number of types of activities. These are set out in subsection (5) of the current definition of Public Affairs. They are:

1. anything done in response to or compliance with a court order,
2. anything done for the purpose of complying with a requirement under an enactment,
3. a public response to an invitation to submit information or evidence,
4. a public response to a government consultation exercise,
5. a formal response to a public invitation to tender,
6. anything done by a person acting in an official capacity on behalf of a government organisation, or
7. an individual who makes representations solely on his or her own behalf.

We considered that these exclusions might be difficult to understand or be too wide in scope. We asked in particular if it was right for the activities as set out in c) and d) - responding to an invitation to submit information or evidence or a government consultation exercise - to be excluded.

What did our responders say?

Our responders felt that the current exclusions are broadly right although there were a number of views that c) and d) should be reviewed and included within scope.

What’s our current view?

We agree and consider that c) and d) should now fall within the definition of what is covered by professional lobbying. We believe that this type of activity would normally fall within the public’s expectation of what professional lobbying involves as the intention is to actively influence bodies acting in the public interest. We also believe that most of those who provide returns to our register would already include this type of work in their quarterly return and capturing this would not be burdensome. These issues are covered by our proposed new definition of “professional lobbying” which has been incorporated into the Code for ease of access, rather than being a standalone document.

**Issue 3 : MPs’ and Peers’ employment, benefits and parliamentary passes**

There are two issues:

* the current prohibition on our Members from employing current MPs and Peers to undertake professional lobbying activities or giving any benefits/awards to them (rules 9 and 10 of the PA Code); and
* whether ex MPs and Peers who are subsequently employed to undertake professional lobbying activities should be prevented from retaining their parliamentary passes (rule 15).

There is inevitably an overlap here with the rules that Parliament makes to regulate the actions of MPs and Peers - and our Code of Conduct makes it clear that we expect our Members to comply fully with all the external obligations or rules that apply to them.

Employment of current MPs and benefits in kind – Rule 9 and 10

*Rule 9*

What’s the issue?

Rule 9 of the current PA Code prohibits our members from employing MPs, Peers or their equivalent in the devolved legislations to conduct public affairs activities in any capacity. This is irrespective of whether they are a working Peer or not. It also prohibits members from making “any award or payment in money or in kind (including “in equity”) to them or to connected persons or persons acting on their account directly or through third parties.” This rule has given rise to lots of questions as to its scope and in particular on the prohibition on making payments in kind. We asked for views on whether this was still the right standard and how the rule could be made clearer.

What did our responders say?

Our responders broadly agreed that current rule 9 is correct and that MPs and Peers should not be employed in professional lobbying, and that legislators should not be lobbyists. Some responders considered that the prohibition should be widened to make it clear that the prohibition extends to those acting purely in an advisory position.

What’s our current view ?

We agree. We consider that the members of the Houses of Parliament or other devolved legislations being involved in lobbying activities creates a perception of a conflict of interest and diminishes the public's trust in professional lobbying and Parliament. Members of the legislature should be expected to follow the procedures available to them in that capacity to influence government and not be engaged in separate professional lobbying activities. There were some responders who felt that a distinction could be drawn between working peers and non-working peers. Although we understand the rationale for this suggestion, we think that the principle that anyone who could be involved in legislative decisions should not be able to be a lobbyist is correct. The roles are incompatible.

We also believe that we should extend the prohibition to include PRCA Members who undertake lobbying activities from being able to sit as non-executive directors of Government departments (and vice versa) as doing so may involve them having access to privileged or confidential information or otherwise gaining both influences and insights which might give rise to a conflict of interest or be regarded as unfair.

We are also considering a possible extension to an outright ban on any Member being able to employ any Peer in any capacity. Rule 4 of our draft new Code for Professional Lobbying contains two options covering both alternatives for consideration.

*Rule 10*

What’s the issue?

Rule 10 of the current PA Code is a limited exception to the prohibition in Rule 9 as it does allow a group of companies of which a Member is part to employ MPs or Peers to do other work i.e. apart from public affairs work. Iif they do, however, that Member cannot use any confidential information that may be obtained in the course of that work. We asked for views on the exception made in Rule 10.

What did our responders say?

There were divided views on the exemption in Rule 10. One responder felt that the exception in rule 10 is reasonable, so long as sitting MPs and Peers are permitted to have outside employment and consultancy interests under Parliament’s own rules. Others felt that Peers in particular should not be able to be employed by an organisation within a group, where there is a PRCA member as part of that group, in any capacity to avoid any grey areas. Others felt that what is more important here is the definition of professional lobbying activities. Some made it clear that they would expect PRCA Members to exercise appropriate standards and judgment in their employment of staff and advisers.

What’s our current view?

Our view is that, on balance, the exemption to the prohibition is probably about right. We have proposed making it clearer that MPs and Peers should not have any direct or indirect involvement in professional lobbying activities (including acting as an adviser) by clarifying the sorts of activities covered by the term “influencing”. We propose to issue guidance to underpin the rule - in particular referring to the obligations in both the Code of Conduct and these standards to make sure that conflicts of interest are avoided and members act with integrity and in the wider public interest.

However, we appreciate that this is a very complex area with strongly held views on both sides. We are therefore consulting on an option in rule 4.

Holding of parliamentary passes by ex MPs and Peers - rule 15

At present, there is no bar on our Members employing ex MPs or Peers to undertake public affairs work within our definition. There are, however, some parliamentary rules that already control this – they mainly apply to former Ministers who seek permission via the Advisory Committee on Business Appointments (ACOBA). The only standard in the current PA Code that applies to ex MPs and, Ministers and other relevant government officials is Rule 15. This prohibits our Members who undertake professional lobbying activities from holding parliamentary passes or their equivalent. The reason behind the ban is that certain former Parliamentarians and officials should not be allowed unfettered access to places which the public cannot access – such as the lobbies, bars and restaurants within the parliamentary estate. This rule also extends to spouses. But we may decide to allow a pass to be held in “truly exceptional circumstances” - an example of this may be for a spouse to access the House of Commons to drop off their child at the nursery there.

What did our responders say?

Our responders were almost unanimous that our Members should be allowed to employ ex MPs (including former Ministers). They did agree that they should not be allowed to hold a Parliamentary pass, with some believing that there should be no exceptions.

What’s our current view?

We agree with the current position, and that we should not restrict the employment of former MPs. We do think it is right, however, to allow a limited discretion to permit a pass to be held in exceptional circumstances. We therefore propose to retain that exemption but make it clear that the decision will be taken by the Standards Committee on the evidence advanced. And if a decision is made to allow someone to use a pass, then that decision will be published in full on the PRCA website to ensure transparency.

**Issue 4 : Separation of roles**

What’s the issue ?

Rules 12 and 13 of the current PA Code seek to make sure that that our Members keep their activities as professional lobbyists separate from their personal activities - such as being a member of a political party, acting as a local councillor or standing for election as an MP. The intention is to prevent any perception of a conflict of interest arising and to ensure transparency and accountability. We asked if these are still the right standards and if so, whether they could be made clearer.

What did our responders say?

All of our responders were happy with the framing of rules 12 and 13 of the current PA Code. However, some suggested drafting clarifications and others that guidance would be useful. One responder suggested that it would also be useful to review the lists of roles declared.

What’s our current view?

We agree but have proposed some redrafting to these rules to make the provision clearer and to emphasise that this is essentially to avoid the actual or apparent conflicts of interests - now in rule 5.

**Issue 5 : The PRCA’s Register**

What’s the issue ?

Requirements about the information that our Members must provide to us for publication in our register are contained in various places in the PA Code. In summary, the requirements are for the names of professional lobbyists to be provided to us for publication every quarter and the names of relevant clients (where appropriate). Also, certain roles need to be declared and are recorded in the register, including advisory roles (existing rule 8) and councillors or ‘officers of political parties.’ The register also notes where professional lobbying activities are provided for free. Our intention is to bring all of these requirements into one new and clearer rule. We asked for views on this and whether anyone had any proposals for improvement or concerns about the current disclosure obligations.

What did our responders say?

Our responders agreed that the register is useful and used for research and other purposes to aid transparency of professional lobbying activities. However, some felt that the functionality of the register should be improved and that there should be wider promotion of its existence. Some felt that it should be updated more regularly.

What’s our current view?

We agree with the need to update the functionality of the register, and we will work towards improving its ease of use and functionality. We also agree with one response that full practical job titles should be included and also that the distinction between pro bono and paid work was not necessary. On balance, we think a quarterly update strikes the right balance between transparency of information and the burdens imposed on our Members. However, the rule makes it clear that members must ensure the information provided to us is accurate and up to date. We also intend to improve our processes for dealing with members who do not provide their returns in a timely or complete manner .

**Issue 6 : Training**

What’s the issue ?

Rule 21 requires our Members to make sure that they have received “thorough training” on the PA Code. – to be delivered either internally or by the Public Affairs Board. We asked whether this specific requirement should be kept and if so whether it needed amending.

What did our responders say?

All respondents were keen to ensure that training continues to be included. However, there was recognition that we could provide more support to aid members in achieving this – through written briefings as well as training that can be attended annually.

What’s our current view?

Along with most professional membership organisations which have a Code of Conduct, we expect our members to be aware of and comply with our standards. This involves individuals taking responsibility to understand our standards and to keep up to date with any developments on them. We also expect employers to have systems in place to ensure that employees can access these materials and take the time to make sure they understand them, whether through attending training sessions or reading our Codes and guidance notes.

On balance we think a Code obligation is helpful here to reinforce the need for our Members to be aware of our Code for Professional Lobbying and for Company members to provide training to their staff on the standards required. Professional lobbying can be a complex area to understand, especially for new joiners into the profession. We intend to look at our training provision to make sure that it is accessible, for example through easy-to-use webinars and other online tools.