



Practice Note on the EU Transparency Register, March 2016

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1 Introduction

1.1 Who should read this practice note?

This practice note is aimed at solicitors, solicitors' firms, legal consultants and in-house lawyers whose activities bring them into contact with the European institutions (especially the European Commission and the European Parliament). It is aimed at helping you decide whether you or your firm should register in the Transparency Register of interest representatives of the European Commission and European Parliament ("The Register"). Registration is voluntary but is likely to become mandatory.

This document aims to clarify the definition of lobbying and highlights areas of potential conflict with the Solicitors Code of Conduct of England and Wales 2011. It also highlights potential conflicts with rules regulating solicitors registered in other jurisdictions and multi-jurisdictional law firms. It also includes information in the implementing guidelines for the Register issued by the Joint Transparency Register Secretariat (JTRS)¹ in January 2015 and revised in October 2015.

This note has been drafted following consultation with Brussels-based law firms. The drafting team also consulted the Solicitors Regulation Authority which regulates solicitors, other authorised professionals and the firms they work in throughout England and Wales.

1.2 Status of this practice note

Practice notes are issued by the Law Society for the use and benefit of its members. They represent the Law Society's view of good practice in a particular area. They are not intended to be the only standard of good practice that solicitors can follow. You are not required to follow them, but doing so will make it easier to account to oversight bodies for your actions.

Practice notes are not legal advice, nor do they necessarily provide a defence to complaints of misconduct or of inadequate professional service. While care has been taken to ensure that they are accurate, up to date and useful, the Law Society will not accept any legal liability in relation to them.

For queries or comments on this practice note contact the Law Society's [Practice Advice Service](#). Please note that this practice note may be modified according to new circumstances.

If you require support in accordance with Section 6.2.3 of this note, please contact the Law Society Brussels Office at +32 2 743 85 85.

1.3 Terminology used in this practice note

Must – a specific requirement in the Solicitors SRA Code of Conduct or legislation. You must comply, unless there are specific exemptions or defences provided for in the code of conduct or relevant legislation.

Should – good practice for most situations in the Law Society's view. If you do not follow this, you must be able to justify to oversight bodies why this is appropriate, either for your practice, or in the particular retainer.

¹ JTRS is the body composed of the EC and EP officials who regulate the operation of the register.

May – a non-exhaustive list of options for meeting your obligations. Which option you choose is determined by the risk profile of the individual practice, client or retainer. You must be able to justify why this was an appropriate option to oversight bodies.

1.4 What is the issue?

The European Commission (EC) and the European Parliament (EP) have established a framework for their relations with interest representatives / lobbyists. The framework includes a voluntary Register and Code of Conduct for the Register which is binding on registrants.

The Register is regulated by an inter-institutional agreement (IIA) between the EC and EP. The agreement has recently been revised and the new rules applied from 27 January 2015.

Registrants are required to disclose certain information about their clients and the turnover from their interest representation activities. For the legal profession, this has posed a problem due to the confidential nature of this information and the fact that it cannot be disclosed unless all clients give their consent. Moreover, some activities falling within the scope of the Register relate to legal advice that aims to influence the EU institutions or the legislative process.

The EC is expected to put forward a legislative proposal for a mandatory Register in 2016.

2 What is lobbying?

Lobbying is defined broadly as all activities carried out with the objective of directly or indirectly influencing either the formulation or implementation of policy and the decision-making processes of the EU Institutions.

2.1 Direct influencing

Work that would fall under the definition of 'directly influencing' would be **direct contact or direct communication** with Commissioners, Commissioners' Cabinets, Directors-General, MEPs, MEP assistants, Commission and Parliament officials and other staff of the EU institutions. Examples of direct contact or direct communication include:

- drafting and circulating a letter to several MEPs on behalf of your client in order to influence legislation;
- preparing and distributing position papers to Parliament or Commission officials on behalf of your client;
- arranging and attending a meeting with an MEP, Commission or Parliament officials on behalf of your client; and
- accompanying your client to a meeting with an EU official.

2.2 Indirect influencing

Work aimed at 'indirect influencing' is defined as using channels such as the media, public opinion, conferences, social events or capacity-building events targeting the EU institutions. When determining which of your or your firm's activities are lobbying, you may take into account what the **intention of the activity** is and what its **intended audience** is.

The definition in the IIA is very broad and therefore could include a wide range of activities:

- writing blogs and/or articles, on behalf of the client, whose main audience will be EU officials and which are intended to influence the decision making process;
- organising on behalf of a client an event to which officials of an EU institution are invited in order to discuss a public policy issue which the officials are handling; or
- responding to a public consultation on a piece of EU legislation or an EU initiative (on behalf of the client or pro bono).

The guidelines on the implementation of the Register also refer to²:

- providing education on or research on EU activities and policies, involving regular contact with the EU institutions and feeding into the EU policy-making process; and
- organising initiatives or promotional or capacity building events dealing with EU policies/processes.

The guidelines state that the abovementioned activities should only be declared if they are part of the wider public affairs package which ultimately leads to influencing the EU decision makers or the policy/legislative process³.

2.3 Legal advice intended to influence the EU institutions or legislative process

Indirect influencing also includes legal advice when 'it is intended to influence the EU institutions, their Members and their assistants or their officials or other staff' as stipulated in the second part of the Article 10 of the IIA⁴. The article reads:

However, the following activities concerning the provision of legal and other professional advice are covered by the register where they are intended to influence the EU institutions, their Members and their assistants or their officials or other staff:

- the provision of support, via representation or mediation, or of advocacy material, including argumentation and drafting; and
- the provision of tactical or strategic advice, including the raising of issues the scope of which and the timing of communication of which are intended to influence the EU institutions, their Members and their assistants or their officials or other staff.

The important distinction between advisory work and lobbying for clients is, as stated above, the intention of the activity and the intended audience of the advice. If your client explicitly states that the information you gather to provide him or her with legal advice will be later used for lobbying purposes, then your activities will fall within the scope of the register. If, on the other hand, your client will explicitly state that the results of your work will not be used for lobbying purposes, then it falls outside the scope of the Register (see next section).

2.4 Advice to organisations engaged in lobbying

If your firm acts as an intermediary providing legal or other professional advice to another organisation then your firm and the other organisation will be required to register (Article 8).

² Transparency Register Implementing Guidelines, page 6 (box):
http://ec.europa.eu/transparencyregister/public/openFile.do?fileName=guidelines_en.pdf

³ Transparency Register Implementing Guidelines, point 5.1.10, page 20

⁴ The first part of Article 10 excludes most of the legal work from the scope of the Register and it is quoted in Section 4. This Article was split in this document to maintain a clear distinction between lobbying and non-lobbying activities.

2.5 Interest representation carried out by a client

When the client carries out lobbying activities in his or her own right, the client will need to register and disclose the relevant information.

2.6 Own initiative activities

Law firms will often participate in discussions concerning law reform matters, such as responding to a consultation on the revision of competition law or procedure. Often, firms and solicitors do not conduct such activities on behalf of a particular client and are not remunerated for it.

The structure of the Register allows disclosure of non-client based activities when registering. You may provide such information in the 'Financial data' section of the Register.

3 Should my firm consider registration?

You should consider registering if your firm carries out any form of public affairs or interest representation / lobbying work on behalf of your clients.

Unregistered entities are likely to see their access to EU officials increasingly restricted in the future. The new Commission has a strong commitment towards increasing transparency in policy making.

3.2 What does registration offer?

Although it is currently voluntary, registration confers certain privileges, including:

- access to the EC and EP and its officials;
- in the EP: authorisation to co-host events on its premises, facilitated access to information (for example through dedicated mailing lists) and participation as speakers in committee hearings; and
- in the EC: facilitated information on upcoming consultations, potential access to expert groups and advisory bodies and inclusion in specific mailing lists.

In addition, an access badge to the EP will only be issued to individuals who work for registered organisations.

3.3 Are you able to register?

3.3.1 Compliance with the professional rules

The primary duty of solicitors and law firms is to comply with the professional and ethical rules and obligations that govern their activities. In England and Wales, the relevant requirements are stipulated in the Solicitors Code of Conduct of England and Wales (SCC) 2011. One of the most important duties is that of confidentiality. Rule 4.1 states that 'you [must] keep the affairs of clients confidential unless disclosure is required or permitted by law or the client consents.'⁵

Disclosing the identities of individual clients or the turnover related to activities carried out for each client without consent would constitute a breach of professional rules on client confidentiality.

⁵ Solicitors Code of Conduct of England and Wales 2011:
www.sra.org.uk/solicitors/handbook/code/part2/content.page

3.3.2 Compliance with the codes of conduct of other jurisdictions

Law firms practising in a number of different jurisdictions must consider the possible conflict of obligations under different sets of professional conduct rules. Such firms must observe all of the professional and ethical rules in both:

- the jurisdictions where they are established; and
- the jurisdictions where their lawyers are registered to practise.

The rules of professional conduct in some states place restrictions or prohibitions on lawyers disclosing the identities of their clients, even when clients give consent. Such rules may prevent firms from registering.

This practice note offers advice only on the application of professional obligations relating to the Solicitors Code of Conduct of England and Wales.

3.3.2.1 Conflict of professional rules under the Lawyers Establishment Directive

When established in a different country than that in which they obtained their qualification, European lawyers are covered by the provisions of the Lawyers Establishment Directive⁶. As such, they have to comply with professional rules of the home Member State and the host Member State.

The rules in respect of EU lawyers who are established in Belgium and practise in Brussels and are registered with one of the two Brussels Bars (French or Dutch) are particularly relevant.

- Lawyers registered with the French Bar of Brussels have to respect the deontological rules of the Association of French and German speaking Bars of Belgium. In January 2011, the General Assembly of the Association decided that a lawyer can pursue lobbying activities and, as a result disclose the name of the client and the revenue from lobbying⁷.
- Lawyers registered with the Dutch Bar of Brussels have to respect the professional rules of the Flemish Bar Council. The Flemish Bar Council does not treat lobbying as a core activity of a lawyer. Consequently, it is not covered by professional secrecy.

3.3.2.2 Conflict of professional rules under the Lawyers Services Directive

When providing services on a temporary basis in another country than that of his or her establishment, European lawyers are covered by the provisions of the Lawyers Services Directive⁸. Depending on the kind of legal work they carry out, they are subject to different professional rules.

European lawyers providing advice or representation of the client in legal proceedings or before public authorities are regulated by the host bar rules (Article 4.2). Providing out of court legal services (Article 4.4) means that a European lawyer is subject to their home Member State rules and in exceptional situations the host Member State rules apply. Lobbying falls within the scope of Article 4.4.

⁶ Directive 98/5/EC to facilitate practise of the profession of a lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, OJ L77/36, 14.3.98

⁷ See: La Tribune No 68 Ordre des Barreaux Francophones et Germanophone de Belgique, Avocats.be, 25 février 2015, <http://us2.campaign-archive1.com/?u=d552fd66716b81b8fb8f922cc&id=681112a2fb&e=5a28b7ba64#2-1>

⁸ Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of the freedom to provide services, OJ L 78/18

3.3.3 Compliance with the Code of Conduct of the Transparency Register

Registration means your firm must observe the Code of Conduct of the Transparency Register (Annex 3 of the IIA).

The Code of Conduct of the Register states that:

In their relations with EU institutions and their Members, officials and other staff, interest representatives shall:

(a) always identify themselves by name and, by registration number, if applicable, and by the entity or entities they work for or represent; declare the interests, objectives or aims they promote and, where applicable, specify the clients or members whom they represent .;

(b) not obtain or try to obtain information or decisions dishonestly or by use of undue pressure or inappropriate behaviour;

(c) not claim any formal relationship with the European Union or any of its institutions in their dealings with third parties, or misrepresent the effect of registration in such a way as to mislead third parties or officials or other staff of the European Union, or use the logos of EU institutions without express authorisation;

(d) ensure that, to the best of their knowledge, information, which they provide upon registration, and subsequently in the framework of their activities covered by the Register, is complete, up-to-date and not misleading; accept that all information provided is subject to review and agree to co-operate with administrative requests for complementary information and updates;

(e) not sell to third parties copies of documents obtained from EU institutions;

(f) in general, respect, and avoid any obstruction to the implementation and application of, all rules, codes and good governance practices established by EU institutions;

(g) not induce Members of the institutions of the European Union, officials or other staff of the European Union, or assistants or trainees of those Members, to contravene the rules and standards of behaviour applicable to them;

(h) if employing former officials or other staff of the European Union, or assistants or trainees of Members of EU institutions, respect the obligation of such employees to abide by the rules and confidentiality requirements which apply to them;

(i) obtain the prior consent of the Member or Members of the European Parliament concerned as regards any contractual relationship with, or employment of, any individual within a Member's designated entourage;

(j) observe any rules laid down on the rights and responsibilities of former Members of the European Parliament and the European Commission;

(k) inform whomever they represent of their obligations towards the EU institutions.

Where relevant, you must provide to the JTRS the names of all professional codes of conduct by which you are bound (Article 21 of the IIA and section 14 of the online registration form). For example where you or other members of your firm who are carrying out lobbying work are required to abide by the code of another external body, such as the Society of European Affairs Professionals.

Finally, if your firm has an internal code of conduct, you should examine whether the duties under it are equivalent to the Code the TR or whether revision is necessary.

3.4 Client notification and consent

Under the Solicitors Code of Conduct (England and Wales), registration will not breach professional obligations as long as all clients concerned have given informed consent. Refusal of one client to give consent would make registration impossible.

You should make sure that consent is given in writing by your client or a representative of your client, for example the principal client contact and on the basis of correct and complete information regarding the disclosure requirements. Please note that in case of ex-post facto reporting to the Register, you must obtain the consent from your client for the activities already carried out. To do this, you must make sure that the client understands which information has to be declared and why.

It is important that clients are informed about registration and what it means for them in practice. You must ensure that your client understands what he or she is consenting to:

- their name will be listed on a public website;
- the amount that they spent on your firm lobbying on their behalf will be listed on the website;
- the information on the dossiers in respect to which the lobbying activities are carried out are listed on the public website;
- that they will have to declare their expenses; and
- the firm's turnover with respect to lobbying activities for each client will be published on the website.

We would recommend that notice of registration and its requirements be included either in the pro-forma opening letters to clients in this practice area (see a sample engagement letter in Annex I) or added as separate letters to those clients for whom lobbying work may be carried out.

The content of letters of engagement may vary between firms, depending on factors such as:

- the professional and ethical rules that bind the lawyers and the firm;
- other legal rules regulating the firm and its activities; and / or
- the jurisdiction in which a client is engaged.

2.3.4 Partial disclosure

You should not make a partial disclosure relating only to the clients who have given consent. Doing so would constitute a breach of the rules and would expose you to the possibility of complaints. Also, you should not register if you are unable to make a full declaration because of ongoing confidentiality duties.

3.3.5 Refusal to carry out lobbying work for clients who refuse to give consent

Clients may legitimately refuse to give consent. In this case you will not be able to register without breaching relevant professional rules.

You may refuse to carry out lobbying work for an existing or potential client who withholds consent in respect of a new engagement. This would not put you in breach of your obligations under the current professional rules. You would be able to

continue acting for the client in relation to all other non-lobbying work while registered.

You may withdraw from the register, by removing your profile, if your firm is no longer in a position to comply with its requirements.

However, each case needs to be assessed on an individual basis and taking into account client considerations. It will be important for firms to have discussions with clients who are concerned about these provisions and decide the most appropriate course in respect of each client.

3.5 Other considerations

3.5.1 Data protection and disclosure

According to the Regulation on public access to European Parliament, Council and Commission documents⁹, the EU institutions may have to disclose correspondence and other documents concerning the activities of registrants (Article 21 of the IIA). In responses to information requests, the EU institutions have to take into account the potentially confidential nature of the documents or the protection of commercial interests.

3.5.2 Publication of meetings

In addition, since 1 December 2014 meetings between the Members of the EC, their cabinets and Directors-General are to be published within two weeks of them taking place¹⁰. Meetings in the context of administrative or court proceedings or investigations are excluded from this requirement if they take place with the officials directly responsible for the case. If you are to meet any of those officials in the context of your ongoing case work and you are concerned that these should be confidential, you should confirm beforehand that the information on the meeting will not be published.

3.5.3 Registration renewal

According to the official guidelines of the JTRS, you should update your details as soon as something changes and no later than three months after the change occurs. In addition, you should review your entry at least three times per year (see Section 5.1.11 of the guidelines).

4 What is not lobbying

Legal advice is excluded from the definition of lobbying, as stated in the first part of Article 10 of the IIA.

4.1 Legal advice not intended to influence the EU institutions or legislative process

Legal advice is not lobbying when the intended recipient of the advice is the client. Legal advice includes:

- advisory work to better inform clients about a general legal situation or about their legal position;

⁹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

¹⁰ On the basis of two Commission Decisions, C(2014)9051 and C(2014)9048 issued on 25 November 2014

- contacts with public bodies to better inform clients about a general legal situation or about their legal position;
- advice to clients as to whether or not a particular legal or administrative step is appropriate or admissible under the existing legal and regulatory environment; and
- carrying out analyses and studies that are prepared for clients on the potential impact of any legislative or regulatory changes with regard to their position or field of activity.

Legal representation in the context of a conciliation or mediation procedure aimed at preventing a matter being brought before a judicial or administrative body does not fall within scope of the Register.

Also excluded from the scope of the register are activities concerning legal and professional advice in relation to the exercise of the fundamental right to a fair trial of a client, including the right to a defence in administrative proceedings.

4.2 Representation in ongoing legal and administrative procedures

Representing your clients in ongoing legal and administrative procedures that is not aimed at changing the existing legal framework is not covered by the register.

Such work often includes contacts with various EU institutions and organisations which are not necessarily directly involved in a particular case, yet contacting them brings an additional perspective and information which will allow you to represent your client to the best of your ability.

Examples include:

- legal work conducted by your firm in relation to a competition case;
- legal work conducted by your firm in relation to litigation before a court and/or tribunal or arbitration including the European courts;
- activities aimed at ensuring the protection of a client's interests through international judicial and quasi-judicial forums, such as WTO dispute resolution when the EU is concerned;
- representing the client as an interested third party complainant and not necessarily formally related to the case.

The defence rights may extend to certain other administrative proceedings as has been noted in the case law of the European Court of Justice¹¹. Legal advice and representation in relation to activities, such as the following, may be justifiably excluded from falling within the scope of the register:

- representation of a complainant, directly affected third-party or the (potential) addressee of a decision in relation to the application of trade defence mechanisms, such as anti-dumping and anti-subsidy rules or complaints under the Trade Barriers Regulation¹² or any legislative measure of the Union;
- representation of a client in relation to administrative proceedings conducted by one or more of the EU Institutions;

¹¹ See for example C-17/74 Transocean Marine Paint [1974] ECR 1063, C- 85/76 Hoffman-La Roche v Commission [1979] ECR 461 or joined cases C-46/87 and C-227/88 Hoechst v Commission [1989] ECR 2859

¹² In fact, DG Trade guidelines on filing a complaint explicitly state that 'companies who are considering to launch a complaint are strongly encouraged to contact DG Trade services first informally before filing a complaint.' see: [Trade Barriers Regulation - Filing a complaint, http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150984.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150984.pdf)

- complaints made to the European Commission;
- assistance concerning tenders for the award by the EU Institutions and bodies of contracts for works or services, including research and studies;
- matters concerning the granting of individual intellectual property rights, such as patents, trademarks, design rights;
- complaints made on behalf of a client to the EU institutions;
- any other administrative matter where the purpose of the lawyer's activities is to protect the legal and procedural rights of the client.

4.3 Representation before (potential) legal and administrative procedure (pre-litigation)

Informal attempts to resolve an issue with the EU institutions on behalf of a client should not be considered to come within the scope of the register if there is a reasonable prospect that such activities may lead to proceedings before any of the following:

- a court;
- international judicial or quasi-judicial forum; or
- through alternative dispute resolution.

4.5 Responses to requests for information made by the EU institutions

Responding to a direct and individual request by any of the EU institutions or a Member of the European Parliament does not constitute influencing (Article 12 of the IIA).

4.6 Requesting information or documents from the EU institutions

Access to documents requests made to any of the European institutions are excluded from the scope of the Register. The exclusion extends to activities related to:

- subsequent complaints to the European Ombudsman or
- actions brought before the European Courts.

5 Disclosure requirements

Before completing the registration form online, we advise you to go through the sample registration form to compile the relevant information.¹³

5.1 General and basic information

The Register requires the following:

- basic information on your firm eg ...;
- name(s) of persons with legal responsibility;
- name of the person in charge of EU relations;
- contact person and backup contact person;
- further useful contact details for your organisation; and
- goals / remit of your firm.

¹³ See sample registration form:
http://ec.europa.eu/transparencyregister/public/openFile.do?fileName=facsimile1_en.pdf

5.2 Specific activities covered by the register

You will need to disclose which of the following activities your firm is involved in:

- main legislative proposals or policies followed by your firm;
- relevant policy implementation, public relations and communication activities such as projects, events and publications;
- participation in the EU public consultations; and
- participation in the EU structures and platforms such as high-level groups (Commission), consultative committees, expert groups (Commission), intergroups (Parliament) or industry forums (Parliament).

You will also be invited to provide additional information on your activities in or membership of other organisations.

5.3 Number of people involved in the activities covered by the register

Under this heading, you will need to provide detailed information on the **number of persons involved in lobbying**. This will cover all individuals working for your firm and carrying out the activities covered by the Register, including unpaid workers, for example interns. You should also list all persons that benefit from an access badge to the European Parliament.

You also need to indicate the **time spent on lobbying** by those people. You should calculate this as a percentage of full time equivalent activity (25%, 50%, 75% or 100%). You must update the information if the number of relevant staff in your firm increases or decreases by 25%.

Finally, you must provide the names of professional bodies, networks or other organisations of which your firm is a member. We advise you to state the full name of the organisation and include links to websites with relevant details. This also includes any professional bodies of which you are a member, for example the Law Society of England and Wales.

5.4 Information on the clients

You will need to provide information on all clients for whom you have carried out lobbying work. This information includes:

- name of the client; and
- turnover from each client (money billed / invoiced in the last financial year).

There may be differences in how firms treat VAT internally and whether that would be included in the figures reporting in the Register. You may want to clarify these procedures, to the extent necessary, in the comments section in the Register.

For the purposes of the Register, the financial year can start at any time.

You and your clients must register¹⁴ these details and it is important that your final bill to your client is clear so that you are declaring the same totals.

5.5 Costs of lobbying activities

You must provide an estimate of the annual costs related to activities covered by the register. These costs must cover a full year of operations and refer to the most recent financial year (as of the date of registration or of the update of the registration details).

¹⁴ cleint

The estimate can be shown as an absolute amount or as a range. You should also mention the amount and source of any funding received from EU Institutions.

Your costs estimate should include:

- staff costs based on the total staff FTE declared in relation to time spent on lobbying activities. Gross salaries / fees should be estimated, plus any allowances, bonuses or benefits paid;
- office and administrative costs: which includes costs of rent and utilities, supplies and materials, ICT equipment, maintenance, cleaning, permits etc. The guidelines suggest that you should estimate this by dividing the total office and administrative costs by your total staff FTE and then multiplying it by the total staff FTE declared as involved in lobbying activities;
- in-house operational expenditure, which includes costs of advocacy, campaigns, media, events or publications falling within scope;
- costs of representation - for taking part in events or meetings (including sponsored activities for members and fees for training or capacity building events. These must include registration fees, travel, accommodation, food, and other allowances;
- membership costs for being part of any relevant networks / structures¹⁵; and
- other relevant costs that would fall within scope.

5.6 Own-initiative activities

The structure of the Register will allow your firm to disclose lobbying activities carried out on the firm's own behalf alongside those conducted for clients. You may wish to note such activities in the Register. However, you must make sure that these activities do not conflict with your obligations towards your clients.

6 Alerts and complaints processes

The information in the registration entry is publicly available and thus open to scrutiny. Upon registration, you or your firm will have to observe the Code of Conduct of the Register and will be subject to the associated alerts and complaints process. This means that any person or organisation can submit an alert or a complaint against your firm, including the JTRS.

The procedure for handling alerts and complaints is set out in Annex IV to the IIA.

6.1 Procedure for handling alerts

Alerts are reports about alleged factual inaccuracies or errors in the Register, as well as about ineligible entries. Any person may lodge an alert to the JTRS by completing an [online form](#).

If the JTRS receives an alert about your firm, it will ask you to update the information in the Register or to explain why the information does not need to be updated. Typically, the JTRS would contact your firm (using the contact details in the register) for comments and give you 10 working days to respond.

If your firm does not respond, the JTRS may suspend your registration and give you further four weeks to respond. Please note that suspension will mean your details are no longer on public view but the details of your firm will still be available for updating and, once the suspension is lifted, publication online.

¹⁵ See section 3.11.2 (point 6) of the Implementing Guidelines on calculating the costs of the membership fees.

If your firm does not respond after the four week extension, your firm's entry will be deleted from the Register.

6.2 Procedure for handling complaints

6.2.1 Submitting a complaint

Complaints are reports about alleged breaches of the Code of Conduct of the Register that involve behaviour. Any person may submit a complaint to the JTRS by completing an [online form](#). The form must contain the information on:

- the registrant and the subject of the complaint;
- the name and contact details of the complainant (anonymous complaints will not be considered);
- details of the alleged non-compliance with the Code of Conduct of the Register (if possible, accompanied by supporting materials and reference to the relevant clause);
- whether harm was caused to the complainant; and
- grounds for suspecting intentional non-compliance.

If the JTRS determines that non-compliance is clearly unintentional, it can re-qualify it as an alert.

6.2.2 Examination of the complaint

If the JTRS receives a complaint about your firm, it will have five working days to confirm it to the complainant. It will then determine if the complaint falls within the scope of the Register (as outlined in the Code of Conduct for the Register) and will examine the evidence provided by the complainant.

If the complaint is deemed inadmissible, the JTRS will inform the complainant and will state the reasons for its decision. If the complaint is admissible, the JTRS will inform the complainant and your firm of the decision and the procedure to be followed.

6.2.3 Handling of an admissible complaint

Notification

The JTRS will notify your firm of the content of the complaint and the clauses with which it allegedly did not comply. The notification will be made by e-mail and will be addressed to the designated contact person in your firm. In the notification, the JTRS will invite your firm to submit the response to the complaint within 20 working days.

It is possible for the representative professional body to submit a memorandum in support of the registrant's position. If a complaint is submitted against your firm, you will therefore have the possibility to contact the professional body which regulates your firm's operations and request their support. It may be open to the Law Society to intervene in such cases. You should bear in mind, however, that the Society is only likely to intervene where the issue is one which has wider ramifications beyond the individual case and will clearly affect other firms – for example, if there is an issue of interpretation. If you are in this position and would like the Society to consider doing so, you should contact our Brussels Office in the first instance.

If your firm does not respond to the complaint within the 20 working days, the JTRS will temporarily suspend your firm until it resumes contact. If your firm does not resume contact within 20 working days, your firm's entry will be deleted from the Register.

Examination of the material

The JTRS will examine all information provided by your firm during its investigation. Typically, it would take the JTRS around 15 working days to reach its decision. During that time, it may decide to hear the representative of your firm, the complainant or both.

If the examination shows that the complaint is unfounded, the JTRS will inform your firm and the complainant and will state the reasons for its decision to close the complaint

If the complaint is upheld, your firm will be temporarily suspended from the Register until the case is resolved.

Resolution

The JTRS, in cooperation with your firm, will try to address and resolve the issue. If your firm cooperates with the JTRS, they will allocate a reasonable period of time to do that. This will be decided on a case-by-case basis depending on the problem (Art. 12 and 13 of Annex IV).

If your firm takes action to resolve the problem, its registration will be re-activated and the complaint closed (Art. 14 of Annex IV). No response within 20 days of the complaint will result in suspension.

A further 10 days without a response, or one which confirms non-cooperation, will result in a decision being made to delete the entry of your firm from the register.

If your firm does not cooperate within 40 working days of the notification of the complaint, the JTRS will remove it from the register. This means that your firm will lose the advantages attached to registration (Art. 17 of Annex IV).

In either of the above cases, it is possible for your firm to re-register once the grounds for deletion from the register have been remedied (Article 21).

If non-cooperation is repeated and deliberate, JTRS may prohibit re-registration for one or two years depending on the gravity of the case. Factors which impact on the gravity of the offence include the occurrence and regularity of the offence, its intention and its nature (factual errors or inappropriate behaviour). Examples of inappropriate behaviour include harassment of an MEP or a security breach in the EP.

Appeal

Your firm has the right to appeal against a decision of the JTRS to remove the firm from the Register and prohibit re-registration for one or two years. Your firm will have to submit a reasoned request to re-examine the case within 20 working days of the notification of the measure. The request should be submitted to the Secretaries-General of the European Parliament and of the European Commission:

Secretary General of the European Commission:

Mr Alexander Italianer

Rue de la Loi 200 / Wetstraat 200

1040 Brussels, Belgium

Email: alexander.italianer@ec.europa.eu

Tel.: +32 2 299 43 93

Secretary General of the European Parliament:

Mr Klaus Welle

Rue Wiertz 60 / Wiertzstraat 60
1047 Brussels, Belgium
Email: klaus.welle@ep.europa.eu
Tel.: +32 2 284 27 78

If your firm does not submit the request or after the final decision has been taken by the Secretaries-General, the relevant Vice-Presidents of the European Parliament and the European Commission will be informed.

The decision will also be published in the register.

Annex I - Letter of engagement - model text

The following text may be used in respect to client consent and confidentiality:

We have agreed to represent you in connection with (type of matter) [or] [in which we discussed (type of problem)], and we agreed to (insert appropriate details).

We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you. We will not disclose any of this information to any other person except:

- *to the extent necessary or desirable to enable us to carry out your instructions;*
- *to the extent required by law or by the [insert the name of the relevant Code of Conduct eg the Solicitors Code of Conduct of England and Wales 2011];*
- *to the extent necessary for the purposes of registration under the Code of Conduct for the EU Transparency Register.*

During the course of our engagement, should it prove to be necessary or advisable to carry out lobbying work, as defined by the Code of, on your behalf, acceptance of this letter constitutes consent to the disclosure of your name, information on the dossiers in respect to which the lobbying work is carried out and an indication of the costs and turnover related to the lobbying work carried out on your behalf in the previous financial year. Consent is also taken to be given in so far as is necessary for the firm to comply with the Code of Conduct for the EU Register.

Under the EU Register, lobbying work includes drafting position papers, carrying out research in support of position papers, making representations to EU policy makers, contributing to the legislative process, taking part in public consultations on EU legislation or providing advice aimed at influencing the EU legislation process or EU policy makers.

Annex II - Resources

Following resources are available:

- [Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation](#)
- [EU Transparency Register Implementing Guidelines](#)
- [Alerts and complaints procedure](#)
- [EU Transparency Register](#)
- [Code of Conduct of the EU Transparency Register](#)
- [Frequently asked questions](#)