



House of Commons
Public Administration Select
Committee

Lobbying: Access and influence in Whitehall

First Report of Session 2008–09

Volume I



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*Report and Appendix, together with formal
minutes*

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Summary

This Report takes a fresh look at lobbying, in the first parliamentary inquiry on the subject since 1991. Lobbying is about influence, and influence is impossible without access. Lobbying is publicly associated with the activities of consultancies on behalf of their various clients. But it is also carried out by other kinds of professional representative, such as lawyers, as well as in-house by a vast array of organisations with an interest in public policy and decisions. These range from corporations, to trade associations, to charities, to grassroots campaigners.

Lobbying should be—and often is—a force for good. But there is a genuine issue of concern, widely shared and reflected in measures of public trust, that there is an inside track, largely drawn from the corporate world, who wield privileged access and disproportionate influence. Because lobbying generally takes place in private, it is difficult to find out how justified concerns in this area are. This is why there have been demands for greater transparency, and why lobbying has been regulated in a number of jurisdictions, generally through registers of lobbyists and lobbying activity. A further issue of concern related to access and influence is the transfer of staff in both directions between Government and (predominantly) the business world—the ‘revolving door’.

In this country, public affairs consultancies and in-house lobbyists are subject to virtually no regulation and, as we have found, very little self-regulation of any substance. Those who are lobbied are subject to various behavioural constraints and transparency requirements (eg. the Freedom of Information Act and the Ministerial and Civil Service Codes), but these have developed piecemeal and without a specific focus on lobbying. Ministers and civil servants leaving office are subject to the Business Appointment Rules, monitored in the most senior cases by an unpaid part-time committee of the great and the good—the Advisory Committee on Business Appointments (ACoBA).

Lobbying can be regulated—and in a number of jurisdictions is regulated—far more extensively than this. While there is no ‘off-the-shelf’ solution, the system in the United Kingdom could be and needs to be improved.

Regulation carries a number of risks, not least that it could constrict the democratic process by excluding the less professionalised and least experienced and that it could stifle input into the policy-making process. The solutions that we propose aim to avoid these risks.

We propose that the ethics of the activities of lobbyists should be overseen and regulated by a rigorous and effective single body with robust input from outside the industry.

We propose that there should be a register of lobbying activity provided for in statute, independently managed and enforced, to include information provided by both lobbyists and those being lobbied, information which should largely be in their hands already. This information would include:

- a) the names of the individuals carrying out lobbying activity and of any organisation employing or hiring them, whether a consultancy, law firm, corporation or

campaigning organisation.

- b) in the case of multi-client consultancies, the names of their clients.
- c) information about any public office previously held by an individual lobbyist—essentially, excerpts from their career history.
- d) a list of the interests of decision makers within the public service (Ministers, senior civil servants and senior public servants) and summaries of their career histories outside the public service, and
- e) information about contacts between lobbyists and decision makers—essentially, diary records and minutes of meetings. The aim would be to cover all meetings and conversations between decision makers and outside interests.

We also call for ACoBA to be strengthened and its membership refreshed, bringing in people who are more representative of society at large and better able to commit time to this work, and we call for consistent rules to be strictly applied so that former Ministers and other public servants are prevented for an extended period from using contacts built up in public office to further their own and others' private interests.

1 Introduction

Why this inquiry?

1. The practice of lobbying in order to influence political decisions is a legitimate and necessary part of the democratic process. Individuals and organisations reasonably want to influence decisions that may affect them, those around them, and their environment. Government in turn needs access to the knowledge and views that lobbying can bring.

2. In recent years, however, ‘lobbying’ has become a much maligned term. Even the lobbying industry seems to avoid using it, preferring instead to use the language of ‘public affairs’ and ‘government relations’.

3. Public perceptions of certain kinds of lobbying activity have contributed to public cynicism in the political process, for several reasons.

4. First, there is a perception that commercial corporations and organisations have an advantage over not-for-profit bodies, an advantage which is related to the amount of money they are able to bring to bear on the political process rather than the cogency of their case.

5. Second, there is concern about the freedom with which people are able to move to and fro between roles in industry on the one hand and ministerial and civil service posts in which they can benefit those industries on the other: a process that has become known as the ‘revolving door’.

6. Third, there is concern about the use of ‘lobbyists for hire’ (who have no legal obligation to make public who their clients are) to keep secret from the public the identity of those involved in lobbying decision-makers.

7. A fresh look at this area was long overdue: there had been no parliamentary inquiry on these issues since 1991, when the Select Committee on Members’ Interests reported on parliamentary lobbying.¹ The world of lobbying has changed since the early 1990s, with a wider range of interests seeking to exercise influence in a variety of ways. John Grogan MP called early in 2007 for there to be a new parliamentary inquiry.² We have followed with interest recent developments in the statutory regulation of lobbying abroad, including in those jurisdictions we were able to visit—the USA, where the Honest Leadership and Open Government Act of 2007 strengthened public disclosure requirements relating to lobbying, and within the European Union institutions, where there were developments in 2008 in both the Commission and the Parliament.

8. Public confidence in UK government ministers has fallen again, according to the most recent survey conducted by the Committee on Standards in Public Life, with as many as 56

1 Select Committee on Members’ Interests, Third Report of Session 1990–91, *Parliamentary Lobbying*, HC 586

2 Public Affairs News, April 2007

per cent of respondents now stating that in their view, half or more of government ministers use their power for their own personal gain.³

9. Against this background, the time was ripe in our view to consider whether the regulatory framework for lobbying in the United Kingdom could be improved.

Scope

10. Throughout this inquiry, we have been asked to define what we mean by lobbying.⁴ But there is no neat way of defining what is generally acknowledged to be a porous concept. We will, however, explain briefly the boundaries we have decided to set to our work.

11. Multi-client public affairs companies ('lobbyists for hire') were an initial focus of our inquiry, brought to our attention by John Grogan. But in practice—beyond the fact that they represent a number of different clients—there is nothing that these companies do that is different from what other companies, organisations and individuals do when trying to influence decisions. The majority of public affairs staff work in-house for specific organisations rather than for multi-client firms.⁵ Tesco, for example, has a team of five people working in government affairs.⁶ So to attempt to regulate multi-client firms alone would fail to capture a large number of those involved in attempting to influence decisions within the public sector, even among those who consciously identify themselves as working in public affairs. There are indistinct boundaries within the multi-client field as well, for example where a firm of solicitors might carry out both legal and public affairs work for its clients.

12. There are two issues of concern specific to multi-client consultants: the potential for conflicts of interest between their clients, and for lack of clarity about who a consultant is representing in a given situation. But it became clear as we progressed that our initial subject of inquiry—the regulation of multi-client public affairs consultants—was in reality an issue of secondary importance. Large corporate interests tend to be the focus of public concern; but these generally use in-house teams for important campaigns. Freelance public affairs consultants are frequently hired by those who do not have a regular need to conduct public affairs work, often smaller businesses and organisations.⁷ To focus on the regulation of multi-client firms might therefore perversely make it harder for smaller organisations to influence decisions, with little impact on the larger organisations that tend to be the focus of what concern there is.

13. Because of these porous boundaries and difficulties of definition, we came to the conclusion that **a broad look is needed at contact between those working in the public sector and those attempting to influence their decisions.**

3 Committee on Standards in Public Life, *Survey of public attitudes towards conduct in public life in 2008*, November 2008, p 33

4 Q 5 [Stephen Pound MP]; Q 17 [Peter Luff MP]; Q 584 [Lord Warner]; Qq 613–614 [Richard Caborn MP]; Q 764 [Tom Watson MP]

5 Q 159

6 Q 642 [Lucy Neville-Rolfe]

7 Bircham Dyson Bell

14. There are lobbyists and the lobbied: both sides of this relationship deserve attention. We are unable to be as broad-brush in our examination of the targets of lobbying. Ministers and civil servants are at the centre of our work. Lobbying in Parliament is primarily a matter for the Standards and Privileges Committee in the House of Commons, and the Privileges Committee in the House of Lords, although we do express views in this Report on the extent to which former Ministers who remain Members of either House should be able to use their ministerial experience for personal financial advantage elsewhere. Access to and influence over other public bodies, including local government and non-departmental public bodies, are areas which deserve closer attention than we have been able to give during this inquiry. **Although many of our recommendations are relevant to the whole of the public sector, this Report necessarily concentrates on the framework within which Ministers and civil servants are lobbied.**

15. We have already briefly mentioned the so-called ‘revolving door’, used to describe personnel moves in both directions between roles in an industry, and roles in the public sector with influence over that industry. This is a relevant issue if it is likely to give those who have left the public sector preferential access to current decision-makers, or if it is likely to cause a conflict of interest for current civil servants or Ministers who have come from or hope to go to work elsewhere. We cover this towards the end of part three of our Report.

Conduct of the inquiry

16. We issued a call for evidence in June 2007, and received more than 20 responses from a wide range of stakeholders. We held eight oral evidence sessions between November 2007 and June 2008 hearing from:

- i. Members of Parliament with an interest in lobbying
- ii. campaigners for tighter regulation of lobbying
- iii. organisations whose members are lobbyists, both as individuals and as companies
- iv. lobbying firms that do not belong to one or more of these representative organisations
- v. lawyers conducting public affairs work
- vi. the Advisory Committee on Business Appointments, which polices high-level moves by Ministers and Crown Servants into other sectors
- vii. former Ministers and civil servants now working in the private sector
- viii. larger private sector organisations (Tesco, BAA, the Association of British Pharmaceutical Industries)
- ix. larger campaigning organisations (Greenpeace, Friends of the Earth, Amnesty)
- x. Government Ministers: both from the Cabinet Office, which has central responsibility for managing lobbying of the Government, and in Departments which are targeted by lobbyists.

17. We made two visits to acknowledged centres of lobbying activity in the course of our inquiry.

18. We went to Washington DC in October–November 2007, shortly after the passing of the Honest Leadership and Open Government Act, which amended US law on lobbying. We met those responsible for implementing US lobbying legislation, lobbyists and lobbying campaigners, as well as Senator Tom Coburn.

19. In June 2008, we visited Brussels, where we met:

- Siim Kallas, the Commissioner responsible for the European Transparency Initiative and for the launch—also in June 2008—of the Commission’s voluntary register of interest representatives,
- MEPs responsible for recently adopted proposals for a mandatory register of lobbyists common to all three EU institutions and for administering the current access system to the Parliament,
- campaigners for stricter regulation of lobbying, and
- lobbyists themselves.

20. We are grateful to all those who took the time to inform us and give us their views, as well as to Professor Justin Fisher of Brunel University, who has acted as our Specialist Adviser during this inquiry.⁸

8 Declared interests as of November 2008: (1) Director, MSc Public Affairs and Lobbying, Brunel University; (2) “I spoke at the European Centre for Public Affairs Conference in Brussels on 5th March 2008 as I have done in the past. The topic was transparency and regulation. This was a general talk and there was no mention or discussion of the PASC inquiry. My hotel bill was covered by the ECPA as it has been for previous visits.” (3) “I had lunch with two officials from the PRCA (Rod Cartwright and Francis Ingham) at Boisdales on 13th August 2008. The meeting was to discuss the MSc Public Affairs and Lobbying at Brunel University and professional training more generally. There was no discussion of the PASC inquiry. The PRCA paid for my lunch.”

2 What is the problem?

21. Our witness from the Chartered Institute of Public Relations (CIPR) told us memorably that lobbying was “an obsession for MPs and the press”:

You do not hear people in the saloon bar of the Dog and Duck talking about the lobbying industry. They could not ... “give a rat’s arse” about lobbying.⁹

However, he went on to say that “you hear them talking about politics and party funding and issues like that”, as if these were issues distinct from lobbying. In fact, the concerns about party funding are precisely concerns about lobbying: the belief that those who have given money to the political party in power are likely to have privileged access to decision-makers and greater influence over government decisions as a result of their donations.

22. A survey recently conducted by the Committee on Standards in Public Life (CSPL) showed that “people’s perceptions of the behaviour of government ministers have become less positive over the past two years”. As the CSPL points out, this is most noticeable in relation to ministers ‘being in touch with what people think is important’, ‘telling the truth’ and ‘using their power for their own personal gain’.¹⁰

23. There is thus at least the perception of a problem, and the concern is one that extends beyond the media.

24. The most prominent recent case of concern was the exemption for Formula One from the ban on tobacco advertising. Bernie Ecclestone, the head of Formula One, donated £1 million to the Labour party before the general election in May 1997. Almost immediately after a meeting in October 1997 between Rt Hon Tony Blair, the then Labour Prime Minister, and Mr Ecclestone, instructions were issued to the Department of Health to seek an exemption for Formula One from the EU’s proposed ban on tobacco advertising.

25. There has been long-standing concern about major business donors to parties receiving peerages and becoming part of the legislature, sometimes as Ministers. We discussed this issue, and made proposals for reform, in our Report on Propriety and Peerages.¹¹

26. Political donations to election and pre-election campaigns in individual parliamentary constituencies are a further area of concern: the role of Lord Ashcroft, the Deputy Chairman of and the largest donor to the Conservative Party, has been prominently cited in this respect, often in connection with uncertainty about his tax and residency status.¹²

27. Controls over donations to political parties and to parliamentary candidates are no longer matters within our remit. This Report does, however, consider how the influence

9 Q 187 [Lionel Zetter]

10 Committee on Standards in Public Life, *Survey of public attitudes towards conduct in public life in 2008*, November 2008, p 32

11 Public Administration Select Committee, Second Report of Session 2007–08, *Propriety and Peerages*, HC 153

12 Eg. *After Corfu, the spotlight turns on Belize*, The Times, 28 October 2008; *The peer who bankrolls the Tories is ‘the boss’ of a poor tax haven*, Daily Mirror, 27 September 2008; *Is Lord Ashcroft ashamed to live here?*, Daily Telegraph, 22 February 2008; *Cameron backs threat to strip Ashcroft of his peerage in row over UK taxes*, Daily Mail, 10 February 2008; *Comment: Stupid funding scandals that corrode faith in democracy*, The Observer, 20 January 2008

wielded by those who make such donations can be made more transparent, and if necessary controlled.

28. There has also been widespread public concern that some areas of government policy have effectively been captured at an early stage by interest groups, usually within industry, and that public consultations have been unbalanced in the favour of these interests. Two prominent recent cases have concerned nuclear power and Heathrow airport. We discuss this further at paragraphs 40–42 below.

Opinions among our witnesses

29. Perhaps because they were focussed on the activities of multi-client consultancies rather than on access and influence more widely, many lobbying organisations and some of the other witnesses to whom we spoke did not believe that there was a problem with the way in which lobbying was conducted in the United Kingdom,¹³ or that it was at least a problem too insignificant to warrant regulation.¹⁴ The Association of Professional Political Consultants (APPC) told us succinctly that they “do not believe there is any sensible evidence to support the view that one type or size of organisation has undue influence in the policy-making process”.¹⁵

30. Campaigning organisations on the other hand identified two principal problems ...

One is the question of privileged access and there not being a level playing field, and the other is the question of transparency and who is engaged in the process. If it is clear who represents interests then we do not have a problem, but at present it is not clear who represents interests ... the question is is there a level playing field and is there any public information available about who it is who is approaching MPs or ministers or civil servants¹⁶

... and suggested that “all this subterranean activity ... is having quite a negative impact, not just in terms of good government policy but in terms of public attitude towards government and faith in public policy and government policy”.¹⁷

31. Campaigners have drawn our attention to some dubious practices involving misrepresentation: the creation of front-groups, fake grassroots (“astro-turf”) campaigns, and presenting biased third-party endorsements as if they were independent.¹⁸ We are also aware of cases where consultants have claimed to be able to guarantee access to decision-makers and where they have not been entirely transparent about who their clients are when representing their interests.¹⁹ These kinds of practice clearly do happen, and examples

13 Q 4 [Peter Luff], Q 670 [Lucy Neville-Rolfe, Tom Kelly, Chris Brinsmead]

14 Q 152 [Lionel Zetter, Rod Cartwright, Gill Morris]

15 Ev 141

16 Qq 48, 60 [David Miller]

17 Q 714 [John Sauven]

18 Miller and Dinan – mention astro-turf on Ev 102

19 The ‘Drapergate’ Affair, see Q 156. See also Q 167.

occasionally emerge in the media, but it is hard to judge objectively the extent to which they occur.

32. Campaigners for stricter regulation are not the only people to find failings with the current situation. Eben Black of the law firm DLA Piper, which also carries out public affairs work, perceived a problem with the current system of voluntary declaration of clients administered by the Association of Professional Political Consultants (APPC):

There are no sanctions if you break it. We suspect within the industry, quite frankly, that the APPC register is more honoured in the breach than it is in actually being kept to by members. The APPC generally, we think, is not really tough enough on its members. It does not have the authority to implement what it actually says it will.²⁰

33. Richard Schofield of the Solicitors' Regulation Authority made a broader point about the weakness of voluntary schemes:

whatever regulatory rules you put in place are only as good as the monitoring and enforcement regime you put around them ... That is a weakness of all these voluntary schemes.²¹

34. Tom Watson MP, the Cabinet Office Minister from whom we heard at our final evidence session, told us several times that he was keeping an “open mind” on these issues,²² but appeared largely to agree with those who thought that the case for regulation was unproven:

I have not seen a huge body of evidence which shows that people are abusing the system, that the Ministerial Code has been subverted and that we are not making clear and open decisions on policy. If, in the course of your investigation, you have found a systemic problem with the lobbying industry I would like to see it but my impression is we have a pretty good system in the UK.²³

The case for regulation has to be made if you identify a problem. I go back to my point that if in collecting evidence in this inquiry you find that the industry are exerting undue influence and getting policy and legislative outcomes that are unfair, then obviously we need to look at that.²⁴

Regulation as a tool for investigation

35. There is a central difficulty with arguing, as above, that evidence should be produced before regulation can be considered. Lobbying often takes place behind the scenes, with no concrete cause and effect left behind as evidence. As Lord Maclennan of Rogart has said, lobbying “can be done very subtly and without necessarily going through any transparent channels”.²⁵ How are we or others to gather evidence that an interest group has an

20 Q 488

21 Q 523

22 Qq 770, 773, 832, and 853

23 Q 768

24 Q 852

25 The Advisory Committee on Business Appointments, Eighth Report 2005–06, July 2006, p 37

improper influence over government policy if we do not know what was discussed at meetings between that interest group and Government, and in some cases, if we do not even know that the meetings have taken place?

36. One of the main drivers behind calls for greater transparency about contacts between people inside and outside Government is precisely to enable people to reach informed, evidence-based judgements about the extent to which different interest groups are able to access and influence decision-makers in Government. If regulation is needed to achieve this transparency, then, without this regulation, we cannot know for certain if there is a problem, as a number of our witnesses pointed out:

Knowing what is happening is the first stage²⁶

it may well be that regulation uncovers previously unknown abuses, and that may have the effect, as you say, of damaging trust but in a more positive way it would have the effect of cleaning up the act of some of the lobbyists and some of the things they get up to, which is something we currently do not have on the public record.²⁷

The essence of the story is surely the alleged or implied secrecy ... If there was more openness, there would be fewer stories.²⁸

In essence, **because secret lobbying by its very nature leaves no evidence trail, there could still be a significant problem even with little concrete evidence of one.**

37. However, even when information is available on meetings that have taken place, this does not necessarily lead to clarity on whether the Government has been unreasonably swayed by a particular point of view. Friends of the Earth sought and won a court judgement requiring the release of minutes of meetings between the then Department of Trade and Industry (DTI) and the Confederation of British Industries (CBI); yet, even when they had this information, as they told us:

you cannot show a deductive cause and effect. What you see is what you induce. You see that this activity is taking place and you see that the CBI is having a meeting every month with Digby Jones. You see that the DTI and the CBI are having away days and you see that government policy comes out the other end very close to what the CBI was pushing. You also see that the Government is repeating some of the exaggerated claims which the CBI had been saying. You cannot deduce necessarily that the Government has not come to its own clear and informed decision in the same way, but that sequence of events does not lead you to be absolutely trusting that that has not taken place in a particular way that it has.²⁹

38. The fact that meetings have taken place may give rise to suspicions of influence, but this only takes us so far. We do not and cannot have insight into the thought processes of those taking decisions, but this is what would be needed in order to know for certain whether a

26 Q 53 [Peter Facey]

27 Q 53 [David Miller]

28 Q 505 [Eben Black]

29 Q 729 [Owen Espley]

decision has been unreasonably influenced. What this suggests is the need for a balanced and rational assessment of information on meetings, rather than the automatic assumption of undue influence. It is not, however, an argument against making this information available. Secrecy simply feeds the fantasies of those conspiracy theorists who attribute policy decisions they do not like to the nature of the process that produced them.

Links between access and influence

39. This highlights that there are two underlying issues of concern: that of privileged access, mentioned above, but also, and equally importantly that of excessive influence. Stephen Pound MP reminded us that “access and influence are entirely separate things”,³⁰ and he is right, in the sense that someone with access does not necessarily have influence. The two ideas are inextricably linked, however, because anyone without access cannot hope to wield direct influence. BAA, for example, would not deny that they had a high level of access to Government on aviation matters;³¹ but they and Greenpeace have different public views of the degree of influence they have over policy.³²

The power of personal contacts

40. Particularly controversial is the practice of hiring people with personal contacts at the heart of Government. This can be portrayed as an attempt to buy access and influence. Greenpeace gave us as an example the way in which former Members and Ministers have come to work in support of the nuclear industry:

When you look at the lobbying power from the other side, from the nuclear industry, it is quite extraordinary the number of former MPs and ministers who are now working for the nuclear industry: it includes Geoffrey Norris, Jamie Reid, Jack Cunningham, Ian McCartney, Richard Caborn, Brian Wilson and Alan Donnelly. Some of them also run PR and lobbying firms like Sovereign Strategy which is run by Alan Donnelly and also employs Jack Cunningham. There are a lot of revolving doors, particularly where Labour MPs and Labour ministers have gone into the nuclear industry which provides it with quite a lot of influence and lobbying powers, certainly much more than we have.³³

41. It is a reality of life that people are often most influenced by those closest to them, those whom they know not as lobbyists, but as friends and relatives. The nuclear industry certainly seems to have been banking on this in its choice of those advising it and lobbying on its behalf. It is also the case that the Government’s policy on the future of nuclear power has undergone a remarkable about-face since 2003, when the Government announced that it was “not going to build a new generation of nuclear power stations now”.³⁴ In 2007, the Government said in contrast that it would be a “profound mistake” to rule out nuclear

30 Q 39

31 Q 677

32 Qq 656, 711

33 Q 714 [John Sauven]

34 HC Deb 24 February 2003, col 32

power and that a decision was needed by the end of the year.³⁵ It may simply be that the policy environment changed, and with it the policy. However, **some of the concerns that exist around improper influence are closely linked to the power of informal networks of friendships and relationships.**³⁶

The need for even-handedness when encouraging wider engagement in policy-making

42. Paradoxically, concerns relating to access and influence have arisen in part because of the Government's commitment to greater consultation and to the use of partnerships with those outside Government in policy development. In some recent cases, for example, consultations seem to have been skewed, or even captured, by a business interest. In the view of our witness from Greenpeace:

what British Airports Authority did with the Department of Transport with the Heathrow consultation ... was almost fraudulent in the sense that here was a company getting into bed with a government who had run the consultation on its behalf and was given access to all kinds of confidential information and was able to fiddle the figures and so on. I think that was wholly improper. With the nuclear debate you had a situation where there was a huge amount of inside pressure and influence and lobbying, and aligned with that was this idea that they had this public consultation but they had already made up their mind what they wanted to do and that is when it was thrown out by the High Court. They did it again but they did it again badly. It was a question where the Government had made up its mind and then had to go through the motion of appearing to consult the public before it actually decided what it already wanted to do.³⁷

The Government's encouragement of wider engagement in the policy process is to be welcomed. The challenge, however, is to ensure not just that this engagement is even-handed, but also that it is seen to be even-handed. Token engagement breeds cynicism, and is worse than no engagement at all.

The likely limits to lobbyists' commitment to transparency

43. Two of the three umbrella organisations to which those working in public affairs tend to belong stressed to us the degree to which they already operate transparently. Transparency is one of the "twin pillars" underpinning the APPC Code.³⁸ The PRCA spoke to us of "all the power" of its code in terms of transparency.³⁹ Individual public affairs companies have also highlighted their commitment to transparency.⁴⁰ But it needs to be recognised that lobbyists, like other service providers, have their trade secrets, and how they achieve access and influence are among these secrets—even if they amount to little

35 Rt Hon Alistair Darling MP, BBC Today Programme, 23 May 2007

36 Ev 234 [Jeremy Sweeney]

37 Q 728 [John Sauven]

38 Q 151 [Gill Morris]

39 Q 228

40 Bell Pottinger Public Affairs, Ev 174, para 6.4

more than a contacts book. **Lobbyists do not want their competitors to know the detail of how they go about their business. Commitment to transparency in the world of lobbying is, and always will be, a relative concept. What this suggests is that a degree of external coercion will be required to achieve sufficient transparency across the board.**

3 How are these areas currently regulated?

How are lobbyists regulated?

44. Lobbying activity in the United Kingdom is subject to no specific external regulation. Umbrella bodies and individual companies have codes of conduct for their members and staff which are generally described as a form of self-regulation. The Association of Professional Political Consultants (APPC), the Public Relations Consultants Association (PRCA) and Chartered Institute of Public Relations (CIPR), the three main membership organisations for public affairs practitioners, each require their relevant members to abide by their separate (although similar) codes of conduct.

45. The main difference between the CIPR Code and the Codes of the APPC and PRCA is that the former does not require the public disclosure of clients' names, while the latter do. This issue is at the heart of debate within the lobbying world about the appropriate limits to transparency and the extent to which lobbyists have a duty to inform the wider public about their activities. While John Grogan described the publication of client lists as one of the “two major principles of self-regulation”,⁴¹ Mike Granatt of Luther Pendragon, a public affairs firm outside both the APPC and the PRCA, told us that, for him, a client's right to privacy was paramount; that “if a client does not wish to be named in public, sir, I see no reason why they should be named in public”.⁴²

46. APPC and PRCA members (which are consultancies) are also required not to “employ any MP, MEP, sitting Peer or any member of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly”. An equivalent injunction does not apply to members of the CIPR (who are individuals—but who may work for or run consultancies which may or may not be members of the APPC or the PRCA). Members of Parliament for their part are forbidden from acting “as the representative of [an] outside body in regard to any matters to be transacted in Parliament” and from making “any approach ... to Ministers or servants of the Crown” in return for money or other benefits.⁴³ This does not prevent Members from offering paid advice to outside bodies, for example as parliamentary advisers, or from representing their interests outside Parliament and Government, most commonly as lawyers. The rules for Members of the Lords are broadly speaking equivalent, although each House has its own enforcement mechanisms.

47. Further differences between the Codes arise from the fact that APPC and PRCA members are companies, while CIPR members are individuals. Our witness from Bell Pottinger Public Affairs told us that if a complaint against an individual member of staff were upheld by the CIPR, he “would have to get rid of them”.⁴⁴ What the CIPR Code cannot do is establish corporate incentives and sanctions to behave appropriately. Arguably, this could allow a company whose staff belong to the CIPR, but which does not

41 Q 3

42 Q 423

43 House of Commons Resolution of 6 November 1995

44 Q 400 [Peter Bingle]

belong to either the APPC or the PRCA, to shift responsibility from the corporate to the individual level.

48. Public affairs companies which are members of neither the APPC nor the PRCA often have codes of conduct of their own, such as Luther Pendragon's "Luther Code".⁴⁵ Companies conducting public affairs in-house may well also require their staff to abide by ethical codes: there is a Tesco Code of Ethics, for example. A number of international non-governmental organisations have signed a joint accountability charter, which includes commitments to responsible advocacy and to transparency.⁴⁶

49. Solicitors' firms conducting public affairs work are regulated by the Solicitors Regulation Authority (SRA) and are bound by the Solicitors' Code of Conduct, which conflicts with the APPC and PRCA Codes by putting a (statutory) duty to client confidentiality above any (non-statutory) duty to disclose publicly who those clients are. Other trades and professions are also engaged in lobbying. As has been pointed out elsewhere:

Public relations specialists, journalists, lawyers, managers, accountants and even doctors and engineers can be found in the world of lobbying. Most of these fields are represented by professional bodies that have widely varying capacities to discipline their members and diverse views on what constitutes appropriate conduct.⁴⁷

Does the current system of self-regulation work?

50. Sir Philip Mawer, the Prime Minister's adviser on ministerial interests, formerly the Parliamentary Commissioner for Standards, has been quoted as saying that "self-regulation only works if it is of general application throughout the industry".⁴⁸ Professor A.P. Pross from Dalhousie University in Canada—a country with a legally binding code for lobbyists—has argued that:

While it may be possible to mount a lobby registration scheme on a voluntary basis, in the final analysis its success will depend on a level of enforcement that can only be achieved at the governmental level. Only government has the authority to require lobbyists to divulge information. Only government can require officials to report the failure of lobbyists to comply with the rules. Only government can investigate such failures and prosecute breaches of the rules. Only government can impose sanctions such as the denial of access ... Professional organisations, even with government encouragement, find it difficult to effectively discipline their members.⁴⁹

51. We examine here three main areas to determine the extent to which the current system of self-regulation of public affairs consultancies is effective:

45 Qq 419–420

46 <http://www.ingoaccountabilitycharter.org>

47 Professor A.P. Pross, *Lobbying: Models for Regulation*, May 2007, p 33 (OECD Paper GOV/PGC/ETH(2007)4: henceforth cited as 'Pross')

48 *Lobbyists: It's time for action*, Public Affairs News, April 2007

49 Pross, p 33

- i. First, is there a consistent approach across the sector?
- ii. Second, what are the prospects for a single organisation establishing itself as the regulator of multi-client consultancies?
- iii. Third, how well do current complaints and disciplinary processes work in practice?

Consistency of approach

52. Successful self-regulation depends on a degree of consistency of approach among those involved in setting and monitoring the rules. It is difficult to see how any consistency can be achieved when so many disparate organisations and individuals are involved. The APPC, PRCA and CIPR have gone some way towards recognising this by producing a set of guiding principles of conduct, with the aim that these principles should be followed by all of the organisations and individuals involved in lobbying the institutions of government, including “law firms, management consultancies, charities, local authorities and individuals from all walks of life”.⁵⁰ The principles are, perhaps unsurprisingly, something of a lowest common denominator. They contain no requirement to produce public client lists, for example. **The guiding principles of conduct may not go far enough, but they are nonetheless a welcome and noteworthy step towards consistency of approach, which is certainly needed if self-regulation is to have any hope of meaningful success in such a fragmented landscape.**

Establishing trust across the industry

53. Successful self-regulation also depends on those involved in winning the trust of the potential subjects of their regulation, as well as their clients, and, as far as possible, the wider public. Potentially this could create a virtuous circle, whereby lobbyists who attempted to evade self-regulation would find it difficult to find clients willing to take them on. None of the three umbrella organisations has so far succeeded in establishing itself in this role.

54. The APPC has indeed come in for criticism for allegedly encouraging public sector organisations letting contracts for public affairs or lobbying services to make APPC membership an absolute requirement. The Law Society informed us that:

In effect, the measure being promoted would debar any companies that do not hold membership of the APPC from any public affairs or lobbying contract in the public and private sectors. We are concerned that this constitutes an abuse of APPC members’ dominant market position and breaches competition law. The APPC has no statutory authority to act as market regulator. It is unfair and unlawful for solicitors’ firms, and others, to be penalised for deciding not to become members of it, particularly given the professional difficulties in doing so.⁵¹

55. We were also approached jointly by two firms, one an APPC member, the other a firm of solicitors, who noted that:

50 Ev 137

51 Ev 213

Earlier this year, the Met Office, which is overseen by the Ministry of Defence, issued a tender invitation to provide public relations support. The tender invitation, which was widely circulated in the public affairs/PR world, stipulated that respondents should be members of the APPC to be eligible to apply for the work. You have heard that the APPC is just one—self-regulatory and self-appointed—body which claims to regulate the public affairs industry. We are most concerned that the APPC has been able in this way to present itself as the sole acceptable arbiter of ethical standards in the profession for the purposes of this tender.⁵²

56. A witness from one of these organisations told us bluntly, “We cannot see what is the point of the APPC from our point of view”.⁵³ A witness from another prominent public affairs consultancy told us along similar lines that “I just happen to feel it [the APPC] has failed as a body”.⁵⁴

57. In no established profession that we are aware of are there three competing organisations each claiming to be responsible for self-regulation of their members’ activities. For doctors, solicitors, journalists and advertisers, there is no choice of regulatory bodies to which to belong. **The APPC does not seem to attract sufficient trust throughout the lobbying industry and among its clients for it to suggest with any authority that only its members should be eligible to apply for public contracts. But the spirit of this suggestion—the notion of a single self-regulating organisation for multi-client public affairs consultancies—recognises that the current situation allows consultancies to pick and choose the rules that apply to them in a way that is incompatible with effective self-regulation.**

Complaints handling as a measure of effectiveness

58. A crucial measure of the effectiveness of any system of self-regulation is how complaints are handled and disciplinary proceedings are pursued. Each of the three umbrella organisations has systems for dealing with these areas, which they have outlined in their evidence to us. For example, for the PRCA,

Any alleged breach of the Code is investigated thoroughly by the PRCA’s Professional Practices Committee which is comprised of PRCA member consultancies and the PRCA Director General. Sanctions are imposed for proven breaches of the code including expulsion from the PRCA.⁵⁵

These systems are, however, scarcely ever used. We understand that there has not been a formal complaint against a member of the PRCA “certainly in the last 10 years and I am not sure within the existence of the PRCA”.⁵⁶

59. Similarly, for the APPC, while the systems exist ...

52 Ev 204

53 Q 491 [Eben Black]

54 Q 402 [Peter Bingle]

55 Ev 161

56 Q 156 [Rod Cartwright]

Should there be a cause of complaint and a prima facie breach of our Code as we perceive it, we will then convene a professional practices panel to investigate the matter further and then they will make a judgment.⁵⁷

... they are not in regular practical use:

I am happy to inform the Committee that we have not had to refer to the panel since 'Drapergate' over 10 years ago, or just coming up to 10 years.⁵⁸

60. In fact, shortly after we were told this, the APPC professional practices panel was convened to determine a complaint against an APPC member (Morgan Allen Moore). The panel concluded that there was a prima facie case for investigating, and a hearing was arranged. However, shortly before the hearing, the member announced that they were taking legal action against the complainant, and the panel suspended its proceedings. The action was subsequently settled, and the complainant wrote to the APPC "withdrawing his allegations without reservation and formally requesting that they be struck from the record". This was not an option under the APPC's rules, but the panel decided nonetheless to dismiss the complaint "as no useful purpose would be served" by its determination. The panel also decided that the complainant should pay the cost of the disciplinary proceedings, including the fees of the panel members and "professional legal fees and reasonable incidental expenses" incurred by the member in dealing with the complaint. We understand, although no formal announcement has been made by the APPC, that the member has since been suspended for failing to pay its membership fees. In addition it has failed to disclose its clients, as required by the rules of the APPC.⁵⁹

61. There is one other incident that is worth mentioning. In July 2005, the APPC decided that there was sufficient prima facie evidence to show that a member, Media Strategy, had breached Clause 8 of the APPC Code of Conduct by employing a Member of the Lords, Lord O'Neill of Clackmannan, to justify referring the issue to the professional practices panel. Media Strategy, however, resigned from the APPC before the matter could be formally referred and joined the PRCA instead. In October 2008, Hanover Communications (as Media Strategy was re-branded in 2007) re-joined the APPC. Charles Lewington, the Managing Director of the consultancy since 1998, is quoted on the APPC website as saying: "Hanover has been a member of the PRCA for three years and its ethical code of conduct covering public affairs is almost identical to that of the APPC, so joining is a logical step".⁶⁰ No mention is made on the APPC's website of the consultancy's previous membership of the APPC or the reasons for it leaving.

62. The CIPR has on "very rare" occasions, convened its disciplinary committee.⁶¹ This has happened however only twice in the last ten years. Of the two individuals involved one was "reprimanded" and the other was "severely reprimanded".⁶²

57 Q 156 [Gill Morris]

58 Q 156 [Gill Morris]

59 As of 19 November 2008, no record of Morgan Allen Moore's clients could be found either on their own website or on that of the APPC.

60 http://www.appc.org.uk/appc/index.cfm/pcms/site.newsandevents.five_more_companies_joins_appc/

61 Q 154 [Lionel Zetter]

63. Comparison with other industries is instructive:

- In 2007, the Advertising Standards Authority resolved 23,953 complaints about 14,009 advertisements. 3,866 of these complaints were formally investigated; of these, 2,579 complaints were upheld, relating to 389 advertisements.⁶³
- In the six months between October 2007 and March 2008, the Press Complaints Commission processed 2,946 complaints (2,292 of which were not investigated). Of those investigated, 258 complaints were resolved. Of the nine complaints going to adjudication, six were upheld.⁶⁴
- The Solicitors Regulation Authority (SRA) receives, assesses and investigates reports about misconduct and breaches of the rules by solicitors. In 2006, 51 firms were subject to closure, 14 of them for suspected dishonesty. There were 247 orders made by the Solicitors Disciplinary Tribunal on SRA referrals, resulting in 66 strikings-off, 32 suspensions and 76 fines. Solicitors from 366 different firms were issued 562 reprimands and severe reprimands, and solicitors from 189 firms were issued a total of 259 findings and warnings.⁶⁵

64. We would not expect to see as many complaints made against lobbyists as against doctors and solicitors, whose behaviour has a clear and direct personal impact on individual members of the public; nor as against advertisers and journalists, whose work is in the public eye. But the vast disparity is patent. **A complaints system that was working would have produced more than three cases in the last ten years, even if the vast majority of lobbyists were operating ethically and transparently. Reprimands and “severe” reprimands, the only outcomes to have been seen in the two cases decided against members of any of the three umbrella groups (both within the CIPR), are not of a kind that would give confidence to any outsider that disciplinary processes are robust. The APPC’s policy of expecting complainants to be prepared to bear the costs of an investigation, including the legal fees of the member complained against, is unacceptable: it is unique as far as we are aware in any industry complaints system and is an obvious barrier to potential complainants.**

Conclusion

65. Lobbyists outside the APPC have criticised its processes ...

Given the lack of proactive auditing of compliance and a complaints procedure that lacks credibility, questions inevitably arise as to the extent to which APPC members comply with the code. Anecdotal evidence of non-compliance is abundant and we have no reason to doubt this.⁶⁶

62 Qq 155–156 [Lionel Zetter]

63 ASA Annual Report 2007

64 www.pcc.org.uk

65 SRA Annual Report for 2006/07, p 11

66 Ev 203 [DLA Piper]

I am ... sure that there are companies here that manage to sign up to the APPC code, for example, by splitting their operation in half so they have one half that deals with one sort of business, one half they say deals with public affairs business and signs up to the APPC code, but they do not for the other half of their business declare who their clients are, and I think their interests are exactly the same.⁶⁷

... but much the same criticisms could doubtless also be made of the PRCA and CIPR—although the PRCA does at least appear to demand independent audit of consultancies' processes as part of its membership requirements.⁶⁸ The central problem is that **the three umbrella groups have an in-built conflict of interest, in that they attempt to act both as trade associations for the lobbyists themselves and as the regulators of their members' behaviour.**

66. The conditions are not currently in place for genuinely effective self-regulation of lobbying activity by those who carry out this activity. Despite tentative steps towards a very basic consistency of approach, this consistency does not yet exist, and there is no one organisation that has the trust and authority to carry out a regulatory role across the multi-client sector. Even if there were, a large question mark would remain over in-house public affairs staff in corporate and campaigning organisations, who comprise a large part of the lobbying industry—although at least some of these will be members of the CIPR. The complaints and disciplinary processes of the lobbying umbrella bodies are under-used and ineffective. **In the final analysis, what lobbying organisations refer to as “self-regulation” appears to involve very little regulation of any substance.**

How are the lobbied regulated?

67. Civil servants and Ministers are subject to a degree of regulation in the context both of being lobbied, and of moving from within Government to lobbying on behalf of an outside organisation. This regulation takes the form both of statutory controls, and of contractual terms and employment guidance.

68. Thinking about how to manage relations between those in Departments and those outside is not absent from the Government's agenda, but it has a very low profile. There appears to be only one piece of central guidance for those in Government on contact with lobbyists. This guidance for civil servants was issued by the Central Secretariat in the Cabinet Office in July 1998, shortly after allegations in the media that lobbyists were claiming to be able to sell access to government ministers. The guidance does not seem to have been updated since 1998, and it is by no means prominently available. It remains essentially valid, and attempts to be a practical guide:

If for instance you have a friend who is a lobbyist you do not have to sever your friendship and stop meeting them socially. If you are married to one, you do not have to get divorced! But do make sure that the ground rules are understood, that you make proper arrangements to deal with any conflict of interest and that you do

67 Q 427

68 PRCA Consultancy Management Standard

not get tempted into doing something which would lay you open to criticism or be misunderstood.⁶⁹

69. Interestingly in the context of the criticisms of lobbying organisations we have made above for their weak complaints handling procedures, the Cabinet Office is not aware of any complaints ever having been made by Ministers or civil servants about approaches made to them by people outside Government. Nor is it aware of any complaints being made about the propriety of the behaviour of Ministers or civil servants when in contact with people outside Government.⁷⁰

70. In general, what regulation does exist covers transparency on the one hand, thanks to the Freedom of Information Act, and rules concerning financial propriety on the other. There are also reasonably developed if somewhat uncertain procedures around the transfer of Ministers and staff from the service of the Crown into other employment. We now turn to examine each of these areas.

71. There are also well-developed rules covering the financing of political parties and the disclosure of political donations, which are relevant to concerns about lobbying, but which we do not cover in this Report.

Freedom of Information

72. The Freedom of Information (FoI) Act has introduced some transparency into meetings between Government representatives and outside interest groups. Departments appear generally ready to publish basic information about who their Ministers have met and on what subject, when relevant FoI requests are made asking for this information.⁷¹ On occasion, they have withheld even this information about some meetings, on the grounds (under Section 35 (1) (a) of the FoI Act) that they related specifically to policy development.⁷²

73. Departments have been less ready to publish detailed minutes of meetings, claiming both that the cost of doing so would be excessive and that the information involved is exempt from publication under various provisions of the FoI Act, such as information relating to the formulation of government policy (section 35), information provided in confidence (section 41) and commercially sensitive information (section 43).⁷³

74. An Information Tribunal judgement promulgated in April 2008, in a case brought by Friends of the Earth (FOE), required the release of documents relating to meetings held between the then Department of Trade and Industry and the Confederation of British Industries, including notes of informal meetings and of an away day. This may have an impact on the ability of Departments to withhold similar information in the future.

69 Ev 130

70 Ev 127

71 DfID FoI references F2006/83 and 103. DfT F0003554. Treasury (201207).

72 Treasury (201207)

73 DfID decision 14 January 2005; DTI decision 26 July 2005

75. The Tribunal's judgement found FOE's arguments on the public interest factors in favour of disclosure "very persuasive":

It will only be in rare cases (perhaps where certain national security considerations are at play) that public scrutiny should give way entirely to blind faith that public officers will always do the right thing. The public interest in achieving a better understanding of the way in which lobbyists can seek to influence policy also involves an interest in understanding the nature and extent of the relationship between lobbyists and government departments. Understanding the relationship serves at least two purposes. First, it enables the public to better understand the mechanics of lobbying in that it reveals the many different ways in which lobbying can take place, from bilateral monthly meetings through to away-day (or away-morning) meetings with ministers and senior officials. Second, it subjects the relationship to a certain degree of scrutiny which can assist in ensuring that a particular relationship does not become unduly influential or dependent.⁷⁴

76. The Tribunal did, however, accept that "there is a strong public interest in the value of government being able to test ideas with informed third parties out of the public eye and knowing what the reaction of particular groups of stakeholders might be if particular policy lines/negotiating positions were to be taken".⁷⁵

77. In summary, while it is clear that some information about contacts between Government and lobbyists is subject to release under the FoI Act, the extent to which this is the case remains open to interpretation by the courts.

Consultation

78. Statutory consultation requirements, commonly built into primary legislation, provide opportunities for lobbying by a wide range of stakeholders, thus ensuring at least that more than one team is on the playing field, whether it is level or not.

Interests, gifts and hospitality

79. It is potentially compromising and can create improper obligations for Ministers and civil servants to receive gifts and hospitality. This is recognised in the Civil Service and Ministerial Codes.

The rules

80. The Ministerial Code provides that "Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree conflict with Government policy and thus give rise to a conflict of interest" and that "no Minister should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation". The same principle applies if gifts etc are

74 EA/2007/0072, paras 133–134

75 Para 119

offered to a member of their family. Gifts given to Ministers in their ministerial capacity become the property of the Government, but may be bought back by the Minister.

81. The Civil Service Code forms part of civil servants' (and specialist advisers') contract of employment. It contains provisions requiring civil servants not to "accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgement or integrity", nor to "be influenced by improper pressures from others or the prospect of personal gain". The Code of Conduct for Special Advisers states that they "should not receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity".

The practice: Ministers

82. The Cabinet Office publishes an annual list of gifts received by Ministers over the value of £140 (the limit above which they become government property). The most recent edition reveals, for example, that the Prime Minister opted to purchase a porcelain figure from the Government of Germany valued at £250, while a mobile phone from an unknown admirer was held by the Cabinet Office. Hampers from a variety of sources were donated to charity.⁷⁶

83. Unlike gifts, it is not clear whether Ministers are required to register hospitality offered or received in their capacity as Ministers. Although it would appear that some information in this area is recorded by Departments, it is not routinely published.⁷⁷ There is also some confusion as to responsibility. The Ministerial Code suggests that "if a Minister accepts hospitality, ... it should be declared in the Register of Members' or Peers' Interests".⁷⁸ A response of 28 May 2008 to an FoI request made to the Department for Transport asking for information about the Department's hospitality book likewise claimed that this information was available in the Commons Register of Members' Interests. In fact the Registers of Members' and Peers' Interests only contain information about hospitality received in a parliamentary capacity; they do not contain information about hospitality received in a ministerial capacity. There may not be a clear-cut distinction between these capacities, but the current framework is confusing, and doubtless leads to conflicting advice to Ministers from departmental and parliamentary authorities.⁷⁹ In our view, it is far better that hospitality received should be recorded in more than one place, than not be recorded at all. **The Ministerial Code requires adjustment, to reflect the duty on Ministers to record within Government all offers of hospitality which a reasonable person might consider to have been made to them in their capacity as Ministers.**

84. The version of the Ministerial Code published in July 2007 promised for the first time that an annual statement covering relevant Ministers' interests would be published.⁸⁰ We understand from the Prime Minister's Independent Adviser on Ministerial Interests that

76 List of Ministerial gifts received by Ministers valued over £140, 1 April 2007–31 March 2008, Cabinet Office, July 2008

77 Qq 809–812

78 Para 7.24

79 Guidance from the House of Lords makes clear that "any queries about ministers' interests should be addressed to the relevant Government department".

80 Para 7.5

the preparation of this list has proved more time-consuming than initially expected. **We welcome the proposal to publish a statement of Ministers' interests. We do not think, however, that an annual list is the best solution. Much of the information it contained might quickly become historic: even the names of some of the Ministers. We would prefer to see an online register, which could be kept regularly updated. In our view, the register should be inclusive, not exclusive. It is not always clear in what capacity a Minister is acting: as a Minister, a Member of Parliament, a party politician, or a private individual. If in doubt, an interest should be included. The test needs to be whether a reasonable person could consider that an interest is relevant.**

The practice: Civil servants

85. The Civil Service Management Code devolves to Departments and agencies the responsibility to define “the circumstances in which [their staff] need to report offers of gifts, hospitality, awards, decorations and other benefits and of the circumstances in which they need to seek permission before accepting them”.⁸¹ We asked the Parliamentary Under-Secretary from the Cabinet Office, why rules in this area were not consistent across Government. His explanation was that “Circumstances are different for each department”:

If I can give you an example, if you were offered a gift or hospitality and you were a foreign office minister it would be very different to a housing minister or a transport minister involved in a procurement contract being offered a gift. You would not want to give insult to an ally or another nation that sends some kind of ceremonial gift but you would send a gift back if you were a housing minister on a procurement project. You need to allow departments a degree of flexibility to administer their own policies on how hospitality is accepted.⁸²

86. We have seen copies of the rules for civil servants in the Cabinet Office, Department for Communities and Local Government (DCLG), and Department for Transport (DfT). In each case they set out clearly and in some detail how offers of hospitality and gifts should be treated. They are reasonable and contain a great deal of common sense. The rules for DCLG and DfT are strikingly similar. **We see no reason why the principle-based approach to gifts and hospitality adopted by Departments could not be developed into central guidance, incorporating the flexibility required to allow offers from potential contractors and from foreign diplomats to be treated differently.**

87. While the rules we have seen are robust in theory, we have some doubts about their implementation in practice. We asked the Cabinet Office for copies of the hospitality registers for the three Departments mentioned above. Instead of providing these registers, the Government referred to its commitment to publish an annual list of hospitality received by Board members by Department.⁸³ Given the delay in publishing this list coupled with the very straightforward information required for its collation, and given the failure to provide the registers we requested, **we suspect that information on gifts and hospitality has not been kept across Government as rigorously as it might.**

81 Paragraph 4.3.5

82 Q 811

83 Ev 127

88. Concerns about lobbying are not restricted to Board members. Very senior civil servants responsible for important areas of policy and contract negotiation are often not represented on departmental Boards. Why not also publish or otherwise make available information about hospitality and gifts they had received? The Minister told us after our evidence session, in response to this suggestion, that “to collect a similar level of information for all senior civil servants in all departments would be extremely resource intensive and in my view disproportionate”.⁸⁴ This is an argument we find hard to understand, as this is information that Departments are required to collect in any case. The only novelty would be making it available beyond the Department, perhaps online.

Business Appointment Rules

89. We published a report on the Rules on the Acceptance of Outside Appointments, commonly known as the Business Appointment Rules, in June 2007.⁸⁵ These rules set out the circumstances in which civil servants and others, including members of the Armed Forces and diplomats, need to obtain government approval to accept an outside appointment within two years of leaving Crown service. The rules are aimed at ensuring that, when a Crown servant leaves and takes an outside job, there is no cause for any suspicion of impropriety, in particular that such a job might:

- be a “reward for past favours” granted by the applicant to the employer;
- be one which could enable a particular employer to gain an improper advantage by employing someone who had access to what its competitors “might legitimately regard as their own trade secrets or information relating to proposed developments in government policy which may affect that firm or its competitors”; or
- be sensitive for other reasons.⁸⁶

90. All applications for approval are initially made to the employing department. According to the procedure set out in the Rules, the Department will send them to either the independent Advisory Committee on Business Appointments (ACoBA) or the Cabinet Office or deal with them itself. The seniority of the applicant and the sensitivity of the particular case determine how it is handled. Currently decisions are taken as follows:

- the Prime Minister or the Foreign Secretary approves applications from Permanent Secretaries and the next most senior civil servants, and their equivalents (other than special advisers), on advice from the Advisory Committee;
- the employing department approves applications from other members of the Senior Civil Service and all those below it, after consultation in appropriate cases with the Head of the Home Civil Service or the Cabinet Office (the same team providing the Secretary to the Advisory Committee). The responsibility for the decisions taken in

84 Ev 132

85 Public Administration Select Committee, Sixth Report of Session 2006-07, *The Business Appointment Rules*, HC 651

86 *Ibid.* p 3

departments (other than on applications from special advisers) rests with the Minister in charge, although they may delegate this function;

- the Head of the Home Civil Service or the Permanent Secretary of the department concerned approve applications from special advisers. Ministers are not involved in these decisions, although the Advisory Committee will advise on the most senior cases.

91. As well as considering cases at the highest level, ACoBA also reviews a wider sample of applications in order to ensure consistency and effectiveness. Any application may be referred to the Cabinet Office for advice, and to ACoBA if the Head of the Home Civil Service and the departmental Minister agree.

92. A similar system for former Ministers was introduced following a recommendation from the Committee on Standards in Public Life in 1996, although under these arrangements ACoBA gives its advice directly to the former Minister. The new Ministerial Code published in July 2007 makes clear that on leaving office, Ministers must seek advice from ACoBA about any appointments or employment they wish to take up within two years of leaving office, apart from unpaid appointments in non-commercial organisations. The Code also makes clear that Ministers are expected to abide by the advice of the Committee.

93. Three of the members of ACoBA are politicians with legal experience; the four others have experience at senior levels in various walks of life: the home civil service, the diplomatic service, the armed forces, and business. All of the members are more than 70 years old, and all were educated at Oxford or Cambridge (either at undergraduate or postgraduate level). The membership of ACoBA has not been refreshed for more than five years; some of its members have been in place for nearly ten.

94. We took evidence from the then Chairman of ACoBA, Lord Mayhew of Twysden, alongside a fellow member of ACoBA, Lord MacLennan of Rogart, and the Committee Secretary, Tony Nichols.

95. The two main concerns that we investigated were that civil servants or Ministers might be recruited by outside bodies in order to help them gain access or influence within Government, and conversely that the prospect of future employment might lead a serving official or Minister to take decisions with the interests of an outside body in mind.

ACoBA's definition of lobbying

96. ACoBA has on various occasions advised that appointments should only be taken up if the person concerned does not become “personally involved in lobbying” UK Ministers or Crown Servants for a specified period—usually a year after leaving office. There has, however, been some confusion as to what this means in practice.

97. The terms of ACoBA's advice have varied from case to case:

- Some have been given 12 month bans on lobbying “UK ministers or officials”, whereas others have been banned only from lobbying named departments;

- Some (e.g Stephen Twigg⁸⁷) have been banned from lobbying their own former department for 12 months, but other departments for only 6;
- Rt Hon David Blunkett MP⁸⁸ appears uniquely to have been given a two-year lobbying ban,⁸⁹ while Lord Whitty's⁹⁰ ban lasted 18 months;
- Some people (e.g Rt Hon Tony Blair) have been specifically reminded that they should not draw on privileged information which was available to them in their former roles⁹¹—even though the Committee acknowledges that this is “normal practice”.⁹²

98. It is worth noting that while most former ministers and Crown servants have been given blanket, undefined bans on “lobbying”, there are some variations to this construction. A salient example is Lord Whitty's move to Eaga Partnerships in January 2006. The Committee advised that he should:

stand aside from advising the company on any bids for future Government business, including in the devolved administrations, and from lobbying their Ministers or officials on the company's behalf.⁹³

99. The clear suggestion here is that advising on bids is not considered to be “lobbying”. Similarly, Rt Hon Charles Clarke MP was told he “should not be personally involved in, or give advice on, any of the firm's [Beachcroft LLP] business directly relating to Government, nor in lobbying the Government on behalf of the firm or its clients”.⁹⁴

100. Stephen Hadrill, who went from the Department of Trade and Industry to be Director General of the Association of British Insurers, told us that he did not receive “a straight ban”, but had been told that, although he could not initiate contact for lobbying purposes “if [he] was approached ... [he] could take part in the discussion”. Similarly, Lord Warner, a former Health Minister, told us that “the main thing” he was told not to do after leaving the Government was “to lobby ministers, whatever that means”.⁹⁵

The letter I received, a copy of which I am very happy to send to the Committee, said that I should not lobby government. That was the key sentence. I would not have dreamt of lobbying government, but it seems absolute nonsense to say it means that if someone in government approaches me for my views I cannot talk to that individual for 12 months. In that case it is not I who takes the initiative; it is they.⁹⁶

87 Minister of State for School Standards, Department for Education and Skills, 2004–05

88 Secretary of State for Work and Pensions, 2005

89 Advisory Committee on Business Appointments, Ninth Report, 2006–2008, p 19

90 Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, 2001–05

91 Advisory Committee on Business Appointments, Ninth Report, 2006–2008, p 18

92 See Advisory Committee on Business Appointments, Eighth Report, 2005–2006, p 14

93 Ibid, p 16

94 Advisory Committee on Business Appointments, Ninth Report, 2006–2008, p 20

95 Q 544

96 Q 624

101. We understand from ACoBA that “while not recognising any fully comprehensive definition of lobbying”, it “considers and intends that any ban on lobbying that it may recommend extends to any contact made with a view to influencing the exercise of a discretion or a decision”.⁹⁷ We doubt that this clarification will be of great assistance in helping those advised not to become involved in lobbying to identify precisely what they should or should not be doing.

102. Lord Maclennan has suggested that ACoBA’s ban on lobbying is “wholly unenforceable”. He therefore believes that “certain categories of private sector employment are entirely unsuitable for retiring Crown servants”.⁹⁸ Lord Mayhew told us that his colleague was at the “austere” end of the spectrum of approach.⁹⁹

Ministers

103. There was a significant turnover of ministers in 2007, and a number of former Cabinet ministers have taken on new roles, including Rt Hon Hilary Armstrong MP, as a member of the Advisory Board for GovNet Communications, and Rt Hon Patricia Hewitt MP as Special Consultant to Alliance Boots Ltd and Senior Adviser to Cinven. Most prominent, though, have been the former Prime Minister’s new roles as consultant/senior adviser to JP Morgan Chase & Co. and Zurich Financial Services.

104. There are specific concerns about former Ministers who take up paid employment after they have left ministerial office but while they remain Members of Parliament paid from the public purse. In a recent case, Dr Stephen Ladyman MP, a former Minister of State at the Department for Transport working as an adviser to ITIS Holding plc, a company selling traffic information, for an annual fee of between £10,001 and £15,000, approached a senior official at the Highways Agency while still subject to an ACoBA lobbying ban, to make initial contact with a view to arranging a meeting once the lobbying ban had expired. He has since mentioned his former ministerial position as a way of introducing himself when lobbying on behalf of ITIS.¹⁰⁰ This case shows both the potential for differing interpretations of ACoBA’s lobbying ban and the way in which former Ministers can, within all existing rules, use their former Ministerial position to help them to gain access for private interests.

105. We heard from Rt Hon Richard Caborn MP and have received written evidence from Rt Hon Ian McCartney MP about the appointments that they have accepted,¹⁰¹ in Mr Caborn’s case as a consultant for AMEC Plc (for which he is paid between £70,001 and £75,000) and in Mr McCartney’s case as a senior adviser to the Fluor Corporation (for which he receives between £110,000 and £115,000—although he does not take this money as personal income).¹⁰² Witnesses from campaigning organisations have suggested that

97 Q 242

98 Public Administration Select Committee, Fourth Report of Session 2006-07, *Ethics and Standards: The Regulation of Conduct in Public Life*, HC 121-II, Ev 133

99 Q 256

100 Department for Transport, Response to FoI requests, October 2008, Correspondence between Stephen Ladyman and ITIS Holdings, <http://www.dft.gov.uk/foi/responses/2008/oct/correspondence/>

101 Q 555; Ev 135

102 Register of Members’ Interests

there are connections between these companies and lobbying both for nuclear contracts and for an increased use of nuclear power.¹⁰³

106. Richard Caborn was advised by ACoBA that he could take up the post forthwith, but that “for 12 months after leaving office, he should not be personally involved in lobbying the Government or the UK National Decommissioning Authority on behalf of the company”. One member of ACoBA dissented from this advice. Ian McCartney was advised unanimously that he could take up the post forthwith, but that, “for 12 months after leaving office, he should not be personally involved in lobbying the Government on behalf of the company or its clients”.¹⁰⁴

107. Richard Caborn denied that his appointment “was anything to do with [his] being a minister”.¹⁰⁵ Both are also clear that they have not been involved in lobbying the government:

It is not about lobbying at all; it is about the fact that I am an engineer and I have had a lot of experience in Europe and have been a trade union official. It is nothing to do with my ministerial career.¹⁰⁶

I don’t lobby for Fluor and this is explicit in our agreement, lodged with the House authorities.¹⁰⁷

108. Both, however, are retained as advisers. Ian McCartney advises Fluor on, among other things, “outside relations”.¹⁰⁸ Many of the self-professed lobbyists to whom we spoke explained that they do not usually lobby Government directly, but instead advise their clients on how to do this themselves.¹⁰⁹ For example, Grayling Communications wrote to us that:

Our consultants will always encourage our clients to meet with contacts themselves and will not themselves meet and brief parliamentarians, ministers or officials unless all parties are aware and happy for this to be the case.¹¹⁰

109. The question, as one of our other witnesses put it to us, is:

When does Ian McCartney’s work, if he is influencing the public policy environment, stop being advice to his client and start becoming lobbying?¹¹¹

110. Richard Caborn and Ian McCartney have both taken advice from ACoBA and from the parliamentary authorities on their appointments, and there is nothing to suggest that they have done anything in breach of either body’s rules. We think though that it stretches

103 Q 714 [John Sauven]; Ev 222 [Spinwatch]

104 Advisory Committee on Business Appointments, Ninth Report 2006–08, p 22

105 Q 542

106 Q 628

107 Ev 135

108 Ev 135

109 Q 337 [Mike Granatt], Q 376 [Peter Bingle]

110 Ev 206

111 Q 17 [Peter Luff]

the bounds of credulity to suggest that the fact that they were former Ministers with contacts in Government did not play a part in the decisions by AMEC and Fluor to employ them. **Part of the appeal of employing former ministers is the perception—accurate or not—that they will be able to offer access across government. This is particularly so when their party remains in government.**

Special advisers

111. Former Special Advisers will be expected to have access and possibly influence across government. The roles taken on by former Ministers are at least transparent. But of the exodus of Special Advisers in 2007, only two went through the ACoBA system: the former Chief of Staff to the Prime Minister, Jonathan Powell, and his deputy Elizabeth Lloyd.

112. The remaining former Special Advisers were not senior enough (in terms of their Civil Service grades) to go through the ACoBA process. They will have had to be cleared by the Permanent Secretaries of the departments in which they worked before taking up new jobs. However, this does not offer a transparent record of any terms imposed on the Blair administration's former Special Advisers in their employment on leaving the service of the Crown. It is clear that many are now employed in the private sector (such as Jonathan Powell at Morgan Stanley), while others are in the not-for-profit sector (such as Peter Kyle at ACEVO or Matthew Taylor at the RSA) where they are just as likely to be seeking to influence government.

113. In particular, there is a record of movement between the public relations industry, including public affairs, and government:

- David Hill, the former Director of Government Communications, worked for the Bell Pottinger Group before replacing Alistair Campbell at Number 10, and has returned there since. He was Director of Communications for the Labour Party between 1991 and 1997.
- Mick Halloran, a Special Adviser to John Prescott, is a director of Citigate Dewe Rogerson's new public affairs arm CDR Public Policy.
- Darren Murphy, a special adviser for political communications at Number 10 and previously special adviser to Rt Hon Alan Milburn MP as Health Secretary, is managing director of APCO Worldwide's London office.

None of these appointments is registered on the ACoBA website, in the latter two cases because the individuals were not senior enough in terms of pay and analogous grading in the civil service. David Hill did not have to go through ACoBA's process because he returned to the same employer from which he came into Crown service.

114. John Grogan MP was uncomfortable with much of this:

There is a particular problem with multi-client lobbyists being seconded into government and then being seconded out. I feel uncomfortable with that. You can go

and work in a minister's office for a couple of years and then you go back where you came from.¹¹²

Crown servants' prospects of future employment

115. Lord MacLennan has in the past publicly stated his concern about the risk that when a civil servant is “contemplating a post-service move into the private sector the interest of the Department's client is more salient in the mind of the Crown servant than is the need to protect the public interest”.¹¹³ This is likely to be a particular risk in parts of the civil service with a history of employment moves into a particular sector or company. ACoBA has for example previously written of a “traffic” of personnel from the Ministry of Defence to the defence contractors who supply it.¹¹⁴ Perhaps surprisingly in the light of this, we have learnt from the Cabinet Office that “no information is held centrally on trends in the employment of former civil servants, and there is no particular requirement on departments to collect data or undertake analyses on this.”¹¹⁵

Procurement as an issue of particular concern

116. The running theme in the cases which have caused ACoBA concern may not have been so much about the defence sector, as about the particular issue of public procurement. In particular, the sense of the cases examined by ACoBA is that they feel the public's greatest concern is that contracts are awarded in a fair manner. There appear to be two main concerns:

- Insider information: the individual leaving the government may have access to knowledge which will unfairly advantage a bidding company; and
- Undue influence over decision-making: the individual might either illicitly lobby themselves, or be able to point companies/clients in the direction of who to attempt to influence.

117. While these are general concerns about any business appointment, they are particularly acute around procurement exercises because the amount of money may be so large. There is also a legal angle, in that influencing policymaking is rarely illegal, but influencing procurement decisions can be.

118. Most of the examples cited by ACoBA were about defence procurement, but in the course of our inquiry we have also touched on several other areas of public suspicion about lobbying and the pursuit of public contracts:

- NHS contracts: there appears to have been significant movement in both directions between the NHS and organisations bidding for contracts from individual trusts;

112 Q 34

113 Advisory Committee on Business Appointments, Seventh Report 2005–06, Annex E

114 Advisory Committee on Business Appointments. Sixth Report 2002–04, para 18

115 Ev 128

- Policy on “supercasinos” was widely believed to be influenced heavily by an American “gambling lobby” driven by a desire to manage those casinos;
- The nuclear industry, as mentioned above.¹¹⁶

Conclusion

119. **What emerges from this survey is that while the activities of lobbyists are scarcely regulated at all, there are a variety of ways in which the lobbied are subject to behavioural constraints and transparency requirements. These have developed piecemeal, however, and with different times and issues in mind.** We therefore now go on to explore whether a more coherent approach is required.

120. First, however, we look at what lessons can be learnt from the experiences of jurisdictions outside the United Kingdom.

4 Regulation of lobbying abroad

121. Lobbyists are regulated in a number of other jurisdictions more comprehensively than they are in the United Kingdom. Professor Justin Fisher, our Specialist Adviser, has prepared a paper for us, detailing and commenting on the regulatory frameworks in:

- i. Australia,
- ii. Canada,
- iii. Germany,
- iv. the United States, and
- v. the European Union institutions.

His paper is appended to this Report.¹¹⁷

122. **There are a number of very general conclusions that can be drawn from the experience of other jurisdictions:**

- **Lobbying can be regulated far more extensively than is the case in the United Kingdom.**
- **Where lobbying activity is regulated, this seems to be accepted as a fact of life by those concerned.**
- **In many countries, including most European countries, lobbying activity is not explicitly regulated.**
- **The more restrictive regimes tend to respond to an environment in which there is significant concern around lobbying practices. That in the USA is a reaction to the close association between lobbying and the financing of political activities.**

The US example

123. Bircham Dyson Bell has suggested that the triggers for regulation in the US do not necessarily apply in the UK:

US politics is an expensive business which has often been tainted by financial scandal and, as a result, knowing which clients a lobbyist represents may be of relevance in understanding whether he or she has links to particular sources of campaign finance, such as ‘bundlers’ or to ‘soft money’ sources which are outside the campaign finance controls. The UK political landscape is very different and published clients lists—especially without the detail provided in the US of what lobbyists are doing for clients and how much they are spending—are of little value, other than perhaps as a marketing tool for the lobbyist concerned ... in looking at regulatory regimes

117 See Appendix, p 69

elsewhere, we would remind the Committee that the prevailing political culture in the jurisdiction in question is a critical factor which must be taken into account.

Rt Hon Richard Caborn MP told us bluntly: “to think you can transplant what has happened in the US to here; it just would not work”.¹¹⁸ We would point out that the examples cited earlier in this Report show that there is significant and increasing public concern about the financing of political campaigns.

124. As for the effectiveness of restrictive regulation, there was disagreement among our witnesses. Spinwatch suggested to us that the US offers “a salutary lesson in how financial transparency can help to identify and address problematic cases of lobbying”.¹¹⁹ Our lobbyist witnesses disagreed.

125. The CIPR pointed out that:

Few people ... would suggest that US politics is cleaner or more directly representative than politics in Westminster—or in the UK generally. Regulation alone does not guarantee ethical standards of behaviour.¹²⁰

It was supported in this view by the APPC ...

Evidence from other countries shows that a tight regulatory system often encourages those who are lobbying to look for loopholes and ways to push the boundaries of the rules.¹²¹

... and by Bircham Dyson Bell:

there is a tendency for detailed regulation of this kind to lead to the creation of a ‘loophole’ industry and many Washington DC law firms offer ‘lobbying disclosure compliance’ as a discrete area of legal practice. Further, the controls can often be avoided by lobbyists carefully ring-fencing and separating out defined lobbying activities from other, broader, public affairs services. In addition, many modern-day ‘lobbying’ techniques such as ‘grassroots’ advocacy campaigns are not within the legislative definition of lobbying and thus do not need to be disclosed. More importantly, It is worth noting that the detailed and complex disclosure requirements imposed by the US regulatory regime fails to prevent major lobbying scandals taking place, such as the recent Abramoff scandal. Few political commentators would regard the US political system as being free from the taint of corruption.¹²²

126. The same point has been made eloquently by the more neutral figure of Paul Pross, Professor Emeritus at Dalhousie University, Canada:

118 Q 609

119 Ev 223

120 Ev 149

121 Ev 138

122 Ev 181

goaded by evidence of corruption and scandal, lawmakers sometimes impose ever more exhaustive requirements for disclosure. Forgetting that the ingenuity of the unscrupulous is inexhaustible, they create thickets of regulation that intimidate all but those they are meant to discourage.¹²³

127. Professor Pross is not, however, an opponent of lobbying regulation. He has stated that he “finds the case for formal regulation more compelling than the case against”, as presented by the Committee on Standards in Public Life.¹²⁴ He puts the case very strongly for why governments are in a better position to regulate lobbying activity than lobbyists themselves, and has already been quoted to this effect at paragraph 50 above.

The Canadian example

128. Canada provides an interesting counter-example to the US experience. Public concern in Canada has been focused less directly on election finance, but rather more broadly on improper access to decision-makers. As a consequence, the Canadian federal regime does not generally require the disclosure of financial information, such as how much an organisation has spent on a particular campaign, but focuses rather on the disclosure of information about the identity of those conducting lobbying activity, those on whose behalf they are lobbying, the issues on which they are lobbying and the targets of that lobbying. There is a requirement to disclose in detail any public offices formerly held by lobbyists, and to explain the lobbying methods adopted, including grassroots (potentially ‘astro-turf’) campaigns.¹²⁵

129. As Professor Fisher’s paper shows, regulation in Canada has been progressively refined and tightened over the years. Professor Pross has disagreed with the conclusion reached by the Committee on Standards in Public Life in January 2000 that “the credibility of compulsory regulation schemes is ... diminished by amendments to the rules”:¹²⁶

Clarity is essential to effective lobby regulation. The early history of registration in Australia, Canada and the United States shows that where lobbyists are not clearly identified and demonstrably required to register, they will not do so. Equally, where disclosure requirements are not clearly laid out and unambiguously required, they will be ignored ...

...revisions of regulations are only to be expected when, as in the Canadian case, the state enters a new field ... There is, as we have argued, no ‘boiler-plate’ legislation available. Even in the United States, where lobby regulation has been attempted for over a century, changes in public attitudes, in the scale of government activity, in the processes of party politics and public decision making, as well as in the technologies of political communication have all fostered a continuing debate over regulation.

123 Pross, p 16

124 Pross, p 35; Ev 187

125 Information on the federal requirements in Canada is available from the website of the Office of the Commissioner for Lobbying at www.ocl-cal.gc.ca

126 Sixth Report from the Committee on Standards in Public Life, Cm 4557, para 7.27

Both countries have been going through, and will continue to go through, a period of political learning in this field.¹²⁷

130. The experience of other jurisdictions suggests that there is no ‘one-size-fits-all’ or ‘off-the-shelf’ solution to the regulation of lobbying and that early attempts at solutions often need subsequent adjustment. We are convinced that the system in the United Kingdom could be better tailored than it is. In the current climate of public mistrust, voluntary self-regulation of lobbying activity risks being little better than the Emperor’s new clothes.

131. Solutions need to be adapted to different constitutional arrangements and political cultures. In the case of the United Kingdom, where there is a culture of discretion and where deals are traditionally done behind closed doors, an element of external compulsion will be needed to provide for meaningful transparency. This is shown by the experience of the Freedom of Information agenda, which could only be implemented through legislation.

5 The risks of regulation

132. If other countries have attempted to regulate lobbying, then what are the potential risks in the British Government doing so as well? A number of reasons have been suggested to us as to why regulation could prove counter-productive.

Making access more exclusive

133. A huge variety of types of organisations and individuals engage in lobbying in one form or another. The target of any regulation would be hard to pin down. An attempt to regulate all those who engage in lobbying could risk having least effect on those organisations of most concern. Peter Luff MP told us to “be very careful about making the process less democratic by making it more exclusive”.¹²⁸ Stephen Haddrill agreed:

You really must not have a register in order just to talk to a minister. It seems to me that that is cutting government off from people.¹²⁹

The risk is that by attempting to regulate all those who engage in lobbying, it is the ones who are least professionalised, those who have least experience of accessing decision makers, who would find it hardest to meet the requirements of the regulation.

134. The Committee on Standards in Public Life has also warned us against recommending “a single regulatory regime” for all those involved in lobbying, and “remains of the view” that attempts to create such a regime “are likely to be unsatisfactory and counter-productive”.¹³⁰ Professor Pross, however, disagrees:

it is doubtful that the creation of the lobbyist registration process in Canada, or its counterpart in the United States, has done anything more than reveal a situation that has existed for many years. A two-tiered system exists because of the growing complexity of government, and the need for guidance in understanding and approaching decision centres. The present author has interviewed a number of directors of Canadian charities about their activities in public policy development. These individuals referred to the Lobbyist Registration Act as adding to the paper burden that they have to carry, but none suggested that registration has made it more difficult for them to gain access to decision makers. Some commented that it has helped them to track the activities of lobbyists working for interests that they oppose.¹³¹

135. The multi-client sector, unsurprisingly, did not favour the idea that they alone should be subject to regulation. The APPC told us that “Simply regulating the political consultancy sector would leave the majority of lobbyists unregulated.”¹³² Bell Pottinger, for once, agreed

128 Q 28

129 Q 618

130 Ev 187 [Committee on Standards in Public Life]

131 Pross, p 35

132 Ev 142

with them: “It would be wrong to single out public affairs agencies alone for regulation.”¹³³ They received unexpected support in this from campaigners:

I do not think you can get into this thing of saying, ‘We good, them bad, regulate them, don’t regulate us’.¹³⁴

The risk of regulation creating an exclusive or two-tier process is one that clearly needs to be guarded against—but we suspect that it is a risk that has been overstated.

Encouraging subterfuge

136. We heard that regulation would also be likely to drive lobbying further underground—more meetings by the lake in St James’s Park with dark glasses and a rolled-up newspaper, as the Director General of the CBI has reportedly claimed.¹³⁵ According to the CIPR, “attempts to limit it would almost certainly result in an increase in underhand behaviour and subterfuge”.¹³⁶ The APPC agreed that “a tightly defined regulatory system often encourages some of those undertaking lobbying to look for loopholes and new ways to push the boundaries of the rules”.¹³⁷ Mike Granatt of Luther Pendragon told us that with regulation, “You would end up with an unregulated, covert sector essentially”.¹³⁸

137. The frankly cynical argument put to us by some lobbyists is that their behaviour should not be regulated, because if it were, it would encourage people to try to break the rules. If this theory were followed to its logical conclusion, there would be no regulation of any activity whatsoever. It is true that external regulation (as opposed to culture change) tends to encourage an adherence to the letter rather than the spirit of the rules, but we see this as an argument for well-framed regulation, rather than an argument against any regulation at all.

Government in a vacuum

138. Lobbying should be, and often is, good for the policy-making process. As the APPC has written:

Policy-making is not carried out in a vacuum: it is informed, rightly, by outside interests of all kinds. All Ministers, officials and Parliament clearly need to consider the facts that are put before them when reaching their decisions. This is the very essence of lobbying and, in that sense one could argue that every policy and decision is influenced by lobbying.¹³⁹

139. A further risk is that regulation could stifle this input. As Lord Warner put it to us:

133 Ev 172

134 Q 106 [Peter Facey]. See also Q 144 [William Dinan].

135 *Data freedom ruling to affect lobbying*, Financial Times, 1 May 2008

136 Ev 148

137 Ev 144

138 Q 433

139 Ev 140

If you devised something ... which led to government ministers and departments experiencing a reduction in the number of people with expertise contacting them that would be a bad thing for good governance.¹⁴⁰

140. Tom Kelly of BAA, previously the Prime Minister's press spokesman, made a similar point ...

there is a danger, given the way in which these matters are sometimes reported in the media, that such procedures end up acting as a disincentive on government ministers or on officials having conversations which they should have. I think that would be disadvantageous to the country as a whole. If, because of the fear of the way in which these matters sometimes are reported, ministers and officials do not have the proper conversations, they end up less well informed about the areas they are covering.¹⁴¹

... as did Peter Luff MP, who warned that "you could get government and Parliament taking decisions in a vacuum".¹⁴²

141. We again think that this risk is over-stated. The advantages of being able to lobby decision-makers on issues of concern are so obvious, that only the most restrictive or onerous kind of regulation could dissuade interested parties from making their views known to Government.

Bureaucracy

142. A number of witnesses were concerned that a system of registration or disclosure would be likely to be bureaucratic and potentially costly for the organisations involved.¹⁴³ **This is yet another risk that we believe to be over-stated, though it is one that clearly needs to be guarded against.¹⁴⁴ If sensibly framed, regulation would simply require those involved in the process of lobbying to provide information which should already be in their hands.**

140 Q 616

141 Q 680

142 Q 34

143 Q 534 [Eben Black]; Q 616 [Lord Warner]; Q 680 [Chris Brinsmead]

144 Q 734

6 Proposals for reform

Principles

143. In this final part of the Report, we put forward our proposals for reform. The aim of any reform should be to be both proportionate and effective—even if the effect is only to improve public confidence or to make others aware that their activities may become subject to public scrutiny.

144. **What is clear to us is that reform is necessary. Lobbying the Government should, in a democracy, involve explicit agreement about the terms on which this lobbying is conducted. The result of doing nothing would be to increase public mistrust of Government, and to solidify the impression that Government listens to favoured groups—big business and party donors in particular—with far more attention than it gives to others. Measures are needed:**

- **to promote ethical behaviour by lobbyists, with the prospect of sanctions if rules are broken.**
- **to ensure that the process of lobbying takes place in as public a way as possible, subject to the maximum reasonable degree of transparency, and**
- **to make it harder for politicians and public servants to use the information and contacts they have built up in office as an inducement to other potential employers.**

Promoting ethical behaviour by lobbyists

145. We have set out above the problems as we see them with existing self-regulation. **We do not believe that transparency requirements are ever likely to be enforceable through self-regulation. There may, however, be a role for a self-regulatory organisation in promoting ethical behaviour by those involved in lobbying. This will depend, however, on whether lobbyists are genuinely willing to be seen to be regulating themselves effectively. If they are, there are a number of simple and obvious steps that they could take to improve the current situation:**

- i. **Establish a single umbrella organisation with both corporate and individual membership, in order to be able to cover all those who are involved in lobbying as a substantial part of their work.** A single organisation is needed to establish and exercise authority. Both corporate and individual membership are required so that both public affairs firms and individual lobbyists within corporate organisations can be included, and so that action including sanctions can be targeted at either level. The organisation would be funded by those it regulates, in a similar way to the Advertising Standards Authority and Press Complaints Commission.
- ii. **Ensure that people from outside the lobbying world with a track record in regulation and in business ethics are involved in running the organisation,** to provide a degree of external moderation as well as some reassurance that it will take action against its members when this is justified, rather than protecting them whenever possible.

- iii. **Establish a clear separation between promoting and representing those involved in lobbying activity, and regulating that activity.**
- iv. **Subject the standards of the members of the organisation to more rigorous scrutiny, including external validation.** PRCA members are required to meet a Consultancy Management Standard (CMS) which is externally audited. The CMS, however, is less about ethical standards than about the general quality of the service that consultancies provide to their customers. **The public affairs industry should institute an externally assessed and validated standard—a kind of kite mark—which its members should be required to meet. The standard should integrate ethical issues, structural issues and service quality issues, all of which are interdependent.**

146. Standards will be needed at both the corporate and individual levels. A corporate standard would allow public affairs firms to show that they met certain requirements; an individual standard could extend to those working in-house as well as for freelance consultancies. **Such a standard would only be worthwhile if it were assessed and validated externally by a trusted body outside the industry, and if companies and individuals did on occasion fail the tests that were set. It would also only be of value if companies knew that there was a business advantage in achieving it or in employing people who had achieved it.**

147. The business advantage we have in mind is to allow potential clients as well as targets of lobbying to judge the quality and reputation of those involved in public affairs. **We would not expect all of those individuals and groups involved in lobbying decision-makers to belong to this body.** Examples of where it would be unreasonable to expect this might be a local organisation opposing a single planning application or a small business lobbying on the unintended effects of a specific piece of legislation. **We would, however, expect all of those involved in lobbying decision-makers on a regular and continuing basis to perceive an overwhelming advantage in membership. This would include campaigning organisations and in-house corporate lobbyists as well as self-professed public affairs consultancies.**

148. The body's effectiveness would be judged in part by its readiness to sanction those who fail to meet its criteria. If the perceived advantage of membership is strong enough, suspension and expulsion will be powerful sanctions. In some circumstances other sanctions, including the power to fine and to 'name and shame' might also be needed.

149. For the lobbying industry to implement these recommendations will require rivalries to be set aside in the interests of genuine joint commitment to effective self-regulation. This suggests an unprecedented unity of purpose. It may concentrate minds to consider the alternative. We recommend that the Government should allow six months following the publication of this Report to see whether concrete and consistent progress can be made. Failing this, we recommend that the Government should bring forward a short bill to provide in statute for the kind of organisation we have described above, to be funded by lobbyists.

Ensuring maximum transparency in lobbying activity

150. Transparency could be both a guardian against unethical activity and a means of assurance to a sceptical public. Any means of ensuring transparency can only be effective and comprehensive if it is imposed through a regulatory framework.

151. A register is the regulatory solution proposed to us by campaigning groups and the one most commonly adopted in other jurisdictions. All of the variants of registers of which we are aware require those who are carrying out lobbying activity to provide information about this activity.

152. Spinwatch, the only campaigning group that appeared to exist before our inquiry focusing predominantly on the negative aspects of public relations, has stated, rightly in our view, that self-regulation “has demonstrably failed to ensure transparency, does not cover all of the industry and suffers from a lack of effective oversight”.¹⁴⁵ Following the launch of our inquiry, an Alliance for Lobbying Transparency was formed as a coalition of civil society organisations calling for lobbying regulation. Members of this alliance include larger organisations such as Greenpeace and Friends of the Earth (FOE). A representative of FOE set out to us his vision of what a register might look like:

Very concretely in the register you have the name of the lobbyist, the person who is engaged in the activity, so if they work for a particular organisation you would have their name as well. You would have the area of legislation which they are trying to influence, whether that is a piece of legislation going through or a particular decision about a contract. Disclosure for different organisations works in slightly different ways but you would disclose who is paying and how much money and on which areas of policy ... there should be a threshold of activity. Finance or time are two ways that it is being done but a threshold where below that amount of lobbying activity you are under no obligation to register.¹⁴⁶

Examples from other jurisdictions

153. It is useful to see the FOE suggestion in the light of the different registers that already exist in different jurisdictions, each of which has substantially different requirements.

154. The United States register requires a large amount of detail from lobbyists, including estimates of total income from individual clients and a description of the issues on which lobbying has taken place. There are financial thresholds for registration, and different requirements for lobbyists with clients and firms employing lobbyists in-house. The US register carries the harshest penalties for non-compliance: a fine of up to \$200,000 and a prison term of up to five years.

155. The following is a sample declaration made by a large public affairs firm in respect of one of its clients:

145 Ev 221

146 Qq 733–734 [Owen Espley]

Clerk of the House of Representatives Legislative Resource Center B-106 Cannon Building Washington, DC 20515 http://lobbyingdisclosure.house.gov	Secretary of the Senate Office of Public Records 232 Hart Building Washington, DC 20510 http://www.senate.gov/lobby
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LOBBYING REPORT

Lobbying Disclosure Act of 1995 (section 5) - **All Filers Are Required to Complete This Page**

1. Registrant Name <input checked="" type="checkbox"/> Organization/Lobbying Firm <input type="checkbox"/> Self Employed Individual <div style="text-align: center; font-size: 1.2em; font-weight: bold;">Hill & Knowlton, Inc</div>			
2. Address <input type="checkbox"/> Check if different than previously reported Address 1 <u>607 14th Street, N.W.</u> Address 2 <u>Suite 300</u> City <u>Washington</u> State <u>DC</u> Zip Code <u>20005</u> Country <u>USA</u>			
3. Principal place of business (if different than line 2) City <u>New York</u> State <u>NY</u> Zip code <u>10022</u> Country <u>USA</u>			
4a. Contact Name Michael Kehs	b. Telephone Number <input type="checkbox"/> International Number (202) 944-5125	c. E-mail michael.kehs@hillandknowlton.com	5. Senate ID# 18262-1510
7. Client Name <input type="checkbox"/> Self <input type="checkbox"/> Check if client is a state or local government or instrumentality Association of Dutch Insurers			6. House ID# 304820101

TYPE OF REPORT 8. Year 2008 Q1 (1/1-3/31) Q2 (4/1-6/30) Q3 (7/1-9/30) Q4 (10/1-12/31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report Termination Date _____ 11. No lobbying Issue Activity

INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

<p style="text-align: center; font-weight: bold;">12. Lobbying</p> <p>INCOME relating to lobbying activities for this reporting period was:</p> <p>Less than \$5,000 <input type="checkbox"/></p> <p>\$5,000 or more <input checked="" type="checkbox"/> \$ <u>20,000.00</u></p> <p>Provide a good faith estimate, rounded to the nearest \$10,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client)</p>	<p style="text-align: center; font-weight: bold;">13. Organizations</p> <p>EXPENSE relating to lobbying activities for this reporting period were:</p> <p>Less than \$5,000 <input type="checkbox"/></p> <p>\$5,000 or more <input type="checkbox"/> \$ _____</p> <p>14. REPORTING Check box to indicate expense accounting method. See instructions for description of options</p> <p><input type="checkbox"/> Method A. Reporting amounts using LDA definitions only</p> <p><input type="checkbox"/> Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code</p> <p><input type="checkbox"/> Method C. Reporting amounts under section 162(e) of the Internal Revenue Code</p>
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Signature Filed Electronically **Date** 10/14/2008

Printed Name and Title Lisa Schuyler, Chief Operating Officer, Hill & Knowlton Washington

Registrant Hill & Knowlton, Inc. Client Name Association of Dutch Insurers

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code (one per page)

16. Specific lobbying issues

17. House(s) of Congress and Federal agencies Check if None

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Frank	Mankiewicz			<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>


19. Interest of each foreign entity in the specific issues listed on line 16 above Check if none

Printed Name and Title Lisa Schuyler, Chief Operating Officer, Hill & Knowlton Washington

v6.0.11 Page 2 of 2

156. The Canadian federal register requires a similar level of detail to the US system, but concentrates less on the disclosure of financial information than on the identities of the lobbyists and the lobbied, the subject matters of any lobbying and the ways in which lobbying is carried out (eg. written communication, oral communication, and grassroots activities). Information also must be provided about meetings with designated public office holders. Lobbyists must also supply information about any public offices they have formerly held, even, as the example below illustrates, offices they held in the distant past. Penalties for non-compliance with the Lobbying Act are a fine of up to \$25 000 and/or up

to 6 months in jail, on summary conviction, and up to \$100 000 and/or 2 years in jail on conviction by way of indictment.

Office of the Commissioner of Lobbying of Canada	Commissariat au lobbying du Canada	
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● Active Registration: 776311-227941-1 [Return to Public Registry](#)

Lobbyist: MICHAEL COATES
Consulting firm: Hill and Knowlton Canada
Client: Rio Tinto plc
Version: 776311-227941-1
Type: New Registration
Active from: 2008-10-27

A. Registrant Lobbyist business address

Consultant lobbyist name:	MICHAEL COATES
Consulting firm:	Hill and Knowlton Canada 55, METCALFE STREET, SUITE 1100 OTTAWA, ON K1P 6L Canada
Position:	PRESIDENT AND CEO
Telephone number:	613-238-4371
Fax number:	613-238-8642
Former public office holder:	<u>Yes</u>

B. Information about client

Client:	Rio Tinto plc 6 St. James Square London SW1Y 4LD
Telephone number:	+44 (0) 20 8080 1142
Principal representative of the client:	Andrew Vickerman
Position Title:	Global Head of Communications & External Relations
Parent:	The client is not a subsidiary of any other parent companies.
Coalition:	The client is not part of a coalition
Subsidiary:	Diavik Diamond Mines (inc) (DDMI) PO Box 2498 Stn Main 5007 - 50th Avenue Yellowknife, NT Canada, X1A 2P8
	Iron Ore Company of Canada P.O. Box 1000 Labrador City, NL

Canada A2V 2L8
 QIT Fer et Titane
 1625 Marie-Victorin Road
 Sorel-Tracy, QC
 Canada J3R 1M6

Direct Interest: The client's activities are not controlled or directed by another person or organization with a direct interest in the outcome of this undertaking

Was the client funded in whole or in part by any domestic or foreign government institution in the last **completed financial year**, or does the client expect funding in the **current financial year**? No

C.Lobbying Activity Information

Federal departments or organizations which have been or will be communicated with during the course of the undertaking: Privy Council Office (PCO), Prime Minister's Office (PMO), Industry Canada (IC), Natural Resources Canada (NRCan), Foreign Affairs and International Trade Canada (DFAITC), Public Safety Canada (PS), House of Commons

Communication techniques that have been used or are expected to be used in the course of the undertaking: Written communication, Oral communication

I arranged or expect to arrange one or more meetings on behalf of my client between a public office holder and any other person in the course of this undertaking: Yes

Information about Subject matter: International Trade, Industry, Mining

Details Regarding the Identified Subject Matter

Categories	Description
Regulation	Investment Canada Act with respect to foreign ownership review.

Date Modified: 2008-10-27

Office of the Commissioner of Lobbying of Canada	Commissariat au lobbying du Canada	
Public offices held: MICHAEL COATES		
List of Public Offices Held		
Position	Period Held	Last Date Designated Public Office Held
Executive Assistant to Hon. Perrin Beatty, P.C., M.P. House of Commons, House of Commons	September 1980 to April 1982	Not a designated office
<p>(1): This designated public office was held through an employment exchange program. (2): Assistant Deputy Minister or equivalent position on or after July 2, 2008 (3): Indicates a public office that was held at the time the disclosure was filed. Date shown is the starting date of the position.</p>		
Date modified: 2008-10-27		

157. The new Australian register has a much lighter touch than the two examples above: only professional multi-client lobbyists are required to register, and they are required to provide only the names of those engaged in lobbying on their behalf and the names of their clients (a requirement which is delayed where market sensitivity is a concern). The only available penalty for non-compliance is removal from the register. A sample entry for the same company follows:

Lobbyist Details
Business Entity Name: Hill and Knowlton A.B.N: 30008401134 Trading Name: Hill & Knowlton
Details of all persons of employees who conduct lobbying activities
Name: Jacquelynne Willcox Position: Director Name: Louise Allen Position: Senior Account Manager Name: Isobel Brown Position: Director Name: Kate Wallman Position: Account Manager
Client Details
Name: Blackmores Kellogg Jamster Nutricia Better Place KCI Medical
Owner Details
Name: WPP Group Details Last Updated: 29/09/2008

158. The recently introduced European Commission register has the widest reach and asks for different kinds of broad financial information from in-house lobbyists (proportion of turnover dedicated to lobbying), multi-client lobbyists (proportion of income received from each client) and NGOs and think-tanks (sources of funding). It is a voluntary register, although the European Parliament has supported the creation of a mandatory register along similar lines. As a voluntary register, there are no sanctions envisaged for failure to disclose information.

159. As of November 2008, none of the major public affairs consultancies operating in Brussels had registered, including the consultancy used in the examples above. The entry for the Association of British Insurers reveals that in 2007, the Association's estimated costs directly related to representing interests to EU institutions in that year amounted to between 850,000 and 950,000 euros. The entry for Friends of the Earth Europe shows estimated costs of between 500,000 and 550,000 euros. The sources of FoE's budget are also broken down by broad category (public financing, donations, member contributions etc), and it has chosen to name those individuals involved in lobbying activities on its behalf, although this is not information that is generally requested by the Commission.

Analysis

160. The registers cited above have significant differences from one another. The information to be supplied is different in each of the four cases. The European Commission's register, unlike the other three, is voluntary rather than mandatory.

161. All of the registers seek to identify who the lobbyists are, and who they are representing. The Australian register goes little further. The European Commission's register, unlike the other three, does not ask for the names of individual lobbyists. The differences in the information required by the other registers point to the different circumstances which led to their existence.

162. One of the main differences between the registers is in the extent to which they ask for financial information.

Financial information

163. The US register asks for financial information, in the case of multi-client lobbyists, a good-faith estimate of income from specific clients in a given period. This reflects the US political context, in which money, specifically campaign finance, is one of the main concerns about lobbying activity.

164. The European Commission register asks for different kinds of financial information from different kinds of organisation, including a rough breakdown of income by client for multi-client lobbyists. The APPC has told us that it does not support this part of the Commission's initiative, as it believes it "to be irrelevant to the promotion of good practice in lobbying and an unnecessary (and potentially anti-competitive) intrusion into the commercial relationship between supplier and customer".¹⁴⁷ We heard these views

reflected by lobbyists that we met in Brussels. Campaigning groups for transparency focussing on Brussels told us that the Commission register would be unlikely to address the wider concerns around lobbying, which were identified to us as privileged access and the provision of one-sided information to decision-makers.

165. The Canadian register, perhaps reflecting that money is not as major a concern in Canada in this context, does not ask for financial information from those who register, apart from funding received from the Canadian or foreign governments.

166. While it would be of genuine interest to be able to see how much money is being targeted at particular lobbying campaigns, it is doubtful that it is possible to obtain reliable information of this kind through a register. In addition, to provide financial information about lobbying activity is genuinely onerous, in that it involves calculations that would almost certainly not otherwise be attempted. In the words of Professor Pross:

lobbying campaigns are frequently multi-faceted and expenses will be deployed to a wide range of firms and organisations. Payments will be made not only to lobbyists themselves, but to polling firms, advertising agencies, lawyers, accountants, non-profit organisations and even to charities that espouse the same cause. Forensic accountants have the skills and information needed to look at the overall effort involved in a campaign, and to arrive at a shrewd guess as to what it all costs, but such assessments are extremely expensive, and usually available to the public, and to policy decision makers, only long after key decisions have been made.¹⁴⁸

Conclusion

167. It was suggested to us by campaigning groups in Brussels that the Commission should have started with basic transparency benchmarks and developed the register around these, but that instead it had taken as its starting point what it thought people would be prepared to sign up to. We agree. **It is important to start from first principles when deciding what information needs to be included in a register of lobbying activity in the United Kingdom and how this information should be gathered.**

A register of lobbying activity: first principles

168. We can identify five key principles for a register of lobbying activity:

- a) **it should be mandatory, in order to ensure as complete as possible an overview of activity.**
- b) **it should cover all those outside the public sector involved in accessing and influencing public-sector decision makers, with exceptions in only a very limited set of circumstances.**
- c) **it should be managed and enforced by a body independent of both Government and lobbyists.**

- d) **it should include only information of genuine potential value to the general public, to others who might wish to lobby government, and to decision makers themselves.**
- e) **it should include so far as possible information which is relatively straightforward to provide—ideally, information which would be collected for other purposes in any case.**

A mandatory register ...

169. We see no advantage whatsoever to a voluntary register, which, as has been shown in the European Commission's case, allows those who wish to hide the nature and scale of their activity to do so, and leads to the availability of uneven and partial information of no real benefit to those wishing to assess the scale and nature of lobbying activity.¹⁴⁹

... covering all those involved in accessing and influencing public-sector decision makers from outside the public sector ...

170. We have already stated our view that there is nothing that multi-client public affairs consultancies do that is different from what other companies, organisations and individuals do when trying to influence decisions, apart from the fact of representing more than one client, and that to focus on the regulation of multi-client firms might perversely make it harder for smaller organisations to influence decisions, with little impact on the larger organisations that tend to be the focus of what concern there is.¹⁵⁰ It is therefore crucial that a register should cover all contact between public-sector decision-makers and those outside interests attempting to influence their decisions—although with different degrees of requirement for organisations lobbying on a regular basis and individual citizens or voluntary groups approaching a Minister about a specific issue of concern.¹⁵¹

171. There are a very restricted range of circumstances in which such contacts ought not to be covered. In Canada, oral and written communications are exempted from registration if:

- a) they are made to a parliamentary committee or to a similar body or person, in proceedings that are a matter of public record;
- b) they are made to a public office holder with respect to the enforcement, interpretation or application by that public office holder of any Act of Parliament or regulation with respect to the person or organization on whose behalf the communication is being made; or,
- c) they are restricted to requests for information.

172. We can envisage other circumstances in which communications or other information might be exempted from disclosure:

149 Q 523 [Solicitors' Regulation Authority]

150 See paras 11 and 12 above.

151 See para 174.

- a) if they relate directly to legal proceedings, or to the negotiation of a legal document, such as a contract, with the relevant public office.
- b) if their disclosure would harm an important public interest such as national security, or constitute a risk to individuals: for example, the fact that a lobbyist had previously been employed by one of the Security Agencies,
- c) if their disclosure would divulge information that is genuinely commercially confidential or market-sensitive in nature.

173. These exemptions should, however, be defined as narrowly as possible. For example, if some of the content of a communication was commercially confidential, this should not prevent the publication of the remaining content, nor of the fact that the communication had occurred. Similarly, legal firms would not be exempt from disclosure where their activities were essentially to do with influencing policy or other government decisions rather than legal proceedings or negotiations.

174. A further consideration, mentioned above, is that regulation could act as a barrier to the least professionalised and least experienced. It is vital that disclosure requirements should be tailored to circumstances. It would be counter-productive to expect individual citizens or informal voluntary groups to have to register before writing to a Minister with their views on issues of concern. It would be less unreasonable for them to expect that the fact of their correspondence and its subject matter might be placed in the public domain.

... managed and enforced by a body independent of both Government and lobbyists

175. Trust in any register will depend on whether it is seen to be managed competently and independently. Independent procedures will also be needed to pursue complaints about failures to provide information and about misleading or inaccurate information. There is already an existing body, independent of Government, which decides whether information should be released into the public domain: the Office of the Information Commissioner. From our perspective, this is the obvious body to take on this additional role, provided it is given the necessary resources and powers.

What information should be included?

176. **In our view, to meet the remaining key principles, the following information would need to be provided:**

Table 1: Information to be provided in a register

- a) **the names of the individuals carrying out lobbying activity and of any organisation employing or hiring them, whether a consultancy, law firm, corporation or campaigning organisation.**
- b) **in the case of multi-client consultancies, the names of their clients.**

These two categories of information are vital to identify who the lobbyists are, and who they might be representing.

- c) **information about any public office previously held by an individual lobbyist—essentially, excerpts from their career history.**

This would enable the public to judge the extent to which former public servants or politicians were using their contacts or experience to pursue a private interest.

All of the above categories of information could only be provided by the lobbyists themselves.

- d) **a list of the relevant interests of decision makers within the public service (Ministers, senior civil servants and senior public servants) and summaries of their career histories outside the public service.**

This would enable the public to judge the extent to which a decision maker's interests or connections from the past might be influencing the decisions they take.

This category of information could only be provided by the decision makers.

- e) **information about contacts between lobbyists and decision makers—essentially, diary records and minutes of meetings. The aim would be to cover all meetings and conversations between decision makers and outside interests.**

This would enable the public to see what contacts are taking place, and to reach a reasonably informed judgement as to whether decision makers are receiving a balanced perspective from those they are meeting.

This category of information could in theory be provided by either the lobbyists or the decision-makers.

What a register entry might look like

177. To put these proposals into context, we are including here an imaginary register entry for an equally imaginary multi-client consultancy. We expect that the simplest way to make information readily and simply available would be online, with regular use of hyperlinks to avoid the need to reproduce information needlessly. Clearly, further thought needs to be given to the design of a register. The example below is not meant to be prescriptive, but is for illustrative purposes, to show how information could be provided and made available in a simple and accessible way.

Table 2: Illustrative sample entry for a register as proposed above

Organisation: Bloggs and Bloggs Solicitors LLP, 200 Park Lane, London, W1A 0AA

Individuals carrying out lobbying activity: Joe Bloggs, [Kevin Bloggs](#),¹⁵² Linda Bloggs

Clients: [Cola Cola Plc](#), Government of Atlantis, [Mega Supermarkets Ltd](#)¹⁵³

Contacts:

¹⁵² Information about public offices previously held by Kevin Bloggs could be found by clicking on his name.

¹⁵³ Clicking on the name of a client would bring up their own entry in the register, including the names of in-house lobbyists.

a. 1 November 2008,¹⁵⁴ Meeting between Kevin Bloggs and John Johnson MP,¹⁵⁵ Minister for Trade, on behalf of Mega Supermarkets Ltd.

b. 1 December 2008, Conference call between Joe Bloggs and civil servants,¹⁵⁶ on behalf of the Government of Atlantis, to support the easing of tariffs on the import of seaweed.¹⁵⁷

Publishing client lists

178. Our second proposal in Table 1 above is the subject of disagreement among lobbying consultancies. As we have already shown, when deciding whether to publish the names of their clients, multi-client lobbying firms differ in the weight that they give to public interest on the one hand and client confidentiality on the other. Our view is clear. The public interest in the fact that a person or organisation is a client of a lobbying firm far outweighs any invasion of privacy that publication would represent. We are not proposing that there should be any requirement to publish the detail of the relationship between the lobbyist and the client; merely to publish the fact of the relationship. This would mean that if the fact of an approach from a lobbyist to a decision-maker were known, it would also be possible to investigate on whose behalf the approach might have been made. **We recommend that all multi-client organisations involved in public affairs should be required to publish in a timely and transparent way the names of all clients whose interests they represent to the government and other public bodies as well as all clients to which they give advice on how their interests would best be represented to the government and other public bodies.**

179. Legal firms continue to insist that to publish the names of clients for whom they lobby (as opposed to those whom they represent in a strictly legal capacity) would be in breach of the client confidentiality requirements of the regulatory regime established by the Solicitors Regulation Authority. This provision can therefore only be made effective through legislation.

Monitoring the revolving door

180. Our third and fourth proposals in Table 1 above are intended to allow the public to see the extent of interchange between the public sector and those involved in lobbying it and to gain a sense of the potential interests at play. We would expect these provisions to apply only to those involved in lobbying Government on a regular basis from consultancies, from the corporate sector and from campaigning organisations, and, within the public sector, to Ministers, other elected decision-makers such as mayors and councillors with executive powers, and senior civil and public servants. We comment below on the mechanisms for controlling movement between the public and other sectors.¹⁵⁸

154 Clicking on the date would reveal summary minutes of the meeting.

155 Clicking on the name of the Minister would reveal his statement of interests and a summary of his career history outside the public service.

156 Clicking here would reveal the names and roles of the civil servants involved, and in the case of senior civil servants, statements of their interests and summaries of their career histories outside the public service.

157 In this case, because a minute was not taken or because to publish a detailed minute might jeopardise relations with the Government of Atlantis, a brief description of the meeting is provided instead.

158 See paras 189 to 197.

181. We also have concerns about current processes for recording gifts and hospitality, which appear not to have been followed as rigorously as they should. This is doubtless because the purpose of recording this information—ensuring that there is no temptation to impropriety—is not clear. Under the current system, once recorded, the information may never be looked at again and seems to be available only to those in the line management chain. This safeguard against impropriety would be significantly strengthened if the information were available to the general public, rather than only internally. This has been partly recognised by the commitment to publish hospitality received at Board level.

182. Gifts and hospitality above a token value received by all Ministers and all civil servants should be recorded and made publicly available. The bureaucratic burden of providing this information should not be great: it is, in theory at least, being collected already. **The Cabinet Office should provide central direction to Departments and Agencies to ensure that consistent processes are being followed.**

Laying the detail of meetings and other communications open to scrutiny

183. The fifth category of information in Table 1 above is the most far-reaching. As we have seen, some information of this type is already provided piecemeal by Government in response to Freedom of Information requests.¹⁵⁹

184. A first step towards greater transparency, and one that could be achieved without legislation, would be to publish routinely the information about ministerial and other high-level official meetings with outside interest groups which is currently produced only in response to specific FoI requests. Publishing this information would also encourage Government to ensure that it is seen to be reaching out beyond the ‘usual suspects’ to a widely representative selection of stakeholders, by making clear who was and who was not included.

185. There are strong reasons for requiring government and other public-sector decision makers rather than those lobbying them to provide information of this kind:

- a) Minutes of meetings are generally taken by Government, but may not always be taken by lobbyists. Where minutes are taken by lobbyists, there is unlikely to be any consistency in the form in which they are taken.
- b) It would prevent the registration requirements from becoming a burden on those who may have little experience of lobbying Government.
- c) It would make decision-makers think carefully about who they communicated with and would give them every incentive to ensure that they heard views from a variety of perspectives.
- d) It would place an onus on the decision-maker to judge whether a communication might reasonably be considered to constitute an attempt to influence their decisions. This would require the registration in cursory form even of informal contacts—

¹⁵⁹ See para 72.

although we would not necessarily expect full minutes to be available of every lunch or chance meeting.

186. This last point mirrors a comment made to us by Tom Watson MP, appearing for the Government: “There is not a cat’s chance in hell that you are going to get a register of every politician who has lunch with a journalist.”¹⁶⁰ Our concern is not with journalists, but **lunches are the kinds of contacts which can be of as much potential concern as formal lobbying meetings on the record with business or other interest groups.**

187. This proposal relies on the supposition that formal meetings between Government and outside interests are regularly recorded. One suggestion made when FoI was first introduced was that, in order to prevent information from being subject to release, there would be more unrecorded meetings. The Committee on Standards in Public Life has pointed out that the new version of the Ministerial Code published in 2007 “no longer contains the specific requirement to record meetings between Ministers and outside interest groups”.¹⁶¹ **We ask the Government to confirm that there remains a requirement to record meetings between Ministers and outside interest groups.**

Conclusion

188. **Our proposal for a mandatory register involves placing new obligations on individuals and organisations outside the public sector: it will therefore necessarily involve legislation, and cannot be implemented overnight. Experience from other jurisdictions suggests, however, that such registers can be made to work relatively swiftly and in the public interest, and that they do not act as a barrier to free communication between Government and the electorate.**

189. **There are also steps that the Government could take now and without legislation to make information about its meetings with outside interest groups publicly available. There is a perception that real government takes place behind closed doors. This may be partly because of media portrayal or innate distrust of those in power. But there seems to be a culture of secrecy in some parts of government beyond that which is strictly necessary, and beyond that seen in some other countries. Cultures and attitudes need to change. Government should and could be more open and more transparent about how it formulates policy and takes decisions.**

Refreshing the Advisory Committee on Business Appointments and the Business Appointment Rules

190. There seems to be widespread agreement that the guidance on lobbying given by the Advisory Committee on Business Appointments to those moving out of Government is not as clear as it could be.¹⁶² Different individuals have scope to interpret the guidance they are given in quite different ways. Our impression is that the system could be operated more rigorously and more transparently, in particular through the provision of more detailed

160 Q 822

161 Ev 189

162 Qq 544, 550–552 and 624 [Lord Warner], Q 585 [Richard Caborn], Q 623 [Stephen Haddrill]

advice on lobbying, while maintaining the ability of the Advisory Committee to respond flexibly to individual circumstances in a changing work environment.

191. All of the current members of ACoBA have been in place for at least five years; several of them for nearly ten. Few if any of them have recent direct experience of Government, business or civil society. They are unpaid, and no doubt as a result, are drawn exclusively from the great and the good. It is noticeable, though by no means their fault, that they are all white, male and of a certain age. They meet extremely rarely. Their decisions are generally agreed by correspondence.

192. The Government is now in the process of seeking to refresh ACoBA's membership. It is important that some continuity is maintained. The members of ACoBA need to be respected and experienced, and to be able to reach disinterested opinions. However, they also need to be able to understand the world of work as it is today, and the growing movement of personnel between government and business, and to devote enough time to their work on the Advisory Committee, which should meet regularly. **There is a continuing need for a strong Advisory Committee to instil confidence both in the public and in those whose careers they can affect, that processes are followed and decisions taken both robustly and fairly. There would be benefit to having an Advisory Committee that was more representative of society at large. Under these circumstances, the Government should consider providing some remuneration to members of the Advisory Committee, and should seek a wider field of applicants than might have been the case in the past.**

193. **We hope that, when they are appointed, the new chairman and members will undertake a thorough review of the Advisory Committee's internal processes, to ensure that their advice, particularly on lobbying, is as unambiguous as possible in its meaning, and to provide enough transparency to allow the public and media the opportunity to assess whether or not this advice has been followed.**

194. **The new Advisory Committee also needs to be given the opportunity to review the Business Appointment Rules themselves, to ensure that they provide as much protection as possible to the public without unreasonably restricting individual career prospects, and to ensure that they remain relevant to current circumstances, such as the increasing use in parts of Government of integrated project teams involving civil servants and contractors.**

195. **We are strongly concerned that, with the rules as loosely and as variously interpreted as they currently are, former Ministers in particular appear to be able to use with impunity the contacts they built up as public servants to further a private interest. We think that this is unacceptable, particularly where they continue to be paid from the public purse as sitting Members of Parliament. The rules need to reflect this.**

196. **There are limits to how far this can be taken. It would not be desirable or in all probability legally possible to prevent a former health Minister from taking up a post elsewhere which took advantage of their expertise in health issues. What we would like to ensure, however, is that consistent rules are strictly applied so that former Ministers and other public servants are effectively prevented for an extended period of several years from using the contacts and sensitive information that they acquired in public office to further their own and others' private interests.**

Monitoring the scale of transfers between the Crown Service and other employers

197. Government is doing little if anything to monitor moves between the civil service and business. We have concerns that individuals may find themselves facing conflicts of interest between their career and the public good, if they are asked, for example, to assess the balance of regulation in a sector into which several of their predecessors have moved. **Government needs to be aware of the scale of transfer into (and indeed from) specific businesses and sectors, so as to be able to take measures against the capture of the public interest by the interests of those businesses or that sector.** Our proposal for relevant information to be included in a mandatory register would help the Government to monitor this area.

198. As we heard from Tom Harris MP, there are generally stringent measures in place to ensure that awards of contract cannot be tainted by personal prejudice.¹⁶³ There is far less rigour, however, around policy decisions—how the country’s future energy needs should be met, for example, rather than who should construct and run a particular power station.

Application to the public service more widely

199. Many decisions on public issues are taken not by Ministers or the civil service, but by a range of other public bodies, from local authorities responsible for planning decisions, to Non-Departmental Public Bodies (NDPBs) with a range of important functions, including awarding large contracts.¹⁶⁴ While we have concentrated in this Report on Ministers and the civil service, the majority of the principles and solutions we have proposed apply equally across the whole of the public sector, and there is no reason why a statutory register should not cover the wider public sector.

163 Qq 705-707

164 Qq 603-605

7 Conclusion

200. Government needs to be open to outside interests and ideas. In recent years, it has become more open, in extended consultation, new sources of policy advice, and in greater movement of people in and out of government. All this brings benefits. Yet there are also risks, if the process is not carefully managed. The greatest risk is that some interests may acquire excessive influence, or are believed to have excessive influence, buttressing a public perception that government is not to be trusted.

201. Our proposals are designed to mitigate this risk, in a way that is at once proportionate and effective. Those who do lobbying business with government on a continuing basis need to do so within the terms of an agreed framework. This means obligations on those who lobby and on those who are lobbied. There is some recognition of this already in the voluntary codes adopted by lobbyists, and in the various duties placed on ministers and civil servants. However, it is now time to go further, and to do so in a considered way rather than as a response to scandal or crisis.

202. The key, in this area as in others, is transparency. There is a public interest in knowing who is lobbying whom about what. We believe that this can be achieved in a reasonably straightforward way. Other jurisdictions are deciding that this is an area that needs attention, and it now deserves systematic attention here too. We have tried to learn from practice elsewhere, but also to root our proposals in our own political tradition. Lobbying enhances democracy; but can also subvert it. Our proposals are designed to strengthen the former role, while making the latter more difficult.

Conclusions and recommendations

Scope

1. A broad look is needed at contact between those working in the public sector and those attempting to influence their decisions. (Paragraph 13)
2. Although many of our recommendations are relevant to the whole of the public sector, this Report necessarily concentrates on the framework within which Ministers and civil servants are lobbied. (Paragraph 14)

What is the problem?

3. Because secret lobbying by its very nature leaves no evidence trail, there could still be a significant problem even with little concrete evidence of one. (Paragraph 36)
4. Some of the concerns that exist around improper influence are closely linked to the power of informal networks of friendships and relationships. (Paragraph 41)
5. The Government's encouragement of wider engagement in the policy process is to be welcomed. The challenge, however, is to ensure not just that this engagement is even-handed, but also that it is seen to be even-handed. Token engagement breeds cynicism, and is worse than no engagement at all. (Paragraph 42)
6. Lobbyists do not want their competitors to know the detail of how they go about their business. Commitment to transparency in the world of lobbying is, and always will be, a relative concept. What this suggests is that a degree of external coercion will be required to achieve sufficient transparency across the board. (Paragraph 43)

How are these areas currently regulated?

7. The guiding principles of conduct may not go far enough, but they are nonetheless a welcome and noteworthy step towards consistency of approach, which is certainly needed if self-regulation is to have any hope of meaningful success in such a fragmented landscape. (Paragraph 52)
8. The APPC does not seem to attract sufficient trust throughout the lobbying industry and among its clients for it to suggest with any authority that only its members should be eligible to apply for public contracts. But the spirit of this suggestion—the notion of a single self-regulating organisation for multi-client public affairs consultancies—recognises that the current situation allows consultancies to pick and choose the rules that apply to them in a way that is incompatible with effective self-regulation. (Paragraph 57)
9. A complaints system that was working would have produced more than three cases in the last ten years, even if the vast majority of lobbyists were operating ethically and transparently. Reprimands and “severe” reprimands, the only outcomes to have been seen in the two cases decided against members of any of the three umbrella groups (both within the CIPR), are not of a kind that would give confidence to any outsider

that disciplinary processes are robust. The APPC’s policy of expecting complainants to be prepared to bear the costs of an investigation, including the legal fees of the member complained against, is unacceptable: it is unique as far as we are aware in any industry complaints system and is an obvious barrier to potential complainants. (Paragraph 64)

10. The three umbrella groups have an in-built conflict of interest, in that they attempt to act both as trade associations for the lobbyists themselves and as the regulators of their members’ behaviour. (Paragraph 65)
11. In the final analysis, what lobbying organisations refer to as “self-regulation” appears to involve very little regulation of any substance. (Paragraph 66)
12. The Ministerial Code requires adjustment, to reflect the duty on Ministers to record within Government all offers of hospitality which a reasonable person might consider to have been made to them in their capacity as Ministers. (Paragraph 83)
13. We welcome the proposal to publish a statement of Ministers’ interests. We do not think, however, that an annual list is the best solution. Much of the information it contained might quickly become historic: even the names of some of the Ministers. We would prefer to see an online register, which could be kept regularly updated. In our view, the register should be inclusive, not exclusive. It is not always clear in what capacity a Minister is acting: as a Minister, a Member of Parliament, a party politician, or a private individual. If in doubt, an interest should be included. The test needs to be whether a reasonable person could consider that an interest is relevant. (Paragraph 84)
14. We see no reason why the principle-based approach to gifts and hospitality adopted by Departments could not be developed into central guidance, incorporating the flexibility required to allow offers from potential contractors and from foreign diplomats to be treated differently. (Paragraph 86)
15. We suspect that information on gifts and hospitality has not been kept across Government as rigorously as it might. (Paragraph 87)
16. Part of the appeal of employing former ministers is the perception—accurate or not—that they will be able to offer access across government. This is particularly so when their party remains in government. (Paragraph 110)
17. What emerges from this survey is that while the activities of lobbyists are scarcely regulated at all, there are a variety of ways in which the lobbied are subject to behavioural constraints and transparency requirements. These have developed piecemeal, however, and with different times and issues in mind. (Paragraph 119)

Regulation of lobbying abroad

18. There are a number of very general conclusions that can be drawn from the experience of other jurisdictions:
 - Lobbying can be regulated far more extensively than is the case in the United Kingdom.

- Where lobbying activity is regulated, this seems to be accepted as a fact of life by those concerned.
 - In many countries, including most European countries, lobbying activity is not explicitly regulated.
 - The more restrictive regimes tend to respond to an environment in which there is significant concern around lobbying practices. That in the USA is a reaction to the close association between lobbying and the financing of political activities. (Paragraph 122)
19. The experience of other jurisdictions suggests that there is no ‘one-size-fits-all’ or ‘off-the-shelf’ solution to the regulation of lobbying and that early attempts at solutions often need subsequent adjustment. We are convinced that the system in the United Kingdom could be better tailored than it is. In the current climate of public mistrust, voluntary self-regulation of lobbying activity risks being little better than the Emperor’s new clothes. (Paragraph 130)
 20. Solutions need to be adapted to different constitutional arrangements and political cultures. In the case of the United Kingdom, where there is a culture of discretion and where deals are traditionally done behind closed doors, an element of external compulsion will be needed to provide for meaningful transparency. This is shown by the experience of the Freedom of Information agenda, which could only be implemented through legislation. (Paragraph 131)

The risks of regulation

21. The risk of regulation creating an exclusive or two-tier process is one that clearly needs to be guarded against—but we suspect that it is a risk that has been overstated. (Paragraph 135)
22. The frankly cynical argument put to us by some lobbyists is that their behaviour should not be regulated, because if it were, it would encourage people to try to break the rules. If this theory were followed to its logical conclusion, there would be no regulation of any activity whatsoever. It is true that external regulation (as opposed to culture change) tends to encourage an adherence to the letter rather than the spirit of the rules, but we see this as an argument for well-framed regulation, rather than an argument against any regulation at all. (Paragraph 137)
23. We again think that this risk (that regulation could stifle input into the policy-making process) is over-stated. The advantages of being able to lobby decision-makers on issues of concern are so obvious, that only the most restrictive or onerous kind of regulation could dissuade interested parties from making their views known to Government. (Paragraph 141)
24. This (bureaucratic overload) is yet another risk that we believe to be over-stated, though it is one that clearly needs to be guarded against. If sensibly framed, regulation would simply require those involved in the process of lobbying to provide information which should already be in their hands. (Paragraph 142)

Proposals for reform

25. What is clear to us is that reform is necessary. Lobbying the Government should, in a democracy, involve explicit agreement about the terms on which this lobbying is conducted. The result of doing nothing would be to increase public mistrust of Government, and to solidify the impression that Government listens to favoured groups—big business and party donors in particular—with far more attention than it gives to others. Measures are needed:
- to promote ethical behaviour by lobbyists, with the prospect of sanctions if rules are broken.
 - to ensure that the process of lobbying takes place in as public a way as possible, subject to the maximum reasonable degree of transparency, and
 - to make it harder for politicians and public servants to use the information and contacts they have built up in office as an inducement to other potential employers. (Paragraph 144)
26. We do not believe that transparency requirements are ever likely to be enforceable through self-regulation. There may, however, be a role for a self-regulatory organisation in promoting ethical behaviour by those involved in lobbying. This will depend, however, on whether lobbyists are genuinely willing to be seen to be regulating themselves effectively. If they are, there are a number of simple and obvious steps that they could take to improve the current situation:
- i. Establish a single umbrella organisation with both corporate and individual membership, in order to be able to cover all those who are involved in lobbying as a substantial part of their work.
 - ii. Ensure that people from outside the lobbying world with a track record in regulation and in business ethics are involved in running the organisation.
 - iii. Establish a clear separation between promoting and representing those involved in lobbying activity, and regulating that activity.
 - iv. Subject the standards of the members of the organisation to more rigorous scrutiny, including external validation. (Paragraph 145)
27. The public affairs industry should institute an externally assessed and validated standard—a kind of kite mark—which its members should be required to meet. The standard should integrate ethical issues, structural issues and service quality issues, all of which are interdependent. (Paragraph 145)
28. Such a standard would only be worthwhile if it were assessed and validated externally by a trusted body outside the industry, and if companies and individuals did on occasion fail the tests that were set. It would also only be of value if companies knew that there was a business advantage in achieving it or in employing people who had achieved it. (Paragraph 146)

29. We would not expect all of those individuals and groups involved in lobbying decision-makers to belong to this body. We would, however, expect all of those involved in lobbying decision-makers on a regular and continuing basis to perceive an overwhelming advantage in membership. This would include campaigning organisations and in-house corporate lobbyists as well as self-professed public affairs consultancies. (Paragraph 147)
30. The body's effectiveness would be judged in part by its readiness to sanction those who fail to meet its criteria. If the perceived advantage of membership is strong enough, suspension and expulsion will be powerful sanctions. In some circumstances other sanctions, including the power to fine and to 'name and shame' might also be needed. (Paragraph 148)
31. For the lobbying industry to implement these recommendations will require rivalries to be set aside in the interests of genuine joint commitment to effective self-regulation. This suggests an unprecedented unity of purpose. It may concentrate minds to consider the alternative. We recommend that the Government should allow six months following the publication of this Report to see whether concrete and consistent progress can be made. Failing this, we recommend that the Government should bring forward a short bill to provide in statute for the kind of organisation we have described above, to be funded by lobbyists. (Paragraph 149)
32. While it would be of genuine interest to be able to see how much money is being targeted at particular lobbying campaigns, it is doubtful that it is possible to obtain reliable information of this kind through a register. (Paragraph 166)
33. It is important to start from first principles when deciding what information needs to be included in a register of lobbying activity in the United Kingdom and how this information should be gathered. (Paragraph 167)
34. We can identify five key principles for a register of lobbying activity:
 - a) it should be mandatory, in order to ensure as complete as possible an overview of activity.
 - b) it should cover all those outside the public sector involved in accessing and influencing public-sector decision makers, with exceptions in only a very limited set of circumstances.
 - c) it should be managed and enforced by a body independent of both Government and lobbyists.
 - d) it should include only information of genuine potential value to the general public, to others who might wish to lobby government, and to decision makers themselves.
 - e) it should include so far as possible information which is relatively straightforward to provide—ideally, information which would be collected for other purposes in any case. (Paragraph 168)

35. In our view, to meet the last two of these key principles, the following information would need to be provided:
 - a) the names of the individuals carrying out lobbying activity and of any organisation employing or hiring them, whether a consultancy, law firm, corporation or campaigning organisation.
 - b) in the case of multi-client consultancies, the names of their clients.
 - c) information about any public office previously held by an individual lobbyist—essentially, excerpts from their career history.
 - d) a list of the relevant interests of decision makers within the public service (Ministers, senior civil servants and senior public servants) and summaries of their career histories outside the public service.
 - e) information about contacts between lobbyists and decision makers—essentially, diary records and minutes of meetings. The aim would be to cover all meetings and conversations between decision makers and outside interests. (Paragraph 176)
36. We recommend that all multi-client organisations involved in public affairs should be required to publish in a timely and transparent way the names of all clients whose interests they represent to the government and other public bodies as well as all clients to which they give advice on how their interests would best be represented to the government and other public bodies. (Paragraph 178)
37. Gifts and hospitality above a token value received by all Ministers and all civil servants should be recorded and made publicly available. The Cabinet Office should provide central direction to Departments and Agencies to ensure that consistent processes are being followed. (Paragraph 182)
38. A first step towards greater transparency, and one that could be achieved without legislation, would be to publish routinely the information about ministerial and other high-level official meetings with outside interest groups which is currently produced only in response to specific FoI requests. (Paragraph 184)
39. Lunches are the kinds of contacts which can be of as much potential concern as formal lobbying meetings on the record with business or other interest groups. (Paragraph 186)
40. We ask the Government to confirm that there remains a requirement to record meetings between Ministers and outside interest groups. (Paragraph 187)
41. Our proposal for a mandatory register involves placing new obligations on individuals and organisations outside the public sector: it will therefore necessarily involve legislation, and cannot be implemented overnight. Experience from other jurisdictions suggests, however, that such registers can be made to work relatively swiftly and in the public interest, and that they do not act as a barrier to free communication between Government and the electorate. (Paragraph 188)

42. There are also steps that the Government could take now and without legislation to make information about its meetings with outside interest groups publicly available. There is a perception that real government takes place behind closed doors. This may be partly because of media portrayal or innate distrust of those in power. But there seems to be a culture of secrecy in some parts of government beyond that which is strictly necessary, and beyond that seen in some other countries. Cultures and attitudes need to change. Government should and could be more open and more transparent about how it formulates policy and takes decisions. (Paragraph 189)
43. There is a continuing need for a strong Advisory Committee to instil confidence both in the public and in those whose careers they can affect, that processes are followed and decisions taken both robustly and fairly. There would be benefit to having an Advisory Committee that was more representative of society at large. Under these circumstances, the Government should consider providing some remuneration to members of the Advisory Committee, and should seek a wider field of applicants than might have been the case in the past. (Paragraph 192)
44. We hope that, when they are appointed, the new chairman and members will undertake a thorough review of the Advisory Committee's internal processes, to ensure that their advice, particularly on lobbying, is as unambiguous as possible in its meaning, and to provide enough transparency to allow the public and media the opportunity to assess whether or not this advice has been followed. (Paragraph 193)
45. The new Advisory Committee also needs to be given the opportunity to review the Business Appointment Rules themselves. (Paragraph 194)
46. We are strongly concerned that, with the rules as loosely and as variously interpreted as they currently are, former Ministers in particular appear to be able to use with impunity the contacts they built up as public servants to further a private interest. We think that this is unacceptable, particularly where they continue to be paid from the public purse as sitting Members of Parliament. The rules need to reflect this. (Paragraph 195)
47. There are limits to how far this can be taken. It would not be desirable or in all probability legally possible to prevent a former health Minister from taking up a post elsewhere which took advantage of their expertise in health issues. What we would like to ensure, however, is that consistent rules are strictly applied so that former Ministers and other public servants are effectively prevented for an extended period of several years from using the contacts and sensitive information that they acquired in public office to further their own and others' private interests. (Paragraph 196)
48. Government needs to be aware of the scale of transfer into (and indeed from) specific businesses and sectors, so as to be able to take measures against the capture of the public interest by the interests of those businesses or that sector. (Paragraph 197)

Appendix: Paper by Special Adviser on Regulation of Lobbying Activities outside the UK

Introduction

This document features an overview of the regulation of lobbying in Canada, Germany, Australia, the EU and the USA. These five cases represent the most relevant comparisons for the PASC enquiry. Within these five cases, those of Canada, Australia and the EU are particularly pertinent.

In the case of Canada, existing regulation has been built upon to create an advanced form of lobbying regulation, which includes an agency devoted to enforcing the legislation. The regulation of lobbying in Canada is now moving towards an approach similar to that of the USA. In the case of the EU, there is move away from the piecemeal, incentive driven approach towards regulation, to a more encompassing approach, covering all of the European institutions rather than just the Parliament. The case of Australia is particularly instructive, since prior to 2008, there was no regulation of lobbying in place. Now, however, there is some, though the new measures have been subject to criticism on the grounds of incomplete coverage. The discussions surrounding the new legislation are particularly useful to compare with those in the UK.

Whilst less pertinent, the cases of Germany and the USA are also worth noting. Germany is the only major European country to regulate lobbying. The lessons from the German case are that particular forms of regulations can inadvertently privilege one group ('peak' associations) over another ('professional lobbyists'). The USA is included to illustrate the 'far-end' of the regulation spectrum (though it should be noted that many individual US states regulate even more).

Finally, it is worth noting that a recent academic study has attempted the measure the impact of lobbying regulations. The findings are that actors in more highly regulated systems are more likely to believe that regulations help ensure accountability. Moreover, they are more likely to be knowledgeable about legislation. Actors in weaker regulatory environments are more likely to think that there are loopholes.¹⁶⁵ In sum, the authors of this study suggest that whilst regulation is not a cure for corruption, it does establish a framework within which all policy-makers can effectively function, ultimately promoting the long-term goals of accountability and transparency.¹⁶⁶

165 R. Chari, G. Murphy and J. Hogan, 'Regulating Lobbyists: A Comparative Analysis of the United States, Canada, Germany and the European Union', *Political Quarterly*, 2007, 73:3, pp.422-38.

166 Chari, Murphy and Hogan, p.433

Canada

There has been regulation of lobbying on Canada since 1989.¹⁶⁷

1988 Act

The 1988 *Lobbyists Registration Act* established a register of lobbyists where there was direct communication with federal office-holders for the purpose of influencing the formulation or implementation of public policy. It came into force in 1989.

- The registers were the responsibility of the Lobbyist Registration Branch (part of the Canadian Department of Industry)
- A differentiation was drawn between Tier I and Tier II lobbyists. Tier I were lobbyists who worked on behalf of clients; Tier II were in-house lobbyists. Tier I were required to provide the name of their clients (including parent and subsidiary companies) and the policy area in which representation was made. Tier II were required simply to register their organisation
- In the discussions leading up to the *Lobbyist Registration Act 1988*, professional lobbyists favoured self-regulation based upon a voluntary code of ethics.¹⁶⁸

1995 Amendment

- Despite calls for its removal, the distinction between Tier I and Tier II lobbyists was maintained. Tier I lobbyists became known as Consultant Lobbyists
- Tier II lobbyists were subdivided into Type II (Corporate) or Type II (Organisations) lobbyists.
- Greater detail was required for the register, including: details of the legislative proposal, bill or regulation concerned; any corporate linkages of clients; any government funding; any arrangements with clients for contingency fees.
- A Code of Ethics for lobbyists was made mandatory. The code was drawn up by the Federal Ethics Counsellor in consultation with lobbyists.

2003 Amendment

- Clarifications were introduced in respect of the type of lobbyist: a Consultant Lobbyist who lobbies on behalf of a client; an In-house Lobbyist (Corporate) who is an employee of a corporation lobbying on behalf of her employer; and an In-house Lobbyist (Organization) who is an employee of an organisation which is a not-for-profit organisation.

¹⁶⁷ Useful summaries of the 1988, 1995 and 2003 Acts can be found in M.M. Malone, *Regulation of Lobbyists in Developed Countries* Institute of Public Administration, Dublin 2004

¹⁶⁸ M. Rush, 'The Canadian Experience: The Lobbyists Registration Act' *Parliamentary Affairs*, 1998, 51:4, p. 517

- The Act also transferred all monitoring duties to the Registrar of Lobbyists, closed a loophole that had permitted exemption from registration where information and comment was sought from a public office holder, and more clearly defined lobbying

2008 Lobbying Act¹⁶⁹

New regulations, under the *Lobbying Act*,¹⁷⁰ came into force on 2nd July 2008 following the *Federal Accountability Act 2006*. The principal changes are:

- The creation of a new Commissioner of Lobbying,¹⁷¹ who is an independent Agent of Parliament with authority to enforce the *Lobbying Act* and the *Lobbyists' Code of Conduct*.¹⁷² The Commissioner may prohibit lobbyists found guilty of infractions of either the *Lobbying Act* or the *Lobbying Code of Conduct* from communicating with federal government as a paid lobbyist for up to two years.
- The introduction of the concept of designated public office holder (DPOH). This group includes Ministers and certain senior officials. Lobbyists must file a monthly return if they carry out oral or arranged communications with a DPOH.
- A five-year post-employment prohibition for DPOHs and designated members of Prime Minister's transition teams, on lobbying the Government of Canada
- A ban on any payment and receipt of any benefit that is contingent on the outcome of a consultant lobbyist's activity. This does not apply to in-house lobbyists
- Extension from two to ten years of the period during which potential summary conviction infractions under the *Lobbying Act* may be investigated and prosecution may be initiated
- Doubling of the monetary penalties for lobbyists who are found guilty of breaching the requirements of the *Lobbying Act*.

Australia

- Australia has recently re-introduced regulation of lobbying via the *Lobbying Code of Conduct*.¹⁷³
- The *Lobbyists Registration Scheme* was originally introduced in 1983, following a scandal (the 'Combe Affair'). The Scheme was, however, widely acknowledged to be ineffective in respect of adherence to its provisions and the lack of effective enforcement. It was abolished in 1996.

169 A useful summary of the new legislation in Canada can be found in *The Lobbying Act: A Summary of New Requirements*, Government of Canada, June 2008

170 Details can be found at: <http://laws.justice.gc.ca/en/showtdm/cs/L-12.4>

171 Details can be found at: http://www.ocl-cal.gc.ca/epic/site/Lobbyist-Lobbyiste1.nsf/en/h_nx00261e.html

172 Details can be found at: <http://www.ocl-cal.gc.ca/epic/site/Lobbyist-Lobbyiste1.nsf/en/nx00019e.html>

173 The Lobbying Code of Conduct can be viewed at: <http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=contactWithLobbyistsCode>

- A number of recent incidents prompted a review of lobbying regulations in Australia—these included the lobbying activities of a former Premier of Western Australia (Brian Burke), and the subsequent sacking of four ministers for their inappropriate contacts having breached Cabinet confidentiality. In general, there have been concerns in respect of former high level politicians becoming involved in lobbying in areas directly relevant to their past responsibilities.¹⁷⁴
- The new *Lobbying Code of Conduct* came into force on 1st July 2008. This followed the establishment of a similar code in Western Australia in 2006. Any lobbyist who wishes to contact a Government representative for the purpose of lobbying activities must be registered and must agree to comply with the requirements of the *Lobbying Code of Conduct*. As of September 5th 2008, there were 192 lobbying concerns listed.¹⁷⁵
- The *Lobbying Code of Conduct* provides the following information: business registration details, including trading names of the lobbyist; the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbyist to carry out the lobbying activities; the names of clients on whose behalf the lobbyist conducts lobbying activities.¹⁷⁶ Where market sensitivity exists, the client's name may be kept from the register until market sensitivity has passed.¹⁷⁷ Details are updated quarterly. The *Lobbying Code of Conduct* is published on the Prime Minister and Cabinet's website.
- Importantly, adherence to the code only applies to lobbyists who are lobbying on behalf of third parties (i.e. professional lobbyists). It does not apply to 'in house' or 'organisational' lobbyists.
- The terms apply principally to communications with government ministers (as opposed to other parliamentarians), Parliamentary Secretaries, persons employed or engaged by ministers of Parliamentary Secretaries, Agency Heads or persons employed under the Public Service Act.¹⁷⁸
- Whilst there is no independent statutory oversight body, the register is policed by the Cabinet Secretary, who has the power to refuse registration or remove lobbying organisations or individuals from the register should they contravene the terms of the code or fail to provide accurate details in a timely manner. Government representatives are obliged to report breaches of the code to the Secretary. Importantly, enforcement is at the discretion of the Cabinet Secretary—there is no regime of offences.
- Government representatives are forbidden from knowingly be part of lobbying activities by lobbyists who are not on the register

174 G. Griffith, *The Regulation of Lobbying*, NSW Parliamentary Library Research Service Briefing Paper 5/08 (June 2008), p. 1

175 The lobbying register can be found at:
<http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=wholsOnRegister>

176 Standing Committee on Finance and Public Administration, *Knock, knock...who's there? The Lobbying Code of Conduct*, Commonwealth of Australia, September 2008 pp.1-2

177 *The Lobbying Code of Conduct*, paragraph 5.2

178 The full list can be found on *The Lobbying Code of Conduct*, paragraph 3

- *The Lobbying Code of Conduct* also features provisions in respect of the ‘revolving door’ which are relevant to the PASC enquiry, but not this paper.¹⁷⁹

Commentary

- In some ways, there are significant parallels with the PASC enquiry. Griffith notes ‘While lobbying is undoubtedly a ‘legitimate activity’, there is a perception that lobbyists can sometimes wield undue influence and that, without appropriate regulation, their activities may skew the political decision-making process’.¹⁸⁰
- The route that Australia has taken, however, is one of statutory regulation. The first point to make is that this route has generally been welcomed by lobbyists (or at least those who submitted evidence).¹⁸¹ The majority of submissions indicated support for the statutory regulations in the interests of increasing transparency. Indeed, in a number of cases, there were calls to strengthen the regulations.¹⁸²
- However, a number of lobbyists and commentators have highlighted perceived shortcomings. First, and most obvious, is the restriction of the register to professional lobbyists and the exclusion of ‘in-house’ and ‘organisational’ lobbyists.¹⁸³ Thus, in house lobbyists, lobbyists from peak associations, trade unions and not-for-profit organisations are not covered by the regulation. In sum, the regulation does not cover a significant level of lobbying activity, though the Standing Committee on Finance and Public Administration is committed to re-examining the code towards the end on 2009.¹⁸⁴
- The second concern surrounds procedural fairness. In sum, the view has been expressed that too much power is vested in the Cabinet Secretary and that there was a lack of transparency in respect of how decisions in respect of the register would be taken.
- Thirdly, whilst many lobbying firms welcomed the code, there were some concerns expressed by smaller lobbying organisations, who felt that the register would place an unfair regulatory and administrative burden on small businesses.¹⁸⁵
- Fourthly, some lobbyists feel that the Code should cover all Parliamentarians, not just Ministers—again reflecting the general call for the regulation to be tougher rather than weaker.¹⁸⁶

179 See *The Lobbying Code of Conduct*, paragraph 7

180 Griffith, Executive Summary, 2

181 The evidence received in response to the Senate enquiry, together with transcripts of hearings are available at: http://www.aph.gov.au/senate/committee/fapa_ctte/lobbying_code/index.htm

182 See, for example, Senate Standing Committee on Finance and Public Administration, Official Committee Hansard, Monday 16th June 2008, p. 2; Springboard Australia, Submission; Public Interest Advocacy Centre Ltd, Submission

183 An exception to this consensus can be found in the submission from CPA Australia Ltd.

184 Standing Committee on Finance and Public Administration, *Knock, knock...who's there? The Lobbying Code of Conduct*, paragraph 2.20

185 See, for example, John O’Callaghan & Associates Pty Ltd, Submission. Whilst Mr O’Callaghan supported the code of conduct, he felt the regulatory burden was too high

- It is also worth noting, though outside the realms of this paper, that trade unions were concerned that their members would be unreasonably restricted in respect of future employment by tighter regulations in respect of ‘revolving doors’.

European Union

1992-2008

- Attempts at regulation were notable for the fact that they concentrated on only one institution—the Parliament.
- The first attempt to create a Parliamentary register and code of conduct for lobbyists in 1992 failed principally due to a failure to define the term ‘lobbyist’.
- A solution was introduced in 1996. The solution involved removing definitional problems and instead moved towards an incentives-based approach. Lobbyists were only to be permitted a Parliamentary pass if they registered as such and signed a code of conduct. This did not make lobbying of MEPs impossible for those who did not sign, but a parliamentary pass made the task much easier.
- By way of contrast, the European Commission had not sought to develop a formal regulatory framework, relying of self-regulation of lobbyists. The irony, here, is that the Commission has generally been regarded as a more fruitful institution for lobbying
- The European Council similarly had no formal regulations.

2008

- In 2007, the European Commission reviewed lobbying under the European Transparency Initiative. In a draft report,¹⁸⁷ the Commission proposed a voluntary register and code of conduct for lobbyists. This was in addition to the existing framework in the European Parliament. The proposal included a proposed definition of lobbying—consistent with Article 4 of the Rules of Procedure of the European Parliament. Critically, it was also argued that where law firms were engaged in influencing future law and not representing court cases, they should be regarded as being lobbyists.
- In May 2008, the Commission issued guidelines on the register and code of conduct.¹⁸⁸ It indicated that any entity, regardless of legal status,¹⁸⁹ would be expected to register if it was engaged in activities defined as ‘activities carried out with the objective of influencing the policy formation and decision-making processes of European institutions.’

186 See, for example, Springboard Australia, Submission, Public Interest Advocacy Centre Ltd, Submission

187 European Parliament, *Draft report on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions* (2007/2115 (INI)) 31st October 2007

188 European Commission, *Communication from the Commission: A framework for relations with interest representatives (Register and Code of Conduct)* (SEC (2008) 1926) 27th May 2008

189 Except local, regional, national and international public authorities

- The Register includes the following information: the turnover of professional consultancies and law firms attributable to lobbying the EU institutions, as well as the relative weight of their major clients; an estimate of the costs associated with direct lobbying of the EU institutions incurred by in-house lobbyists and trade associations; the overall budget and breakdown of the main sources of funding of NGOs and think-tanks
- Where there are breaches of the code highlighted via complaints, the Commission will investigate and may suspend or even exclude lobbyists from the Register.
- The Register is published on the European Commission website.¹⁹⁰ As of 8th September 2008, there were 315 interest representatives registered.
- Initially, this Register and Code of Conduct applies only to the European Commission. However, the European Parliament has proposed that by the end of 2008, a working group of Council representatives, Commissioners and MEPs will consider the implications of a common register for all lobbyists—something that had been called for jointly by the ECPA, EPAC and SEAP.¹⁹¹ The European Parliament also proposes the establishment of a monitoring body.¹⁹²

Germany

The German Bundestag is currently the only house of parliament in the EU with specific regulation of lobbying.¹⁹³

- Regulatory systems for relations between private actors and political institutions have been in place since the early days of the German Federal Republic
- All groups wishing to defend their interests before the Bundestag or Federal Government must be entered on a register, which is updated annually and published in the federal gazette
- In theory, lobbyists may not address parliamentary committees or be issued with a pass for parliamentary buildings unless they appear on the register. However, the register lacks any legal force. Moreover, no special privileges in respect of automatic consultation arise from registration. Equally, if invited by members of the Bundestag, non-registered groups may still appear at committees.
- In addition, lobbyists often seek to influence either ministers or the civil servants at the pre-parliamentary stage. This aspect of lobbying is largely unregulated.¹⁹⁴

190 <https://webgate.ec.europa.eu/transparency/reg/in/welcome.do;REGINSID=8WGGFV3hG1H2Hmc5zHhQzJXW7zXTL2MvR3YY5gFv3n4byQpsJz!1914171189>

191 <http://www.publicaffairs.ac/in/index.php?in=main.htm>

192 European Parliament, *Development of the framework for the activities of interest representatives (lobbyists) in the European institutions* (INI/2007/2115) REG 045 8th May 2008

193 A useful background to German regulation can be found in K. Ronit and V. Schneider, 'The Strange Case of Regulating Lobbying in Germany' *Parliamentary Affairs*, 1998, 51: 4, pp. 559-67.

194 Ronit & Schneider, p. 562

- However, Article 23 of the Federal Rules of Procedure emphasises that ministers should only cooperate with national federations. As a consequence, this affords some privilege to peak associations and arguably hinders professional lobbyists.¹⁹⁵
- No rules on lobbyists apply in respect of the Bundesrat.

USA

- Regulation of lobbying goes back at least as far as the 1930s. However, the first comprehensive legislation was the *Lobbying Act 1946*. This act sought to make the legislative process transparent, by registering the identity and methods of lobbyists. It also required the submission of financial reports of lobbying. The act was largely regarded as being inadequate, having many loopholes that resulted in non-registration. In addition, investigation and enforcement was almost non-existent.
- *The Lobbying Act* was replaced by the *Lobbying Disclosures Act 1995*, in the wake of various lobbying scandals
- The act is directed at ‘professional lobbyists’—this covers both lobbyists working for third parties and ‘in-house’ lobbyists working for corporations and organisations. Thresholds are set before there is a requirement to register, thereby excluding ‘grass-roots’ lobbying from the provisions of the Act.
- Registration is quarterly and requires third party lobbyists to reveal the total income from a client, and organisations estimating their total lobbying expenses.
- There is no definition of lobbying *per se*. Rather the provisions of the act refer to any communication made on such matters as the making or amending of Federal legislation, or the administration or execution of Federal policy. Such communications are deemed to be ‘lobbying contact’ for the purposes of the Act.
- Two categories of government officials are covered by this Act: ‘covered executive branch officials’ (President downwards) and ‘covered legislative branch officials’ (Members of Congress downwards). Officials are defined as ‘any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character’.
- Registration is required within 45 days of making contact, with the Clerk of the House and the Secretary of the Senate.
- The Register is available on the website of the Clerk of the House and the Secretary of the Senate.¹⁹⁶
- The penalties for failure to comply with the Lobbying Disclosure Act can be either a fine of up to \$200,000 and/or imprisonment of up to five years.

Professor Justin Fisher, September 2008

¹⁹⁵ Ronit & Schneider, p. 563

¹⁹⁶ http://www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm

Formal Minutes

Tuesday 9 December 2008

Members present:

Dr Tony Wright, in the Chair

Paul Flynn

David Heyes

Kelvin Hopkins

Mr Ian Liddell-Grainger

Julie Morgan

Mr Gordon Prentice

Mr Charles Walker

Draft Report (*Lobbying: Access and influence in Whitehall*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 201 read and agreed to.

Summary agreed to.

A Paper was appended to the Report.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report [, together with written evidence reported and ordered to be published on 19 November, 28 February, 6 March, 12 March, 19 March, 29 April, 12 June, 15 July and 9 October].

[Adjourned till Tuesday 9 December at 1.45 pm]

Witnesses

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Thursday 29 November 2007	
John Grogan MP, Peter Luff MP, and Stephen Pound MP	Ev 1
Thursday 24 January 2008	
Dr William Dinan and Professor David Miller , Spinwatch, and Peter Facey , Unlock Democracy	Ev 14
Thursday 7 February 2008	
Rod Cartwright , Public Relations Consultants Association (PRCA), Gill Morris , Association of Professional Political Consultants (APPC), and Lionel Zetter , Chartered Institute of Public Relations (CIPR)	Ev 31
Thursday 21 February 2008	
Rt Hon Lord Mayhew of Twysden QC DL, Rt Hon Lord MacLennan of Rogart , and Tony Nichols , Advisory Committee on Business Appointments	Ev 46
Thursday 6 March 2008	
Peter Bingle , Bell Pottinger Public Affairs, and Mike Granatt CB , Luther Pendragon	Ev 60
Eben Black , DLA Piper Global Government Relations, and Richard Schofield , Law Society	Ev 72
Thursday 8 May 2008	
Steven Haddrill , Association of British Insurers, Rt Hon Richard Caborn MP , and Rt Hon Lord Warner	Ev 79
Thursday 15 May 2008	
Chris Brinsmead , AstraZeneca Pharmaceuticals UK, Tom Kelly , BAA Limited and Lucy Neville-Rolfe , Tesco plc	Ev 93
Owen Espley , Friends of the Earth, Tim Hancock , Amnesty International, and John Sauven , Greenpeace	Ev 104
Thursday 19 June 2008	
Tom Harris MP , Parliamentary Under-Secretary of State, Department for Transport, Tom Watson MP , Parliamentary Under-Secretary of State, Cabinet Office and Iain Wright MP , Parliamentary Under-Secretary of State, Department for Communities and Local Government	Ev 114

List of written evidence

1	Cabinet Office	Ev 127
2	Department for Transport	Ev 132
3	Peter Luff MP	Ev 132
4	Rt Hon Ian McCartney MP	Ev 135
5	Joint: the Association of Professional Political Consultants (APPC), the Chartered Institute of Public Relations (CIPR) Government Affairs Group and the Public Relations Consultants Association (PRCA)	Ev 137
6	APPC	Ev 138
7	CIPR	Ev 146
8	PRCA	Ev 160
9	Advisory Committee on Business Appointments (ACoBA)	Ev 168
10	Association of the British Pharmaceutical Industry	Ev 171
11	Bell Pottinger Public Affairs	Ev 172
12	Bircham Dyson Bell LLP	Ev 177
13	Breakthrough Breast Cancer	Ev 184
14	Committee on Standards in Public Life	Ev 187
15	Consolidated Communications	Ev 189
16	Dr William Dinan and Professor David Miller	Ev 191
17	European Commission	Ev 195
18	Foresight Communications	Ev 198
19	Forum of Private Business (FPB)	Ev 199
20	Global Government Relations, DLA Piper UK LLP	Ev 201
21	Joint: Global Government Relations, DLA Piper UK LLP and The Whitehouse Consultancy	Ev 204
22	Grayling Political Strategy	Ev 205
23	Hanover	Ev 208
24	Hansard Society	Ev 209
25	Law Society	Ev 211
26	Luther Pendragon	Ev 215
27	National Union of Journalists	Ev 220
28	PPS Ltd	Ev 220
29	SpinWatch	Ev 221
30	Solicitors Regulation Association	Ev 233
31	Jeremy Sweeney	Ev 234

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2008–09

Second Report Justice delayed: the Ombudsman's report on *Equitable Life* HC 41

Session 2007–08

First Report Machinery of Government Changes: A follow-up Report HC 160 (*HC 514*)

Second Report Propriety and Peerages HC 153 (*Cm 7374*)

Third Report Parliament and public appointments: Pre-appointment hearings by select committees HC 152 (*HC 515*)

Fourth Report Work of the Committee in 2007 HC 236 (*HC 458*)

Fifth Report When Citizens Complain HC 409 (*HC 997*)

Sixth Report User Involvement in Public Services HC 410 (*HC 998*)

Seventh Report Investigating the Conduct of Ministers HC 381 (*HC 1056*)

Eighth Report Machinery of Government Changes: Further Report HC 514

Ninth Report Parliamentary Commissions of Inquiry HC 473 (*HC 1060*)

Tenth Report Constitutional Renewal: Draft Bill and White Paper HC 499

Eleventh Report Public Services and the Third Sector: Rhetoric and Reality HC 112 (*HC 1209*)

Twelfth Report From Citizen's Charter to Public Service Guarantees: Entitlement to Public Services HC 411 (*HC 1147*)

Thirteenth Report Selection of a new Chair of the House of Lords Appointments Commission HC 985

Fourteenth Report Mandarins Unpeeled: Memoirs and Commentary by Former Ministers and Civil Servants HC 664

Session 2006–07

First Report The Work of the Committee in 2005–06 HC 258

Second Report Governing the Future HC 123 (*Cm 7154*)

Third Report Politics and Administration: Ministers and Civil Servants HC 122 (*HC 1057 Session 2007–08*)

Fourth Report Ethics and Standards: The Regulation of Conduct in Public Life HC 121 (*HC 88 Session 2007–08*)

Fifth Report Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme HC 523 (*HC 922*)

Sixth Report The Business Appointment Rules HC 651 (*HC 1087*)

Seventh Report Machinery of Government Changes HC 672 (*HC 90 Session 2007–08*)

Eighth Report The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006–07 HC 922 (*HC 1048*)

Ninth Report	Skills for Government	HC 93 (<i>HC 89</i>)
First Special Report	The Governance of Britain	HC 901
Session 2005–06		
First Report	A Debt of Honour	HC 735 (<i>Cm 1020</i>)
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)
Fourth Report	Propriety and Honours: Interim Findings	HC 1119 (<i>Cm 7374</i>)
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08</i>)