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Lobbying: Access and Influence in Whitehall

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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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Oral evidence

Taken before the Public Administration Committee

on Thursday 29 November 2007

Members present

Dr Tony Wright, in the Chair

David Heyes	Julie Morgan
Kelvin Hopkins	Mr Gordon Prentice
Mr Ian Liddell-Grainger	Mr Charles Walker

Witnesses: **Mr John Grogan MP, Peter Luff MP,** and **Stephen Pound MP**, gave evidence.

Q1 Chairman: Welcome to our witnesses this morning. It is a great pleasure to have three of our colleagues, John Grogan, MP, Peter Luff, MP and Stephen Pound, MP to come and give our first section of evidence in this inquiry into lobbying. I think we have asked you for a number of different reasons, John because I think you have led the recent parliamentary interest into some of these issues and called for various measures to be taken; Peter because you have experience of the industry and also because I think you dissent from John on the need for action; Stephen I think because we have a quote from you which says that lobbying is one of the most flagrant wastes of money in modern politics. That was an invitation to you to come along. Between you, I am not saying we have representative Members of Parliament but we have an interesting collection. Can I ask any of you first of all if you want to say anything just by way of introduction?

Peter Luff: Can I just ask whether the Committee is interested in whether lobbying is worth doing or not because the question Stephen raised is a bit different to the question John and I have been debating.

Q2 Chairman: The answer to your question is that is a question of interest but it is not of primary interest to us. It will be of interest to other people.

Peter Luff: I would happily launch into the standard defence of the need for lobbying to inform democracy in Parliament, the fact that NGOs are campaigning organisations and know how to do it whereas businesses are not campaigners and need help to do it, but I suspect the Committee might be familiar with those arguments.

Q3 Chairman: I think, because you chair a committee and I had better keep control of this one, therefore, what I would like to do is to ask John what it is about the industry and how it operates that has caused you to say that you think there is a problem here?

Mr Grogan: The first thing I would say is that things have improved over the last 10 years. The measures of self-regulation that have taken place—there are now three different self-regulatory bodies, the CIPR,[1] the PRCA[2] and the APPC[3]—have improved standards within the industry. I first became interested in the industry because of a number of different reports. Firstly, there was the business of the all party groups which featured in *The Times*. I chair the All Party Beer Group. Someone has to do it, and I followed with interest the report that was produced by the Parliamentary Committee on Standards. They said that the transparency would undoubtedly be assisted if all consultancies named clients in All Party Group reports which they service. The Hansard Society did a report this year and it said, "It is therefore important that measures are taken in order to ensure that the activities of lobbyists (from all organisations and sectors) are transparent, accountable and ethical."[4] The incoming chairman of the CIPR, the president of the CIPR last year, said that the industry should not be complacent and the biggest risk was another scandal. I am concerned that, even though most of the industry now subscribes to the self-regulation, there is a good proportion of it—perhaps 20 or 25%—who do not subscribe to the two major principles of self-regulation which are publishing clients and not paying MPs and peers. For all those reasons I got interested and tried to think of a number of modest measures that might improve self-regulation.

Q4 Chairman: Peter, you do not agree with any of this, do you?

Peter Luff: I agree with more than you might expect. I hope that does not disappoint the Committee. Openness is obviously tremendously important and transparency is absolutely vital in all these affairs. It is a question of how you achieve that. I look at the APPC code—the Association of Professional Political Consultants—and item four is absolutely clear. I agree with it entirely in every respect: "In making representations to the institutions of government, political consultants must be open in disclosing the identity of their clients and must not misrepresent their interests."

[1] Chartered Institute of Public Relations
[2] Public Relations Consultants Association
[3] Association of Professional Political Consultants
[4] Hansard Society, *Friend or Foe? Lobbying in British Democracy*, January 2007, p33

That is absolutely true. That is true of the CIPR, of which I am a member. By the way, I am a fellow of the Chartered Institute of Public Relations. It would be true of the PRCA too. There is no dispute about that. There is not a problem. In practice, everyone is tremendously open. My complaint probably is the lobbying industry is sometimes too transparent. It gets in the way of the message its clients are trying to deliver. I am too aware of the presence of the various consultancies who are seeking my time as chairman of the now Business and Enterprise Committee. I do not understand what the issue actually is. Of course there is a risk, as Lionel Zetter says—in the industry I used to be a member of and which my daughter is now working in—to reputations if something goes wrong but that is their problem to solve, not ours. As far as I am concerned, there is not an issue.

Q5 Chairman: There is clearly thought to be an issue in a developing sense in many places. We have countries getting interested in regulating lobbyists in a variety of ways. There is big new legislation in the United States. The OECD[5] is getting interested in it. European institutions are getting interested in it. There is a head of steam around the issue internationally. It is not eccentric to think that there are issues here that need looking at.

Peter Luff: The American system is of course different from the British system. The whipping system in the House, the scale of big money donations to political parties—a controversial subject today, I know—makes it much more open to the kind of abuse that has led to the declaration requirements of the American system and still they have their scandals, despite the openness they have there. Our system is very different and I repeat: I have seen no evidence of abuse by anyone in my two years as Chairman of the Trade and Industry Committee that should cause any concern whatsoever to this Committee.

Stephen Pound: If I could preface my remarks by declaring an interest as a member of the All Party Parliamentary Beer Group—

Peter Luff: I am a member too.

Stephen Pound: Perhaps anyone who is not a member of the group, if they are capable of raising their hands, might do so. We have examples of the extremes of the situation both in the United States with organisations like the PACs,[6] the National Rifle Association and organisations like that. We have also looked over the edge of the abyss in this country over 10 years ago with the scandals around Ian Greer Associates and various other ones. From my perspective, which is very much the worm's eye view of the utterly insignificant and inconsequential back bencher, what irritates and infuriates me and what led me to my slightly cruel remark about a complete and utter waste of money is how absolutely bad a great deal of lobbying is, how very poorly it is done. To define the lobbyist is for me the hardest thing because when I think of a lobbyist I think of some slightly sleazy creature pressing a wad of fivers into somebody's hand in a brown envelope. It is the past, before this marvellous government introduced transparency in so many ways and raised the ethical standards of the body politic. A lobbyist is also Age Concern. I value the comments made by Angela Cheyne, the Parliamentary Officer at Age Concern. I value the information that I get from groups like Alzheimer's Concern. It is packets of information which are very usefully translated from an expert body to advise and inform a Member of Parliament. It is in fact more about communication than about lobbying. The sort of lobbying which I find irritating and which I actually think is a complete waste of money is when you see either some awful email that has clearly been cobbled together in a back room somewhere; it has not been signed; it has not been personalised. It asks you to take a position on a piece of legislation before the House, which is wrong anyway, or you get a letter from somebody unsigned or from somebody within an organisation asking you on behalf of the company they are representing to either meet them to discuss some arcane point which you have never even thought of before but clearly means a great deal to their clients. It is so badly done. As a back bench MP of no significance whatsoever, I would like to see some more clarity in the situation, maybe a definition of what a lobbyist is. Maybe if we can have the *desideratum* of the self-regulation coming together, I would be absolutely delighted with that. For me at the moment it is a slightly confused situation. It seems to be more about communications than about lobbying. I do not know if I speak for my colleagues. I seldom do and probably never will but about 80% of the "lobbying" communications that MPs receive do not even reach the MP's desk. They just get binned because they are so clearly and transparently and flagrantly irrelevant.

Q6 Chairman: I do not want us to be at the body at the start telling the lobbying industry how to work better or telling their clients how ineffective they are. That is not our primary focus, although it is a matter of great interest along the way. Peter, in your note to us you say that you were previously retained by a public relations consultancy after joining the House of Commons. I think it would help the Committee just to understand what goes on and to know what you did.

Peter Luff: It is a very interesting question. It is interesting that some multi-client consultants like bankers and lawyers are perfectly free to carry on working at the House of Commons—lawyers have a bigger conflict than public affairs practitioners—whereas it has become impossible for public affairs practitioners to do both things. Therefore, I do not think there is any Member of the House of Commons now retained by a public affairs consultancy that I am aware of. Some are still with public relations industries more generally. They may occasionally dip their toe in public affairs, I suspect. I do not know that. In the House of Lords I think the situation is different. I believe there are some Members of the House of Lords who are retained by public affairs consultancies. I carried on advising

[5] Organisation for Economic Co-operation and Development
[6] Political Action Committee

one or two clients that I had advised before I came here for a period of some two to three years and then went entirely on to advise on new business and background work, not doing anything to actually advise a current client. Then we decided it was no longer appropriate to carry on. The mood had moved against that process so we severed the relationship.

Q7 Chairman: Was it because you came to feel that there was something improper in doing that?
Peter Luff: No. There was a particular issue where one national newspaper— I will happily rehearse this in detail if you want me to—completely misrepresented what I was doing. On reflection I should have sued them but I did not take that course of action. It brought to a head a concern so we decided it was probably in both our interests not to pursue this because a reputational risk existed. Nothing improper had happened. It had all been cleared with the Parliamentary Commissioner for Standards who was furious at the way the paper behaved, but it proved that it was no longer prudent or sensible for a Member of Parliament to be retained by a public affairs consultancy while being a Member of the House of Commons.

Q8 Chairman: John, in your note to us you say that the law makers should not be in hock to multi-client lobbyists. Why is being in hock to multi-client lobbyists different to being in hock to lobbyists?
Mr Grogan: It is interesting that Nolan drew a distinction in the first report in 1996 and said basically that, with the multi-client lobbyists, there is a miscellany of interests possibly being represented. It is clear if I am representing Tetleys Brewers, which I do not, where I am coming from. If you are representing a multi-client lobbyists, there could be 20 or 25 clients and that is why Nolan initially argued that it should be incompatible with being a Member of the House of Commons—he did not deal with the House of Lords—to be working for a multi-client lobbyist. It is also interesting that the two bodies that represent firms in the multi-client lobbying industry, the PRCA and the APPC, also consider that it is inappropriate because it is banned as a condition of membership of those bodies. You cannot pay an MP or a peer. As Peter says, it has largely—I think probably completely—disappeared from the House of Commons. It has not disappeared entirely from the House of Lords. I think it is odd that Parliament's rules are less strict on this than the industry's own standards.

Q9 Chairman: If we establish that there are issues here that need attending to, the issue then becomes who do you attend to? Do you attend to the industry and how it operates or do you attend to Parliament and government? That is, the objects of lobbying. If we have the proper rules about how government operates and how Parliament operates in relation to lobbying—that is, to put the obligation on that side of the equation—would we have to worry about the industry at all?
Mr Grogan: I have suggested that if the public sector insisted, which accounts for 20% of all lobbying clients according to various surveys that have been done from orders from the public sector, and said that, as a condition of contract to get a public affairs contract for health authorities, the BBC, Ofcom—all these organisations have lobbying and public affairs contracts—lobbying firms should meet the ethical standards of the industry—and they could demonstrate that in a number of ways which I could go into—I think that would have a very powerful effect in itself. I think it is probably a mixture of obligations on the industry and obligations on MPs. I also think if all-party groups for example followed the recommendation that the Commissioner for Standards made and insisted that their secretariats declared their clients, I think that would have an impact in itself. A number of little measures would make quite a big difference.
Peter Luff: The one thing we must not do is create a closed shop which can control access to or influence of this place. This place or government should take control. As you implied by your question, it can take control of the situation and set the standards it expects to see people who approach it use. If there is a problem—and I repeat I do not see the problem—that is the way to proceed, not by delegating to an outside organisation, the APPC, the CIPR or anyone else. Apart from anything else, you get conflicts with other people who approach us in a lobbying role, who are multi-client consultancies, particularly lawyers. There are a number of lawyers involved in this work. They could not join those organisations as members of the Law Society. There would be a conflict of interest. If there is a problem, the way to deal with it is for us to set some rules which we think are appropriate.
Mr Grogan: As a matter of record, I am willing to share the letter with the Committee. The Solicitors Regulation Authority have written to me saying there is nothing to stop legal firms like DLA Piper signing up to the industry's bodies.
Peter Luff: I think there is, because lawyers would not want to declare all their clients.

Q10 Mr Prentice: John, you believe very strongly that lobbying public relations firms should declare the names of their clients and publish them in a register. Peter, you disagree very strongly with that. John, why is it so important to have this kind of transparency?
Mr Grogan: Let us look at one big, dominant firm, Bell Pottinger for example, who put some of their clients on the website but not all of them. For example, yesterday I was able to point out to the National Federation of SubPostmasters that, as well as Bell Pottinger working for them, they also work for Royal Mail. This was news to the person I was talking to in the National Federation of SubPostmasters. The only way I could confirm that—I had observed them doing this in the past—was by looking at their website and they in fact helpfully listed both.

Q11 Mr Prentice: Surely they would have Chinese walls within the organisation?

Mr Grogan: You would expect so except that on record is Lord Bell in an article in *The Observer,* which I will happily share with the Committee, saying that Chinese walls—I paraphrase—are not appropriate in this industry. Obviously it would be up to them to try and defend that but it is helpful anyway that it is on the website because people like me or the National Federation of SubPostmasters can make our decision. They may be entirely happy with it. To give another example, I was writing an Early Day Motion for the coal industry, on behalf of the mines in my constituency and so on. I was arguing that they should get a better deal from the generators. I looked on the various websites. This is a member of the APPC, this particular consultancy, and they helpfully said that they were representing both. When I saw that, I said, "I do not want any lobbyists in the room. I would rather just deal with the coal firms because even if they are happy with it I am not." If they do not list all their clients, how many more possible conflicts of interest could there be? Lord Bell says he does not list them. I quote him from *PR Week*. His explanation is that confidentiality clauses in some of our client contracts with governments and public bodies do not allow for this because of national or personal security issues. I cannot imagine why any public body would not want its name on the register. In various other articles it is suggested that Bell Pottinger represent Iraq, Syria and Afghanistan according to *The Financial Times.* In the States that would be completely beyond question. You cannot do that without declaring it. Just to pick on one firm—there are others but I have not had time to study them all—Bell Pottinger is a firm that has representatives from all our political parties working in it, people who have worked in government now or in the past. The Prime Minister's pollster works for an arm of Bell Pottinger. The idea that they should be working for foreign governments without declaring who they are working for is an affront to our democracy.

Q12 Mr Prentice: Peter, how do you respond to that?

Peter Luff: I disagree profoundly with John. The reason I would not join the APPC is this provision, clause 18 of their code of conduct. Clause four I entirely buy. You must be entirely open when you are representing clients' interests. That is absolutely crucial. I used to be managing director for a consultancy. It was part of Tim Bell's empire at the time. Handling conflict is one of the most difficult commercial issues you face. Where a conflict is real and apparent, you lose one half of the business. If there is a genuine conflict, you cannot sustain it. The industry knows who people are working for; word gets around. It is very damaging for reputations to be handling conflicts which cannot be sustained. If one of Bell Pottinger's consultants came to us and said, "I am here to talk about the Iraqi Government's concerns" and did not say that person was also promoting Afghanistan, that would be a breach of clause four of the code of conduct. It is already dealt with. That would be outrageous. There are circumstances when confidentiality really matters. The APPC has found it difficult to police this provision of its code. I remember particularly when I was in the business many years ago a foreign insurance company came to me and said, "We want a major campaign in Parliament and government saying it would be all right for us to take over a major British insurance firm." We said, "Actually, we do not think it is an issue." We did a lot of work on it and we said, "No, you do not need a campaign. You can do this on strictly commercial grounds." We gave them advice which was very valuable and they did proceed on strictly commercial grounds. As we predicted, there was no political fall-out. Had I been required to declare the fact that I was handling that client, it would have been a breach of Stock Exchange rules. That is a specific example that I draw upon from my own experience. I am sure there are others where legitimate concerns of security or confidentiality are entirely proper, but I repeat: when a consultant (who generally should not represent his client, the client should represent him or herself and the consultant should not get in the way) is representing someone, he or she must be completely open about those interests and any other interests that may be relevant.

Mr Grogan: Because of the experience with Bell Pottinger I mentioned, the Bell Pottinger empire has various elements to it and they have, as I understand it, two big public affairs arms, Good Relations and Bell Pottinger. Surprisingly, Good Relations does sign up to one of these bodies. In fact, it is the one that you rarely mention, Peter. It is always the APPC you mention but there is the other one, the PRCA, which has the same requirements to declare clients and not to pay MPs and peers. I cannot understand why Lord Bell says to *PR Week* that this is completely impossible, and yet you can go on the website this afternoon and see who Good Relations' clients are and presumably that is honest and up front. What slightly concerns me when you look at their financial results, what they say to the City and so on, is that they have a target of 60% of all their clients that should be serviced by the different elements of the empire, by public relations, by public affairs, by opinion research, so there is all this cross-over between elements of the empire. I just think it would be so much better for their reputation and a man with such a distinguished history in our public life as Lord Bell if either he joined one of these two associations—or it need not be the APPC or the PRCA—as he is saying he is going to have his own code by Deloitte & Touche. If he was to have his own code, he does not like joining things but he was prepared to not pay MPs, because that would obviously be a bit of a problem, and secondly publish all his clients and that was externally audited, surely that would be okay.

Q13 Mr Prentice: We may be bringing him in front of us so he can speak for himself. Stephen, you raised your eyebrows. Do you want to come in there?

Stephen Pound: It would be unfair for me to comment. It was simply the reference to Lord Bell's interesting past.

Q14 Mr Prentice: John, you mentioned a second, key principle—this is in the article you did for *Public Affairs*—that there should be an absolute prohibition on the payment of MPs and/or peers. How many MPs or peers are actually being paid? For you to say that, there must be some being paid.
Mr Grogan: There are. As Peter said, I am talking about multi-client lobbyists here. The practice seems to have disappeared from MPs largely. There is obviously Lord Bell I have mentioned and Lord Clement-Jones who are running—I think that is probably the right way of putting it—public affairs agencies or practices and so on. Obviously the same rules of paid advocacy apply in the Lords as apply in the Commons so they would not go, I presume, and advocate on behalf of an individual client, but they would nevertheless run the public affairs firm. There have been one or two stories recently of peers accepting payment for fixing up meetings with ministers or that has been the allegation anyway in the public domain. I just think it would be clearer, given that that is what Nolan recommended, if that was adopted throughout. I also think incidentally what keeps us honest in the Commons is the Parliamentary Commissioner for Standards. That does not apply for the Lords even though he is called the Parliamentary Commissioner. He is the House of Commons Commissioner for Standards. In the Lords if there is a complaint, there is a committee of five peers that considers that complaint. I think the Lords have gradually caught up with the Commons.

Q15 Mr Prentice: If you stay in the background and you do not set up meetings yourself, is that still lobbying? It is a very slippery concept, lobbying.
Mr Grogan: I think it is. Probably the best definition you have before you in terms of lobbying comes from DLA Piper. Lobbying is wider than me going in to see a minister. You can lobby without ever going into meetings with ministers. They define it as any activity with a view to influencing government or party policy, the outcome of a decision in which a politician is the final arbiter upon which they may have influence. Such activity may involve activities as diverse as organising meetings, marches or drafting an amendment to the Finance Bill. For example, you may never see a minister but you might draft the amendment, place an advert in a national newspaper or canvas support for a new development. Public affairs agencies know what they are about. DLA Piper, which is a law firm, has a government affairs section which does all of these things. I do not think lobbying is just going in to see a minister with a client.

Q16 Mr Prentice: We have instances of Members of Parliament who have jobs with single organisations. The former leader of the Labour Party is on record as getting £115,000 a year from the Fleur Corporation and he is being asked to provide advice on anti-corruption and business ethics policies—
Stephen Pound: The chairman, not the leader of the Labour Party.

Q17 Mr Prentice: This is all on the record so we can talk about it. There is no need to feel uncomfortable at all. He is getting £115,000 a year to provide advice on anti-corruption and business ethics policies, regulatory issues and outside relations, including trade unions. Does that come within the definition of lobbying or is that completely separate?
Mr Grogan: I think that is pretty close. I have not studied the Ian McCartney case. Richard Caborn for example is a similar case. I presume Ian McCartney took advice from the Advisory Committee on Business Appointments when both appointments were approved. I do believe he has followed the rules absolutely. I think there is some advantage in ministers and senior civil servants not lobbying for, shall we say, a year after they leave office. I have studied your own report which I do not think was quite as precise but it did say that there was possibly a difference between lobbying activities and going to some other commercial interests when you are a senior minister or a civil servant. I would like to see, as in the States, a bit of a gap between leaving office and taking up such activities. In Richard Caborn's case, his new employer when asked by a newspaper whether there was any lobbying taking place said no, there was not. That was not going to be part of his role.
Peter Luff: Gordon is on to a really important point here. Defining lobbying is the most difficult challenge this Committee faces. Where does it begin and where does it end? In my view, the most effective lobbying, for example, is getting an article in a prominent position in a national newspaper that we all read. It is called third party endorsement. We read it and think: oh God, that is interesting. Lobbying slips through your fingers. When does a lawyer's work for a client cease being legal work and become political work? When does Ian McCartney's work, if he is influencing the public policy environment, stop being advice to his client and start becoming lobbying? It is a real challenge to get this right, defining in-house and out-of-house lobbying. Most public affairs is done in-house, about 80%. How do you define the roles? It is a very slippery and difficult thing to do.
Stephen Pound: I have been thinking about this as the person least qualified to comment of any of the people you have here. I think that way lies madness. If we are trying to define precisely what lobbying is, it would be an almost impossible situation. Lobbying 25 or 30 years ago was very much a network of people who had a great deal in common, who were variously called the establishment or whatever, who knew each other and who met in gentlemen's clubs in St James's and they knew what was going on. That was lobbying but it was lobbying in a way that we would not possibly define it today. I do not think we can define lobbying. What we should be doing here is defining the relationship between Parliament and anyone seeking to influence, call them what you will. It is about access; it is about declaration of interests; it is about

clarifying any financial relationship whatsoever. It is also about establishing, I think, our own best practice, our own internal code of guidance beyond what we already have, not to tell the industry how to regulate itself but to tell the industry how we will regulate the interface between that amorphous industry and our Parliament.

Q18 Mr Liddell-Grainger: Peter, in your document that you sent us before you talk about Parliament setting the enforcement and the terms. Can we explore that a little bit further because one of the things we learned in America when we went over there is that they have 14,000 lobbyists who are all registered. You are only registered if you see a senator or a representative. What goes on behind all that is not registered at all. We do not want to get into the same situation, I would suggest. Can you wax lyrical on how you would regulate? Where would you see that starting and where would you see it finishing?
Peter Luff: I repeat: I do not like making work for Parliament and I do not think there is a problem so I would not regulate. I do not think there is any need. We have such powerful and effective media in this country that any scandal is quickly dug out and exposed. That does much more damage to the MP and the company concerned as a scandal, so I do not think there is a problem. I am getting like a scratched record. I am sorry. If the Committee feels something needs to be done—I think John and I agree about this—the mechanism should be for Parliament to require some kind of declaration of the interest that is at play. If there is a problem it would be reasonable for Parliament to say if someone is paid to represent an organisation they should declare that fact. It is quite obvious when Greenpeace come to see you that the chief political campaigners advising them is being paid by Greenpeace and you know it is Greenpeace. When someone works for a multi-client consultancy, legal firm or management consultancy or anyone else, any organisation or public relations company says, "I have come to talk to you about this issue", they must say why they have done it if they are paid by someone to represent an interest. That is what the APPC code rightly says and, if we feel that is not happening in practice because other people are not covered by the APPC, then I think that is something we could think about putting in place.

Q19 Mr Liddell-Grainger: Would you agree with that, John?
Mr Grogan: That seems very close to a compulsory register. Looking back at the history—
Peter Luff: No. I am saying at the time it should be declared. A great bureaucracy is not what I want to create. A person would be guilty of some kind of offence when they made their representations if they did not say, "By the way, I am working for X."
Mr Grogan: There would be a register?
Peter Luff: No. They would declare it one to one. That is my suggestion. It should not need a register.

Q20 Chairman: What would be the sanction?
Peter Luff: I have not considered what the sanction would be. That is a good point. At present, this code is not a sanction.

Q21 Mr Liddell-Grainger: Talking about the Thames Gateway, you mentioned that very clearly. Would that be a way that perhaps both of you could agree that it is an up front infrastructure?
Mr Grogan: I hope so. I have not really heard a strong argument against it. Thames Gateway said, when they were letting a public affairs contract—again I am paraphrasing—that the successful lobbyist must adhere to the ethical codes of the APPC. They could have said the APPC and the PRCA really because they are very similar, unlike the CIPR. The CIPR just deals with individual lobbyists, does it not, and that deals with I think what you were talking about, Peter. A lobbyist should always say when they are meeting someone who they represent. That is the basic code of the industry. Ken Livingstone in London has said that he will also adopt the practice of the Thames Gateway. I would have thought blue chip companies would want to as well. These are the commonly accepted ethical standards. If the public sector, the voluntary sector and blue chip companies said that this is what they wanted, I think it would have an impact. I do not think you would have to be members of a particular organisation. It would not be a closed shop. If you were a member of the APPC or the PRCA, that would demonstrate that but equally you could put it on your website. I do not think there would be a need for a massive bureaucratic involvement and very quickly then you would spread what 70 or 80% of people do already to 100%.
Peter Luff: The APPC, the PRCA and the CIPR have come together with a one page statement of guiding principles of conduct. If I was running a consultancy and I did not abide by these rules, I would be in deep trouble commercially and reputationally. I think they are common sense rules. What I am very concerned about is we should not delegate to any one outside body the right to set what those rules should be.

Q22 Mr Liddell-Grainger: I think you said it could be a closed shop. They could create a closed shop where nobody else could get in so it would be a self-fulfilling prophecy, would it not?
Mr Grogan: That is why the Government has rejected previous recommendations of your predecessor committees to have either a voluntary or a compulsory register. The Government has always said if you had a compulsory register that would give the public the impression that the only way they can approach parliamentarians is through people on that register. That is why the Government have argued that it would be better to have a self-regulatory system if you can, but equally the Commissioner for Standards, Sir Philip Mawer, has said—again I paraphrase—"Self-regulation only works when pretty well everyone joins in." I am trying to think of a mechanism to encourage

everyone to join in. If the public sector through the Office of Government Commerce made that very modest requirement in contracts, it would have an effect.

Q23 Mr Liddell-Grainger: Can I ask a slightly wider question? One of the areas we get a lot of legislation from is Europe. Europe is looking at regulating. I must put my declaration in at this stage. Not only am I a member of the Beer Group but I am on the Members' Register of Interests to which I hold my hands up and say, "Guilty." Going back to Europe, I have been approached as to whether or not I would go to Brussels on behalf of a lobbying firm. I said no, not for me. They are seeing this, some of the lobbying companies, as a way round what we are doing in this country because they can go to Europe and lobby with very little control. I do see that Europe is looking at regulating this. What are your views? Should Europe have the same?

Stephen Pound: You are absolutely right to identify the second flank. This is something that the fairly minimal amount of amateur research I have done into this subject has pointed up to me. It seems to me that as you dam one part of a stream the waters will divert around. If people are particularly keen to achieve this, they will certainly aim to find access somehow. Europe does appear to be the place, but it does seem to me that this is something that has been flagged up in Brussels and Strasbourg over two and a half years ago. It has been the subject of three separate reports and in fact there are two working parties considering it at the moment. As long as we have that statutory duty of declaration in multi-client agencies, we can make that requirement here and it does not matter what anybody does because, at the point at which it enters our system, that declaration is made. I understand that there could be layers within layers. We could have a lobbyists' onion skin going and we would not know precisely where they were but it would not really matter as long as the effect and the impact are transparent at the point it touches us.

Mr Grogan: What is happening in Europe is interesting. As I understand it there is a voluntary register in the Parliament at the moment. The Commission is for the first time having a register and the Commission is talking to Parliament about having a common register. They are asking for more than just naming of clients. The Commission wants detailed figures on what lobbyists are spending on any particular campaign. I can give a critique of it if the Committee wants but that is what they are asking for. The difference between this Parliament and the European Parliament is of course in the latter you can go in as a lobbyist and the reward for writing down your clients, who works for you and so on is a parliamentary pass. The Commission is most anxious that its scheme is linked with the Parliament scheme because the Commission has nothing to offer in terms of an incentive for lobbyists to register. The incentive that the Parliament offers is you get a pass which is of a different colour I think to an MEP, but you can roam the building. I do not think there would be any appetite in this building to give lobbyists parliamentary passes and I do not think there would be the capacity in the building, but that is what is happening in Europe. It has not come yet into place but early next year the Commission is bringing in these very rigorous declaration requirements.

Peter Luff: Each country and each institution has its own procedures, its own model, for dealing with any perceived abuse. I do not think you can draw lessons straight across. I entirely agree with what John has said. One of my concerns is that there are lobbyists roaming this building with passes, as I said in my written evidence, from the House of Lords. There is no need for that. I do not want to run into lobbyists and nor do my colleagues. That is an issue that does need to be addressed. When I was working in the industry I used to have a pass because it was the only way I could get information. This place was very secretive 20 years ago but now the internet has changed all that. All the information lobbyists need is publicly available. It was not. I used to have to physically come in and collect things from offices. It was not available to the public. That has all changed. There is now no need for anyone to have access to this place. Nothing we do must create any kind of momentum towards giving lobbyists passes.

Q24 Mr Liddell-Grainger: You have hit the nail on the head. The internet has opened a raft of stuff we could not get. Maybe the way to look at this is that lobbying becomes an internet resource. We all have internet access. Would that be the other way? They register what they are doing and then do it that way so it is outside the direct control. Would that make any difference?

Mr Grogan: Both self-regulatory bodies now, the APPC and the PRCA, have all their members and clients listed on the internet. The PRCA have done that in the last few months. They are pretty well compatible now with each other in terms of rules and that is a very easy way of doing it. It does not cost Parliament anything.

Q25 Julie Morgan: I notice, John, in your suggestions you say that former MPs and their spouses who are working for multi-client lobbyists should lose their right of access to a parliamentary pass. I wondered what made you think that. Do you have evidence of people who are abusing the system?

Mr Grogan: The issue was brought to my attention. I think it is difficult to know what to do with parliamentary passes, by the way. I share your instinct, Peter, but when I thought about it recently the APPC do have an exemption which is the one you have listed. They say that their members cannot have passes except if you are a spouse or an ex-Member. I was merely pointing that out. I have thought about it for quite a while and it is hard to know how you can tighten up the rules on passes. In the Lord for the first time the register of passes has just been published for researchers and so on. If it has not, it is just about to be. They are on a par with us now. Unless you give guidance to Members that people who have parliamentary passes should at least do some work for the Member, that might be

one way of doing it, but I suppose, having thought about it, it would be difficult to put more rigorous requirements on our researchers than we have on ourselves. Of course, MPs could have other interests. If you have a part time worker for an MP, should they not be able to go and work for someone else? It is a difficult area but I think it is probably one that the Commons Authorities should look at.

Q26 Julie Morgan: Do you have any evidence that ex-MPs who work for—

Mr Grogan: Various members of the APPC have come to me and said that they are concerned that this is a loophole.

Peter Luff: Allegations have been made—I refer to this in my written evidence; I have no evidence to support that. They are anecdotal allegations—and it was apparent to me a few years back that one or two were. I have not seen evidence of that recently.

Q27 Julie Morgan: Stephen, at the beginning you talked about charities and how they were different in a way. They were just information giving as part of the voluntary sector. The voluntary sector does have a huge influence over the passage of bills and getting legislation changed and work very closely when there is a standing committee, for example, and do influence what happens here. How do you distinguish between, say, the voluntary sector and lobbying?

Stephen Pound: I do not think there is a huge difference. I do not necessarily say that one is benign and one is malignant. The point is in the stated objective of the organisation, if you are Age Concern or a particular agency, body, advocacy group, your purpose and your aim is spelt out. I know what the person wants. They know what I want to hear from them. It is a completely straightforward relationship. If somebody is a lobbyist representing a multiplicity of clients, there is none of that level playing field. You simply do not know precisely where the person is coming from. If you have a charity or an advocacy group who are representing some particularly unpopular or controversial group, you know where you are. Every one of them has agreed to act for them. In some of the cases that John referred to at Bell Pottinger and various other people who may have represented some slightly unsavoury people—F W de Klerk, General Pinochet, even Mark Thatcher I think at one stage—they will then say it is the cab rank rule. "We will represent whoever hires us." There is a massive difference in that relationship between someone who is actually committed to the intention of their organisation—whether you agree with it or not, you know exactly where they are coming from—and somebody who says, "Today I am supporting this person. Tomorrow I will be supporting that person" and the relationship is financial. It is not one of a complete commitment. There is a huge difference there. I do find a lot of the groups that you refer to as charity groups to be very useful. There is an entirely legitimate relationship between Members of Parliament and specialist representative organisations, not just in terms of us getting access to their client group and hearing the articulated concerns of that client group, but us offering to them the opportunity to comment on upcoming government legislation. That is entirely straightforward. I think there is a massive difference between those—I am trying to avoid using the words "single issue groups" because very often the issues are not single issues—in terms of principle and policy single issue and the more controversial area of multi-client agencies.

Peter Luff: I think Stephen is falling into the trap of populism which is something I am very unfamiliar with. There is nothing wrong with unpopular interests having their case made professionally. It is really important it is made professionally. Very often you might persuade that interest it has the argument wrong. Some of the most brave advice you give as a consultant is, "Actually, you have got this wrong. If you do this, it will blow up in your face and you ought to think about changing your practice." Do not forget the campaigning organisations we all hold in such high regard like Help the Aged, Age Concern and the medical charities are campaigning organisations. Their whole being is about influencing this place in the public policy environment. Businesses are not like that. Their job is selling a product, selling a service in a market. They do not know how to talk to us. As Stephen rightly said at the beginning, some of them do it extremely badly. I remember clearly when I was working with Oliver Heald on the Regulation of Investigatory Powers Bill, Liberty was fantastic. We got fantastic briefings from Liberty. They knew how important this Bill was and we got really good help as the Opposition, because Oppositions need this help more than governments. The Government has the machinery of government. They have consultation processes, civil servants. Oppositions are on their own in bills or in committees. Oppositions really need this work to be done well by the outside world for them to do their job of holding the Government Executive to account. We got nothing from the information technology industry. We were padding out the Bill frankly for the first couple of weeks. Charles Clarke got very cross. He said, "What is going on?" I said, "We do not know what the industry wants. We do not know what the issues are. We are not being briefed." Eventually they started, rather belatedly, and some issues were addressed. Those companies that have more lively public affairs consultants working for them said, "Hang about, there are some big issues going on here which we need to address. Liberty is in there doing it. We need to put our point of view with equal clarity." It was not happening so businesses need help to make their case. What is crucial is clause four of the APPC code. When they use someone else to do it, that someone else must be honest.

Q28 Kelvin Hopkins: I have a rather more sceptical view of all this than Peter. I am a bit more suspicious perhaps but a lot of people do think that self-regulation has failed. There are people who do not register. They are not keen on the voluntary code of

ethics. They are interested in making money. Is there not a democratic case for making all contacts and all contracts public in a formal way?

Peter Luff: Who is required to do that? I gave an example in my written evidence to the Committee of an organisation—I would rather not name the organisation but I will happily do so in private because it would embarrass an individual—that has a lawyer working for them in the provinces who does their public affairs work. He does not know how to do it. Because I am passionate about a particular issue—absolutely no remuneration whatsoever, not a single penny has changed hands—I am helping them, guiding them, arranging meetings with ministers. I want to change something very wicked that government has done to this industry. That lawyer cannot be required to join the APPC. It would be wrong. He should not have to declare his other clients who are not public affairs clients. It is getting the definitions right that is the problem. The big companies, the Hill and Knowltons, the Fleishman Hillards, the Bell Pottingers, can do all this but the people who are not specialists and the people who are not actually living in London and the clients who cannot afford to pay London fees will be disadvantaged in the process. Be very careful about making the process less democratic by making it more exclusive.

Q29 Kelvin Hopkins: Each of you has touched on the point that there is a spectrum, somebody from the National Secular Society or someone trying to help poor children suffering on the one hand or on the other hand a defence industry mogul who is trying to sell things to us from America for example. We are concerned about the latter, not the former. How would we go about making sure that we deal with not just back bench MPs but prime ministers who are lobbied directly by big billionaire companies and actually introduce legislation through their governments on behalf of these organisations—I point particularly to gambling corporations in America who want to establish their casinos in Britain—how do we deal with that?

Peter Luff: That is a very big, political question. Typically, those organisations will probably not be using intermediaries. They will be doing it themselves, getting advice from intermediates on the kind of things they can say and from consultants, but actually doing it themselves. Should the Prime Minister publish his diary? Discuss.

Q30 Kelvin Hopkins: I certainly am concerned about that. Gordon has touched on the problem of former ministers and even existing ministers who have uncomfortably close contacts with outside organisations, who could be being lobbied very privately to serve the interests of those organisations and know that they are perhaps going to be rewarded after they leave Parliament or after they leave government. The only way we can expose that is by making it a requirement that all things are made public.

Peter Luff: With respect, you are confusing two quite separate issues here. This is not the issue of how lobbying organisations work because that would be anathema to all of them. They want the business and not for some MP to get the business. They want to keep the client to make the fee for the future. They have no interest in giving an MP a pension when he retires from this place. That is completely contrary to their commercial interests. There are organisations that think they can shortcut the process and not use public affairs consultants and use MPs and peers still to further their interests. They are typically wrong. Those organisations that have hired Ian McCartney would be better off paying half that for a decent public affairs consultancy. I think they have made a commercial error of judgment but that is not the subject of this inquiry.

Q31 Kelvin Hopkins: I have deliberately gone wide because I think these things are important. Lobbyists are not going to lobby—if they want to be successful—are not going to talk to innocent back bench MPs like me. I might buy them a cup of tea in the Pugin Room.

Peter Luff: They damn well ought to because your capacity to do them damage is absolutely huge. I agree with Stephen fundamentally about this. I talked on bad lobbying this week for the Industry and Parliament Trust with a group of public affairs practitioners, all in-house, not consultants, saying, "Do not forget back benchers, constituency MPs." What you have just put your finger on is the essence of bad lobbying. I would talk to Kelvin Hopkins if my issue was of even the vaguest interest to him.

Q32 Kelvin Hopkins: I wish it were true.

Mr Grogan: I think you are right to point out it is just not Parliament that lobbyists aim at. Probably when you have a government with a big majority, contacts with special advisers and meetings with special advisers and civil servants are in many cases thought more important than with back benchers. The example you pick of gambling, when an awful lot of money was spent on the issue of gambling with different multi-client lobbyists and so on talking to ministers and special advisers—in the end, Parliament had its way. An awful lot of money was spent on promoting the cause of super casinos. I doubt very much whether we are likely to see a super casino. Parliament has helped. I do not think you are ever going to get to the stage where you know every contact that is going on and so on but I think it is absolutely important to Parliament in its work that we know who is lobbying on behalf of whom. All sorts of freedom of information requests can follow once you have that information but if you do not know that a particular multi-client lobbying firm is lobbying on behalf of the gambling industry I think that weakens our democracy.

Q33 Kelvin Hopkins: We were both involved in privately speaking with the Secretary of State on these matters, on gambling and casinos, but it was not our lobbying of the Secretary of State that made

the difference. It was other things. I would like to think that the Early Day Motions I put down really have as much influence as nobbling the Prime Minister but I do not think they do.
Peter Luff: You would be surprised.

Q34 David Heyes: It is the point about having a gap between somebody leaving the Civil Service or standing down as a minister and taking the role as a consultant and advising in a lobbying role. I wonder about the other side of that coin which is people who have had previous employment or experience as lobbyists, perhaps in the defence industry or the health industry, transport or whatever, becoming embedded into the political system either as advisers or maybe occasionally consultants and whether we should be looking at whether that is potentially a really insidious source of influence and lobbying that is difficult to get hold of and control and potentially much more dangerous than somebody who has left and that is known publicly, before they take up their role.
Stephen Pound: We keep coming back to the single issue organisations and multi-client groups. The late Tony Banks, who was an exemplar of fine parliamentary practice, was constantly trying to bring in legislation to ban the abhorrent practice of hunting sentient mammals with hounds. Every time he got close to it, some organisation would pay for a person to work in his office at that time to assist him with that piece of legislation. I think that is entirely legitimate. His interview technique was unusual and there was a certain similarity between the people who always ended up working in his office, but that was very much to his credit. They were all tall, slim and blonde. Were someone to employ a person or have them in their office from a multi-client agency, that surely would be utterly and totally different. Nobody can possibly be suggesting anything like that. We do seem to be approaching a situation of difficulty which harks back to the original point about defining lobbying. It has to be surely defined in terms of outcomes. We know if it walks like a duck and quacks like a duck, it probably is a duck. We know what lobbyists are but we cannot really set up a structure which excludes every single point of influence. It is an attractive proposition but that way we should have to ban *The Guardian* newspaper because *The Guardian* is a lobbyist. The Roman Catholic Church is a lobbyist. I would happily ban *The Guardian* but I would draw the line at banning the Roman Catholic Church. The *Today* programme is. It goes on and on so we have to narrow the focus right down surely. Yes, talk about passes; talk about post-employment once you have left here; talk about relatives but ultimately it has to be the transparency of the decision-making process which can be scrutinised and that is at the point where you see if there have been any external influences and pressures. If we even work out this wonderful, perfect structure, we always have the sample of the great Bobby Baker hanging over us. Lyndon Johnson, when he was leader of the Senate, employed this man; Bobby Baker was paid vast sums of money by enormous numbers of people because they knew that this man had the ear of the President. It was completely undefined. It did not appear anywhere in legislation. They just used to meet in a hotel in Washington every couple of days and have a chat. How on earth can you legislate against that? It is only thanks to Robert Caro's investigation that we know exactly what went on. There will always be that problem. We have to deal with the problem from the outcome end of the equation because at the other end of the sausage machine it is so complicated and so difficult I do not see how we can do it.
Peter Luff: I rather agree about the late Tony Banks's recruitment practices but apart from that—
Stephen Pound: That is outrageous.
Peter Luff: I am sorry I agree with you again, Stephen. I will try to stop the habit. The danger of the position you are setting out is you could get government and Parliament taking decisions in a vacuum. At what stage does it become inappropriate for an organisation to express its views or does understanding an issue become a problem? It is good when business seconds people to the Civil Service and good when the Civil Service seconds its people to business because they are understanding each other. That is likely to improve the decision-making process, not make it worse. Of course everything we do is open to abuse but in principle I am in favour of greater exchange between the business sector and the Civil Service, not less.
Mr Grogan: I am in favour of that as well. 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. I reiterate that I am uncomfortable with senior civil servants and ministers lobbying at all for a cooling off period, as they have in the States.
Peter Luff: The code of conduct provides that. The ministerial code does already, does it not?
Mr Grogan: As I understand it the Advisory Committee on Business Appointments can specify on a case by case basis. They can say, "You cannot lobby". I almost think there is a case for making it a presumption that you do not and, when ministers do accept appointments like Mr Prentice pointed out, there could be no question that they are lobbying because it would not be allowed for a year anyway.

Q35 David Heyes: Just to repeat the point of my question, we address that concern about exit from positions of influence but we do not apparently have proposals for dealing with entry into positions of influence and the background of some people.
Mr Grogan: If you are seconded or if you take a job in a minister's department or whatever from a private industry, obviously you have to respect the ethics of the Civil Service and all the codes of confidentiality and so on. There have been one or two things in the papers. The Ministry of Defence I think possibly operates in a slightly different way to other departments. There are some accusations about BAE employees having passes to the Ministry of Defence and so on. I think that would not happen in most departments.

Peter Luff: My party was concerned in the last Parliament about Lord Birt's influence in Downing Street for example. These are quite political questions.

Q36 David Heyes: At some point in our inquiry we as a Committee are going to have to address this question of the definition of lobbying. Each of you has referred to what a slippery concept it is. People have all sorts of different views on it. I think it would be helpful to us, for our record and for when we eventually get down to trying to work out what it is we are examining, to have each of your definitions of what lobbying is.**Chairman:** On one side of a sheet of paper only.
Peter Luff: I have been wrestling with that for 20 years without succeeding.
Stephen Pound: Surely it is an individual or organisation who seeks to influence the passage of legislation in the House of Commons.
Peter Luff: We will each reach a definition that suits our argument. I would broaden it to include everything we do in media relations and advertising. It is such a broad definition that it becomes of no value to the Committee but that is what I genuinely believe the lobbying process is all about. Good lobbying is getting third parties to make your case for you, not making it yourself.
Mr Grogan: I do not disagree with that. I referred the Committee previously to the definition of lobbying by DLA Piper, which I will not read out again. That goes for the broader definition than just meeting ministers. It is any activity undertaken with a view to influencing government, party or, I would add, public regulatory policy.

Q37 Chairman: Can I ask about the buying of access or at least the claim to have access and to charge on the basis of that claim? That is, if you give us money, we will introduce you to people who matter. We have examples of this, people who used to work in government who then are employed by lobbying organisations who in turn enable them to claim that they have access. What about that?
Mr Grogan: I think that is completely wrong and it is against the industry codes. I think it is section six of the APPC code and the PRCA that you should not make exaggerated or false claims about your level of access. I think it brings the whole business of government into disrepute. Any ethical lobbyist worth their salt trying to get a client would lay out a strategy of who they would seek meetings with or who makes the decisions. To pretend that you can deliver those meetings in advance because you went to school with or sat on the Labour back benches with someone I think is totally improper.

Q38 Chairman: The claims may be well founded.
Mr Grogan: When you look at some of the claims—it goes back to Derek Draper, does it not?—there have been one or two others recently, they rarely are. I have quite a confidence in the robustness of our Civil Service machine. Usually, they are not well founded. If they are well founded, we have real worries about our democracy. As regards the APPC and the PRCA, that sort of claim should not be made by their members.

Q39 Chairman: Buying receptions at party conferences, saying that there will be ministers and shadow ministers there, buying effectively dining rooms in the House of Commons here saying there will be various people there is all part of the story, is it not?
Mr Grogan: I think there is a difference between, "We are going to organise a reception at the Labour Party conference; these are the people we will invite" and saying that these are the six that we will definitely deliver, from the Prime Minister and the Deputy Prime Minister or whatever, right down the list. To make those claims is against the codes of the APPC and the PRCA and it has no place in lobbying.
Peter Luff: I think the Chairman is making rather a different point. Exaggerated claims are illegal but well founded claims do not seem to be. The difficulty I have thinking about this one is that, if someone I know and who knows my way of thinking rings me up and presents a good case for me to meet someone, I am more likely to meet that person than if I get a cold letter which does not make a good case. The person has bought access in a sense but he has done it by using his intelligence, not on a simple matter of access. He has known what levers to pull to make me interested in that person's case. Recently, someone from a lobbying company rang me up. I said, "I am not interested. Forget it." "Actually, it raises this wider issue." "Does it? Oh. Okay, I will meet your client." It was fascinating. I was absolutely right to meet them. It raised very important issues of principle. He knew how to approach me. He did not really buy access. He used his wit. We live in the real world. We know people. We have friends. We trust some people. We do not trust other people. Regulating for this is terribly difficult but simply buying access—"I will arrange a meeting with X"—for no purpose is against the interests of the person you are acting for because the person he meets says, "What was all that for? That was a waste of time." Without naming any names, Stephen and I had a case quite recently. We will not go into the details of it but we felt we wasted an evening because nothing useful came of it.
Stephen Pound: Access and influence are entirely separate things. We should never forget that. You can have access to anybody but to say you have influence over takes us into a completely different area altogether. We all give access. We all facilitate access. There is not a problem about that. Access is not the issue. It is influence. The real problem is if you look at the extremist cases and some of the ones in America where certain organisations have said, "I have 25 Congressmen with me who will go this way or the other." Derek Draper's absurd comment was that there are only 10 people in this country who make the decisions and I have the private phone numbers of eight of them; that was risible. The fact

that he subsequently married Kate Garraway shows that he does have some qualities but that statement was risible.

Peter Luff: Mercifully, influence is very widely spread in our society which means those kinds of claims are generally exaggerated and badly founded and clients should be very wary when they are made.

Q40 Mr Walker: I have had experience of lobbying myself, both agency, in-house and consultant. I have to say that on arrival in Parliament two and a half years ago I was just appalled at the poor quality of lobbying that still goes on in this place. It really is risible. It is the sort of blanket letter sent out, yes, by charities even with the electronic signature from the chief executive. It is being telephoned up by 24 year old public affairs officers for some organisation or lobbying company. I remember when I was 24 I had nothing of interest to say whatsoever. Some may argue that things have not changed in 16 years but at least my children listen to me. It really is just such poor quality. If I was a lobbyist, I would not go and see Kelvin Hopkins either because there probably would be very little of interest to him that I would have to say. A lot of lobbyists I think persuade their clients that their issue is going to be at the forefront of 653 MPs' minds when there may be five of us who have a passing interest. This is a bit of a grandstand but finally the email has devastated lobbying. The drivel that comes through my email, inviting me to this function or that function just gets deleted. I sometimes wonder what lobbyists are selling because I think most people would be better off saving their money. The people who impress me most is when you get a telephone call from a chief executive's office and the chief executive or a finance director comes in to have a chat with you, or the chief executive of a major charity takes the time to come and have a chat with you. That is when you sit up and listen.

Stephen Pound: I noticed a similar point earlier on. Your comment about Kelvin who seems to be the example that we refer to, the base point, the centre of the parliamentary universe—if you take the example of the Musicians' Union, who are a lobbying group, the Musicians' Union a few years ago had a very major concern with the Government on what we call the three in the bar rule. This was legislation affecting music being played in pubs. They knew that Kelvin Hopkins is a distinguished tenor saxophonist of great skill and ability and a revered member of the All Party Parliamentary Jazz Group, so they made it their business to contact Kelvin. Kelvin then raised the issue throughout Parliament and it was a successful lobbying operation. There was no question of money changing hands. It was a question of a group of people with an issue. They found an MP who was sympathetic and had a fair bit of time on his hands, who was known for his fast fingering and it worked. You can attach the slightly grubby label of lobbying to that but I think it is absolutely and entirely legitimate. It was well done, effective and targeted.

Q41 Mr Walker: Personally, I have some sympathy for Peter's position. I think a really good lobbying firm should offer businesses and large charities consultancy and say, "Members of Parliament, civil servants, will never ever see us at all. We will go into your business and professionalise what you do but all communications will come from you. You will generate the communication but we will help you be effective in your approaches with parliamentarians, the Civil Service and government. You will have to do it. We will just advise you on how you do it." That would be effective public affairs. Lobbyists though feel they have to justify their fees by saying, "We will come to the meetings with you. We will send the letters on our headed paper and we will organise X, Y and Z." That diminishes the case and does not enhance it.

Peter Luff: I agree. I had a junior account executive email my office four or five weeks ago asking me to meet the chief executive of a very important organisation. I thought: why did not the chief executive's secretary ring me up? I would have met that very important organisation. I am quite heavily lobbied as Chairman of my Committee. Almost every trade association and business in the country wants to meet me. I just emailed back and said, "Why does he want to meet me?" It took more than four weeks for that junior account executive to come back with a reason and the reason was pathetic. If only he had just said to his client, "Pick up the phone. Ring Peter Luff's office because he will see you", because I would have but I am not now seeing that organisation because of bad lobbying.

Q42 Mr Prentice: I was interested in the distinction that was made earlier between influence and access. I would like to return to the business appointment rules because when ministers leave the government they are often told they cannot lobby for a year. Is it meaningful to make that kind of stipulation when they would have great influence but would not choose to access or contact their friends directly but do it through other parties? While you are thinking, a couple of weeks ago we had Gus O'Donnell, the Cabinet Secretary, in front of us. I asked him if any senior civil servant had ever complained to him that they had been improperly lobbied by someone caught by this ban. He told the Committee he had no knowledge of that. He said it may have gone on but no one had complained to him. It is specifically about these business appointment rules because for Ian McCartney, on his £115,000 a year, the stipulation is that he should not lobby for a year. Is that meaningful?

Peter Luff: Probably not. Everything we do if we are interested in an issue is *de facto* lobbying at some level. Even if you say you cannot work for an organisation for a year afterwards, the shrewd minister will probably try and befriend that organisation for the next year and be helpful to it without any money changing hands and miraculously a year later be appointed by it. We have to live in the real world here. I find it very difficult to answer your question in a way that is helpful to the Committee.

Mr Grogan: I think it is worth making such a stipulation if you have a wide definition of lobbying. I do not know what definition the Committee on Business Appointments uses.

Q43 Mr Prentice: We are feeling our way.
Mr Grogan: The Committee on Business Appointments would be responsible for overseeing that stipulation. I think it increases public confidence in the process as well if that distinction is being made. Obviously the onus is on the individual to follow that stipulation but it would definitely increase confidence in the process if it was widely accepted that you did not undertake lobbying activities, broadly defined.
Stephen Pound: Surely it should be analogous to the rules that apply to the Civil Service. I find it odd that a good friend—and I have absolutely no problem with him—Ivor Caplin, who was a Defence Minister, stepped down from Parliament and then had a job in an organisation representing some of the areas that he was a minister for. In his case he acted entirely correctly and there was a gap but it does look odd. You cannot ban it; you cannot say to somebody, "You cannot get a job" any more than David Jameson who was a minister who left here and then got a job after the appropriate time. He has every right to do so, but there should be an equality between Members of Parliament and the Civil Service particular in that intervening period. The problem is that if somebody agrees to do it, as in the case of Ian McCartney that you have mentioned, his name could well go on the headed notepaper of that company and that company could then be making claims. That is going to be very, very difficult. I did not think to bring it along because I have been trying to forget it but the Labour Member for Peterborough who lost her seat at the last election circulated a letter within about four weeks of losing her seat, touting for business, trying to set herself up as an individual consultant in a whole range of issues. There was a whole page listing all the access she had to all the ministers and how people would listen to her. The point at the end of it was she said, "And even more importantly, I know the special advisers." That is something that keeps coming back to me. People say that ministers are important; MPs are important but it is the home, permanent Civil Service that is important. I do not think that the former Member for Peterborough did gain employment anywhere but it was an interesting letter.

Q44 Mr Prentice: On the question of regulation, John, is there a country that you can point to, because you know about these things, that has a good system of regulation of lobbyists, that stands up to scrutiny, that we could look at?
Mr Grogan: These are very country specific things. You have obviously looked at the States. You should go and have a look in Europe at the European Parliament and the Commission.
Stephen Pound: Australia are very sound.
Mr Grogan: You really have to get lessons from abroad but do not transplant a system.

Q45 Mr Walker: It is important that we deconstruct the myth of access, this web, where some lobbyists feel this place requires deep knowledge of black arts to get into. Most of us are pretty decent guys and if people make a good case to us we will see them. Sometimes lobbyists over-egg the pudding on exactly what it is that they can deliver. I think we need to make sure that as parliamentarians we say to businesses and charities that, if you have a concern that you feel does interest us, please get in touch and do not feel the need to use intermediaries because it could gum up the works, as Peter suggested.
Peter Luff: The problem of course is commercial. Quite often I have been in this situation myself when I was in the business. You give your client your advice and the client rejects the advice and insists on doing it a different way. As long as it is ethical to do it the different way, even if less effective, your choice is, "No, I will not go that way and lose the business." You do it the less effective way and keep the business. Commercially, you do it the less effective way and keep the business but you must make sure that what you are asked to do is always ethical of course.
Mr Grogan: Reflecting on what you said, Chairman, there possibly would be a case for the industry associations looking at their codes. They do use the word "exaggerated" but perhaps that needs to be strengthened in terms of making claims of improper influence and so on. They could sensibly look at their codes.
Stephen Pound: Would it be appropriate for the industry representatives—I am sure you will call them as witnesses—simply to have put to them these concerns and be asked for their response? If their response is inadequate, then we go to plan B.
Chairman: We are indeed going to do that. Having said at the beginning, Peter, that I thought your point, about the effectiveness of the industry, which for you is the biggest point, is something that perhaps should not concern us, I think I have probably changed my mind. If you turn the argument around and say that we need an effective lobbying industry to do the job for democracy that we want it to do, which is to transmit stuff into the political process. If it is doing it ineffectively, that is a concern for people in the system. That is an interesting point. I am really interested in Stephen's point about the points of real interface—never mind about defining what lobbying is—between that external lobbying world, particularly the multi-client people, and Parliament and government that we should worry about and make sure we have that right. That is a really helpful thing to say to us. We have had some splendid evidence from all of you. We could not have had a better session. The one hard bit of evidence that comes out of it is that the industry should concentrate its attention on Kelvin Hopkins. Thank you very much indeed.

Thursday 24 January 2008

Members present

Dr Tony Wright, in the Chair

Mr David Burrowes
David Heyes
Kelvin Hopkins
Mr Ian Liddell-Grainger
Julie Morgan
Mr Gordon Prentice
Paul Rowen
Mr Charles Walker
Jenny Willott

Witnesses: **Professor David Miller** and **Dr William Dinan**, Spinwatch, and **Mr Peter Facey**, Director, Unlock Democracy, gave evidence.

Q46 Chairman: Let me welcome our witnesses this morning; we are very glad to have you along, Professor David Miller and Dr William Dinan from Spinwatch but both academics, and Peter Facey, who is Director of Unlock Democracy. Thank you very much indeed for coming along and thank you for the memoranda you have given us in advance. This is an important session for the Committee in its inquiry, not least because in your memorandum to us earlier in the year, Dr Dinan and Professor Miller, you say that it is imperative that this Committee consider broader democratic principles, and sample opinion and evidence from a much wider range of sources than the usual insiders and vested interests who are previously participating in similar inquiries. So there we are; we have taken you at your word, you are not the usual vested interests or insiders, and we would like to know what you think about all this. Would you like to say anything by way of introduction?

Professor Miller: Briefly, I think.

Mr Facey: For us, this inquiry is part of a wider interest in terms of disconnection of politics between voters and politicians and the political process, and I do not think it should simply be looked upon as a concern between policy makers on the one hand and lobbyists, whether they be, from the voluntary sector, consultancies or business, but it is actually the third interested group which is the wider public. Particularly worrying is that in the last State of the Nation poll[1] conducted by the Joseph Rowntree Reform Trust, when asked about influence, 17% thought voters had either a fair amount or a great deal of influence over the political system, and in comparison 67% thought that businesses had a fair or a great deal of influence. There is a perception that in politics powerful interest groups have a great deal more influence than ordinary voters, and I think the debate around transparency fits into that. Secondly—as an organisation which has campaigned around the funding of political parties and the transparency of political parties—you are now heavily regulated. If I gave you a donation or to a political party a donation of over a thousand pounds locally or £5,000 nationally you would have to say where that money came from and publish it via the Electoral Commission. As an organisation which has advocated that it is difficult for me to say that I, as an organisation which lobbies you and tries to influence you, should not in some way have to have similar regulations, not necessarily the same regulations because political parties and NGOs[2] or other organisation are different, but there should be appropriate regulation which covers the other side of politics, the people who try to influence decision-makers. I think it would be dishonest of me to stand here and say that I myself, as somebody who runs an NGO, should not be regulated in an appropriate manner.

Professor Miller: The thing I want to talk about really is about the need for regulation, what it is that needs to be opened up and have some light shone on it. I suppose one of the key things that we are going to face in this discussion and with the lobbyists when they come to give evidence is a question of what is a lobbyist. In this area, if in no other, we are at one with the APPC,[3] the lobbyists' lobby group, which is that we think that lobbying and lobbyists are a much wider phenomenon than just the question of commercial lobbying consultancies. Peter's organisation lobbies; other organisations—trade unions, businesses—lobby directly; lobbying consultants are certainly lobbying but there is a whole range of other organisations also engaged in lobbying. In particular organisations like think-tanks, policy groups, policy planning groups are in effect engaged, we think, in lobbying, and it is important that any question of transparency, or regulation of lobbying includes and incorporates those kind of organisations. An example I have given, maybe you will come back to this later, is the example which came out in the press over the weekend, the example of TOAST, The Obesity, Awareness and Solutions Trust, an organisation which, according to its own website, engaged in lobbying of MPs and which claimed to be independent and to be funded from a variety of sources which ended up, it appeared, being funded almost entirely by one particular diet company. Now, many of the lobbyists say there is no issue here because MPs know who is lobbying them and are wise enough to be able to discount the lobbying influence, but in the case of TOAST the lobbyists did not tell the MPs. We wrote to all the MPs involved,

[1] The Joseph Rowntree Reform Trust, *State of the Nation Poll 2006: Summary Findings*, December 2006, p 4

[2] Non-Governmental Organisation

[3] Association of Professional Political Consultants

and the Lords as well, and nine out of 21 of them have now said that they did not know about the relationship between this charitable trust and the company behind it. So we would say that there is a necessity for transparency so that MPs are protected; MPs are grown up but they need to be protected by being given proper information about what lobbyists are up to and what they do. So that is the key that is important about widening this question. There are two other brief points I would make. It is not just a question of transparency but also a question of privileged access. This feeds into a wider debate and back to the important thing last year on the destinations of ministers, MPs and civil servants in the private sector, the whole question there. There is the question of the revolving door, of the potential for perception of a kind of corruption there, and it is a question also of the privileged access of lobbyists and vested interests being able to secure privileged access to MPs, civil servants and ministers. Now, it is clear that it is the democratic right of every interest in society to be able to access decision-makers, to petition them under the Magna Carta, for example, but it is also clear that in a democracy there ought to be some kind of level playing field in relation to access, and that for us is the question which is undermined by some of the lobbying techniques and tactics which we have talked about in our first and second submissions, so I think there is a wider question here than just the question of transparency and lobbying consultancies.

Dr Dinan: Very briefly, I am very appreciative of the opportunity to talk to you today. When we mentioned in our submission that you should sample opinion from outside vested interests we were not necessarily thinking of ourselves. I thought I would mention experience of similar debate in Scotland and Brussels because I have been tracking these for the last few years. What is striking about that is that we do believe that professional lobbyists engage in these kind of debates because it is obviously in their commercial self-interest to do so. We think there is a wider public out there that often gets forgotten in this; it becomes fixated on what to do about commercial lobbyists. Transparency is often framed also for decision-makers and MPs; we think that the wider public have a crucial role in this, have an interest, and we think that any transparency measures have to be accessible to the wider public. Also, experience in other jurisdictions shows that if there are loopholes in any register of lobbyists they would be exploited. Also, the fixation on commercial lobbyists is a problem, and I think we need to think about this much more widely. Civil society should be engaged in this, also NGOs, and whatever register or measures we come up with should embrace all different forms of lobbyists.

Q47 Chairman: Thank you for that. I am sure we shall explore all these matters over the next hour or so, but can we start more positively? Most people assent to the proposition that lobbying is integral to an effective democracy. We could not do our job unless we were being lobbied all the time by every outside interest group who know more about these issues directly than we do, and want an *entrée* into the political process to give their views and opinions. That seems to be the bedrock of the democratic system. So instead of approaching this in a rather negative way, that there is some sort of conspiracy out there to do down the public, surely we should be celebrating this activity?

Mr Facey: One of the *raison d'êtres* of our organisation is to increase public participation in the party political process. We encourage and work with other NGOs; we run events for young people in terms of encouraging them into the party political process. I am not ashamed of what I do for a living in terms of running an organisation which tries to develop policy and campaigns and tries to influence legislation. I am proud of what I do. It does not mean that there should not be some basic rules to govern it. I think what I do is not only honourable; it is necessary in society. But in the same way as in any activity you need some degree of regulation, you need some regulation in this. In football it is the rules of the game, and in the case of politics there need to be some basic rules of the game.

Q48 Chairman: You need regulation if there is a problem to be solved. What you do not need to do is invent regulation if there is not a problem to be solved. So the first thing to establish is whether there is a problem. If we establish there is we can then talk about the nature of any response to that, so let's stick with the first half for the moment about whether there is a problem. Now, the point I am putting to you is that I need an active world of lobbying; I need people to come to me about the Climate Change Bill and tell me: "We need more vigorous reduction targets", which is what all the green groups are doing at the moment. Presumably business groups are saying something else, I do not know, but we thrive on that. We cannot live without it. That seems to be working well. Why would we want to constrain that?

Professor Miller: Two reasons. 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. For example TOAST, whom I just mentioned.

Q49 Chairman: You gave that example, admittedly, but on the whole we know exactly who comes and lobbies us.

Professor Miller: How would you know?

Q50 Chairman: Because we ask them and they tell us.

Professor Miller: And they say they are from such-and-such a company, or trust, or charity.

Q51 Chairman: We are not novices in this. We do know how the world works and we do know about lobbying, and we know that it is valuable, and we know they get up to some sort of ruses sometimes

too of the kind you describe. We know all that. We do not need a great elaborate regulatory system to tell us about it.

Mr Facey: I am not sure we are necessarily advocating a great regulatory system. I am going to have to live with any system you come up with, and I do not want to have my hands tied behind my back. For example, we have been campaigning and lobbying you on the funding of political parties and how that should be changed. We have now to declare where our sources of money come from. That part of our work is funded by the Joseph Rowntree Reform Trust, perfectly respectable, above board. They happen also to be the largest funder for the Liberal Democrats. I happen to think the grant to us is perfectly above board and transparent, but it is useful for you to know, when I come to you, that that area of work for us has an interest. Now, some Members around the table who are not from the Liberal Democrats may, therefore, question that—I hope you do not but you at least have a right to know where the sources of funding I have come from and what influence they may have on what I am saying to you, and you can hopefully judge that what we are saying is perfectly above board and based on evidence. But that information, I think, is important, and in the case of other organisations I think you knowing where their sources of funding come from is also important.

Q52 Chairman: But we ask that all the time and if it turned out that you were other than who you said you were you would be utterly discredited. So we know what the rules of the game are.

Dr Dinan: Perhaps you would know in your one-to-one direct dealings on that, but how would other Members know? Would you inform them you had been aware of some misrepresentation? It is one thing to satisfy yourselves, that is very important, but in the context of wider perceptions, maybe questions about probity in public life, about where influence is coming from, how do the public get to know about this and journalists? How is the information circulated through the political system? I think the wider question is quite important. In other jurisdictions where they have had a register of lobbyists it has served not just the public but other Members, because I think the assumption that information circulates quite easily perhaps is not quite the case.

Chairman: I am going to bring colleagues in but let's try and talk about whether is there a problem, and then the second area of, if there is a problem, what might the solution be.

Q53 David Heyes: I find the propositions you put to us quite persuasive and seductive, but I think we need to test the rigour of what you have been saying. If I can work from this example given already, we have already seen the political parties, the activities of politicians that are heavily regulated and very much more transparent than they were in the past. Many would argue, and it certainly seems from my position as one of those in the spotlight, that this has actually served to reduce trust, reduce openness, and in some ways has impaired the political process. Now, you are arguing for a similar approach, and I am generalising, for greater transparency on the part of lobbyists and on the part of lobbying activity. Where is the evidence? How do you prove to us that we are not going to make the same mistakes of actually undermining and taking action that is self-defeating?

Professor Miller: The question really has to be whether there is evidence or a perception of evidence of impropriety or questions of standards in public life. If you take the example of the US, where they have lobbying registration and regulation for a long time, both at the Federal and State level, the most recent legislation brought in by the Democrats under Nancy Pelosi has tightened up the regulation there already, but the key which has been useful for transparency is that it has flushed out some key example of lobbying corruption. I am thinking in particular of the Jack Abramoff case; he was engaged in all sorts of lobbying misdeeds and bribery, et cetera. That case would not have appeared as a public issue if there had not been lobbying legislation. So in a way I am saying that 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.

Mr Facey: In terms of political parties I do not think anybody would say that we want to go back to the situation where we have no transparency. Yes, there have been scandals—and some of them are not scandals at all, they are just journalists putting two and two together and making five, but the fact that people know has meant that political parties are now a lot more robust about where they take their money from, and are hopefully better able to engage with the public so we can move on to an improvement of the system. But knowing what is happening is the first stage, and I hope we do not get any scandals as a result of NGOs having to declare where their money comes from; I do not want any NGOs to be in that situation. But if that is the case as a result of it then surely that is a good thing, because the reverse means we simply do not know, and I do not think not knowing about a problem is good.

Q54 David Heyes: Are there any examples we can draw from anywhere in the world you are aware of where greater openness and greater regulation of lobbying has resulted in the kind of improvements we would all want to see? Are there any valid international comparisons we can draw?

Professor Miller: Has resulted in what?

Q55 David Heyes: If we are advocating greater regulation of the lobbying process there is no evidence that I am aware of that that increases trust in government and that it is a positive thing to do. You are the academics—you must have drawn some

international comparisons. Is there anywhere we can look to where greater regulation has improved things?

Professor Miller: Look at the examples that there have been recently. Hungary and Poland have just introduced lobbying regulation; in Australia, New Zealand, Canada, America there is lobbying regulation in one form or another. The tide is towards introducing or tightening lobbying regulation across the world, and that is a tide which is to do with an increase in transparency. It may not have the results you are looking for in a very clear, demonstrable way but it certainly is part of a much wider international opening up of an increasing transparency of government, of which freedom of information and funding political parties is another example. I am conscious I am not giving you the evidence that you want.

Dr Dinan: I would mention in relation to that that when we were involved in a similar kind of inquiry at Holyrood a few years ago we went to the trouble of questioning the people who ran the lobbies registers in the US and the feedback we got from them was that instead of acting as a barrier to participation it allowed smaller groups a much clearer picture of the political process, about who was trying to influence legislation policy, so in that sense it was quite positive. That is not an anticipated outcome of registration because what we hear all the time is that registration creates a barrier, adds more bureaucracy, switches people off the process and would be particularly challenging and difficult for small resource-poor groups. The worry about lobbying is that it requires resources and expertise, and we have to recognise they are not necessarily easily distributed. If you can afford to pay or hire in-house professionals to do this job you have a better chance of success, arguably. The reason corporations are investing in these functions is they obviously believe there can be. A study by *Public Citizen* in the US recently suggested that for every dollar spent on lobbying they expected 100-dollar return for that in some way or another. Again, we can happily supply you with that report but the kind of evidence you are asking for I am not sure is out there.

Q56 Chairman: One of the best bits of evidence I have seen is by Professor Pross in Canada who has done a good survey of the whole development of thinking and legislation across countries in this area, and he says that you cannot have a uniform approach; you have to be sensitive to the political culture, the institutions of different countries. That is why the American example—and we have just been to America to look at some of this—is very unhelpful in many ways because the problem there is the role of money in politics. We do not have that here, we have really strict controls on money in politics here and we need better ones, so you cannot read across the problems from one political system to another one and invent the same regulatory structures because the problems are different.

Professor Miller: The problems are different, and there is a different scale to the problems here. I would say there is a problem of money in politics here which the regulation of political parties is one attempt to deal with, but you have also had in the last 20 or so years a move towards different ways for money to come into politics, so you have had a move away from direct political funding of political parties by some corporations into things like think-tanks and policy planning groups, and the money goes into politics in that direction so it is not so easily visible, so you have a whole range of activities going on like party conferences in the development of political process where money is coming from vested interests to pursue particular interests which people do not know about. People do not know quite often who are the particular funders of a think-tank when they do a report, or a policy planning group, or some of the discussion fora which proliferate around these buildings. There is a whole range of ways in which money is involved in the political process but we really do not have any proper way of finding out how much or where because it is not disclosed.

Q57 Chairman: But your memorandum to us says there is growing influence of lobbying on decision-making—I used to be a political scientist in a previous incarnation—what evidence is there for that? I think you could make a very good case for the reverse actually. In the old days when the British Road Federation, the NFU[4] and all these people were inside government they were far more influential than in the kind of more open world now with FOI[5] and all the rest of it. So what is the basis for a proposition like that?

Professor Miller: The basis for this is, first of all, the massive increase in public consultancies and the massive increase in the influence industry since the 1980s. I bring this back to questions of public perception, and the narrowing of the political process, the gap between political parties, at least appears to be narrower, and the result of that amongst the public, as Peter has been saying, is that the public now are very distrustful of the political process and believe they have much less influence than particular vested interests, so I would say that part of it is in relation to how the political process has changed, and part of it is in relation to how public perception of the political process has changed.

Chairman: It could certainly come from mistrust and that is pointed out everywhere, but that is a different story. Charles?

Q58 Mr Walker: First, who exactly, in your view, has privileged access to me as a Member of Parliament?

Professor Miller: There are various ways in which lobbyists and their principals can get access to Parliament, and there are various ways in which that can happen across the whole range of organisations, from lobbying consultancies to think-tanks to

[4] National Farmers' Union
[5] Freedom of Information

NGOs and campaigning groups, but there are various schemes, for example, the Industry and Parliament Trust --

Q59 Mr Walker: No. Who has privileged access to me as a Member of Parliament? You said groups out there have privileged access to Members of Parliament. I am a Member of Parliament, and I am asking you and the panel who, in your view, has privileged access to me as a backbench Member of Parliament?
Professor Miller: I would say that organisations like the Industry and Parliament Trust are ways of bringing business into close relationships with MPs and other staff in the House of Commons and the House of Lords. Now, I do not have a problem with that as a scheme but there is no similar scheme which is called, say, the Environment and Parliament Trust, or the Trade Union and Parliament Trust.

Q60 Mr Walker: Shall I tell you who has privileged access to me? My constituents. I do not really give—and I am sorry I am going to swear—a rat's arse what most people who are not my constituents think, to be honest. I will meet them to be polite, but the people who have privileged access to me are Mr and Mrs Bloggins who are having problems with their neighbours, they are the people who have privileged access to me, and I think you are creating a sort of concern that simply does not really exist, because most Members of Parliament will tell you that the people who have really privileged access are their constituents. I am surprised you have not touched on that and you do not even recognise that, and it suggests you perhaps need to do a little bit more research to find out who we do meet and whose cases we do pursue.
Professor Miller: This is a question about access, yes, to MPs but also to the Civil Service, and 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 servants --

Q61 Mr Walker: We live in a democracy. People have every right to come and talk to me about things that matter to them—be it Greenpeace, be it a pharmaceutical company that generates billions and billions of pounds for this economy and pays billions of pounds in taxes and employs hundreds of thousands of people. What is the problem with people coming to see their Members of Parliament in a democracy?
Professor Miller: None whatsoever.

Q62 Mr Walker: You seem to think there is. You seem to think it is all for nefarious, underhand reasons? That it is a corruption?
Professor Miller: No, not at all. It is question of the transparency of the political decision-making process.

Q63 Mr Walker: I have read certainly your two academic CVs, and basically you are conspiracy theorists. Is that not the case, that you believe there is a big conspiracy? I am reading through your publications that you have put your names to. You think there is generally a co-ordinated conspiracy on behalf of business to corrupt democratic systems around the world. Is that a correct analysis of your work?
Professor Miller: No. Certainly it is the case that business attempts to influence the political process, as do trade unions and NGOs and others. The question we are raising here is the question, on the one hand, of transparency and, on the other, a level playing field for different actors so that the democratic process can work more effectively and decisions can be taken on a basis which is more open and which takes more into account a range of views than it currently does.
Mr Facey: Can I give you a practical example? If I want to influence a Member of Parliament I know as a campaign organisation the best way of doing it is to get your own constituents to write to you in their words not in mine, because that has a hell of a lot more influence than me sending you a briefing. That is absolutely true. It is also true, though, if you look at the trend in terms of companies and organisations, that if you want to get a minister with somebody in a one-to-one position that is nowadays a lot easier to do by giving a donation to a think-tank to organise a pamphlet or do a seminar and then have a one-to-one with the sponsor and the minister than it is doing it the other way around. Now, I do not have a problem with that as long as it is transparent and known about. I also recognise that the best way of influencing you as a Member of Parliament is to go through your constituents, and that is as it should be. Both are proper as long as they are known about. I encourage people to badger you. We were involved in the Sustainable Communities Bill campaign and it worked because thousands of people's constituents wrote them. That is great, fantastic, and what we want to encourage is more of that and we want to reduce the cynicism that politics is about having a backroom deal with a minister.

Q64 Mr Walker: But you are feeding that cynicism. The way you have presented yourselves is that you subscribe to this view that politics is a grubby little business, and I think you are part of this group that is promoting this at every opportunity. We see it now wherever we turn. You rightly said journalists will take two and two and make five, and I think you are just feeding that cynicism.
Mr Facey: Can you show me evidence of things written where we have said that --

Q65 Mr Walker: I have lists of that here.
Mr Facey: On what Unlock Democracy has said? In what we have said on party funding we have turned off journalists because when they have come to us and said: "Is there any evidence of corruption?" we have said, "No, we do not have any evidence of corruption". We have talked about problems in terms of party funding; we have been very careful not to go into it. As an organisation we believe that politics is a positive. We believe that political parties are a positive. We criticise them and politicians for not defending political parties, so I do not think you

can accuse us of being anti-politics. There is a culture of being anti-politics out there and the question is what is the best way of combatting it. I happen to think one of the best ways is by having transparency.

Q66 Mr Walker: Finally, because I know my colleagues want to come in, we have all these registers now of MPs' interests, we have much more transparency in MPs' expenditure, and all this was justified on the basis that if it is out in the open the problems will go away, and the more that is put in the open the more the problems mount, the more the press just feed off the back of them, the more the press just promote this line of corruption, snouts in the— whatever, whatever. It just seems the more transparency there is, the more there is a loss of confidence and trust in politics.
Mr Facey: The solution you are therefore advocating is to remove transparency which I do not think will work, and --

Q67 Mr Walker: I am not saying remove it; I think there is just a flaw in your argument. We have greater transparency. We have these poor ministers and shadow ministers having their names dragged through the mud because they did not register a small bit of money, and it has got to the ridiculous levels, now. These people are not crooks or criminals.
Mr Facey: We have never said they are and in some of cases it is their fellow MPs who are dragging them through the mud. You have to have a situation in reality where basically, if we can have a broadly transparent system, then we can at least deal with facts. If it is not transparent then you cannot deal with facts because you do not know, and that is when I think the conspiracy theory has built up. If you do not have the evidence and you cannot find out, then you can draw a connection. There is a teething problem in that we have introduced transparency in funding and the way political parties work, and you have this pack of piranhas out there who have gone overboard, but that is a problem that built up over a long period of time and we now have transparency. In 20 years' time hopefully that will not be the case, but I am here volunteering my organisation to be in the same position as you. I cannot see how I can advocate to you that you should be transparent and I do not have to do it.
Chairman: I think we are going to have to find out at some point what we think this transparency is. We have not quite got there yet. Jenny?

Q68 Jenny Willott: I want to pick up on a point that Charles was just picking up on in that I think to some extent you might be overestimating the influence of lobbyists on MPs. We are all quite a cynical bunch in a lot of ways and do not necessarily believe everything everyone tells us; Peter you quoted at the beginning that 17% of the public think that voters have a fair amount of influence but 67% of them think that business has a lot of influence. That is perception rather than the reality. Does it matter if they are completely wrong?
Mr Facey: Yes, it does matter.

Q69 Jenny Willott: Why?
Mr Facey: Because in a democracy we need our citizens to participate; we need them to be able to, but also think they can, change society with a vote. If you want citizens to do that one of the greatest barriers is a perception that they have no influence, that they cannot change anything. My bugbear in our political culture is our fellow citizens have an attitude that they cannot change this country or defend it, and you just have to look at allegoric evidence from going to family do's—people do not think they can change the way in which this government operates, and when you try to tell them they should be involved in that process, if they think they have no influence, why get involved? Why not just simply watch *EastEnders* or Portsmouth—hopefully—win --

Q70 Chairman: There is an answer to that, by the way!
Mr Facey: As a Portsmouth fan I think it is a very important thing to go and do, but we need to convince people that politics and democracy work. If they have, and it becomes, an accepted perception that that does not work then I think for those of us on my side of politics and on yours we have a problem, and it is a real problem even if it is just a perception.

Q71 Jenny Willott: Has there ever been a time when that perception did not exist? When people had faith and trust in politics?
Mr Facey: I am not worried about faith or trust; I am worried about their belief they can influence it.

Q72 Jenny Willott: But was there ever a time when people thought they could?
Professor Miller: More so than now, yes. It used to be the case that there was much more trust in politics. There were also other things about it that people might not like so much. There was more deference, whether it was a bad or good idea, but also more trust.

Q73 Jenny Willott: But if there was more deference did they think they had any influence? Because my perception, which obviously could be wrong, is that politics is much more open now, politicians are much more available now than ever in the past, it is much easier for most people to rock up to Parliament or come along to a constituency surgery, and MPs are more available than they ever were 40, 50, 60 years ago. So has there ever been a time when the perception has been the other way around, that people thought MPs and officials were more open and available than they are now?
Professor Miller: On the contrary, you are right, that MPs and officials, especially in the Civil Service, were regarded as being much less open than is now the case. There has been a sea change in that respect. But there was also in that period, 1945 up to the 1980s, a sense that there were different political parties which represented different interests, and

therefore the way to influence politics was to get involved with one or other, or maybe more than one or other, of those parties. That sense has been diminished, I think, as part of this process.
Mr Facey: There was also a sense that you could have major change; that you could, I am not in favour of it, nationalise the banks, you could fundamentally change society, and I think one of the problems and challenges for politics today is lots of people do not see it as being able to change things, and that is where I think those stats come in. If people do not believe that the political process can change and affect their lives, why get involved in it? I am a political anorak; I watch American elections as much as I watch ours. I am not normal in that sense. But for most people politics is about their ability to have an impact on something. If they can have an impact, they get involved; if they cannot, they do not care about it.
Chairman: Can we try and keep it back on to the lobbying area rather than going on to the rather broader issues of what is happening to our political system, because that may not help us eventually.
Mr Walker: It did make sense.

Q74 Jenny Willott: I want to pick up on something that you put in the document that you have prepared for today about the Industry and Parliament Trust (IPT). I am going to declare an interest because I have just finished a fellowship with them in Rio Tinto, a big mining company. You described them as a "lobbyists' dream" and seem to be suggesting that particularly arms companies have far too much influence and it is a way for them to exercise influence. You seem to be suggesting that it is a completely one-way street, that arms companies and so on get involved in the IPT because there is a massive benefit they can accrue from that, not necessarily taking into account the fact that it is not a one-way process; that, for example, the reason that Rio Tinto was interested in me doing a fellowship with them is that my background is in international development and poverty alleviation and so on, and they wanted somebody with a completely different background who was going to question everything they did, and you build up a relationship so I question them and I learn as much from them as they do from me. Now, why would that be a bad thing?
Professor Miller: It is not necessarily a bad thing. There are two questions. One is the question of transparency, do people know about it; the other is the question of privileged access. Is it the case that it is only companies that have this kind of scheme? It seems, maybe I am wrong, to be the case that there is only a scheme like this for companies and not one for trade unions or teachers or environmental groups.

Q75 Jenny Willott: That is not true. There is a scheme for scientists being paired up with politicians, and academics—you might get involved in that; there is a whole wide range of different schemes which provide partnerships between MPs and people where it would be useful. The IPT also has a scheme with civil servants --
Professor Miller: It does.

Q76 Jenny Willott: -- so I have had civil servants paired with me and shadowing me in my constituency, so there is a whole scheme out there for MPs to learn about different sectors of society.
Professor Miller: I think that is great but it could do with being a bit wider, so there is a wider range of experiences available both to MPs, decision-makers and also to groups in civil society. That is the question. It is not a question of it being wrong for organisations and society to contact MPs; on the contrary, it is great, but the question is whether there is privileged access and, if there is, there should be transparency about it and there should be a level playing field. So the more that that can happen the better.

Q77 Jenny Willott: Do you not think there is transparency in the IPT? The information you have got comes from their magazine which is quite public.
Professor Miller: I have no beef on transparency with the IPT, no.

Q78 Jenny Willott: Another issue you picked up in your document is the issue of parliamentary passes, which is an old subject that comes up regularly. I wanted to ask what difference you think it makes if somebody has a parliamentary pass or not. Does that give them extra power, cache?
Professor Miller: To take this a step back, it used to be the case that MPs could work directly for lobbyists and for lobbying consultants. Now it is not the case. Members of the Lords still can, I think, but that was perceived as not being a good thing and was stopped. Now, as a result the debate has moved on to things like parliamentary passes. I do not have any strong sense that that has particular defined advantages, but the question has to be how are the passes being used and who by. If the system allows people access then that is fine but I am not sure that is the case, and the question which arises here is the question particularly of passes for people who work directly for lobbyists or as lobbyists. That is the question behind this.

Q79 Jenny Willott: But what difference does it make if they have a pass or not? I am not trying to be difficult; this is a genuine question.
Mr Facey: It may not make any difference but it can make a difference in terms of being able to talk to Members more regularly, having access, sitting down in the cafe downstairs and being able to regularly get hold of people. If you are running a campaign or an EDM[6] or a whole range of things, having that regular amount of access to MPs, even if it is just brief conversations, does help. I used to have a parliamentary pass, not for my present employer but in the past, and as a House of Lords of pass that made a difference to me trying to influence. The

[6] Early Day Motion

problem for me is that it is not transparent because effectively you are saying that you are working for a Member, or a Member of the House of Lords, and the reality is you are not. You may do the occasional bit but what you are actually doing is your job as a campaigner or whatever else. I would much prefer to be in the situation where you could have passes which give you access to use some of the facilities and talk to people in a way, but for me there is something not quite right about the fact that you have passes as a researcher when you are not necessarily being a researcher.

Q80 Jenny Willott: One of the things also picked up is about former MPs having passes, and it occurred to me that that would also apply to MPs' partners who have passes as well. You flag up that you think it is an issue in your memorandum, a problem --
Professor Miller: Not necessarily.

Q81 Jenny Willott: How could it be regulated?
Professor Miller: It becomes a question if former MPs have gone on to become lobbyists and are working in that kind of capacity and have a pass, but we do not know if that is the case or not.

Q82 Jenny Willott: Would it be a problem if it was the case? And how would you regulate it?
Professor Miller: I think for the same reason, that people should not be having passes in—I am not wanting to say false pretences, but where there is something else going on besides them having passes for the stated purpose.

Q83 Jenny Willott: So how would you regulate that? What would you do about it?
Mr Facey: If you are working as a researcher then you have to effectively work as a researcher and be a researcher for the person you are getting the pass for, and be able to demonstrate that in some way, and hopefully have a situation where you then have passes for other organisations which can have access.

Q84 Jenny Willott: If you were a former MP, for example, you might well be wanting to come in here, go to the bar, see your former colleagues.
Professor Miller: It is tricky and I am not sure we would have a solution for that, but it is not really an ideal kind of situation if there is a dual use being made of the pass.

Q85 Jenny Willott: Finally, you are basically lobbying us here today. How should this be regulated?
Professor Miller: In the same way as with every other lobbyist. Maybe this is where we move into the question of what should be done about it. To the extent that organisations are engaged in lobbying for a certain fraction of their time then it should be disclosed, and their sources of funding and clients should be disclosed too. I think that should apply to us and to Peter's organisation as it should to anybody else. Transparency is the key.

Jenny Willott: Thank you.

Q86 Julie Morgan: As we have all said, we are lobbied all the time and from a huge range of different interests. I am lobbied a lot by the voluntary sector because of my background there, and in children's work. Do you make any distinction between charities who are lobbying, voluntary bodies who are lobbying, and the bigger lobbying firms connected with big business?
Mr Facey: Internally before we signed up to the submission we talked about that and I do not think you can. I like to think that I am on the side of right, but that is for you to judge. I cannot say that you should regulate those horrible people in industry or business and not regulate me. I do not think you can. We are all involved in trying to influence policy, and if it is about transparency that should apply across the board, so it should apply to me in the same way. Now it may be that there need to be different types of adaptions to the regulation so it is appropriate for the sector, or it allows and does not prevent very small organisations being involved in lobbying, but to say that if you work for UNICEF[7] you are not regulated but if you work for the CBI[8] you should be I do not think can be justified.

Q87 Julie Morgan: What about these small grassroots organisations that have very few employees and who make often a very powerful case? Do you think they should be drawn into this sort of regulation?
Mr Facey: I think that is about the appropriateness of the regulation, and I think you then get on to finding a way which actually does not stifle what you want to encourage but does it in an appropriate way. It may be there is a threshold because the reality is that an organisation like mine with a budget of around £400–£500,000 a year can probably bear regulation of some form, whereas an organisation of the sort you are talking about which may have a budget of £50–£60,000 a year, if that, or in some cases two ha'pennies, should not have to have the same level of regulation. The same argument is being used with political parties. It is now accepted to have a lower level of regulation for small political parties than for the Labour Party, the Conservative Party and the Liberal Democrats.

Q88 Julie Morgan: I think there is a real danger that you are stifling democracy by these suggestions because you said earlier on that people do not feel they are able to change things and do not work through political parties any more, but they certainly do work through pressure groups. There is a huge growth in the number of small active pressure groups, some with no employees, and that is a way of people making their views heard.
Mr Facey: In which case they should not be regulated. For me, if you employ the equivalent of basically one person on it, so you are talking about a salary even for a small organisation of £25/26,000, then I do not think you should even have to be

[7] United Nations Children's Fund
[8] Confederation of British Industry

involved in that. It is at the point when you are effectively hiring professionals to do it that I think you step over a mark.

Q89 Julie Morgan: So it is only organisations that hire professionals?
Mr Facey: Which hire staff to do it, whether that be a campaign --

Q90 Julie Morgan: Parliamentary officers? Those sort of people?
Dr Dinan: Yes. I think in-house functions should be captured. One of the problems previously has been that there has been a tendency to focus exclusively on commercial consultants who represent a multiplicity of clients, and it seems to me there should be transparency there. But if you accept the principle that organisations trying to shape politics should be regulated or registered or have to declare things or make things transparent, I do not think there is a reason to separate the voluntary from the private sector or companies. In terms of the probity of public life and confidence in decision-making transparency should apply across the board.

Q91 Chairman: We have a spot of confusion here because you started off by saying, Peter, that you had these conversations beforehand, and you thought everybody should be treated the same, that you should not make distinctions between these commercial/non-commercial organisations, big and small. But then you finish up by saying you want to exempt sectors now from doing this.
Mr Facey: Not exempting sectors, because I am the same sector as that small community group, but the difference is having an appropriate level of regulation. I am not saying that if a commercial company spends £500 on lobbying they should have to go for regulation which costs them more than the £500 they spend; that would be inappropriate regulation. Where you are spending a reasonable amount of money, and we can debate and you can suggest what is a reasonable amount of money, you should treat everybody equally, but if I get together with my neighbours in my street and we raise £500 and we lobby our local council on a crossing, we should not have to be covered by regulation.

Q92 Chairman: It may not be money; it may be influence. You can lobby influentially without money. How do you regulate that?
Mr Facey: I do not think you can. I cannot stop a well-known individual coming to talk to you and saying he should be registered, but at least he is doing it on his behalf. You do not regulate in the same way the funding of an individual as you do a political party. If somebody is independent he is not regulated in the same way as a political party; you treat him differently. In this case I am saying that you can treat people differently. Ad hoc, small organisations, or even large organisations who spend a small fraction of what they do on influencing policy, should be treated differently than those organisations which are involved in it as an on-going part of what they do, whether that be a consultancy or an NGO.
Professor Miller: I think the experience in the US is instructive here. All systems which have some form of regulation define a minimum above which people have to register and disclose, so very small organisations are universally exempted from that, but the issue which does come up when these things are discussed is the question which you raise, which is a good question about does not this stifle democratic process and do the opposite of what we think it would do, and I think you need to look at the way in which these systems operate around the world. As Will mentioned earlier, in discussing this with the Scottish Parliament a couple of years ago we surveyed a whole range of Federal level and State level regulators in the US and asked them these questions and not one came back and said that as a result they get lobbied less or that it has stifled NGOs and small community groups. On the contrary, they said it has helped the system to operate more effectively; that was their view.

Q93 Mr Burrowes: I am struggling to understand the principle behind you wanting to propose a mandatory statutory register of lobbyists. If you are concerned, as you say in your documentation, about lobbying which involves misrepresentation or deception, if your concern is on the broad principle of transparency, why do you then get involved in the issue of it being all lobbyists with a significant annual lobbying budget, which then becomes the issue of how much money they are spending on their lobbying, as being the trigger point for any registration? Why not look at the principle that people are lobbying and that there has to be universal registration?
Professor Miller: I am not sure I understand.

Q94 Mr Burrowes: Well, effectively you are requiring on a mandatory basis the registration of lobbying interests when those lobbyists are spending a lot of money in their budget rather than the principle of them actually doing the lobbying?
Professor Miller: The triggering level could be discussed. In the US it is currently more than 20% of the person's time, or an equivalent amount of money, that is the level they have set it at which is not a huge amount of involvement but a significant amount. On the question of deception and lobbying tactics, we give an example of a company --

Q95 Mr Burrowes: I appreciate that. Let's make the leap that there is a problem and look at some of the solutions and logic behind it, because effectively what you are wanting to do is require that legislation to apply to all lobbyists with a significant annual lobbying budget, so those that spend a lot of money, and it is going to inevitably mean to the big players that you are wanting to legislate for them.

Mr Facey: It depends what you call "significant --

Q96 Mr Burrowes: This is what you said.
Mr Facey: I would say "significant" would be if you have a parliamentary officer as an organisation. I think you capture that sort of level above. The reason for not capturing everybody on principle is because it is unworkable. The fact is you could not have a register, and I am not sure it would be helpful, which basically said that everybody who does some form of trying to influence policy, whether it is writing a letter to the local paper, has to be registered. Therefore, if you think that there needs to be a register of some form, then you have to do it so that it captures the bulk of what you want to deal with in a way which does not actually stifle it. I do not want to stop lobbying, I think it is a good thing, but—

Q97 Mr Burrowes: But what you want to do is to regulate big-business or big-money lobbying?
Mr Facey: I do not think I am actually big money—

Q98 Mr Burrowes: No, I am not talking about you. I am talking about the proposal you have made.
Mr Facey: But I would be captured by this.

Q99 Mr Burrowes: Let us not personalise it to you.
Mr Facey: Organisations like mine which have budgets for or have three or four members of staff, I think, would be included. I do not think we would regard that as big, but we are significant players in some fields in relation to influencing policy. This is not, for me, a crusade against business or large organisations, so it is trying to capture the bulk of what goes on.

Q100 Mr Burrowes: In the Spinwatch document, they seem to have conflated in some ways the whole issue of lobbying and business and particularly big business.
Professor Miller: There are two issues here, it seems to me. One is the issue of transparency where you have a register where people will have to disclose their clients, so that is one issue which we can talk about, but the other issue is the question of enhanced ethics regulation which means that there are certain kinds of lobbying which ought to be, in some form, disclosed or probably outlawed.

Q101 Mr Burrowes: So what should not be part of that? What lobbying is defined so as not to be part of that?
Professor Miller: Well, deceptive lobbying, I think, is—

Q102 Mr Burrowes: But what is it or what should not be part of that?
Professor Miller: Well, almost all lobbying undertaken by corporations or by other public relations almost always is not deceptive.

Q103 Mr Burrowes: Almost always?
Mr Walker: Yes, almost always it is not deceptive. Where clients are disclosed, where interests are disclosed, where there is not the creation of fake letters or some of the attempts which we have seen at some levels of lobbying, that kind of thing really is something which undermines the democratic process, it seems to me, and misleads both decision-making and the public, so that kind of thing needs to have some form of regulation, it seems to me. Apart from that, the people who are representing themselves and being open about it, no problem.

Q104 Mr Burrowes: But, in terms of transparency, is it not sufficient that there should be openness to those that they are lobbying and there should be that transparency so that they know who they are being lobbied by and that is the level of transparency? Ideally, you would want it universally to apply to the public.
Mr Dinan: Well, I think there is a public interest in this. I think the public have a right to know who is trying to influence policy. I accept you are representatives of the public, but again with the Canadian system, when they introduced a register, one of the key beneficiaries was other elected representatives. They suddenly got a much richer and more detailed picture of where pressure was being brought to bear on legislation and policy. I think that, if we accept that there is a decline in trust in politics, we have to think of something to do about that, otherwise it is counsel of despair and we will come back to this issue again and again. I actually see it as a kind of positive initiative. I do not see anything wrong with transparency and I think people should be signed up for that. I think it is one of the concrete and tangible ways that we have of actually addressing these wider issues and, if this stuff is not in the public domain, and I take it you are all very busy people and you would not have time to circulate information about lobbying that was done to you to other Members informally, so we need some mechanism of making that public. I think that is what we are driving at with this register.

Q105 Mr Burrowes: In terms of those areas that cover commercial confidentiality or, let us say, price sensitivity, say, for example, a company wants to make ministers and officials aware of a new healthcare product at design stage so that it can be factored into future planning, how should registration affect that example?
Professor Miller: Well, in the notional register we are talking about, the lobbyists involved in that, whether it is in-house from the company or from a lobby consultancy, they would disclose their client, they would disclose how much money they were spending on this campaign and, preferably, they would disclose the topic that they are lobbying on, so that would not involve disclosing commercial in-confidence information, although there is an issue which has been raised in the evidence so far given to the Committee in relation to particularly lawyers; lawyers particularly object to the question of disclosure. For example, the APPC, the

lobbyists' lobby group, they object less, it seems to me, than some of the lawyers do, but what you have got to do is look at the experience in other places. When the lawyers, the accountants or the management consultants, whoever it is who is engaged in lobbying, when they say, "Well, we don't allow it", et cetera, if you look at what happened in the US or in Canada or in Australia when it was brought in nationally, they are able to comply, the lobbying organisations and the law companies are able to comply. This is not about law companies representing clients in court, it is nothing to do with that, it is to do with engaging in a lobbying activity, so I think commercial in–confidence information is raised as an issue, but I think it is a misplaced issue.

Q106 Kelvin Hopkins: Can I just preface my remarks by saying that I very strongly agree with what Peter Facey was saying earlier on about democracy in Britain and a declining interest in the work by John Curtis the people at CREST and others have shown, but that is a broader issue. Would your case not be easier to make if you did draw a very, very firm distinction between commercial lobbying for contracts and the influence of big business, on the one hand, and campaigning, like I do, for the National Pensioners' Convention, who have not got two beans to rub together, representing poor pensioners, if you made that distinction and said, "What we're really after is to make sure that government is not perverted by big money?
Mr Facey: I think the problem with that is that you are actually saying that business and commercial interests are not legitimate or are less legitimate than voluntary-sector organisations. As an organisation, we do not try and get involved in that. We actually think that being involved in the process across the board is a good thing and I think there are good examples of the commercial sector being involved in that and I think there are bad examples sometimes in my sector. In the same way, in politics, there are individual cases of politicians producing fake leaflets for other parties, sometimes campaigning groups use bad campaign tactics or get involved in things; it is about saying that all of us are. Now, I happen to think that the reality is that it is not actually going to be the small organisation with very little money which is the problem because all they can actually do is get your constituents to write to you. It is likely to be the organisations which actually can spend large amounts of money doing the kind of glitzy stuff or the other bits and pieces which may actually be where there is a problem, but I think it has to apply to everybody. I do not think you can get into this thing of saying, "We good, them bad, regulate them, don't regulate us". I do not think I can stand here before you and say that and, therefore, I think you have to say, "Let's find a way of doing it which doesn't put too much of a burden on people and applies across the board" so that it is not ideological about whether you think this sector is good or that sector is bad.

Q107 Kelvin Hopkins: I have some sympathy and the argument for registration of all organisations, it seems, is a good one, but at the same time should there not be different rules for organisations which have no money and are lobbying on behalf of citizens as opposed to those which are lobbying on behalf of business for contracts and also indeed to change legislation?
Mr Facey: You may want to have tougher rules on certain aspects because, if you are lobbying to get business, then you may want to have stronger rules on it. You may want to have different rules in terms of—for instance, when I have talked to the APPC, I have no problem in declaring where our donations come from and the exact amount and we publish on our website any donation over £5,000 from any source, whether it be government or private. They would have a problem in, say, publishing the exact amount of their fees because they argue that that would get in the way of their commercial business. I do not have a problem with you setting a regulation which says that they have to declare the brackets of which the money comes from rather than the exact amount because I am not trying to put them out of business or make their life difficult or hopeless and the people who hire them get paid higher fees or lower fees, so I think there may be a case of adapting it to the people you are dealing with, but in general the broad principle should apply to everybody. How you implement it, I am not here calling for over-regulation and I do not want you to impose huge amounts of things on me, but the question as to whether there should be a minimal level of regulation, yes, and I cannot see how a register where I have to declare that actually we do lobby and broadly the sources of income from it and what we actually do in a very simple way should be something which any organisation of our size, or even smaller, whether commercial or voluntary, should not be able to do.
Professor Miller: I would add to that that in the question of procurement, the question of perception of fee kick-backs is a question which does not just to apply to business, it also can apply to NGOs and civil society groups who are engaged in trying to get money from government, so I would say it is the activity and you might want to regulate procurement issues more strongly, but that should apply also to NGOs and trade unions actually as well as to the corporations. I think you need to be consistent on that, that it is the activity as opposed to the organisation.

Q108 Kelvin Hopkins: Another distinction that I have made in previous sessions is between Members of Parliament, backbench MPs and where the real power is in Whitehall and Downing Street. Is it not the case now that the really serious business lobbyists do not bother with people like me, and they would not get much sympathy from me anyway, but they go straight to a reception at Downing Street or even a private meeting with the Prime Minister and say, "We want to set up big gambling casinos all over Britain. We want you on our tab", not quite saying it overtly, but effectively, and then expect the

Government to deliver. In that particular case, of course the House of Lords stopped them and they could not get their big casinos and the American corporations walked away from Downing Street, disappointed in the weakness of the Prime Minister. Is that not what we are really aiming at?

Professor Miller: I think that process and the perception of that process is part of this wider question about the disillusionment of politics. It is perceived that power has moved from a chamber like this up the road to Downing Street and to ministers. That is a common perception. It is also true that lobbyists do predominantly target senior civil servants and ministers and they want to find ways into that, so they do it directly, yes, but they also do it by trying to populate what they call the "information environment" by doing it through party conferences, putting on events, funding think-tanks and all those kinds of things. That is the way in which the lobbyists operate, lobbyists for corporations as well as for other organisations. There is the perception that power has kind of evaporated a little bit from Parliament.

Mr Facey: We all know that, once you get a piece of legislation, changing that piece of legislation is extremely difficult, very, very, very difficult. In fact, it is news when the House of Commons amends a piece of government legislation and you get stories about revolts, et cetera, so the reality is that, if you want to get something through, you have to concentrate in some ways, if it is at legislation stage and you are trying to stop it, you are fighting a guerrilla war to stop something. If you can get it beforehand, it is a lot more effective, so, if you can persuade a governing party to actually introduce a piece of legislation which you want and you can influence civil servants and others in the drafting of it, you are going to be a lot more successful than you are once you have a piece of legislation or a piece of draft legislation and are trying to persuade you and your colleagues to amend it because it is a lot, lot more difficult, and that is the reality of the political system.

Q109 Kelvin Hopkins: Even more worrying is what do you do, and what would you suggest we do, about inviting the money-lenders actually into the temple, you know, the high priests invite the money-lenders in, like, for example, the Commercial Director at the Department of Health who worked for Amey and was responsible for digging PFI[9] contracts out of the Government and was then invited into the Government as the Commercial Director to deliver PFI from the inside? He is a Texan and he will no doubt go straight back to the industry when he leaves and will be well-rewarded for his trouble. Is that not a problem too which you might well focus on?

Professor Miller: We raised that in our submission, the question of the revolving door and those kinds of relationships. That is an issue which causes public disquiet and it is an issue which you have already reported on in your previous reports on the whole question and this Committee's view, it seems, was rather critical of the way in which the system is currently operating, and we would share it.

Chairman: There is the idea that somehow people do not know what is going on. We are going to get an announcement today on revisions to the capital gains tax proposal. Now, we know full well that over the last several months every kind of business organisation in the land has been lobbying hard about this and we do not need a register to tell us this. That is what goes on, that is what we know goes on, and the Government is required to take a view on it and then to answer to Parliament and the public for it. Since we know all that, it is not some great sort of conspiracy that is going on out there, that is how government operates, so why do we need a device to tell us what we already know?

Q110 Mr Prentice: Can I just ask for the evidence of the abuses because, and it gets back to what Tony said at the outset, what is the nature of the problem? Do you have a compendium of abuses that you could let us have?

Professor Miller: Sure. We have given some examples in the submission today.

Q111 Mr Prentice: Well, we have had TOAST, but going beyond TOAST.

Professor Miller: There are lots of other examples, yes. I think there are two answers to Tony's question, but relating to the abuses, it seems to me that they relate to two issues, one of transparency and the other the question of deceptive tactics, so the abuses involve not being clear—

Q112 Mr Prentice: So you could catalogue all the abuses for us?

Professor Miller: Not all of them, no.

Q113 Mr Prentice: But you could catalogue enough abuses for us to think about going down the regulatory road which you are advocating? There is a problem big enough to warrant this elaborate architecture of regulation and sanctions?

Professor Miller: Well, we think there is a problem big enough. As we have said, we do not think that there should be an elaborate architecture; it should be a straightforward, quite simple and proportionate kind of regulation.

Q114 Mr Prentice: Well, just let me stop you there because you are a signatory, you sign up to Spinwatch, do you not? We have got a short submission from Spinwatch and they advocate the recording of formal and informal meetings between elected Members, officials, lobbyists, the logging of correspondence to be made available on a fully searchable, on-line database. That seems quite elaborate to me.

Professor Miller: That is already required of ministers under the Nolan principles. This is already supposed to happen.

[9] Private Finance Initiative

Q115 Mr Prentice: Is that a searchable—
Professor Miller: It is not on-line, but the recording—

Q116 Mr Prentice: A fully searchable, on-line, and that is not Nolan, is it, a fully searchable, on-line database?
Professor Miller: No, it is not.

Q117 Mr Prentice: I am saying that that is quite a big deal to move to a system where you have a fully searchable, on-line database. That is a big thing, is it not?
Mr Facey: To be honest, if you actually just published it on-line, some voluntary-sector organisation would then work out a way of making it searchable. There are enough examples in the world. If you wanted to publish it on-line, I am sure TheyWorkForYou or one of the other organisations which mine information would find a way of doing it. If we and the rest of society can have access to it, we can probably find a way of making it searchable, even if you and the regulator do not, as long at it is actually publicly accessible.

Q118 Mr Prentice: Okay, and the disclosure of resources spent in lobbying campaigns, itemising expenditure and so on, that is quite a big deal as well, is it not?
Professor Miller: Over a certain limit. That would be what the lobbyists would be required to do. That is what happens in all the other jurisdictions.

Q119 Mr Prentice: The buzzword at the moment is "proportionate", is it not?
Professor Miller: Sure.

Q120 Mr Prentice: It is whether all this effort and energy required is proportionate to the alleged abuses that you and your fellow academics have identified. It is like a sledgehammer to crack a nut, that is basically what it is.
Professor Miller: Well, we think that it is proportionate. We think that there is a serious problem both in fact and in perception and that, if we want to deal with that problem, a useful first step is some form of lobbying transparency. We act like they are a maximalist kind of position, but that is kind of what we would like to see. We are in favour of any kind of advance on the transparency position at the moment.

Q121 Mr Prentice: You also in Spinwatch talk about the extended cooling-off period of one year for ministers, elected Members and senior officials before they can start working for lobbying groups and lobbying consultants. Tell us a bit more about that. Why one year? How do you police this regime?
Professor Miller: There is already a mechanism, is there not?

Q122 Mr Prentice: Is it adequately policed? That is what I am asking you.
Professor Miller: Probably not, and I think we would probably agree with the Committee's report on that. I think the question that you have to recognise here is: what is it that happens to people once they leave the Civil Service or cease to be ministers? If they go straight into a large corporation or a lobbying group, there is a danger there of potential perceived conflict which is what was outlined in the Committee's—

Q123 Mr Prentice: You do not make a distinction between former ministers going into multi-client lobbying groups and taking up jobs in a single company? For example, it has been in the press that Patricia Hewitt is taking up a job with Boots the Chemist. Now, do you make a distinction between the multi-client lobbying groups and former ministers who get jobs with individual companies?
Professor Miller: At present, the position seems to be that largely what happens, and this is the case with Tony Blair as well, is that the appointments are approved on the condition that they do not personally lobby for the first 12 months.

Q124 Mr Prentice: Well, we know from an article that appeared recently in *Public Affairs* which quotes Lord Mayhew who is coming before us in a week or two, he is Chair of the Advisory Committee on Business Appointments, he is quoted as saying, "It would be a mistake, I think, for us", that is the Advisory Committee on Business Appointments, "to define 'lobbying'",[10] so the organisation that tells ministers they should not lobby for a year has not got round to defining what "lobbying" is. That is point one. Point two, after former ministers have been told not to lobby, the Advisory Committee on Business Appointments does not check, does not go back. They would not have gone back to Tony Blair to ask him about his job with the bank at $5 million or whatever it is, so there is a problem there, is there not?
Professor Miller: Well, I think there is, yes. Am I agreeing with you? I am not sure if I am agreeing with you, but I think there is a problem.

Q125 Mr Prentice: Well, I am inviting you to.
Professor Miller: I think there is a problem there. I think that, although they do not define "lobbying", what they have in mind is face-to-face meetings between, for example, Tony Blair and a decision-maker. Now, that is not how lobbying works.

Q126 Mr Prentice: I want to know how lobbying works because this is a great conundrum, is it not, that, even people involved in lobbying cannot tell us what "lobbying" means. When former ministers are taken on by companies, what are they taken on to do? Is it for their contact book? Is it for their networks? What is it? We have 11 ministers from the Blair Government, 11 now former ministers, who

[10] "Paddy's Power", *Public Affairs News*, January 2008, p27

are now working for other organisations. What is it they want from those 11 former ministers, including the former Prime Minister?
Professor Miller: Yes, it is their contact book, yes, it is their networks, yes, it is their knowledge. It is all of those things, is it not, and the name and it is the advice that they can give them. Lobbying involves yes, contacting a senior civil servant or a government minister, but it also involves giving advice on strategy, internal information about how policy processes work, about how departments work, who to contact, all those things.

Q127 Mr Prentice: How can you regulate that? It is like having a conversation in a pub about things, is it not? How do you regulate that?
Professor Miller: Well, you regulate it by requiring the lobbyists to disclose who their clients are, how much money they spend and what they are lobbying on, and that needs to capture not just, "We went to meet the Prime Minister", but also what else they were doing.

Q128 Mr Prentice: How many former MPs have gone on to become lobbyists? You have studied this for years, so you will be able to tell us.
Professor Miller: I cannot tell you the number, but there is a lot of them. We can come back with a list. The interesting thing is that you asked us about the distinction between corporations and lobbying consultancies and I have noticed in the current list that there is one former minister or specialist adviser, I forget which, who has gone straight to work with a multi-client lobbyist and was not required to have any cooling-off period, so that was regarded as less serious than going on to advise JPMorgan Chase or Boots in the example, so there is an uneasy distinction in there as well about what kinds of things are involved. What I would say is that, when you go to work in a corporation as an adviser, you are there to advise on their political strategies. That is, in a word, lobbying, so I would not make much of a distinction between the two of those.

Q129 Chairman: As I understand it, but just to be clear, you are not saying you are against the activity, you are just in favour of more knowledge about the activity? Is that right?
Professor Miller: In terms of extending cooling-off periods, if you look at the two points at the top of the guidance from the Committee on Business Appointments, the reason they say that they are there is to avert potential suspicions that there might be some kind of arrangement entered into before the person leaves to advantage in some way the interest.[11] I think that is the main worry here and that is why there ought to be a longer cooling-off period so that the vested interests cannot exploit previous contacts or immediate past knowledge.

Q130 Kelvin Hopkins: Is it not more worrying that ministers might be influenced in office by the potential of making money after they have been in office and they might be soft on companies, knowing that they might be well-rewarded for their efforts after they have been in office?
Professor Miller: I think I agree with you. I think both are a worry, but yes, I think I agree with you.

Q131 Paul Rowen: I would like to pick up some of the earlier discussion about ethical standards employed by lobbyists because in your paper one of the examples you quote is actually effective in my constituency and that is the Spodden Valley campaign and the way countryside properties went about putting up fake websites. They also put out a glossy leaflet that went to 20,000-odd people around the thing in which they said there was no asbestos on the site and there was also some possibility of fake letter-writing. We are talking about disclosure, but how do you regulate a company that decides to use what are clearly very unethical methods to actually go about obtaining what in this case would have been multi-million pound planning permission on a very lucrative site?
Professor Miller: This is why there is a need not just for transparency, but also for ethics regulation. One of the lobbying companies involved in that, PPS Group, is a member of the Association of Professional Political Consultants, but their code does not deal with this question in any real way. This kind of tactic is not used by all lobbying companies and PR companies by any means, but it is a well-known tactic which has been used since the early years of the 20th Century, it is called the "third-party technique" where you put your words in someone else's mouth. It has graduated to the technique of fake letter-writing, inventing people and using people's names to write letters to decision-makers where these people do not exist. That seems to me to be a problem and to undermine democratic decision-making, and that is a problem, whether it is done by an NGO, a trade union, a lobbying company or a corporation. That is the kind of thing which needs to be regulated by ethics regulation. The third-party technique, in my view, should be entirely outlawed. It should not be allowed that organisations engage in creating fake letters or fake websites and pretend they are somebody else.

Q132 Paul Rowen: What sort of penalties? We are talking about a cooling-off period for ministers, but what sort of penalties would you want to see for those lobbyists that engaged in that?
Professor Miller: This is a process, the question of increasing transparency. At present, in the US there are fines and potential custodial sentences for those kinds of things.

Q133 Paul Rowen: So you would want to see a similar sort of system operating here?
Professor Miller: The first step would be some kind of naming and shaming, I guess, but you need to have some method of outlawing that kind of practice, I think.
Mr Facey: If a political party breached the same sort of rules, and there are sanctions already for political parties, I do not see why political parties, which are

[11] Guidelines on the Acceptance of Appointments or Employment Outside Government by Former Ministers

voluntary organisations, should be treated in one way and actually potentially, if you are an agent and you do something like that, you can actually have criminal proceedings against you, why organisations, which lobby them, should actually have no sanctions against them if they use activities for political parties would be beyond the pale.

Q134 Paul Rowen: But spirits are high, are they not? In this case, you are talking about a housing development that is worth several hundred million pounds and is there not always a temptation, even though you say, "Oh, it's outlawed. We don't approve of that", in this particular case, if you are going to make £500 million on a housing development, you are going to take the risk and are you going, therefore, to have the fine commensurate with the risk that is involved?
Mr Facey: It may actually be that you may want to consider that, in those circumstances, it is criminal, not civil. In the case of political parties, you can get fined, and it is also the case with political parties that, if you breach certain rules, you can actually get sent to jail. That rarely ever happens, but it is actually there as a sanction. I think the same thing would have to apply, but, if you had the level of abuse which you are talking about and it could be proven, then I think you are potentially looking at something which should certainly not just be a matter of naming and shaming, but ultimately should be a criminal sanction because you are talking about defrauding the process for commercial gain, and I happen to think that is wrong. Now, you may hear from other people who could say better than me how you could craft that, but I would certainly say in principle that I cannot see how that behaviour should simply be something to which you said, "There, there, that's really bad behaviour".

Q135 Paul Rowen: In your experience, how widespread do you think it is? You quote PPS as being involved several times in doing this sort of activity. How widespread would you say it is, I am not saying at the high end, but in general terms? We all know, if you look at complaints made against local councillors, most of them actually occur in the planning area because that is the area where there is obviously most possibility for gain.
Professor Miller: What I would say about that is that we could, as Gordon has been suggesting, catalogue some of these things, but I suppose I should say a bit about our background here. We have been engaged in academic research on lobbying and PR for some years now and it was as a result of that that we got involved with the Spinwatch project. As part of that research, we travelled to a large number of public relations and lobbying conferences and spoke with, and listened to, PR and lobbying professionals. The third-party technique is a standard and very widely used technique in public relations and lobbying and it goes back to the very early years of the 20th Century in both this country and in the US, and it is still very widely used. Now, there is a debate within the PR industry and the lobbying industry about the ethics of the third party technique and whether there is an ethical third-party technique. I think there probably is not, but there is no denying that actually the third-party technique is a standard technique in the public relations and lobbying industry and it is used very, very widely.

Q136 Paul Rowen: But how do you draw the distinction? I, and I am sure other colleagues here, have had standard letters which may have been written by a local charity or campaigning organisation sent to me; I am on the Pensions Bill at the moment and I have had several letters from pensioners, that the Government are going to introduce the legislation for the people who have lost their pensions, and it is all very standard what is being said. How do you distinguish between that, which is actually about legitimately trying to support a particular point of view by a very worthy cause or worthy organisation, and the other aspect of it, which is that I get my mother to write a letter, saying how wonderful such and such an organisation is and do not disclose that we are related or whatever and that helps to benefit something.
Professor Miller: I do not think your mother writing a letter really is a problem actually. The problem is if you invented a mother or five grandmothers!

Q137 Paul Rowen: Or if I wrote it for her.
Professor Miller: Some of our students do not give their essays in because their grandmother has died for the fifth time! That is a little bit fraudulent. If PR or lobbying companies are inventing people or using people's names without their knowledge, then that is deception and that is different. With Greenpeace campaigns, they write postcards, they write the letters themselves, but it is a real person sending it.

Q138 Mr Walker: But occasionally I have had these postcard campaigns and I think it is from Greenpeace and others where I have got a letter back from a constituent, saying, "You have written to me on this, but I never wrote to you". They could well have forgotten they had done it, but you must have had these. You think, "Hold on a second", so I agree with your view. I think a lot of charities have to get their own house in order as well as businesses and I think, at least if a business comes and sees me, I know what its end objective is, but I think there is concern with charities. Yes, there is this charitable front, but actually who is pulling the strings behind.
Mr Facey: We always say to our supporters when they write to Members of Parliament, "It is a lot more effective if you write it in your own words and you write it rather than copying it, but here is what we would like you to say". Now, as long as that person is a real person and a real constituent, it is up to you then to judge what worth you put on it. If I made up the constituent and actually got a load of addresses from your constituency and created fake people who do not exist, that is a completely different category of thing than me facilitating and getting some of my supporters or people who agree with us on an issue to write to you or send you a postcard. I happen to think that postcards are a lot

less effective than an individual letter, but sometimes it is easier to run a postcard campaign than a letter campaign, but that is not fraudulent. The question is: is it fraudulent? If there are organisations out there making up people to write to you, then personally I think that is something which should be a criminal problem, not a question for you to judge whether it is effective or not because at least my members are human beings.

Q139 Mr Walker: I just think you guys could earn a lot of money actually. You could actually advise lobbying companies on what strategies actually influence behaviour and decision-making. You have been to all these conferences, you have obviously studied this in great depth and, if I were a lobbying company or a business, I would actually be looking to sign you up, and whether you would accept an offer of having your programmes funded by a third party would be for you to decide. Just exploring your own moral maze, you are academics at an established Scottish university, I believe. Have you ever given paid advice or unpaid advice to someone, a Member of the Scottish Parliament, for example?
Professor Miller: Paid advice, no.

Q140 Mr Walker: Unpaid advice?
Professor Miller: We have advised MSPs, MEPs, MPs. We have submitted regularly to consultations, as we did this one.

Q141 Mr Walker: But have you ever advised MSPs that perhaps were favourable to your position and you knew that, if you supported their activities, it would promote your position and concerns on this matter, so you have actually worked closely with them to promote your own agenda in this area?
Professor Miller: We have been engaged in activities which we would define as lobbying, yes.

Q142 Mr Walker: Can you name some of the MSPs perhaps that you have talked to or political parties?
Professor Miller: We have given advice to all the Members of the Standards Committee of the Scottish Parliament, for example. We have written to them, we have submitted evidence to their consultations, we have appeared before them, so those kinds of activities, and I regard those as lobbying.

Q143 Mr Walker: So have you ever provided, say, more party-political support in a sense to any party in the Scottish Parliament?
Professor Miller: No.

Q144 Mr Walker: So, as far as your activities are concerned as academics, where would you see you in this whole sort of hierarchy of registration because there are issues here? You are trying to influence policy and you have privileged access, to some degree, by the fact that you are experts in this field. Do you understand what I am saying?
Mr Dinan: I think you are absolutely right and I think for this kind of function we should declare the preparation we make for this and the time we invest in this. That is what we are trying to get at, where the effort to influence policy is coming from so that people can see that, so I would be more than happy to declare the amount of time I have spent on submissions and work in this area. I think that is absolutely legitimate. If people want to know that, why not? This is why I think that drawing a distinction, say, between businesses and commercial interests and voluntary-sector interests and civil society interests is problematic. I think we are on safer ground if we stick with the principle that anybody who is trying to influence policy should be registered or regulated because I think transparency is a very positive, enabling thing. I think it is problematic if you just have a target of, say, commercial consultants with multiple clients and not actually other organisations. One of the things I do not think we have mentioned is that in the States where they did target just commercial consultancies, you found that a lot of businesses, in particular, funnelled money into charities and there was a loophole there and it was exploited. I think, if we are going to proceed from this and people think a register is a good idea, in principle, it should apply to everybody.
Mr Walker: I would say that there is an area of concern where Members of Parliament are lobbied by so-called charities where actually they are significantly supported by donations from companies that have a vested interest in their work, and I think there should be a little bit more transparency there.

Q145 Chairman: Can I just bring us back to where we started which is the question of whether there is a problem and, therefore, is there a solution to match the problem. As Gordon pointed out, your central recommendation to us through Spinwatch is this idea that there should be, and these are your words, "a mandatory system of electronic registration and reporting for all lobbyists with a significant annual lobbying budget", and then it goes on to say how you have got to describe how much was spent on particular lobbying operations and so on.[12] As Gordon says, you are talking about quite an elaborate system here. It is matching that against the problem and the real-world issue. The other day, just to make it more concrete, I had a visit from Marie Curie Cancer Care which I have been involved with for some years, and they have got a campaign to enable people to die at home and they are pressing the Government on this programme and so on. They came themselves and they came with the lobbying group that they use because they find it helpful to have a group to help them to access government on this. As I understand it, your proposal is that Marie Curie would have to register because they devote resources in their organisation to lobbying, the lobbyists would have to register, there would have to be a record of my contact with them a few days ago, every time they see a minister or a civil servant it would have to be recorded, the amounts of money that Marie Curie spend on this particular part of

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their activity would have to be recorded. We are talking about a huge, elaborate system here to deal with what I do not see to be a problem, which is that they have come to speak to me about the need for people to die at home. What I am putting to you is this question about the mismatch between the realities of the problem and the elaborateness of the solution.

Professor Miller: Well, these systems operate in many other jurisdictions without any problem and they do not cost a lot of money.

Q146 Chairman: Let me just try the second aspect of this then, which is that you have talked about this as though somehow the political system is the recipient or the victim of this lobbying activity and we need to make sure that people understand how that operates. In fact, a lot of the work that we do, as elected representatives, is lobbying. We are lobbied, but we, in turn, go out and we lobby. We lobby private business to give business to our constituencies, we lobby the public sector to deliver services to our constituents, we go to hospitals and we say, "There's someone on the waiting list who's waiting" or, "Will you get this child into a school". That is what people come to us for. Surely we have got to regulate all of that as well, have we not?

Mr Facey: I happen to think that politicians are probably regulated enough in terms of their transparency, and even I do not call, as an organisation which is interested in it, for you to be regulated more in terms of transparency.

Q147 Chairman: But this is privileged access.

Mr Facey: Yes, but you are elected people who have privileged access because you are elected representatives of the rest of the population.

Q148 Chairman: But surely the need for transparency is as great in that area as it is on the other side. People ought to know who we are lobbying.

Mr Facey: I would have no problem about whether you wanted to declare that, and actually most MPs do declare it because they actually use it to get elected and they actually tell people and transparency is fairly good on it, and actually I do not know an MP who is actually quiet about getting better services for their constituents. The difference is that on the other side I am not sure that people are as, shall we say, open about what they do and it is about making sure. If everybody who lobbied you shouted about it in the same way that MPs did and put it in leaflets through everybody's door, we probably would not need a register, but, as far as I know—even I do not put on leaflets through people's doors what we have done, though we cannot afford the leaflets. MPs do actually tell people the lobbying they do. In fact, there is a whole argument about now MPs using their expenses to write to people to tell them what they are doing and at the last election I got a number of letters from my then Member of Parliament telling me of his lobbying on my behalf over post offices, so I do not think there is a transparency issue in relation to MPs.

Q149 Mr Prentice: When I was first elected, Frank Dobson said to me, "Never do good by stealth"! I have never forgotten that.

Mr Facey: I do not think that there is a problem there, but maybe you do.

Q150 Chairman: I was being pushed by your maximalist position to try to get maximum transparency here.

Mr Facey: If you accept our general argument that there should be regulation, but you actually feel that what we have proposed is over the top, then please come back with something which is more appropriate. For me, the general principle is the one which is important. It may be that some of these things can be done in a lot less intrusive way and it may be that you want to recommend starting there and then looking at how that works. I do not think that gets in the way of the general principle that actually there should be transparency, and it may be that you are better able to actually work out what that level of transparency should be, but the idea that one side of politics should be regulated and the other side should not at all I do not think is a strong argument.

Chairman: Well, we have had a good run round the issues and we wanted this session to be that from people who have said some challenging things to us about the need for action in this area, so we are very, very grateful for that. If we have been, in turn, challenging, it is because that is what we have to do to get the value from these sessions, but we are very grateful for what you have said and also for the material that you have given us and, if you do want to give us any further material, we would be very glad to have it. Thank you very much for coming and talking to us.

Thursday 7 February 2008

Members present

Paul Flynn	Julie Morgan
David Heyes	Mr Gordon Prentice
Kelvin Hopkins	Paul Rowen
Mr Ian Liddell-Grainger	Mr Charles Walker

In the absence of the Chairman, Kelvin Hopkins was called to the Chair.

Witnesses: **Mr Rod Cartwright,** Public Relations Consultants Association (PRCA), **Ms Gill Morris,** Association of Professional Political Consultants (APPC), and **Mr Lionel Zetter,** Chartered Institute of Public Relations (CIPR), gave evidence.

Q151 Kelvin Hopkins: Good morning. Welcome to this evidence session of our inquiry into lobbying. Welcome particularly to those giving evidence today, who are Gill Morris, Chair of the Association of Professional Political Consultants, Lionel Zetter, immediate past President of the Chartered Institute of Public Relations, and Rod Cartwright, Head of the Public Affairs Committee of the Public Relations Consultants Association. Welcome to you all. I should say at the beginning that Gill is a longstanding personal friend and I know her consultancy very well but of course I am absolutely neutral in the Chair and will try to be fair to you all in the questioning. Perhaps I could start off by inviting each of you to make a personal statement if you wish. In doing so, could you explain what distinguishes each of your organisations from the other two represented here and perhaps a little about the personal experience each of you has had in the public affairs industry. By way of general introduction, would you care to make some personal statements to begin with?

Mr Cartwright: My name is Rod Cartwright. I am a member of PRCA's board of management and Chairman of the Public Affairs Committee. Very briefly on the PRCA: it was set up in 1969 and it is the representative body for the public relations consultancy industry in the UK. We have around 130 members, employing some 5,000 people, who between them represent around 70% of public relations consultancy fee income. As an association we operate a specific public affairs Code of Conduct and Professional Charter, including a register of members, public affairs clients and staff. Personally, I have been in the industry for some 12 years, working mainly for a number of consultancies. To your point about what differentiates the PRCA from one or two organisations you see before you, we are the trade body for the public relations consultancy sector in the round, whereas APPC is for specific niche public affairs consultancies and CIPR is for individual practitioners. Those are the main points of differentiation. Briefly on our take on this inquiry: lobbying is widely recognised as a legitimate and important part of the democratic process but, nonetheless, we absolutely welcome the inquiry. There has been a lot of change in the lobbying landscape since 1991. We are, have always been and remain entirely committed to self-regulation. We believe that, while improvements can be made—and we are constantly vigilant to do so—self-regulation works well. It is in that spirit that we, working with APPC and CIPR, developed the *Guiding Principles*, based on the belief that any further evolution on self-regulation must encompass all those involved in lobbying: government, Parliament and all those who interact with them.[1] We look forward to taking your questions today on the *Guiding Principles* and I am sure very many other issues.

Ms Morris: I am Gill Morris, I am the Chair of the Association of Professional Political Consultants. I have worked in and around Westminster for 25 years. The APPC is the representative and regulatory body for UK political consultants and public affairs professionals. We were born out of the perceived need to self-regulate. We are not a trade body and that is the key distinction. We currently have 55 member companies, which we believe is approximately is 85% of the political consultancy sector by turnover. The APPC do of course welcome your inquiry into lobbying, not least of all because there has been significant change over the last 10 years. We believe that those who lobby should make their case honestly and transparently. Our members agree to adhere to a strict Code of Conduct. In brief, our Code is based on the principles of transparency, openness, accuracy, honesty, propriety and integrity. Our twin pillars, which underpin our Code, are transparency and a complete ban on payment of legislators. We require our members to declare their clients on a register and adhere to and comply with our principles and Code of Conduct. The Code is regularly and rigorously reviewed and strengthened. We believe self-regulation is working and working well in the UK, and we do believe we have a good story to tell. Compliance to our Code works to enforce high professional standards amongst our members. APPC also works hard to promote greater understanding amongst politicians, the media and other political institutions about the public affairs sector and the contribution made by political consultants to our democracy. Moreover—and I hope we will have some time to focus on this today—we believe that all those, not just political consultants, who do interact with political

[1] Association of Professional Political Consultants, Public Relations Consultants Association and Chartered Institute of Public Relations Government Affairs Group, *Guiding Principles of Conduct*, October 2007

institutions of government should adhere to the principles of transparency, openness, accuracy, honesty, propriety and integrity, and that is why we have joined forces to develop and promote the *Guiding Principles.*

Mr Zetter: I am, as you said in your introduction, Chairman, the immediate past President of the Chartered Institute of Public Relations and also a past Chairman of the Government Affairs Group. The CIPR has 9,500-plus individual members working in public relations and all of its related disciplines. The CIPR's Government Affairs Group has over 700 members who obviously specialise in public affairs. Our Royal Charter, which we were granted in 2005, obliges us and our members always to have regard to the public interest. This year is our 60th anniversary and we are hosting in London the World PR Conference and Festival. The theme of that conference and festival is the public benefits of public relations. We strongly believe that lobbying is not just legitimate, it is also laudable. We believe it has a beneficial impact on the formulation of public policy and legislation. We also believe that ethical behaviour is not just dependent on rules, regulations and legislation but also on creating a climate of compliance. Like Gill, I have worked in and around Westminster for some 25 years and I am currently writing a book on lobbying.

Q152 Kelvin Hopkins: Thank you for those introductions. I would like to pursue this question of self-regulation a little further because you have all been quite robust in defending it, but there are some other countries where there is external regulation—perhaps they are more concerned about the extent of lobbying or the power of lobbying than we are. You say it is absolutely appropriate that you should be both a representative body and a regulatory body. What would you say in argument against external regulation?

Mr Zetter: In terms of external regulation, Chairman, I think our case is that there is not a sufficiently large problem to justify the setting up of an alternate structure that is simply there to regulate the industry. You have referred to other countries and their methods of regulating the industry. The most regulated lobbying industry in the world is the United States and I think very few people would hold up the United States as a classic example of democracy in action or, indeed, lobbying in action. Regulation does not necessarily imply ethical behaviour or compliance.

Mr Cartwright: On the point about the case not having necessarily been made, certain eminent colleagues in the body politic like Sir Philip Mawer, Sir Alistair Graham, Sir Christopher Kelly (who I think came before this Committee a few weeks ago) all take the view that at the moment the quantum of the issue is not such that it merits external regulation. Also, there have already been efforts. For example, the Scottish Parliament's Standards and Privileges Committee endeavoured to look at the idea of statutory regulation of commercial lobbyists and it ran into two major practical issues. One was that defining a lobbyist, given the huge plethora of individuals and organisations that interact with the political process, is very difficult indeed from a practical and therefore legislative perspective. But, also, doing so in a way that was not discriminatory to any one group proved very difficult. Our view is the case is not yet there and we believe that initiatives such as the *Guiding Principles* should be attempted as the next evolutionary step in self-regulation.

Ms Morris: I concur. There is little evidence to suggest that statutory regulation would work in the UK and, indeed, I think we would all have an opinion on whether it works well in the United States. We work in the spirit of the Code in terms of our principles, and I would suggest that in the United States lobbyists perhaps work around the spirit and not in the context of principles: they look at how they can work to tick the box rather than accord with the regulations. Obviously the European Commission is very interesting in terms of the approach they are taking and that is another area of current interest and discussion for the whole lobbying community in terms of how their proposals might work.

Q153 Kelvin Hopkins: You have said something about this already in broad terms, but what specific hoops do you ask members to jump through before they are admitted into membership, to prove their *bona fides* and so on?

Mr Zetter: In terms of the CIPR, before you can achieve full membership you have to have been in the profession for at least six years. You also have to sign up to our Code of Conduct. You also have to undertake to conform to our schedule of continuing professional development. Part of that continuing professional development is obviously to have regard to ethical standards of behaviour. In becoming a full member, you must have been in the profession for at least six years; to become a fellow, you must have been in the profession for at least 10 years; but it is not just an automatic time serve, you also have to undertake CPD[2] and, in some cases, you have to take exams as well. If you do not have a qualification in public relations, then you have to take a specific diploma.

Mr Cartwright: From a PRCA perspective, we have two broad areas of membership criteria. You have to have been trading for three years, have more than five full-time staff and a fee income of a minimum of £200,000. Also, we have something that I think marks PRCA out: the Consultancy Management Standard (CMS), which is an audit undertaken by all members every two years looking at seven key areas of effective business management from leadership and communications, business planning, financial management, professional development of staff, campaign management and the like, and members have to score 75% of the total possible marks on CMS and 50% of marks in any given category in order to be given the CMS accreditation which is also a condition of membership.

[2] Continuous Professional Development

Ms Morris: To join the APPC you have to agree to abide by our Code of Conduct and you have to sign and agree to do that on an annual basis. Also, you have to demonstrate your compliance to that Code and how you are going to ensure that the Code is practised within your organisation. Compliance can be demonstrated in many ways, in terms of attendance at our training and, also, through the Code forming part of our members' staff contract of employment. The emphasis is on the member to demonstrate compliance to the Code but, moreover, you have to declare your clients and the consultants who work with you, so it is completely transparent. The key commitment is agreeing to sign up and adhere to our Code of Conduct.

Mr Cartwright: Could I add that all those points, about declaration of clients, contracts of employment, inclusion of the Codes in all staff inductions, are identical, I believe, across the two organisations.

Kelvin Hopkins: Thank you very much.

Q154 Mr Liddell-Grainger: One of the things that intrigues me is what happens if you find one of your members has inappropriately been lobbying. If you get information that they may have done something which breaks the Code, any of your codes, what do you do? Have you had the problem? If so, would you name names?

Mr Zetter: Naming names is probably something that all of us would be reluctant to enter into at this stage. If we have an allegation referred to us of improper behaviour, the first thing we do is to contact the member and find out if that has occurred and if they are aware of it, and, if so, what they are going to do about it. We have a multi-stage disciplinary process. The first stage is very much informal. If we have an allegation, either the President or the Director General will contact that individual practitioner and say, "We have been told that *x, y* and *z* has occurred. Is that the case? If not, what is your side of the story?" If it has occurred and the member admits that their behaviour has fallen below the normal standards, we would ask them to not behave in that way and to apologise to the appropriate authority. We would then look to the appropriate individual or organisation. We would then go back to them and say, "We've addressed this problem. The member has apologised. Are you happy with that?" If not, we would then call a meeting of our Professional Practises Committee. This Committee has the power to suspend members, to reprimand members, to severely reprimand members and to require them to return part of their fee and, indeed, to ask them for costs, but it is dependent at that stage on the member agreeing to the sanction. Should they fail to agree to that sanction, then we would convene a disciplinary committee which would have legal advice and would be made up of the most very senior practitioners within the industry. They have the power not just to fine, suspend, reprimand and severely reprimand, but even to expel the member. But it is very rare for that process to be exhausted to the point where we have to convene a disciplinary committee.

Q155 Mr Liddell-Grainger: Has it happened?

Mr Zetter: It has happened—I think twice in the last 10 years.

Q156 Mr Liddell-Grainger: What happened to the two people/companies involved?

Mr Zetter: They are individuals. I think one was reprimanded and the other was severely reprimanded. These cases are nowadays publicised and they do have a detrimental effect on that person's reputation and, I would say, earnings' capacity. That, in a way, is the main sanction. Public relations is all about reputation. If your own personal reputation is besmirched, legitimately besmirched, then that is going to have an impact on your professional life.

Ms Morris: For APPC it is a different process because our members are companies. Obviously, I would concur with Lionel: reputation is key and any of those media stories do not do one's reputation much good. APPC have a lot of rules—which I am happy to forward to the Committee if they have the time to look through them. Basically, if a complaint is received or it is apparent from a news story or whatever that there may have been a potential breach, the Management Committee will then look to see if the allegation falls within our causes for complaint set out in our rules. 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. 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, but that is not to say that we do not look at the complaints before us. There is a potential complaint in the pipeline at the moment which we will be taking action on. I do not want to name names in this particular instance. Just to emphasise, there have been various media stories, of which I am sure you are aware, for example the story on All-Party Parliamentary Groups. In that sense, the APPC welcomed that process because it was an opportunity for us to engage in dialogue and also to make sure that our members and others were adhering to parliamentary rules. There have been others: "cash for tea", more recently, et cetera, but we very much hope that our members are ensuring that it is being looked into professionally.

Mr Cartwright: We have two ways of doing it, one formal and one less so. Formally, our disciplinary and arbitration procedure is triggered by a formal complaint. In theory, therefore, we will only ever do anything if that is the case—which it is not. If we receive a formal complaint then our Professional Practices Committee, which comprises senior practitioners and, if necessary, legal advisers, will look at the alleged breach of the Code or our Professional Charter and investigate that thoroughly and take whatever action is required. We, likewise, have not had a formal complaint against a member, certainly in the last 10 years and I am not sure within the existence of the PRCA. That said, we do take the reputation of the association

and, more importantly, its members very seriously, so if we hear without a formal complaint of an allegation of malpractice or a code breach we will nonetheless investigate, have conversations with very senior representatives of the organisation involved, and make clear that if a breach of the Code has occurred—which happened recently to do with the entirely inadvertent failure to publish a client's name—that that would not be tolerated. It is one strike or rather two strikes and you are out, in effect. As I say, formally we require a complaint but, nonetheless, that does not stop us looking very seriously into any allegation of inappropriate behaviour and malpractice.

Q157 Mr Liddell-Grainger: One of the areas you rightly hit upon, Gill, is the All-Party Parliamentary Groups. I am Chairman of two of them and, yes, we have outside trade bodies—we have to, because we physically cannot do the amount of work given the resources we have as Members, and the same goes for all the Members. It is an area of regulation which I think we do need to look at. Would you agree with that? How do we get around the problem of having trade bodies and other groups helping us to do the job of an All-Party Parliamentary Group?

Ms Morris: Again, it goes back to ensuring transparency through the register which is kept by the Parliamentary Commissioner. That is what it boils down to. Is this a matter for the parliamentary authorities and what can we do as the APPC, PRCA and CIPR to encourage our members to adhere to the Code? We sort of do that. Obviously our members have to adhere to parliamentary rules. Where they do not, there would be a problem, if not an issue, for us.

Mr Cartwright: In a way, it comes back to the thinking behind the *Guiding Principles,* because, by definition, we as organisations can only monitor and regulate those which fall within our ambit. The concern we have that led to the thinking behind those principles was that there are very many other organisations, be they companies, not-for-profit organisations, law firms or management consultancies who interact with the institutions of government, and yet there appears to be no detailed code of conduct akin to ours or even principles. Our hope had been, in the interests of the entire system, that others such as the Law Society and the TUC,[3] the NCVO,[4] et cetera, might adopt the *Guiding Principles* and translate them into codes relevant to their walks of life. Self-regulation will be different for different areas of life, for a law firm or a not-for-profit organisation. Nonetheless, to answer your original point around all-party groups: we can do what we can do as trade associations and self-regulatory bodies; we cannot cover those that we do not cover.

Q158 Paul Rowen: Does that not make the case for an overarching legislation which sets out the standards for anybody who has conduct and interfaces with government and Parliament, that this is the sort of thing we should do? It is far easier to do that than all your separate bodies and another dozen that probably would need to be created and have codes if you want to have that sort of regulation.

Mr Cartwright: I think I would concur with Sir Christopher Kelly, before you a number of weeks ago: the fact that suggesting there is a problem automatically means the solution is regulation, is not necessarily the case. There are many other parts of the political system where there are media issues. Is the automatic solution statutory regulation? In our view it is not. We believe that a next stage in self-regulation should be endeavoured before the practically difficult route towards statutory regulation is even considered.

Mr Zetter: To quote Mr Prentice, to bring in regulation at this stage would probably be "a sledgehammer to crack a nut".[5] I think the solution or part of the solution for transparency is to use technology. It used to be that the register of Members' interests was published in hard copy once in a blue moon; it is now there on the net for anyone to see. The same can apply for APPGs:[6] they can list all of their meetings, all of their sponsors, all of the organisations which are engaged with them. It is very low cost. It is very easy compliance and it is very accessible.

Q159 Mr Liddell-Grainger: A lot of other groups, NGOs,[7] other organisations, are not all lobbyists. Members of Parliament like to think they know who is lobbying them. By and large we probably do but it is difficult sometimes to spot where they are coming from. Do you think the regulation of the NGOs, et cetera, and these other bodies—which are not covered by you, I accept that—is strong enough? If not, how do we make it stronger without statutory regulation?

Mr Zetter: A great many of them are covered by the CIPR because we represent individual members both in-house and in consultancies. In fact the ratio is approximately 4:1. One-fifth of our members work in consultancy; four-fifths of them work in-house. If they work for an NGO, they work for a charity, they work for an executive agency or they work for a company, hopefully they will have sufficient regard for their own standards and their career development to be members of the CIPR.

Q160 Paul Flynn: After I had been an MP for 10 years, I gave advice to my fellow MPs about lobbyists, after having experienced dealing with them, and the advice was to send them, when they approach you, a standard abusive letter on the lines of "Your company will probably do little to help your clients, except possibly delay and add to misunderstandings. Could you inform your client to get in touch with me as an MP directly." Is that not golden advice? My experience of dealing with lobbyists and this painful business has been that they were a barrier between the client and the MP and never did they fully understand the subject. You

[3] Trades Union Congress
[4] National Council for Voluntary Organisations
[5] Q 120
[6] All-Party Parliamentary Groups
[7] Non-Governmental Organisations

could ask them a few simple questions, which they answered, and to get at the nitty-gritty, to get at the detail, you would have to go straight to the client because they did not understand it. Is it not true that you are there as a barrier, a parasitic element, between the process of people who are happy to get in touch with government and government itself? You do not add value in any way. Your job seems to be not to give a clear idea of the truth—which is what MPs are after, making judgment. You spend much time hiding the truth rather than revealing it.
Mr Zetter: Obviously you would not expect me to agree with that statement. I would agree, however, to a point, which is that my recommendation to the client is always: "You are the best advocate yourself. We will help you to marshall your case, to present it in a form which is easily digestible by Members of Parliament who are rushing around trying to do a dozen things at once, but the best person to go in front of an MP, a minister or a select committee is you yourself. You understand your issues better than anyone else." I would not appear in front of the select committee on behalf of the client. I would help to prepare that client as to where the individual Members were coming from, what the committee had looked at in the past, what the basis of the inquiry was, what the procedure was, and I would encourage them to attend earlier meetings, to get a feel for how they are run, but I would not sit here on behalf of the client to represent them. I would say, "That's your job. You understand your business, your concerns, your constituency, your members. You are the one who feels passionate about it. You go and sit there and talk to the MPs."

Q161 Paul Flynn: Was Ian Greer a member of any of your associations?
Mr Zetter: He preceded the formation of the APPC. He was not a member of CIPR.[8]

Q162 Paul Flynn: Or any other. Would you tell us about Media Strategy, Gill. I believe they are a member of your organisation.
Ms Morris: Media Strategy are now called Hanover.

Q163 Paul Flynn: Indeed.
Ms Morris: No, they are not a member.

Q164 Paul Flynn: They were once a member of your organisation.
Ms Morris: Yes.

Q165 Paul Flynn: They were paying Lords to pimp for certain causes.
Ms Morris: Yes.

Q166 Paul Flynn: Against your rules and against the rules of the House.
Ms Morris: They are no longer a member. They chose to resign and to engage a legislator.

Q167 Paul Flynn: We have had the detail from Hanover of how they behave now. How do we control them? I think we are rather shocked with the advice they are offering their clients and they claim to get access to ministers, to train groups before select committees, in a way that most of us would regard as not being legitimate. If we do not have legislation, how do we control those who are outside your organisations?
Ms Morris: I would just say that it is unfortunate that there are members outside the APPC, PRCA and CIPR, but they are, I think, fewer and fewer. Membership is growing and, in a sense, there is a process of isolation. Things have changed dramatically, certainly from Ian Greer's days, and the way lobbying is conducted now is professional. Having been around for a considerable amount of time and knowing what we used to do 10 years ago, you would not recognise lobbying in the way that it takes place today.

Q168 Paul Flynn: Hanover exists. It has re-emerged. Media strategy, did you kick them out? Did you ask them to resign from your organisation?
Ms Morris: They chose to resign but we have strengthened our rules now. People cannot resign.

Q169 Paul Flynn: They still exist. What they are doing is something that none of your organisations would approve of, so how do we deal with them?
Mr Cartwright: Hanover are members of the PRCA. The point that you made—

Q170 Paul Flynn: Are you aware of their methods? Have you seen the document that they send out and the preposterous claims they make of being able to buy access to ministers? That is what they say in their document.
Mr Cartwright: Having seen both the media coverage and the paperwork involved, I think a very large amount has been made of some very small, very specific things in those documents.

Q171 Paul Flynn: Do you defend Hanover?
Mr Cartwright: I would have to ask you to speak to them about their specific methods.

Q172 Paul Flynn: They are a member of your organisation, surely.
Mr Cartwright: Yes, they are. On the point about remuneration of peers, at this point in time they have disbanded, as I understand it, their advisory panel and are not remunerating any member of either House.

Q173 Paul Flynn: There was a case very recently, an allegation of a peer who had received a fee for introducing a company that was in the arms procurement business to the appropriate minister. Is this appropriate? Would you approve of that? That is what Hanover was talking of doing.
Mr Cartwright: Unless I am wrong, it was not Hanover.

[8] *Note from witness:* Ian Greer was not a member of the CIPR (or the IPR as it was at then), but I have been told that his company was in fact a member of the APPC.

Q174 Paul Flynn: It was not, no.
Mr Cartwright: Nor was it a member of any organisation.

Q175 Paul Flynn: It was a lobbyist called Michael Wood, I understand, the press reports say.
Mr Cartwright: To be straight: it is not appropriate. It is why we exist. It is why we constantly endeavour to ensure that those engaged in political consultancy are a member of one or other organisation. We are entirely relaxed who public affairs companies join, as long as they are part of a recognised organisation and a recognised code. Our very simple view is that issues of collective reputation and collective responsibility are best dealt with collectively, and I view it as very unfortunate that a number of organisations choose to remain outside of any of our organisations and tend, if I could describe it as this, to snipe from the sidelines at attempts to improve self-regulation.

Q176 Paul Flynn: As there are many MPs who share my view and refuse to deal with lobbyists in any way, the trend has been for people to disguise themselves: you have an approach from someone who purports to be a charity, a pharmaceutical organisation or something of the kind and you will find that in fact the letters you receive are crafted by a lobbyist, and, when you write off, you are not writing to the charity or communicating with the charity you are communicating with Megan Green, Pugwit Affairs plc, or whatever it might be. Is this legitimate?
Ms Morris: No, it is completely contrary to our Code of Conduct.
Mr Zetter: I think at the last meeting Spinwatch made very much the same point, but, when asked to produce examples, they produced a single one: TOAST,[9] which is some sort of anti-obesity organisation. I do not think it is widespread. I do not think it is commonplace. I do not think any of us would sit here and say all our members behave absolutely impeccably all the time. The same is true of every other profession. It is true of doctors; it is true of lawyers; it is true of accountants. It is even true of politicians sometimes. We are all human. We all misbehave on occasion. When we do misbehave we have a framework.

Q177 Paul Flynn: There are several parliamentary groups in this House, a huge number of them, and virtually all of them are under attack from lobbyists. They try to come in and take over. They offer to do the secretarial work because MPs have a lot on their plate, and they come in and try to use them. That is common. The majority of All-Party Parliamentary Groups have their work, in my view, subverted by lobbying groups.
Mr Zetter: They cannot exist unless 20 Members sign up to that All-Party Group, so your colleagues would exercise their critical judgment as to whether that group is worthwhile or not. At the end of the day, we are all reliant on your judgments.

[9] The Obesity Awareness and Solutions Trust

Q178 Paul Flynn: We have had the one that was clearly being abused. There are plenty of others that are being misused. I have given evidence to other committees on that. If we take the general view that you have of yourselves, as people who assist the course of government, you lubricate the legislative process in some way. There are twice as many lobbyists now, and lobbying activity, as there was 15 years ago. What improvement are we seeing in the process of government as a result of that?
Mr Cartwright: The idea that any piece of legislation or regulation can be developed without conversation and dialogue with those whom it affects—

Q179 Paul Flynn: Yes, but not through a second party, not through a barrier. It is like Chinese whispers, is it not?
Mr Cartwright: If I may, I think this rather false distinction between lobbyists as defined by consultancies and the very many other lobbyists who exist within corporations and charities is rather a false dichotomy. There is limited research but some work by Karl Milner at Leeds University suggested that the ratio of in-house practitioners or lobbyists to consultancies was around 4:1, so I am not sure that distinction is entirely valid. The other thing I would say is that very rarely—and I would agree with Lionel—do we advocate for our clients. They advocate for themselves. Sometimes they have sizeable in-house teams of practitioners and we play a relatively small role; sometimes they choose to allocate their resource differently and to use us. But on every occasion we are part of a team of professionals, so I just do not think this distinction is a reflection of the way the in-house and consultancy communities interact.

Q180 Paul Flynn: Is not the purpose of your organisations to promote your clients' interests and you have to give the best facet of their case. That is the job you do. You are acting as advocates for a single cause—they might be good causes, they might be very bad causes. You are really using the money from your clients, and you have to be deep pockets to employ lobbyists . . . . You are shaking your heads. But the main function of your work is to give extra advantages to the already advantaged.
Mr Cartwright: I think that is a continuation of the point I was making just now. Organisations need to communicate. That is a valid endeavour. Some choose to spend their resources on internal people to do that; some choose to do it with third parties. As I say, the idea that we are promoting our clients any more than they would do themselves does not reflect reality. Charities, corporations have a right and a need to communicate on their behalf. Sometimes they use us, sometimes they do not.

Q181 Paul Flynn: What benefits do you think organisations have in employing ex-ministers and parliamentarians to serve their causes?
Mr Zetter: I think it gives them a better understanding of how the system works.

Ms Morris: There are Parliamentary and Civil Service Codes that govern that process that I think again for any of our organisations—

Q182 Paul Flynn: You have a different code on this, do you not? Do you not prohibit your members from employing MPs and peers?
Ms Morris: Yes. Absolutely. The same as Rod. I thought you were talking about "revolving doors".

Q183 Paul Flynn: Partly, yes. I am still baffled as to why there are three organisations. If you are all doing the job as wonderfully as you have told us, there is a need for one organisation surely. Why does your organisation exist? What is wrong with the other two?
Ms Morris: There is nothing wrong with the other two at all. They are fine organisations. The *raison d'être* for APPC is self-regulation. That is what we do. We promote the Code, we ensure that our members adhere to that code. PRCA and CIPR essentially are member trade associations. I am in fact a member of all of them—which makes me unique! We all have a good role to play. They are specific roles and there is not a problem in having three organisations.
Mr Cartwright: I have two points. One is that we represent different constituencies. As I said at the outset, we represent public relations consultancies, some of whom do public affairs. Lionel's is an individual member organisation and Gill focuses on self-regulation. PRCA, in addition to the self-regulatory work that we do, run the CMS. We do training. We have a legal helpline for members. We do industry benchmarking to help finance directors to understand the direction of the industry. It is a much broader member services and benefits organisation than purely looking at self-regulation.

Q184 Paul Flynn: I did see this article: "We must hang together or we will hang separately[cdq][10] which is advice you have clearly taken. I am sorry I have wasted time asking that question because the answer was going to be the inevitable one. The main problem I have with lobbyists is the fact that we are not getting to the truth on this. I can give you an example of somebody who rang me up and put information about a particular drug that sounded very promising. Having gone into it with the company itself, I discovered the information that he was giving was wildly exaggerated. The drug was a drug called Tarceva, which he was promoting for pancreatic cancer. Speaking to the lobbyist, I had a very superficial view of this, but when I went into it I worked out that the drug would cost £16,000, would increase life expectancy for patients by 12 days, and had serious adverse side effects in 10% of patients, including death. Because I was dealing with a lobbyist rather than the company—which I was not aware of, I thought I was dealing with the company—it took me the best part of a fortnight to find out information. But you are there as persuaders for causes that often are using you because they can afford you, to the detriment of those causes that cannot afford to have lobbyists, and you do not help to get clear understanding. You distort the opinion that we have and the view we have for the benefit of your rich clients. Is that not so?
Mr Zetter: None of us would condone misrepresentation. None of us. If people are exaggerating a claim and misrepresenting it then they are in breach of all our codes. We live in an adversarial system of government. There is the Government itself which is supported by its own party, there is adversarial politics between the parties, but there is also a tension between government and Parliament itself. Parliament is there to hold the Government to account, so are select committees. We help opposition parties and backbench MPs to have at least some of the ammunition to fire back against the Government, which have the whole resource of the Civil Service behind them, 70 special advisers behind them. If you are a backbench MP you have a handful of secretaries and researchers. We help to redress that balance to a very small degree.
Paul Flynn: I am grateful to you.

Q185 David Heyes: Certainly Gill and Rod said in their introductory comments that they welcome the inquiry. I did not hear Lionel say that but I guess he would if asked.
Mr Zetter: Of course I would.

Q186 David Heyes: I have to be honest, I do not believe that. One of the things we have been doing since we started the inquiry is looking regularly at the trade press. If I needed anything to convince me that we were on to something, that has done it. The impression that comes back from the trade press is that the industry does not like the spotlight being shone on it. There is a sense of being affronted, a nerviness, a twitchiness. My feeling is that really that is all about a fear of regulation. Why is the industry so fearful of regulation?
Mr Zetter: Because it is not about us, it is about our clients. Whether you are in PR or public affairs, it is not about you being in the spotlight, it is about putting your clients in the spotlight, putting your clients upfront and making your client better able to present their case. That is why we maybe do have a slight concern about this inquiry and how it might outcome. We are convinced that our industry is cleaner than it has ever been, that it is cleaner than any other equivalent industry in any country that I know of, and with the generic principles we are taking the first step towards putting together a structure which will for the first time bring together everybody who lobbies, whether they are in consultancy, in-house, in the charitable sector, in the corporate sector or whatever. It is a starting point.

Q187 David Heyes: I would like to hear what Gill and Rod say about this. You are convinced that the industry is clean. That is not a widely shared view

[10] "We must hang together" *Public Affairs News*, November 2007, p22

amongst the public or politicians. Why is there a difference between your perception of everything being rosy and clean and the public perception?
Mr Zetter: I think it is 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. You hear them talking about politics and party funding and issues like that; you do not hear them talking about lobbying. They could not—to use Mr Walker's phrase—"give a rat's arse" about lobbying.[11]

Q188 David Heyes: Maybe that is because you conduct your affairs discreetly, privately, in a shadowy way, and therefore it is not subject to public scrutiny. But I do not agree with you. I think if you press people for an opinion about lobbying, they would not agree with your view of it. We are drifting away from my original point, which is why on earth this Committee is perceived as such a scary body.
Ms Morris: You are not.

Q189 David Heyes: Your trade press present it in that way. Why?
Ms Morris: It is the biggest thing that has happened to us in a long, long time, to be honest. We have not had the opportunity to talk to you in, I think, more than 10 years. In that sense we do welcome the inquiry because it is the first time we have had an opportunity to tell you how things have changed. We do not put up barriers. We are in the business of communicating, helping people to communicate and helping people to inform the process. That is all we are doing. Of course the media are not necessarily our friends and are always looking for stories which are perhaps looking for a problem—usually, and moreover, those are not members of the APPC. Sometimes the stories are so small, there is no comparison to "Drapergate" and there has not been for 10 years. That is why we welcome the inquiry. Of course the media are not going to say everything in the lobbying world is absolutely fantastic. "Aren't they doing a great job for their clients and do you realise this was changed because of a very effective campaign" is not the story that people want to write, unfortunately. I wish it were.
Mr Cartwright: Having been involved with the process intimately for a number of years, I just do not recognise the fear and trepidation that the trade press have suggested that we feel. Clearly appearing before any select committee is not necessarily the best way to spend a Thursday morning—I am sorry, when I say that I mean it is very valid—but nonetheless the reason it is welcome is because it allows us through the trade press and elsewhere to debate really important developments like the *Guiding Principles* and, hopefully, to create an environment in which it is viewed as unacceptable to sit outside one or other of the bodies and to operate outside a recognised code. Indeed, we view it as a welcome spur to a debate in the hope that the issues of how the lobbyists and the lobbied interact brings some pressure to bear on those who do not have guiding principles, do not have codes.

Q190 David Heyes: Clearly, if your aim is to avoid external regulation, statutes—and I think that is clear as a core objective from all of you—one way of doing that is to talk up and enhance the legitimacy of your own internal codes of practice, your procedures. I am not clear on how those are externally validated. If you want to portray them as legitimate by talking them up and putting a gloss on them, as each of you have done in turn, we need more than that. There needs to be some evidence of external validation of what you do. Does that exist?
Mr Cartwright: On your earlier point, this notion that our core objective is to avoid statutory regulation I view it differently.

Q191 David Heyes: I am sorry, that was clumsy. I mean in the context of this Committee's inquiry.
Mr Cartwright: Absolutely. Our view on statutory regulation is not that we are endeavouring to avoid or obviate the need for it, but we do not believe the case has been made and the *Guiding Principles* are the next step. In terms of external validation, we have increasingly, because we view it as incumbent on us, updated all the relevant authorities—be it the Cabinet Office, be it the Committee on Standards, be it the Parliamentary Commissioner for Standards and those who hold the register—on how self-regulation works, how the codes are evolving, so we have had constant feedback from the lobbied and those who regulate them on how our codes have evolved. I do not know if that is the sort of validation you had in mind.

Q192 David Heyes: In your case I think there is an annual compliance check. Is that the case?
Ms Morris: The APPC, yes.

Q193 David Heyes: Tell us about that. How does that work?
Ms Morris: Basically, you have to demonstrate compliance if you are a member of the APPC. As I said earlier, you demonstrate that in many, many ways in terms of your staff contract of employment, ensuring that members of your team have been to APPC training in terms of how the Code operates in practice within your company. In relation to the compliance procedure, you have to demonstrate that you are complying to the Code of Conduct. You have to sign up and demonstrate that you adhere to the 18 clauses which are in our Code.

Q194 David Heyes: This sounds like self-certification to me. Is that what it is?
Ms Morris: I do not know that it is.

Q195 David Heyes: Is it or is it not?
Ms Morris: You do have to do it yourself—we are very keen on a more proactive approach—but if there was a problem or a cause for complaint or there was a feeling of non-compliance, the

[11] Q 60

opportunity is there to put any concern to the APPC Management Committee for us to look into and to deal with it accordingly.[12]

Q196 David Heyes: I guess in Lionel's case, because you have many more individual members, this business of validating the quality and the compliance with the Code is much more difficult for you to do as an organisation.
Mr Zetter: Absolutely right.

Q197 David Heyes: How do you go about it?
Mr Zetter: We have to start on the assumption that our members are honourable members. They behave in an honourable fashion.

Q198 David Heyes: Like MPs.
Mr Zetter: Exactly like MPs. If you are asking whether we have done enough as the CIPR, the simple answer is no. We had a very short review of our professional practices and disciplinary committee procedures last year and tightened it to a minor degree but we have now launched a full scale review and obtained the services of a barrister who is experienced in the regulation of professional bodies to look at the way we go about things and to make recommendations as to how they can be more robust and more transparent. On top of that are the generic principles—which I am sure you are fed up of hearing about, but for us they are an absolutely crucial part of the way we are going to develop together—which are the standards which we hope the whole of the industry will in time embrace.

Q199 David Heyes: For each of you I feel we have the same kind of system, which is based on trust, the system that has applied to Members of Parliament for generations and which is now under such huge criticism and is proving to be so flawed. The "good chaps" principle. Rod said that when you get a report—and I hope I am not misquoting you—you have conversations with senior management about allegations of malpractice. You sort it out quietly between good chaps. This is the feeling I get from each of you in a different way.
Mr Cartwright: When I said there were conversations with senior practitioners, that was in the case where we had not received a formal complaint, so our procedure would not lead to the Professional Practice Committee looking into it. Nonetheless, it is not a cup of coffee and a chat. Senior practitioners are pulled in to talk to senior members of the PRCA board and that is where there has been no formal complaint. If there is a formal complaint, the full weight of the disciplinary procedure, Professional Practices Committee and the disciplinary and arbitration procedure kicks in. Just to clarify: informal is not even that informal.

Q200 Mr Walker: I have to say this is probably the dullest inquiry I have sat on since coming to Parliament three years ago. I keep walking into this room, or any other room in which we have met, looking for blood on the carpet and I cannot find any. This is pretty boring, to be honest. You seem like a pretty nice bunch of people. I do not think we have made much progress. We have not found any smoking guns and I am not sure what we are going to conclude at the end of this investigation. But I would like to ask you this question: Why is so much lobbying still so bad? You know when you have had good lobbying—and that is a rare experience—and you know when you have had bad lobbying—and that is a daily, almost hourly experience in this place. Why is it so bad?
Mr Zetter: To a degree, I would have to agree with Mr Walker, there is good lobbying and bad lobbying—just like there is good sex and bad sex, but I think most of us would prefer to have bad sex than no sex at all. Standards do slip. We are working on the professionalisation of the profession. There are innumerable courses available for people now to go through—whether they are commercial courses, like Westminster Explained, or in-house courses—for people to learn how to do the job professionally. There is a handful of books on the subject—another one is on the stocks now—so that people can read up on it. I agree with you: there is a lot of bad lobbying that goes on. Writing to all 646 MPs an identical letter regardless of party, constituency, reason and whatever is a complete waste of time. You need to identify people who for constituency or previous professional reasons or reasons of just political interest are going to take the time to have a look at what you are saying to them and possibly agree with you. I agree: there is bad lobbying that is going on, but, as well as raising ethical standards, we are all committed to raising standards of practice within the profession.
Mr Cartwright: If you looked at the industry 10 years ago as compared to now, the two bear little resemblance to each other. If you look in another 10 years, my sincere belief is there will be a considerable difference. The amount of craft skills training, if you like, is mushrooming. Gill and I have just joined an advisory panel from one of the training courses. There is the first MSc in public affairs that has been launched at Brunel. I think the industry has realised that the next stage is to continue to professionalise and make sure that you as Members do not get bad lobbying. We cannot stamp it out—it is not our role to do so as trade bodies—but an awful lot is being done.

Q201 Mr Walker: I will give you an example. I have a very good relationship with one of my local rail companies, One Anglia Railway, and they have just been awarded some new carriages. Whether those carriages materialise, we will have to see, but, having had a great relationship with them, having met the Chief Executive, I know one of the directors extremely well, I all of a sudden get an email from a lobbying company letting me know that One Anglia has been awarded 100 new carriages, signed on the headed email of some lobbying company. Why on earth would that lobbying company advise the client for them, the lobbyists, to send me the information and not the client? All of a sudden, after nearly three

[12] *Note by witness:* Each member company has a compliance officer.

years, this organisation is suddenly sending me emails from some bloke called Bob or something. Why do I want to hear from Bob?
Ms Morris: Do you know which company it is?

Q202 Mr Walker: Yes, but it would not be fair to name it. They probably are getting a vast retainer—it is a well-known company—from One Railway and are probably justifying this retainer on the ability to send an email. Really that is just nonsense. Why are they still giving that advice to their clients? Why are you not slapping their wrists and saying, "Don't do that. It's very naughty"?
Ms Morris: I think it is a dialogue that needs to be had between Members of Parliament and indeed our respective bodies, because of course we do not condone that approach.

Q203 Mr Walker: It is not that they have done anything wrong, it is just so amateurish.
Ms Morris: I agree.
Mr Walker: Good. Good. I am looking for the person in the back who might be Bob! Anyway, I have had my canter around my own prejudices and I would conclude that, when I see a lobbyist, I really do not care whether they are from the APPC, PRCA and CIPR but I think it is incumbent on whomever I see to be an honest individual, a professional individual and someone you can buy into, and I do not think those are necessarily skills you can train into people, it is the type of people you hire. I have met some very good lobbyists. I would not want to say that I have not.

Q204 Paul Rowen: I was interested in your comments to one of Paul's questions about Hanover. Gill, you immediately said, "Oh, they're not a member of our association," and then, Rod, you said they are a member of yours. Is that not one of the problems with a self-regulated, self-certified system, that if the heat is on the organisation can just resign?
Ms Morris: They cannot resign now because we have changed our rules.

Q205 Paul Rowen: Is that as a result of Hanover?
Ms Morris: Yes. We constantly do strengthen our approach to ensure it is up to date and it deals with inquiries. Obviously it is not acceptable and it was not acceptable in that particular case but the APPC were not able to investigate or take it forward because they chose to resign. You cannot resign up until we have taken it forward, so that is a major change. Subsequently, we did introduce clause 9 into our Code, so that, arguably, if Hanover wanted to return to the APPC they could. There is no particular barrier why they could not be members of the APPC as long as they adhere to the Code.

Q206 Paul Rowen: How do you deal with the organisations that are not members of any of your associations? London Gateway have insisted that any company that applies for their lobbying states a certain set of conditions. Do you not think there is a benefit in having an overarching system. Members of Parliament have a self-certifying system but we have to declare it. None of you lot have to really. If you do not want to declare who your clients are, you do not have to do it. That is the difference between our "good chaps" system, which does not work very well but at least we have to do it, and yours, because you can decide not to do it.
Ms Morris: Our members do have to register all their clients—and they have to do it quarterly, so it is reasonably up to date—and also the consultants who are working on those accounts. With regard to those members who choose to remain outside the APPC and the PRCA, obviously we cannot compel them to join. Where we do come together and where we think the Committee should have further thoughts is about how we can have a more encompassing approach to the *Guiding Principles* and ensure that prospective codes of conduct are formed whether you are a management consultant, a lawyer, working for a charity, in-house, et cetera. We acknowledge that there are those who choose to remain outside self-regulation, however we do believe that by working together and saying "These are the fundamental principles of conduct that should be followed" we can move forward. It is a role really for government, civil servants and others to consider how they conduct their tender processes.

Q207 Paul Rowen: You may be all very good people, you may be all very honest, but there are lots of other organisations—and people have already said people who work within companies or whatever—and there is no regulatory system that covers them, whereas in America—
Mr Zetter: They are perfectly entitled to join the CIPR. This Committee can send a very powerful signal to those people who do lobby who are not members of any of our respective organisations and therefore are outside our generic principles that it would be a good thing—and we are not pushing for regulation but it would be a good thing—for them to be able to demonstrate that they are covered by at least one of our codes and by the generic principles.

Q208 Paul Rowen: A couple of weeks ago Spinwatch described a number of practices which in their view were not ethically acceptable, such as creating fake front groups, writing letters purporting to come from individuals. They quoted a case—and it is in my constituency, so I know it happened—of a company that set up a campaigning website around a particular planning application. Do you issue instructions or guidance to your members about these particular types of activities?
Mr Zetter: We published social media guidelines last year which specifically recommended that people did not indulge in any activity which could be construed as being what is technically called "astro-turfing". It is very popular in the States, it is starting to happen over here, and we regard it as being misrepresentation and therefore wrong.
Mr Cartwright: Clause 5 of our Code—and I believe clause 5 of the APPC Code—says, "Political consultants must advise clients where their activities may be illegal, unethical or contrary to professional

practice, and to refuse to act for a client in pursuance of any such activity."[13] That covers the consultancy side of the type of scenario you are painting. It patently does not cover the clients' side or anybody in public affairs practice who does not work with a consultancy—again, Karl Milner's point about the ratio being 4:1—the very many people who do what we do but just in a different location.

Q209 Paul Rowen: The public affairs company quoted by Spinwatch have since denied to me that they were the people involved in that activity. That is not the issue to me. Whether they do it or others do it, the fact is that it happened and there is no regulation at the moment to prevent that from happening. If the stakes in that planning company are quite high, several hundred million pound, I can quite understand why various individuals and companies will engage in unethical practices. Do you not believe, therefore, that there should be some means of regulating not just your bodies but the broader principles about how people go about lobbying?
Mr Cartwright: The system is certainly not perfect—no system is—but this is why we are constantly pushing for organisations to join any of our organisations and adhere to any of our codes, that is why we are promoting the *Guiding Principles*, but we do not believe that the quantum of the issue at present merits using a hammer to crack a nut. It is not the right time for full statutory regulation yet, nor is it as practically simple as some might suggest.

Q210 Paul Rowen: Is that the view of all of you?
Ms Morris: Yes.

Q211 Paul Rowen: How would you deal with that type of lobbying that is not regulated by your particular codes—which, you have already admitted, Gill, somebody could opt out of if the heat was turned on.
Ms Morris: They cannot any more but they did.
Mr Zetter: I would say by naming and shaming them. If you are absolutely convinced as a Member of Parliament that representations are being made to you which are wrong and misleading, you have a right and a duty and a platform to publicise that fact.

Q212 Paul Rowen: There has been this issue about passes being issued to lobbyists. Do you know whether that practice is going on?
Ms Morris: Is it clause 14?
Mr Cartwright: I cannot remember.
Ms Morris: Our members are not allowed to have a pass. The only exception to that rule is where somebody works for a consultancy and is a former Member of Parliament or a spouse of a Member. As far as I know, there are only two or three passholders who are lobbyists, but if you are in those two categories obviously the parliamentary authorities let you have a pass but there is a distinction, again in our Code, clause 12, to ensure that your private and professional lives are separate.

[13] Ev 164

Q213 Paul Rowen: Is that declared? Could I come to your register, find out which former Members of Parliament are working as consultants and coming into the House?
Ms Morris: Well, obviously, you probably know the ones who are former MPs and who are political consultants, but, yes, all political consultants, including former Members of Parliament, who now work for one of our member companies, are declared on our register.

Q214 Mr Prentice: For me, I ask myself: Is there a problem? If there is a problem, does it require external regulation. These are the key issues for me. You would say, all three of you, that there is not a problem and that there is added value—although my friend Paul certainly would disagree. Can you give me a couple of examples where lobbying really made a difference in changing things? Let me start with you, Gill. I jotted it down when you said a few moments ago, "things changing as a result of an effective campaign" so maybe you could give us an example.
Ms Morris: Again, I would be talking from a Connect perspective but there are others that we can point to. We have won awards, award-winning campaigns: the Adoption and Children's Act, our work for the British Agencies for Adoption and Fostering. They did not have very much money but we helped them.

Q215 Mr Prentice: What was the specific thing that was going to happen that did not happen as a result of your campaign?
Ms Morris: It resulted in a free vote, as you know, and also the resignation of John Bercow and various other things. But our advice, in terms of how to deal with the parliamentary processes and also to engage wider support and cross-party support, resulted in a much better piece of legislation. I think that is a pretty good example.

Q216 Mr Prentice: And what about the others? Could you give one or two examples where lobbying made a difference?
Mr Cartwright: There are numerous award ceremonies across *PR Week* and *Public Affairs News*—

Q217 Mr Prentice: No, I mean specific issues.
Mr Cartwright: I was going to give you specific instances from those which are in the public domain. You have a campaign that was short-listed for the PRCA award last year which ensured that smart metering, which is patently politically and socially very important, was included in the Energy White Paper in ways it might not have been before. Again, Gill worked on the Campaign for Local Policing, which stopped the merger of police forces and the creation of super forces. One of the other awards was around the postponement of home condition reports as part of Home Improvement Packs (HIPs). These were specific instances where I would argue that in the public interest changes were made that might not otherwise have happened.

Q218 Mr Prentice: Smart metering and the home condition in HIPs. How did you influence the policymaking process in these examples?
Mr Cartwright: I would have to refer back to the awards entries. They were not ones in which I was personally involved.

Q219 Mr Prentice: There are different points of entry, are there not? You can spend money lobbying MPs or you can participate in a departmental consultation exercise or you can approach civil servants directly who are working on smart metering or are working on HIPs. My question is: How did you change the policy in these examples?
Mr Cartwright: I do not think there are any two instances of legislative or policy or regulatory change that are identical. There is not a one-size-fits-all, off the shelf—

Q220 Mr Prentice: Just give me one example, if you can. You are head of the organisation that represents 70% of the people working in the industry. You must be able to give me one example where you can take me through how the change was made, whether it was speaking to the minister, whether it was buying a £5,000 table at the Labour Party Conference or whether it was speaking to a civil servant. How did it happen? That is all I am asking.
Mr Cartwright: I cannot talk for other organisations. I will give you a personal instance which was around Child Trust Funds and the extent to which the take-up of Child Trust Funds was not necessarily what the Government or the industry or the relevant stakeholder organisations would wish it to be. We were endeavouring to work with the Government, with parliamentarians and with organisations outside to ensure that moves were made—for example, the e-vouchers consultation that has recently been issued—to simplify the way in which the Child Trust Fund (CTF) can be accessed, particularly by socially excluded groups, and also follow-up mailings. HMRC[14] saw the merit—

Q221 Mr Prentice: Okay. And that required the intervention of the lobbying industry. Child Trust Funds. That is interesting. Lionel, do you want to answer my point?
Mr Zetter: Again, like Rod, I have sat on countless judging panels trying to define the best in any particular year or particular award for best practice amongst public affairs. Very often lobbying campaigns succeed because they take a tide which is underway in any event and just add force to it, so that what was going to happen eventually anyway happens that much sooner. A good example would be Cancer Research UK, who won numerous awards for hastening the process of banning smoking in public places—something that would have happened in any event at some stage, but it happened much more quickly than people thought because they got a tidal wave of support behind it. The Campaign for the Haemophiliac Society: the Government were dragging their feet on (a) paying compensation to haemophiliacs who had been subjected to contaminated blood and (b) were withholding access to a drug which was regarded as being the best treatment for the condition at that time. A very concerted campaign. The Government brought forward an announcement that would have occurred in any case and they won a package worth £88 million. The World Wildlife Fund: it was an offence in this country to hunt and kill endangered species; it was not a criminal offence to import things like tiger skins and rhino horns, et cetera. They changed the law through a Private Members Bill and through a lobbying campaign. To be honest, there would not have been enough Members there on that Friday to vote that through if there had not been a concerted campaign.

Q222 Mr Prentice: I find that helpful. You are saying that lobbyists are necessary intermediaries.
Mr Cartwright: They are facilitators.

Q223 Mr Prentice: The Child Trust Fund, smart metering, HIPs, the examples you have given us, simply would not have happened—
Mr Zetter: Maybe would not have happened so quickly.

Q224 -- without the lubricant of the lobbying industry
Mr Cartwright: It is an interesting characterisation because you said "without the intervention of lobbyists". I think with the CTF example that was simply government working with the industry and the recipients of Child Trust Funds to make the system work as efficiently as possible. It is a good example of well-informed government, where government is working with those who are providing the CTF on the coalface. I am not sure I would agree with the characterisation "intervention of lobbyists"; it is merely making sure that policymaking is properly informed by the outside world.

Q225 Mr Prentice: We have a completely changed position by the present Government on nuclear power. In 2003 the Labour Government was against nuclear power. Three or four years later we are in favour of civil nuclear power. We have any number of former ministers in the pay of companies involved in the nuclear industry. Has the lobbying industry made a difference in the change of position on the development of civil nuclear power?
Mr Zetter: Quite possibly, but I think what has changed more fundamentally is the Government's attitude towards nuclear power as a result of the urgency of climate change.

Q226 Mr Prentice: Why were the lobbyists not in there to make apparent—
Mr Zetter: I am quite sure they were and I am quite sure that they recognise the fact that the Government's priorities have changed as a result of climate change.

[14] HM Revenue and Customs

Q227 Mr Prentice: It was not the lobbyists that changed priorities; it was the Government that changed priorities and the lobbyists were bystanders?
Mr Zetter: It is the Government that changed priorities and the lobbyists presumably recognised there was an argument there to be made on the basis of environmental issues. I think they detected a change in the attitude of some of the environmental groups as well, who had all been totally opposed to nuclear power and had softened their line or softened their opposition because, again, they saw the primacy of climate change as the biggest threat to face people in the current millennium.

Q228 Mr Prentice: When ex-ministers, former ministers, take well-paid second jobs for private sector organisations, it goes on the register of public interests, we know that, but should they publish a detailed job description: what they are doing for the organisation; how many days a week they are working; what their hours of work are? Because we are talking about transparency, do you think that is something that ought to happen?
Mr Cartwright: I think that is ultimately a matter for the parliamentary authorities in the case of parliamentarians and the permanent secretaries in departments in the case of ministers. If they join an organisation that is a member of the PRCA, then all the power of the Code in terms of transparency kicks in. But it does come back to this notion that ex-ministers or special advisers or parliamentarians join organisations in many other walks of life, be they law firms or investment banks, which again brings us back to the *Guiding Principles,* in that, with our members you have the certainty of adherence to the Code of Conduct, with other organisations to which they might go there is nothing similar.

Q229 Mr Prentice: Should the Government lobby the Government? Let me explain. There are lots of organisations that used to be part of central government that have been floated off into arm's length relationships. We have other organisations like the NHS. What is wrong with parts of central government, floated off, hived off—even the NHS—just recruiting lobbyists to argue their case?
Mr Zetter: Nothing wrong with it at all. The clue is in the question. The fact is they are arm's length from government and therefore they need to establish relationships with government, they need to monitor what is happening in government, and from time to time they need to influence government. When there is a bill going through that is going to abolish or merge your quango—as is happening now on social care—then those organisations have every right to follow that legislation and to seek to influence the legislation in a way that in their view benefits their organisations and the clients they serve.

Q230 Mr Prentice: Are there any organisations within that constellation I have just described that if I knew they were lobbying ministers would make me gasp?
Ms Morris: Not that I am aware of.
Mr Cartwright: No.
Mr Zetter: Perhaps the security services! I do not know.

Q231 Mr Walker: I think you guys are your own worst enemies sometimes. Why do you allow yourselves to be talked about and indeed talk about yourselves as intermediaries and facilitators? Because you are not. A good lobbyist should be sitting behind a client enabling that client to impart high value advice to ministers and to have high value communications with government? It is not your role to be making those communications directly on their behalf. You are there in a consultancy role, to advise your clients. I still do not understand why lobbying companies still feel it is necessary to be visible. You should not be visible.
Ms Morris: No. I think that is the way public affairs works today. I am proud of what I do, what we have done. I think everybody who is a public affairs practitioner or a lobbyist should equally be proud and it should be conducted in the most professional way possible. That is as fair for you as it is for us. It does boil down to reputation. I do not want to hear from you about people who are bad lobbyists. I do not want to waste parliamentarians' time. We want to ensure that you are getting the facts that you need to make the right decisions. We can be a very useful resource. I do not think anybody is arguing with the legitimacy of lobbying. It is an essential part of our democracy.
Mr Cartwright: I think it goes back to this false distinction, as if there are companies or charities and their lobbyists. The ratio of 4:1 of in-house to consultancy suggests that the amount of public affairs and communications activity that takes place in-house is as great if not greater than outside. We are all part of one continuum. I would certainly never use the word "intermediary" because it is a false description of what we do as part of a team that may be drawn from consultancy, may be drawn from in-house or may be drawn from a mixture of the two.

Q232 Mr Walker: My experience of lobbying is that the Civil Service will fall over itself to meet experts in their specific industry or area of interest because civil servants want to create good law. It is not about subverting legislation to the benefit of clients or to the benefit of organisations; it is making sure that what goes on the statute book is as good as it possibly can be. For that to happen, civil servants need to understand cause and effect, which, often, with the best will in the world they do not. I also remember from lobbying that it was notoriously badly paid. I think things may have improved since then but why do companies not value your advice in the same way they would value advice from McKinsey or Bain, for example? They are quite happy to pay tens of thousands of pounds to McKinsey for "strategic advice". Why is it that lobbyists still are not perceived as offering that same high value service?

Mr Zetter: Perhaps the benefits of McKinsey's advice goes straight to the bottom line. Very often lobbying is about one of two things: very often it is about a threat to your industry, the objectives of your organisation, a threat that needs to be headed off, but there is no net benefit to you in financial terms from heading off that threat. Sometimes, occasionally, it is about an opportunity. If there is a defence contract or there is an IT contract, everyone wants to be successful in bidding for that contract and they will all lobby very vigorously to put themselves in a position where they are successful. On those occasions, yes, I think the fees can be very high.

Ms Morris: I do not know, is the answer.

Mr Cartwright: I think we have a way to go. I think it is disappointing, given the importance of what we do to our clients, the importance of what our internal clients do for their organisations. Sometimes it is bottom line in the commercial sector; sometimes it might be survival for an NDPB;[15] sometimes it might be the ability to increase the amount of fundraising for a charity in an economic downturn. It should not be the way it is and that is partly why we exist: to make the case constantly for public affairs to be recognised for the effective endeavour that it is.

Q233 Kelvin Hopkins: In my own mind, I make a very clear distinction between what I would call perhaps altruistic lobbying and commercial lobbying. When someone comes along from CND[16] and asks me to support their case for non-renewal of Trident, I do not think there is a commercial interest there. I happen to agree with them, but that is one thing. I am lobbying at this moment on behalf of Age Concern and others to get the Human Rights Act to apply to all residents of care homes. That is not a commercial interest. In fact, there might be care homes who might lobby the other way. But commercial interests are different. Is there not a case for making it very clear in all lobbying, by legislation or by your own regulation, who is paying the bill for the person coming to see you in Parliament? Is there not a case for having, when we are approached, some information about who is paying the bill and, indeed, how much they are paying possibly?

Mr Cartwright: In terms of who is paying, I think that is already very clear. Our codes obligate us to state which organisation we are from and which organisation we are representing. By definition, if it were a defence company lobbying around a defence bid they would clearly tell you who they are because it would probably be on their business card. Already, that double-lock, if you like, is in place. I think that is already covered.

Q234 Kelvin Hopkins: I will give you an imaginary example but it is almost an exact replica of what was said to me. Not so long ago I was approached by, shall we say, the Local Health Advisory Council—it sounds very innocent—and asked if I would like to talk to them about diabetes in my Luton North constituency. I said yes, obviously, because there is a serious problem of diabetes in my constituency. I met a charming young person, I bought them tea in the Pugin Room, and it transpired that I was being lobbied to persuade our local health authorities, the PCT[17] and whatever, to recommend the use of a particular drug for diabetes. It was clearly on behalf of, shall we say, Diablo US Incorporated Pharmaceuticals. It was not on behalf of the Local Health Advisory Council. That sort of thing is deceptive. It is what Paul was saying. It happened to me within the last couple of years—although not that illness and not that imaginary organisation.

Ms Morris: That is wrong. Under our Code of Conduct that would not happen, in the sense that you would know quite clearly—and, if you did not know, you could go and look at our register and be able to say, "Ah, I understand, that person works for there" and you can work it out, as John Grogan did.

Q235 Paul Rowen: The fact it is happening proves your code is not working, does it not? Or that people are able to subvert it or just ignore it.

Ms Morris: I would assume the person in mind is not a member of any of our organisations. Then we come back full circle to the need for *Guiding Principles* to be entrenched in other organisations and amongst all those who interact with Parliament and the institutions of government.

Mr Cartwright: If it is a member, please make a formal complaint and we will investigate it.

Mr Zetter: It can be a bit of a false dichotomy to suggest that because somebody is lobbying for a voluntary group or a not-for-profit organisation that is automatically good and okay and because they are lobbying for a commercial organisation that is not. The person doing the lobbying is probably on a very comfortable salary, which is probably applicable to anything in the private sector. He or she may be working in extremely plush and comfortable offices—I do not know if you have been to the HQ of some of the larger charities in London but they are very well appointed—and people do move in and out of consultancy, into the private sector, into the not-for-profit, and they do it on a career basis because they are professionals. I would say look at the issue rather than the person but please do not discriminate against people who are lobbying because it is their job. It is all of their jobs. They are all being paid.

Q236 Kelvin Hopkins: We are doing a parallel inquiry into the third sector, as it is called. I appreciate the very point you are making but some of the organisations clearly are purely altruistic and there is a large grey area. Sometimes an organisation, even like Age Concern, might be getting some commercial sponsorship. One has to be aware of that but one can see very clearly whether or

[15] Non-Departmental Public Body
[16] Campaign for Nuclear Disarmament
[17] Primary Care Trust

not there is a commercial interest. If you are lobbying for, shall we say, the application of the Human Rights Act, this is going to make life more difficult for those in the commercial sector and better for those who are served by it; the residents of care homes, for example. If there is any commercial interest at all, this should be made clear in any approach and then we might make some judgment. We might still be happy to be approached, especially if one agrees with what they are lobbying about—the building of wind farms or whatever—but do you not think we should go much further in that direction?

Mr Cartwright: As I think we have said, the case for regulation has not been met. The point which you made just now shows that there is a missing piece to this jigsaw which is the good sense of parliamentarians, civil servants and others. Much of the debate seems to suggest that those who are being lobbied have no common sense or critical facilities, which I find utterly strange and rather insulting. It is as if there is only one side of the lobbying equation, which is the lobbyists. I think the debate has to proceed on the basis that there are two sides to this process and it is for both parts of the equation to look at how they interact.

Q237 Paul Rowen: Our side is regulated. Your side is not. If we have any outside interest, we have to declare it.

Mr Cartwright: Yes, and on our side our members are tightly regulated by the codes, by the procedures. If you find this happening, as I say, make a formal complaint and it will be looked at.

Kelvin Hopkins: I personally am aware that there is no such thing as a free lunch, as they say, and when I am invited out to dinner by an organisation I do ask myself, "Who is paying the bill?" I think you are right in that respect but more transparency in your organisations about who is paying your bills when we are approached by your lobbyists would be appropriate. But that is a personal view. We have come to the end of our time and I would like to thank you very much for a very helpful session this morning. We shall take note of everything you have said in preparing our report. Thank you very much.

Thursday 21 February 2008

Members present

Mr David Burrowes	Julie Morgan
Paul Flynn	Mr Gordon Prentice
David Heyes	Paul Rowen
Kelvin Hopkins	Mr Charles Walker
Mr Ian Liddell-Grainger	Jenny Willott

In the absence of the Chairman, Mr Prentice was called to the Chair.

Witnesses: **Rt Hon Lord Mayhew of Twysden QC DL,** a Member of the House of Lords, Chairman, **Rt Hon Lord Maclennan of Rogart,** a Member of the House of Lords, Member, and **Mr Tony Nichols,** Secretary, Advisory Committee on Business Appointments, gave evidence.

Q238 Mr Prentice: Good morning. Our Chairman Tony Wright cannot be with us today so I have stepped into the breach, so to speak. I would like to welcome our two witnesses to the Committee, Lord Maclennan and Lord Mayhew, from the Advisory Committee on Business Appointments. As you know, there has not been a parliamentary inquiry into lobbying for over 15 years, so there is a lot of new ground we are looking at and we are delighted that you are able to come along this morning and give us the benefit of your advice and insights. Perhaps I could kick off by asking you what the purpose of the Business Appointments Rules is.[1]
Lord Mayhew of Twysden: In a nutshell, Mr Chairman, the purpose is to avoid, so far as is practicable, any suspicion of impropriety in the acceptance of an appointment by former ministers. I think we described the purposes to you in our evidence of June 2006 and the rules and guidelines are established every time we publish a quasi-annual report.

Q239 Mr Prentice: If the rules are working, public trust is fortified, I suppose, by the decisions that you take.
Lord Mayhew of Twysden: We hope so. That is our purpose. As the Committee will know, it is now obligatory under the Ministerial Code of Conduct for ministers to comply with the advice we give to them. It used to be voluntary and there was no sanction compelling them to do so. There now is, under fairly recent reform which we welcome.

Q240 Mr Prentice: Lord Maclennan, do you want to add anything to that?
Lord Maclennan of Rogart: No, thank you.

Q241 Mr Prentice: Lobbying seems to be a very slippery concept. We have had a number of people before the Committee in recent weeks and they have all struggled to give us a working definition of lobbying, so I would like you to have a stab at it, please.
Lord Mayhew of Twysden: You will know, Mr Chairman, from your parliamentary questions—

Q242 Mr Prentice: I was trying to wrong-foot you there!
Lord Mayhew of Twysden: -- that we have answered that as best we may by a formula which I am now endeavouring to turn up. I will read it if I may. The question was: "To ask the Chancellor of the Duchy of Lancaster what definition of lobbying is used by the Committee on Business Appointments and if he will make a statement".[2] The answer is: "The Advisory Committee on Business Appointments, while not recognising any fully comprehensive definition of lobbying, 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."

Q243 Mr Prentice: Yes. Until I tabled that parliamentary question it was not clear to me that you had any working definition of lobbying. It was something that you recognised when you saw it, so to speak.
Lord Mayhew of Twysden: I think there is a large element of truth in that. We have always regarded it as within our remit to give a behavioural condition as part of our advice.

Q244 Mr Prentice: Right.
Lord Mayhew of Twysden: A restriction or ban on lobbying—generally for 12 months but up to as much as 24, very, very rarely—has frequently been imposed. As we have said here, we do not recognise any fully comprehensive definition. I have been interested to see that really none of your witnesses seem to me to have thought it possible—

Q245 Mr Prentice: So you are exercising judgment on a case-by-case basis.
Lord Mayhew of Twysden: Yes.

Q246 Mr Prentice: Yes. And the process is all done on paper, so to speak. You do not interview people. You did not interview the former Prime Minister, for example, whose employment with JPMorgan and Zurich is, by all accounts, bringing him in millions of pounds.

[1] Business Appointment Rules (the rules and Cabinet Office guidance are published in the Annual Reports of the Advisory Committee on Business Appointments)

[2] HC Deb, 18 February 2008, col 117

Lord Mayhew of Twysden: We interview those who ask for an interview and they normally do that in the context of challenging the provisional advice that we have notified them about.

Q247 Mr Prentice: Do you think the process could perhaps be looked at again? If former ministers are moving into employment that brings them in millions and millions of pounds, would it not be better to interview people, to have a short interview?
Lord Mayhew of Twysden: It is always open to us to review any practice that has developed. We are very willing always to do that.

Q248 Mr Prentice: Do you ever go back to former ministers to ask for further information? When you were replying to my parliamentary questions you helpfully attached the form that is sent out to former ministers asking them to give details of their prospective employment. The box in which to explain the nature of employment—my colleagues cannot see this, they will just have to take my word for it—is absolutely tiny. You could hardly get the words "JPMorgan and Zurich Financial Services" in the box. Do you ever go back to former ministers and ask them to amplify and explain further what they are doing for these organisations?
Lord Mayhew of Twysden: I will be corrected by Mr Nichols, the official in charge of our little secretariat, if I am wrong about this but, normally, when there is an application by a minister the Committee will have had recourse to the permanent secretary of his former department for comments upon the application and there is absolutely nothing to stop us going back if we do not think enough information is given.

Q249 Mr Prentice: Do you ever go back for further information?
Lord Mayhew of Twysden: I am going to ask Mr Nichols, if I may.

Q250 Mr Prentice: It is a question of whether it is just nodded through or whether the process is—as I suspect—rigorous.
Lord Mayhew of Twysden: No, it is certainly not nodded through. Nothing of this character is nodded through.

Q251 Mr Prentice: If Mr Nichols is going to give evidence, perhaps he could move up and join Lord Mayhew and Lord Maclennan.
Lord Mayhew of Twysden: Thank you very much.
Mr Nichols: We will ask for more information if it is needed. If it is clear that the information we have is not going to satisfy the Committee, then we will make those enquiries before the Committee receive the information.
Lord Mayhew of Twysden: Mr Nichols, the Chairman was interested to know if we ever had done or the extent to which we do. Is there an answer you could give to that?
Mr Nichols: We quite regularly will check with ministers who provide limited information on the form, where we believe that the Committee need to know more about the nature of their role. Where that is the case, the Committee have on occasions come back and said, "We would like even more information about this before we consider it."

Q252 Mr Prentice: Our colleague Ian McCartney, who will be coming before the Committee, took up employment with an American multinational company, the Fluor Corporation. We know from the Register of Members' Interests that he is getting over £110,000 for this employment and he has circulated a letter to the Committee[3] explaining that this salary is not for his personal benefit—not for his personal benefit. Was the Advisory Committee aware of this?
Mr Nichols: I have no recollection of a personal letter being circulated.

Q253 Mr Prentice: No the personal letter was circulated to my colleagues by Ian McCartney in advance of his appearance before the Committee. My question to you is: when he sought clearance to be employed by this American multinational the Fluor Corporation at a salary of over £110,000, did he make it clear to the Advisory Committee, charged with clearing the appointment, that the money was not for his personal benefit?
Mr Nichols: I have no recollection of any such thing.

Q254 Mr Prentice: Okay. Let me bring in my colleagues.
Lord Mayhew of Twysden: I am sorry, may I just add to that. We were informed by the secretariat that Mr McCartney volunteered that he would be receiving a retainer of £6,000 a month for his two days' per month support. He expected that he would be forming himself into a company for this purpose as he would not be an employee of Fluor.
Mr Prentice: As he would not be an employee. I see. We can take these issues up with him when he comes before the Committee, if the Committee so wishes.

Q255 Mr Burrowes: Could I take up further the issue of the length of lobbying bans which are imposed or self-imposed on former ministers. Why do different people get different lengths? Looking particularly at the example of my predecessor Stephen Twigg, he was banned from lobbying his own department for 12 months and other departments for only six months, but then David Blunkett was given a two-year lobbying ban and Lord Whitty's ban lasted 18 months. Why the disparity?
Lord Mayhew of Twysden: We are at pains to look at every case on what appear to be its merits and not to impose a blanket. That is important. The parameters range from no ban at all to a maximum ban of two years under the guidelines and, within those parameters, we judge the matter on a number of factors which include the following: the likelihood

[3] Ev 135

or not that lobbying will be a significant part of the applicant's new role and the sensitivity of the issues on which in the circumstances at the time the Government might forseeably be lobbied, for example for an important change of policy, for a valuable contract, or on a relatively uncontroversial matter. We also take into account the closeness or otherwise, as we see it, of any pre-existing relationship between the applicant and the ministers and officials in the relevant department to the extent to which there might be accusations of private and privileged access. That is not necessarily in order of priority but it is an example of the matters we do think arise out of each individual application. Having done that, we make a judgment as to where the ban, if anywhere, should fall.

Q256 Mr Burrowes: If I refer to David Blunkett's unique two-year ban compared to Lord Whitty's 18 months, how does one justify the different time period of six months between the two?
Lord Mayhew of Twysden: On an application of the factors or the principles I have just tried to describe. As I said in my advice in my evidence to the Committee in June 2006, perhaps one could say that my colleague Lord Maclennan comes at the more austere end of the spectrum of approach, and perhaps it is proper for him to address you.
Lord Maclennan of Rogart: It is true, Mr Chairman, that we are not applying strict criteria but our judgment and the factors which our Chairman Lord Mayhew has just outlined may each be given a somewhat different weight by individual members of the Advisory Committee which may result in differences of view. More commonly there are no differences of view within the Committee, but sometimes there are. It is a matter of individual judgment.

Q257 Mr Burrowes: And with that a degree of subjectivity involved. That brings me on to the next question as to how one applies the bans. Some people have been publicly reminded not to draw on privileged information while others have not. Is that because there is a judgment moving to the character of that individual?
Lord Mayhew of Twysden: If a question arises on the facts as reported to us that there is a risk that there may be some improper perception of drawing upon privileged information, then we will impose a behavioural restriction. If the circumstances are such that there is no foreseeable perception of that arising, then that would explain why we do not mention it.

Q258 Mr Burrowes: From an outsider's point of view, someone could be forgiven for criticising, or say, having a particular bone of contention with one particular applicant on the character judgment of one particular individual rather than another, and it's not clear exactly whether due process is being followed.
Lord Mayhew of Twysden: We are always open to criticism—of course we are. We have taken some comfort—at the risk of seeming a bit complacent—reading my evidence of 2006 again: we are not aware of any significant criticism that has arisen out of our decisions. We are always open to it. A safeguard against irrational or erratic or capricious decisions is found in the spread of experience in the Committee of which I am lucky enough to be Chairman. You will have seen how broad that is. But there is an element of subjective appreciation. That is inevitable if you are not going to have some rigid formula. A rigid formula would depend, it seems to me, on some comprehensive definition of lobbying.
Lord Maclennan of Rogart: That is certainly my perception too.

Q259 Mr Burrowes: If the Advisory Committee was put on a statutory footing, what would change about your process?
Lord Mayhew of Twysden: I think the guidelines are expressed in language which is appropriate to guidelines but is not appropriate to a statute. Once you get into statutory formulation, it is rather a testing task for the draftsmen. But I do not know that it would be up to us. Were we told to do this on the basis of statutory authority, we would do it.

Q260 Mr Burrowes: Certainly you support the Civil Service Bill.
Lord Mayhew of Twysden: Yes.

Q261 Mr Burrowes: And with that would probably come the Advisory Committee being put on a statutory footing.
Lord Mayhew of Twysden: If it does, it does. As you know, I have spoken in favour of the Civil Service Bill, for reasons I went into last time.

Q262 Mr Burrowes: If it does, would you recommend any changes?
Lord Mayhew of Twysden: I do not think I am going to be drawn into that.

Q263 Mr Burrowes: Perhaps your austere colleague would like to comment.
Lord Mayhew of Twysden: By all means.
Lord Maclennan of Rogart: It is of course possible to come up with definitions which are backed by the force of law, on lobbying as on other matters that are currently the subject of guidelines. In the United States, under title 18 of the United States Code, section 207, certain specific actions by certain specific people are prohibited for a period and there are varying periods for varying circumstances. We could go down that route. It is a perfectly possible route to go down. It would criminalise, potentially, transgressions of what are currently guidelines in this country and it is a matter of political judgment for the legislators to decide whether that is appropriate. It has to be said that the experience of the United States is that this has not been a settled series of definitions, and amendments are quite constantly being considered in Congress to adjust

one way or the other, to make it more relaxed, to exclude categories of people or to bring in new categories. Legislating, of itself, does not necessarily make the matter more certain.

Q264 Mr Burrowes: If one takes the alternative view of there not being an advisory committee at all, what would be the greatest risk to the public?
Lord Mayhew of Twysden: I think the absence of any discernible body of criticism for our decisions probably indicates that there is some measure of reassurance in our existence and what we do. To that extent, it would be better perhaps to retain us or something like us than to abolish us.

Q265 Mr Burrowes: The greatest risk is the removal of that reassurance.
Lord Mayhew of Twysden: I believe that this Committee has roots which go back before the Second World War, to the 1930s. It achieved its present form in the time of Mr Harold Wilson's administration. It is very longstanding and it has derived from the need to show the public that there is some independent and impartial scrutiny of appointments for former ministers. I would have thought, though it is not a matter really for me, that it would be better to keep us or something like us than to say "good afternoon".

Q266 Mr Prentice: Before I bring in Kelvin: Lord Maclennan, you are not in favour either of putting the Advisory Committee on Business Appointments on a statutory footing—just so I am clear in my own mind.
Lord Maclennan of Rogart: I will reserve my judgment on that until the Bill is brought forward. I am not entirely sure that it would make, in practice, a very great deal of difference whether the body was on a statutory footing. I think the question is what the rules are or the guidelines are which it has to apply. That is where the difference would lie. The degree of discretion which currently exists has in most cases allowed a sensitivity of interpretation, even a dialogue with those who are contemplating employment, which can be helpful but which might be less possible if there was a rigidity about whether you fall within or outside the rule.
Mr Prentice: I understand. That is clear enough.

Q267 Kelvin Hopkins: Perhaps I could turn to departmental officials, rather than politicians, and their links with industry. We are talking about contracts involving vast sums of money. There is a case, of which you are aware, where Sir Robert Walmsley moved from being the MoD's Chief of Defence Procurement to a company which had recently won some £2 billion in defence contracts. He was asked to delay his appointment by a year. A year's delay is trivial. The man could have just had a nice holiday in the Bahamas and come back to a vast salary with the company with which he had just negotiated a £2 billion contract. Is it not that sort of thing which gives rise to suspicion in the public's mind and are they not right to want something more serious done about it?
Lord Mayhew of Twysden: That is obviously a highly respectable point of view. It is not one that has been, to the best of my knowledge, expressed to us publicly in the light of the decision we have taken. I do not have the facts in my head of Sir Robert Walmsley at the moment. I have a table of more recent decisions here. I am going to ask Mr Nichols, if I may, if he can add anything useful to the answer.
Mr Nichols: The Committee met Sir Robert Walmsley and discussed with him in some detail the extent to which he had been personally involved in the contracts that you are mentioning. For reasons which are not necessarily going to be of help here, he explained how he had reorganised the Defence Procurement Agency in a manner which meant that, although he was at the time the Chief of that Agency, he was not personally involved at all in the contractual discussions and negotiations. These were led by the head of the integrated project team at the time. The Committee made the balance, having discussed this with him as to how much influence he might be thought to have had, and asked that he wait one year before he joined the company. That reflected the degree of balance you have been describing.

Q268 Kelvin Hopkins: I respect the fact that all three of you are working within a framework which you did not design, and within that framework you do the best job you can, but is it not just a fact that in so many cases of officials moving like that, a year's delay would be seen as a nicety? Perhaps we could move to another case. Air Chief Marshal Day, who went to a position with BAE Systems, was asked to delay and the Prime Minister of the day, Tony Blair, overruled and said, "Let's just have the three-month period"—and three months literally is a holiday period—"before he joins BAE Systems". In that case, were you not worried about that? I know you were involved in it and were concerned about it.
Lord Mayhew of Twysden: It was not a matter that caused me, or, I suspect, my colleagues worry because the rules do provide that the Prime Minister may go against the advice to him from the Committee in the case of an official or Crown servant if he considers it desirable in the public interest. It was on that basis, as I understand it, that the then Prime Minister did adopt the course you have described, Mr Hopkins. It was not a matter to worry us because it fell within the jurisdiction the Prime Minister was expressly given.

Q269 Kelvin Hopkins: With great respect to yourselves, it was the Prime Minister's decision, therefore it was not your responsibility and it is really the Prime Minister we should be looking at—and may I say I would agree with you. In the Blair era was it not the case that he rather felt all this concern about links between industry and government were simply annoying irritations which should be put on one side? The reality is that he

invited serious business people into Downing Street on a regular basis; for example, American gambling corporations, private health corporations. He had McKinsey's in there constantly advising, consultants representing the private sector. All of these rules, much as they are important and I agree with them, were they not ridden roughshod over by the last Prime Minister?

Lord Mayhew of Twysden: I am certainly not lending myself to that view. The core of your question I think really, with respect, has to be put to Mr Blair rather than to me. But I will go further than that—I do not want just to fend things off: it is perfectly true that there has been clear to the Committee some pressure, some inclination, towards facilitating people coming in from the private sector into the public sector for a limited time and being able to go out again without inhibitions that would militate against that being able to happen. Our Committee has no policy responsibilities. We will do what the rules permit us to do and require us to do but we have taken the view that it is important that the rules should not be bent by us. We are not legislators. We are perfectly happy to apply a particular policy, perhaps a more "liberal" policy—to use that word—but the rules have to authorise it. If the powers that be want a more liberal approach we will do it, but the rules have to be changed.

Q270 Kelvin Hopkins: You will appreciate I am trying to tease out of you some kind of expression of concern about what has been going on.

Lord Mayhew of Twysden: I am going to disappoint you.

Q271 Kelvin Hopkins: I will give another case—which is something I have raised in this Committee on more than one occasion in the past. There was an individual, an American who worked in health corporations in America, who came to Britain to work for Amey, negotiating PFI[4] contracts for Amey, the PFI company. At a point he was taken into the Department of Health as its Commercial Director, to negotiate PFI contracts from inside the Department of Health, as an official, to the companies presumably that he used to work for. It is a two-way thing. It is possible, indeed likely, I would think, that such an individual, when he has done his job, will be taken back into the private sector and given a good pat on the back for doing a good job, levering out government contracts from the inside. Is that not something about which the public should be worried?

Lord Mayhew of Twysden: Put thus, I am sure it is. I am not sure we have had such a case before us, so I am going to ask Mr Nichols if he can deal with that on the basis of how we would be likely to respond, both at the official level and at the Committee's level, in such a scenario.

Mr Nichols: I think, if I may say so, the answer traces back to what was said earlier about what would happen if the rules were taken away. It would remove the process of scrutiny, whatever that delivers in terms of restrictions and so forth. Essentially I think the Committee has always recognised that they look at the applications which are put before them but those could be quite different if there were no scrutiny process whatever. In the case of the gentleman you are talking about, the Committee's role would extend only to what happens when he goes out. The Committee will take a very close look at that and at what he has been doing and make a judgment according to whatever he proposes to do outside or the kind of information he will take with him and the extent to which that may, in fact, as you have suggested, damage trust in the way that he had behaved in the service. The scrutiny process itself, which relates to the Committee's role, will take place only when the individual leaves and attempts then to take up a job in the outside sector. That particular appointment will be judged in the light of the criteria that Lord Mayhew has mentioned. That is not to say that there is not a wider interest or concern about this; it is just that the Committee's role is in the scrutiny of the application that the individual makes in order to take up a job and whether there may be some suggestion of impropriety in that to which they will react under the rules that the Government have given them.

Q272 Kelvin Hopkins: My final question is really to Lord Maclennan and Lord Mayhew. Is there not a case for seeking to re-establish two separate concepts of individuals involved—those who are public servants, serving the state and public interest, who do not see prospects of earning large sums of money after they leave the public service, and those in the commercial sector who are interested in making profit and doing what people in the commercial sector do, and that those two worlds should not be mingled because the public interest can be damaged by the commercial interest?

Lord Mayhew of Twysden: I am sure it is correct to say that the public interest can be damaged by a commercial interest. It is part of our job to suss that out in the case of an individual application and do our best to guard against it. Just casting my mind back over a number of cases of senior officials, I do not think it would be easy to make the kind of clear distinction that you have in mind, Mr Hopkins, between those who do not have much prospect of commercial saleability, as it were, and those who do, because I think that a number of cases that come before us are cases where a very senior official is sought to be recruited for his generalist skills. I am not sure that is an entirely helpful answer but it is the best I can do.

Q273 Kelvin Hopkins: Does Lord Maclennan have anything to add?

Lord Maclennan of Rogart: This may be the area in which the austerity of my individual view is not representative of that of the Committee as a whole because I take, as a general point, the view that some post-service employment opportunities are simply

[4] Private Finance Initiative

unsuitable for Crown servants. Here, while I wholly go along with the careful analysis of each case to try to reach agreement—which usually we do reach—I think it would conceivably act in a helpful way if these issues did not arise at all because certain positions were, in a sense, proscribed. I do not underestimate the difficulty of that definition and the necessity too to have Crown servants accept such possibilities prior to their entering into a contract of service, otherwise it might be arguable that we are denying a right which every citizen enjoys, but I, without making any comment in any of the particular cases which you have raised, do take the view that the balance of public interest—and ultimately it is a matter of course for the Prime Minister under the present circumstances to decide—may lie with limiting what I think the Committee has referred to on at least one occasion as a "traffic" between a particular department and a particular sector of business. That has not given rise to great public concern but I think it is something of which we ought to be conscious as a potential area of loss of confidence in our systems and in the ethical integrity of those who are giving public service. I think it can put pressure on the whole system. I accept that that may sound rather metaphysical and divorced from particular cases.

Mr Prentice: It may happen in the future.

Q274 Paul Flynn: The impression I have this morning is from what you have told us about one another, Lord Mayhew and Lord Maclennan, that we have the "hard Lord, soft Lord" approach on this. The position we are in at the moment is that we all, as Members of Parliament, the House of Lords or the European Parliament, face a collapse of public trust in us that is probably unprecedented in modern times. Do you think the Committee, which has probably served the country well in the past, is really the right set-up for restoring trust in the political system? Perhaps I could make a further point: the BBC exists on trust and the licence is paid on trust and that was damaged greatly recently by the information that matters of great import, like the naming of the *Blue Peter* cat, had been fiddled by people there and they were howled at by the tabloids. It was felt that trust in the BBC was eroding to such an extent that they put in a whole programme to re-sensitise their staff in order that that trust be rebuilt. The trust in politicians in this country has been damaged to a very great extent. If your Committee are going to take part in this, should it not be changed from what you have described as a broadly-based Committee—but it seems to me like a very much all-male collection of the great and the good, who are doing splendid work, I am sure, in serving the country well. Do we not need something with more strength in it for the future if we are going to restore trust? Shall we have the "hard man" approach?

Lord Maclennan of Rogart: I think the last word should rest with our Chairman, so perhaps I should shoot first.

Q275 Paul Flynn: I think you have been too reticent as the "hard Lord" this morning. We would like to hear more from you.

Lord Maclennan of Rogart: First of all, I think the statement you made, Mr Flynn, about the breakdown of trust in our political system is quite—if I may say so, with utter respect and understanding—extreme itself.

Q276 Paul Flynn: Yes.

Lord Maclennan of Rogart: I do not think I could necessarily go along with the comprehensiveness of your view of breakdown.

Q277 Paul Flynn: The perception is that, unfortunately.

Lord Maclennan of Rogart: But that does not remove from us the necessity to consider what we can do to sustain confidence in public service standards. We are not alone, however, in seeking to provide answers to these questions. We have the Committee on Standards in Public Life which is also attempting to indicate areas where changes could be made. Indeed, we are in a moving situation: our Chairman has already referred to the change that was introduced by our new Prime Minister with respect to the ministerial guidelines, so they are now expected to be followed. That is a very important change that has taken place in the last few months and it is probably too early fully to understand what the impact of that will be. I particularly welcome the way this Committee has contributed to the debate in a measured way and is looking at the underpinning of what we have been attempting to do. My own personal view—and it is my personal view; it is not an institutional view—is that we do need to address this issue of the jobs which are, by definition, unsuitable. I think it is a very difficult question to address because there is a public interest in movement between the public and the private sector. In this, I am commenting on what Mr Hopkins has said. It is important that both sectors fully understand each other and how they work if they are going to respond effectively, but we have to avoid a privileged position for particular individuals who could put their intelligence to an improper use. I think the present system we have has operated pretty well. I do not think it has contributed to any loss of confidence and I think with some tweaks of the kind I have been talking about it could be a most helpful continuing mainstay of public confidence.

Q278 Paul Flynn: Lord Mayhew said your previous definition of lobbying was that you "recognise it when you see it". The great difficulty with modern lobbying is that you do not see it. It is carried on behind closed doors and so on. We now have a situation—again probably unprecedented—where the greatest offices in the land, the greatest positions in the Civil Service, can be viewed as a springboard, as an apprenticeship, for people earning great riches in retirement. If we have a civil servant or a minister who has negotiated a contract of £2 billion with an industry and he later—even if there is a period of a

year in between—works for that industry, is there not the suspicion there that in the deepest recesses of that civil servant's mind, in his or her judgment when that contract was negotiated, he had some thought to the retirement job that was in the future? Is not the only way to cleanse the system of this to ban civil servants or ministers for life from working in the area in which they have their jobs? That would then remove any suspicion that their decisions taken when they were in government, when they were acting as a civil servant, would be influenced by some expectation of retirement riches?

Lord Mayhew of Twysden: It certainly would overcome it. The question is whether it would not achieve rather more than would be expedient in the public interest. While Mr Flynn was talking, Mr Chairman, I was just looking up the introduction to the guidelines on the acceptance of appointments by former ministers. It begins with these words: "It is in the public interest that former Ministers with experience in government should be able to move into business or into other areas of public life."[5] It goes on, of course, to say: "It is equally important that when a former minister takes up a particular appointment there should be no cause for any suspicion of impropriety. Arrangements have been made therefore to enable former Ministers to seek advice from the independent and impartial Advisory Committee on Business Appointments."

Q279 Paul Flynn: It is based on a sort of modern heresy. The old principle was that the Civil Service was a vocation, a job, a very honourable job that was devoted to public interest. It was not involved with making money. Civil servants had special conditions: they would have honours for serving. The world of business was quite separate. It was about careers, but it was mainly commercial, about making money. Those things have merged and it means that we are eroding what is the traditional role of the civil servant, in that he can be both an entrepreneur, a businessman seeking to enrich himself, and also a civil servant as well. Does that not seem to be very damaging to the whole ethos of the Civil Service and the governance of the service as well?

Lord Mayhew of Twysden: The risk to which you refer, Mr Flynn, does of course exist in certain circumstances—and we are alive to that because we have to take account of public perception, not necessarily of established fact. It is very difficult to establish this kind of fact but if there is a reasonable suspicion or a perception that somebody may have been tempering his discretion in his last job with a view towards moving into a nice billet in, let us say, a defence supplier, well then that has to be taken into account and is taken into account by us. One can justify any kind or almost any kind of variant from the procedures we have at the moment.

[5] Guidelines on the Acceptance of Appointments or Employment Outside Government by Former Ministers

Q280 Paul Flynn: Attacks have been made—probably unfairly, and I will not quote them in detail—against recent politicians who have served high office: that they have behaved in those offices, including the highest office in the land, in a certain way to ingratiate themselves with interests in order to make sure that they have lucrative retirement jobs after they have left office. That accusation has been made, whether it is true or not. You are probably familiar with what I am talking about. It is fair that people should think that. Is it not time to divorce the two elements that people have? They are politicians or they are civil servants, they are not businessmen. We should now, because of the suspicions that are there that the decisions of civil servants and politicians could be corrupted, say "In the areas where you are working, where you have influence as politicians during your political life or your civil service life, you should never be in those areas in your retirement jobs."

Lord Mayhew of Twysden: It is possible to achieve that. As I have said, the Committee itself has no policy in these matters and, therefore, what I say I say in answer to your question is only my personal view.

Q281 Paul Flynn: You have said that you are bound by the rules.

***L*ord Mayhew of Twysden:** Yes.

Q282 Paul Flynn: We entirely respect that, but is it not time for a new set of rules. For instance, you say you have a tiny secretariat for doing the job on this, but if you have someone who is a serving Member of Parliament or a Member of the House of Lords who takes on a job, you approve it, and you notice a sudden increase in that Member's activity which is associated with his new job—he has never discussed, say, nuclear power before in his whole political career and suddenly he is putting down early day motions, debates and so on on that—would you police that and call the Member in?

Lord Mayhew of Twysden: It is impossible for my Committee to police the enforcement or the application of the restrictions we impose. You can deal with the perception and the risk which you identify, Mr Flynn, by saying you cannot do anything at all that bears on your previous responsibilities as a minister. You can do that. I personally think that would be to exclude from valuable service of the public interest certain capabilities and experience and so forth that ministers have. I think public opinion is a very powerful sanction. I think a free media is a very powerful sanction. If there is the kind of increase in activity that you posit in your question suddenly preceding an appointment, public opinion can be stimulated to be pretty critical and I think it would be. It is really a matter for your Committee rather than for mine to apply its mind to whether things can be done better. We will do what we can. If we are replaced by somebody else, I can assure you there

will be no case of *amour-propre* on our part: every one of us is actually "time expired" in our membership of this Committee!

Q283 Mr Prentice: Yes, you are on your second term, are you not?
Lord Mayhew of Twysden: I am beyond it.

Q284 Julie Morgan: How often do you advise individuals not to take a job at all?
Lord Mayhew of Twysden: Let me ask Mr Nichols to give a more precise answer.
Mr Nichols: The precise answer is that the Committee's practice is to consider what view it takes of a particular application and to convey that view to the individual, who is then free, if he wishes, to come and challenge the Committee. On those occasions when the Committee have said, "We really do not think you should take this job"—and that has applied to only one former minister and probably two, maybe three, Crown servants—the result has been that the individual has not pursued the application. It has not come to the point where an individual has said, "I am going to do this" and the Committee have said, "We are now making public the fact that we believe you should not do it." It has not reached that stage.

Q285 Julie Morgan: They have all taken your advice in that position.
Mr Nichols: Yes, by not pursuing their applications.

Q286 Julie Morgan: For what reason would you advise someone not to take a job? What would be the sort of conflict you could see?
Mr Nichols: As Lord Mayhew was saying earlier, the Committee's approach would be to say, "What would a reasonable person consider of this job? Would there be some suspicion of impropriety if the individual were to take it up by somebody who was reasonably well informed of the facts?" If that were the case, in the extreme sense the Committee would say, "We really think that this is not a suitable job." It depends rather on the severity and the extent of the sensitivities rather than any formula that is used. It is, as Lord Mayhew said, a matter of judgment. It is easy to imagine circumstances where, if one person said that they proposed to go and help some individual to do something which was entirely inappropriate, that the Committee would take that view.

Q287 Julie Morgan: That is in a very small number of cases.
Lord Maclennan of Rogart: The United States Office of Government Ethics, describing its inhibitions on this, spoke of an employee's involvement: "If an employee's involvement in such a matter be personal and substantial, then the employee is permanently barred from representing anyone back to any Federal department, agency or court".[6] It is that perception of "personal and substantial involvement" in the business of a particular potential employer that would be, in my mind, likely to lead to questions being raised of the suitability of a job. It does not happen that often but it does happen, and it seems to me that it is quite possible to proceed on a case-by-case basis. But it is perception, in the last analysis, which we have to be concerned about. That is the rubric within which we operate. We have a range of background experiences. We may not be quite as representative as Mr Flynn would like but we have all had some experience of the workings of government and the workings of commerce and are able to appraise critically the rationality, if you like, of a perception that something would be unsuitable.

Q288 Julie Morgan: On these rare occasions you did think something was unsuitable, were you able as a whole committee to see that immediately and come to an agreement fairly quickly?
Lord Mayhew of Twysden: We have a good discussion on all these cases. These things are dealt with primarily by email or by post but always with a meeting if there is a serious conflict or a particularly difficult question arises.

Q289 Julie Morgan: I would like to return to some of the things Kelvin was asking. The Prime Minister is able to overrule your recommendation. In the last Prime Minister's time, how many times did that happen?
Lord Mayhew of Twysden: The only one I know of is Air Chief Marshal Day.
Mr Nichols: Once.

Q290 Julie Morgan: When that happened, did the Prime Minister come and discuss with you the reasons why he was doing this?
Lord Mayhew of Twysden: No. Nor would I have thought it obligatory. I would not have thought it necessary for him to do so. He has a separate jurisdiction to ours. We advise him. Whether he takes the advice or not is up to him.

Q291 Mr Prentice: He was the person who was pressing for a more liberal interpretation of the rules, to which you alluded earlier.
Lord Mayhew of Twysden: Well, I do not think that would embrace overriding a responsibility upon the Prime Minister to take into account the public interest. Only he can know all the factors that form a decision on the public interest. That is not the function of this Committee.

Q292 Julie Morgan: When the Prime Minister overrules you, you just accept that.
Lord Mayhew of Twysden: Certainly.

Q293 Julie Morgan: You see that as the way you are placed in the system.

[6] 18 USC §207; Executive Order 12834, 3 C.F.R, 1993 Comp., pp 580–586; 5 C.F.R parts 2637 and 2641; OGE Forms 203 and 204

Lord Mayhew of Twysden: It has not arisen.

Q294 Julie Morgan: I was thinking of the once this happened. As this was such a unique occasion, if the Prime Minister has only overruled you once, I wondered how your Committee reacted to that and whether you had any thoughts about the fact that it had happened.
Lord Mayhew of Twysden: We took note of it. He did it on public interest grounds, so he said, and it is not for us to question that judgment. If the Prime Minister of the day were to make a practice of overturning our recommendation or, putting it more accurately, not complying with our recommendation, then we might I think end up wondering whether there was any point in our going on. But that is a scenario which I regard as fanciful.
Julie Morgan: Thank you.

Q295 Jenny Willott: To pick up from the same point, do you think it would be better if the Prime Minister exercised the same discipline with your recommendations as the last two prime ministers have agreed to do over nominations for honours; that is, not interfering and just accepting the recommendations that are made by the advisory body?
Lord Mayhew of Twysden: Speaking purely for myself, I think there must always be provision for a Prime Minister to take account of the public interest.

Q296 Jenny Willott: Would you not take into account public interest when you are making your recommendation?
Lord Mayhew of Twysden: I do not think we would be in a position to do so. We would take account of the public interest as indicated in the beginning of the guidelines which I read out a few minutes ago, that it is in the public interest for ministers to be able to take and make use of their expertise and so forth, subject to the qualification which I also read out. To that extent we take account of the public interest. But we are not and nor should we be in a position to take into account, for example, matters relating to intelligence. That is not for us at all—and could not be, I think.
Lord Maclennan of Rogart: I agree with that view. We are not a court with a dispensation power. We are an advisory body. Although we try to get as much information as possible which will enable us to decide how best to view the public interest issues, it is always open to the Prime Minister to have access to information which it would not be appropriate for us to have and to invoke. As you will have seen, it does not happen very often. It is also fair to say—but I am conscious of the points that have been made by a number of members of the Committee about the general ambience in which we have been operating and some question marks about whether the arrangements were too restrictive—there has not been any question of the Committee being leant upon by the Prime Minister. We have acted completely independently. None of us would have welcomed or, indeed, found acceptable any suggestion that we should ignore the guidelines in a particular case or generally. If there were a view that the system was not working in the public interest and that that was because of the nature of the rules, it would have been our view as a Committee that the rules, which are not for us to modify, should be amended as a result of the intervention by the Prime Minister.

Q297 Jenny Willott: Lord Mayhew, you have talked both today and in the past about the system being policed by the media and by politicians and so on. You say you believe this is the best way for the system to go ahead. Do you not feel that has implications for public trust in the political set-up?
Lord Mayhew of Twysden: If there is any breach of a condition, a restriction which we have thought it right to recommend, then that in itself is deleterious to public trust. The question is how is that to be inhibited, or brought to light if it has happened? For my part I really am not aware of a means by which that sort of thing can be policed. It certainly cannot be policed by us. To some extent a free media is able to bring to light breaches of a condition of that character and it does so. I am not saying that is the best way. I think it is the only way. I think I am saying it is the best way available because I cannot think of a better one at the moment.

Q298 Jenny Willott: I was going to ask, if the Committee is not in a position to enforce bans and things like that, is there anyone appropriate that you could see that could monitor people's behaviour?
Lord Mayhew of Twysden: I am afraid I cannot. I should be very interested to read your Committee's ultimate report to see if you can.

Q299 Jenny Willott: At the moment what would happen if someone flagrantly ignored your recommendation and went ahead?
Lord Mayhew of Twysden: I think I heard stirrings on my right.
Lord Maclennan of Rogart: I think there is a clear choice here. Either we follow the route we are familiar with and have been seeking to apply in a sensitive way, on an individual basis, or we go down the United States route of definitional, legal requirements which could indicate that a breach of condition amounted to an offence. Those who are judging whether that has happened or not would not be us. It would be a whistle blower drawing attention to it and then the normal forces of the criminal justice system would come into play. That is an option. I hope it is one that will be carefully considered. It is not one which the Committee is advocating but there is sufficient experience on it elsewhere to evaluate it and to judge whether the sanction of the law is required to back up the kinds of conditions that are imposed by us. Probably the balance of our view on the Committee is that we are certainly not advocating that. I think it is worthy, if I may say so, of your consideration.

Lord Mayhew of Twysden: I agree with what has been said. I think the distinction is between inhibiting behaviour of that kind and policing it. Certainly what Lord Maclennan has just described would be an inhibition. It does not go to policing, as he recognised. Policing would be done to the extent that it was by a whistle blower and taken up thereafter.

Q300 Jenny Willott: Are you aware of anybody having breached the conditions that you laid down for them?
Lord Mayhew of Twysden: I am not. It would depend entirely I think upon what the intention of the person was in undertaking the conduct complained of or under examination.
Lord Maclennan of Rogart: In the written evidence, a note which I gave to the Committee rather earlier on this,[7] I did say that one of my concerns was not so much that there would be breaches of that kind but that the prospect would influence the performance of the official prior to leaving employment as a Crown servant and that remains my greater concern rather than that the conditions are not applied.

Q301 Jenny Willott: If somebody contacted the Committee to ask for the details of the conditions that had been applied to somebody and you therefore became aware that there was potentially a breach of the conditions that had been laid down, listening to what you have just said about the behaviour before being more important, what would you do under those circumstances?
Lord Mayhew of Twysden: When a job is taken up, in our published report we set out the nature of the job and the advice that we gave. If we were told that somebody is breaching this—it has never happened—I guess Mr Nichols would be on the telephone to them probably rather quickly.

Q302 Mr Prentice: There has never been an instance when, once approval has been given, you followed it up later with perhaps a letter to the person asking them to amplify or give more information about the appointment as it has developed over the years?
Lord Mayhew of Twysden: I do not think there has. I do not recall it.
Mr Nichols: It has not in practice tended to unfold in quite that way. What might happen is that a journalist might ring up and say, "We think that X has a job with this company. We have had a look at your website and your report and, according to you, he should not be doing it." We might then say, "Are you actually sure that X has a job with the company?" and they will then go to X and challenge X. Then they will come back to us and say, "What he has told us is this" and in fact this happened not very long ago with a former minister, where it was widely reported in the newspapers that he had a job when in fact he had not. He may have taken it up later but at the time it was stated that he had it was simply untrue. It tends to unwind in a rather different way and, if we discovered that the individual was doing something which the Advisory Committee had advised against, then I am not aware of any case where it has not been followed up by the journalist concerned in exposing it. Indeed, there have been consequences to that.
Mr Prentice: It is a question of whether you have a kind of watching brief. Once you give people approval, then you keep an eye on them. That is the issue.

Q303 David Heyes: If you cannot police, do you monitor? Do you have any kind of active monitoring or recording of breaches?
Mr Nichols: The best answer I can give you is that the Committee itself, obviously seven people drawn from different walks of life, supported by the four of us here, will take as active an interest as we can in what the papers report and in some cases what people will ring us up and tell us. If you look at our website for example and the number of appointments that have been approved by the Committee either as former ministers or as Crown servants, given the nature that only some of these jobs will be on the record—for example, as a non-executive director of a company which would be registered as opposed perhaps to a consultant to a company who would not—we will look as best we can but there is simply no way that we could possibly monitor or oversee the behaviour of people for two years after they have left public office.

Q304 David Heyes: Do you keep a score of reported breaches?
Mr Nichols: Breaches do not tend to occur in that way.

Q305 David Heyes: What about reports of breaches, because that is the basis of your policing, depending on press or political reports? You must have a score. How many times have reported breaches taken place?
Mr Nichols: Yes, in a sense we do keep a score. Once this kind of thing arises we will make a note and it will go on a folder with the individual's papers. If after some time there have been several such notes, we would take notice but I can give you an assurance that on no occasion I can think of has there been several such notes. There might have been once or twice two reports of something but it has not gone beyond that.

Q306 David Heyes: I do not expect you to give us a number today but would it be possible for you to let the Committee know how many times you have recorded a breach of your conditions?
Mr Nichols: I am not talking about a breach of condition. I am talking about a situation in which for example it has been alleged that an individual is doing something which he should not be doing. In fact, most of those allegations tended to disappear because the journalist, in going back to the

[7] Public Administration Committee, Fourth Report of Session 2006–07, *Ethics and Standards: The Regulation of Conduct in Public Life*, HC 121-II, Ev 132–133

individual, has obviously had an assurance that their original understanding was incorrect. We have not come across any case that I am aware of where we have discovered that someone has taken up a job in breach of a condition set by the Committee.

Q307 David Heyes: I am trying to get a sense of how often you need to look into allegations, wherever they may have come from, that there has been a breach. Is it four or five, 40 or 50? I would like just a sense of the numbers of times this happens.
Mr Nichols: It is a very small handful of occasions and, as you will obviously appreciate, it tends to be with the higher profile individuals. For someone whose name is not widely known who might be going off to do a consultancy job for somebody or other and the Committee have said, "You can do that but you should wait for a period" or whatever, you will very rarely ever hear any reports about breaches in those particular cases. For more high profile positions, not regularly, but we will get a number of requests from journalists who say, "Can you please tell us what is going on here, what they can and what they cannot do?" That way we can then go back to the individual and challenge him as to whether or not he is breaching conditions. It is a very small number though.

Q308 David Heyes: I do think it would be helpful to this Committee if you could at some time in the future let us have an indication of how often you have needed to pursue that line.
Mr Nichols: About a dozen a year.

Q309 David Heyes: As I understand it, the vast majority of the decisions that are made are at official level. You said more high profile cases and more senior cases would be considered in detail by the Committee itself. What is the ratio? What are the numbers? What is the split between decisions made by officials and decisions made by the full Committee?
Mr Nichols: With a very broad brush, I suspect the Committee probably deals with maybe 50 to 100 cases a year. There are in total perhaps 700 or 800 applications service wide, bearing in mind that we are covering not just civil servants but also diplomats and other services as well.

Q310 David Heyes: How is the decision made about which category they fall into? When do they become of sufficient importance to be considered by the main Committee?
Mr Nichols: There is a process and criteria in the rules which explains the circumstances in which a department would need to seek central advice from us before they make a decision on a case.

Q311 David Heyes: Which category would special advisers fall into?
Mr Nichols: Special advisers are treated in the same way as civil servants at broadly equivalent levels. In other words, the most senior cases will go to the Committee and the Committee have looked at two recently. The other cases will be dealt with according to level where—I do not want to over-generalise but generally speaking—the more junior the individual, if the individual is going to a job where the department judges that there is no risk whatsoever of any impropriety or any suspicion of impropriety—for example, the individual is leaving a department dealing with culture and sport and going to a charity working in Africa, in those sorts of instances, there is no requirement for every case to be the subject of advice. Where the individual is going to an organisation with which they may have had personal dealings, where they may have had dealings with the organisation's competitors or where they may be in possession of information that could be of value to that organisation, then the expectation is that the advice would normally be sought before the final decision is taken.

Q312 David Heyes: Is what you have just said a description of the criteria or is that your opinion?
Mr Nichols: It is a description of the criteria which are set out in the rules. It goes through effectively level by level and says to departments, "If you have a case like this, you do this with it. If you have a case like that, you do that with it."

Q313 David Heyes: Lord Mayhew, do you think that is adequate in a time when special advisers are very often immensely powerful characters, very often moving effortlessly between the private sector and their role as an adviser to government? I think maybe only one or two special advisory appointments come before the full Committee for consideration. Is that appropriate in this age?
Lord Mayhew of Twysden: I think it is perfectly clear now that advisers are treated the same way as officials. There is pretty close contact between Mr Nichols and myself, sometimes on a daily basis by telephone, and if there were a particularly sensitive issue that arose out of any particular application then I think there would be no question but that it would come before the Committee.

Q314 David Heyes: It seems vague. I wonder whether it would be helpful to our Committee to have sight of the criteria that would apply to the decision that is made about which category a special adviser would fall into.
Lord Mayhew of Twysden: We can provide that.
Mr Nichols: They are spelt out in the rules but I can certainly provide you with some detail.[8]

Q315 David Heyes: One possible outcome of this Committee's inquiry might be a recommendation that we formally regulate the activities of lobbyists so that we constrain them in some way. We put a set of rules in designed to encourage openness. That might be the conclusion we come to. I do not know. If that was to happen, how helpful would that be to your Committee?

[8] Ev 168

Lord Mayhew of Twysden: We have developed a pretty clear, reliable and consistent understanding of the responsibilities the rules and guidelines give us. If it were put on a statutory basis or some other formal basis, the answer to the question would depend on how comprehensive that was and whether it was sufficiently comprehensive to meet the public interest or if it was too widely embracing to go beyond what the public interest probably requires. All I can say is that if we were still in existence we would do our best to comply with whatever Parliament substituted.

Q316 David Heyes: Would it help Lord Maclennan's issues if there was greater clarity about what lobbying was and what the rules were that lobbyists had to be constrained by?
Lord Maclennan of Rogart: I do not think the Committee has any doubt about what it is doing when it puts a constraint on lobbying. The question is whether that and the sanction, if you like, that we seek to apply or the constraint that we seek to apply by attaching a condition to the acceptance of a job would or would not be helpful in the public interest or helped by the backing of the law, so there would be a further inhibition upon the breach of the rule. I do not think it would necessarily help us to formulate the condition to have it defined by law but I think it might have an effect on enforcement. It is speculative and hypothetical.

Q317 David Heyes: I am asking you to speculate.
Lord Maclennan of Rogart: We have no evidence but it is possible that it could act as a greater inhibition on the departure from the intent of the Committee in attaching conditions.

Q318 Mr Walker: I am not a prude. I see nothing wrong in people being involved in government at whatever level, being elected or being a civil servant and then going on to pursue careers elsewhere, where they might be able to draw on some of the experience gained while working for government. On the area of special advisers, I have a list here of 150 former special advisers. About 85–90% have left government to go and do something in lobbying organisations or organisations that have a huge vested interest in developing their relationship with government for the awarding of contracts. Does it concern you slightly that so many special advisers are leaving the Civil Service and going on to have careers which tend to revolve around the relationships that they developed while in those positions?
Lord Mayhew of Twysden: It does not surprise me that they want to do that. In virtually every case it will have come before the secretariat rather than the Committee. The circumstances in each case will be looked at. I had better ask Mr Nichols to amplify that if it needs it.
Mr Nichols: Is there any indication on your list as to how long a gap might have elapsed between them leaving and—?

Q319 Mr Walker: No. I will give you an example. A gentleman called Dr Peter Kyle came to see us a few weeks ago.[9] He worked for the Cabinet Office and, as you are aware, the Cabinet Office is very much involved in developing the role of the third sector and in delivering public services. Peter Kyle left the Cabinet Office to become director of strategy for the Association of Chief Executives of Voluntary Organisations. Personally, that is an example that causes me some concern. You have a chap who has been at the heart of government in the Cabinet Office developing policy for expanding the role of the voluntary sector and delivery of public services and then he goes in 2007 and becomes their director of strategy to the chief executives of those public bodies. That is cause for some concern.
Mr Nichols: I could not comment on that case because I have no recollection of it. In fairness, this is a kind of situation where different cases will be handled in different ways and I would prefer not to suggest things but I can certainly talk to you about the way in which their cases are addressed.

Q320 Mr Walker: Special advisers almost exclusively go on to do something closely linked with politics when they leave this place. Some of them do but most of them do not go back to their former careers. They go back to lobbying companies or to working for organisations that have huge vested interests in developing their links with government. I think that is causing the public some concern. I was just wondering what you felt about for example the growth of special advisers we have seen over the past decade and what influence they are having on public life and public procurement. Is that something that falls into your remit?
Lord Maclennan of Rogart: I do not see the position of the special advisers as being very special in that regard because, for a long time, there have been movements from the position of Crown servant into bodies which have been for example trade associations, lobbying the Department of Trade and Industry, as it once was, with which they had been closely associated prior to that. I do not think there is anything new in that. The only thing which is new is that there are rather more special advisers than there used to be. While I do not belittle their influence, I doubt if it is greater than that of one of the senior civil servants whose positions we have to look at too. I do not think they are a specially significant or sensitive category. They may have a higher public profile because they are not operating as civil servants with all the constraints of expression in public that they have, but the intrinsic interest question seems to me to be almost indistinguishable from that of the regular Crown servant.
Paul Rowen: Given what you have just said, should not special advisers therefore come under your remit? I know the Prime Minister when he came in reduced the number of special advisers and introduced a new grading structure. There are fewer

[9] Oral evidence taken before the Public Administration Committee on 17 January 2008, HC (2007–08) 112-ii

at the top end of the scale. Do you not think therefore that there is a case for saying that the same rules that apply to civil servants—
Mr Prentice: We do know that two, Jonathan Powell and someone else, have already been approved by the Advisory Committee.

Q321 Paul Rowen: Yes they are at the top but because of their special access to ministers they should apply—
Lord Maclennan of Rogart: They do broadly and I think we have given an undertaking to let you see the criteria for people who have decided to bring cases to us.[10] I do not think there is a distinction there between civil servants and special advisers in that respect. It is a matter of the level of their position principally.

Q322 Paul Rowen: Looking at the list of the appointments that you have looked at, how do you decide whether it is 12 months? I notice you very rarely use two years. Is there a time when you have used two years? What is the criterion for deciding on that particular time period?
Lord Mayhew of Twysden: The factors which influence us, as I indicated to the Committee earlier this morning, include, though not in order of priority, the likelihood or not that lobbying will be a significant part of the applicant's new role, the sensitivity of the issues on which in the circumstances of the time the Government might foreseeably be lobbied—for example, an important change of policy, for a valuable contract or a relatively uncontroversial matter. We would also take account of the closeness or otherwise as we saw it of any pre-existing relationship between the applicant and the ministers and officials in the relevant department and the extent to which there might be accusations of private and privileged access. We would look at all these and anything else that stood out from the terms of the application and we would form a judgment after consulting among ourselves, with our quite broad spectrum of experience, whereabouts in the spectrum that particular application falls. In the great majority of the cases where we impose a ban or recommend a ban on lobbying, it is about 12 months. It can be six. It can be, in a very rare instance, as much as 24 months because we know the lights are flashing on that one.

Q323 Paul Rowen: Do you take advice from the Cabinet Office? Say the Department of Health is negotiating a contract on X. If it is likely to be concluded in the next 12 months, are you aware of the sorts of things ----?
Lord Mayhew of Twysden: I am not aware that we take advice from the Cabinet Office but I know Mr Nichols will explore with the Permanent Secretary of the department concerned the extent to which the minister had been involved relevantly and would seek a recommendation from the Permanent Secretary and would communicate it to us for our consideration.
Mr Nichols: In the case of Crown servants, there is a system under which the individual's application has to be verified and countersigned by a senior officer, so the Committee would receive not just what the applicant says he has been doing and what he wishes to do but a context provided very often by the Permanent Secretary about the very issues you mention, for example, "in the next several months we have a particularly valuable contract coming up" and all of these are factors that will influence the Committee in the judgment it makes.

Q324 Paul Rowen: Do you think former ministers should be subject to that same sort of formal procedure rather than informal discussions?
Mr Nichols: If the distinction were one of formality, it probably would not make much difference because our normal practice will be to go to the Permanent Secretary of the department and ask the Permanent Secretary what is going on at this particular time, what has the Minister been involved in which may have a bearing on this judgment. The absence of that being provided in a formal sense as part of a signed application does not make any difference.

Q325 Paul Rowen: Would you not think there is a discipline there that the former minister would have to set out and that is subject to review by the Permanent Secretary? It is on the record. Do you not think that is a much clearer way of removing any suggestion of impropriety than the former minister themselves setting out what their involvement is? It is countersigned by the Permanent Secretary and it is on the record.
Mr Nichols: That would work although I have to say in practice what I very often find is, if a former minister comes to see me for example to talk about what he wishes to do, my first piece of advice which almost all of them take up is to go and talk to your Permanent Secretary about what is going on in the department at the moment and exactly what you propose, because the Permanent Secretary will at that stage be better placed to ask the right questions to detect information that the Committee will need to make its judgment about the terms, if any, to be applied to the approval.

Q326 Paul Rowen: In terms of regulation, do you not think there is a distinction between former ministers who continue to be Members of Parliament and are therefore subject to the rules of this House and the Election Commission and those like the former Prime Minister who has resigned and is now virtually totally a free agent? In terms of the controls that may be applied to someone, there is still much tighter control on people who are still MPs rather than those who have resigned completely.
Mr Nichols: There are other forms of discipline that come into this as well that are not so obvious. In fact, you referred to some earlier with Crown servants. It is not just a question of who might detect some

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suspicion of impropriety. If there is the risk of suspicion, it is very often the case that the new employer has business with government and it is not in the new employer's interest to employ somebody who government has said should not be working for them. In some cases that we have found, the company itself will say, "If we carry on employing you when you do not have approval to come and work for us, we might find ourselves crossed off the list of people invited to tender for contracts or in some other way it might affect our business." We found various forms of influence which are not necessarily the case of the obvious one where there is a policing effect and the discovery or non-discovery of some suspected impropriety.

Q327 Paul Rowen: Do you think that applies to a prominent former minister? Do you think a Permanent Secretary is going to say, "I do not think you should employ that particular person"?
Mr Nichols: No. I can think of one specific case but there were one or two others where there was the same suggestion. If there is a problem about a particular appointment, it may often be the case that the new employer, the company, has business dealings with the Government. It may sense that those business dealings may be affected if it takes on an individual when the individual cannot produce a letter that says, "I have approval to come and do this job." I have come across one or two cases where the company has said, "I want to see the letter that gives you approval to come and work for us and if you do not have it I am afraid we do not want you because you could be more of a hindrance than a help."

Q328 Paul Rowen: That does not apply to former ministers, does it?
Mr Nichols: What I have found with former ministers is that the effect on the company's reputation of employing somebody who may not have the full clearance by the Committee is something that companies have been extremely conscious of, because it can rebound on them quite badly if they are found to have apparently employed somebody without the Committee's clearance. I am not suggesting for a minute that this is a universal truth, but it is a fact that occurs on a number of occasions that I have experienced over the last 10 years.

Q329 Paul Rowen: Have you refused to give full clearance to a former minister?
Mr Nichols: When the Committee has in the past said to one former minister that it believed that his appointment was unsuitable, the individual did not pursue it. It is not a question of the individual having been refused; it was a question of the individual deciding—and indeed there were two Crown servants in a similar situation—not to pursue their application.

Q330 Paul Rowen: Earlier on we asked about who could police this. Do you not think it is a role that the Committee for Standards in Public Life could do as a wider remit that covers people who may have left government or who can look at the overall situation?
Lord Maclennan of Rogart: It is not in the Constitution to do that kind of work. It is more a policy orientated body. It seems to me that the policing authorities are policing authorities and their role is quite different from that of those who are analysing in general terms what is happening or dealing with specific cases as we are, coming before us and evaluating them on a case-by-case basis. The role of policing is quite different.
Mr Prentice: We touched on that earlier, Paul.

Q331 Mr Walker: This is almost a rhetorical question. You have made a very good case for Members of Parliament retaining their professions when they get into this place because if they do not retain their professions when they leave after 20 years, having become institutionalised, all they really have left to trade on is their relationships, to be honest. I think that is quite an interesting thing that has come out of this evidence session. It is very difficult for people to go back to their careers having been here for 15 or 20 years so what you have left is a value that can be marketed, which is your relationships and understanding of this place.
Lord Mayhew of Twysden: I would endorse that. I decided not to go back to Bar after 23 years because I did not want to be given the run around by people 30 years younger than me.

Q332 Mr Prentice: We have all learned a great deal from this evidence session. I want to thank you all for coming along and giving us your thoughts and insights. Thank you very much indeed.
Lord Mayhew of Twysden: Thank you very much. We look forward to your report.

Thursday 6 March 2008

Members present

Paul Flynn
David Heyes
Mr Ian Liddell-Grainger
Julie Morgan
Mr Gordon Prentice
Mr Charles Walker
Jenny Willott

In the absence of the Chairman, Mr Prentice was called to the Chair.

Witnesses: **Mr Peter Bingle**, Chairman, Bell Pottinger Public Affairs, and **Mr Mike Granatt CB**, Partner, Luther Pendragon, gave evidence.

Q333 Chairman: Perhaps I could bring the Committee to order and welcome our two witnesses this morning, Mike Granatt and Peter Bingle. It is very good of you to give us your time to come along and help us in our inquiry into lobbying. As you know, there has not been a Parliamentary inquiry into lobbying since 1991 so we have a lot of ground to cover. Peter Bingle, you are Chairman of Bell Pottinger Public Affairs and you have been Chairman since January last year.
Mr Bingle: Yes.

Q334 Chairman: In the background material that I have been reading I see that your firm trains clients on how best to appear before Select Committees, so I expect a glittering performance from you. Mike Granatt, you are a senior consultant at Luther Pendragon but you were head of the Government Information and Communications Service for six years, I think, until 2003.
Mr Granatt: I think it was seven, sir.

Q335 Chairman: Both of you have a huge amount of experience to bring to bear on our inquiry and we are looking forward to the session very much indeed. Can I just get the ball rolling and ask you both if you are in fact lobbyists, and what we should understand by the term?
Mr Bingle: I am quite happy to say I am a lobbyist. I would define lobbying as seeking to persuade public policy in one way or the other. There is lobbying, there is public affairs, there is government relations. Lobbying: for example, if we are working on a particular bill, we gave advice to some MPs on the International Development Bill *pro bono*, and that was to get that Bill passed. That is lobbying. Public affairs, I think, is wider. It is how a company is perceived by government and other stakeholders.

Q336 Chairman: You tell us that, in your view, lobbying should be seen as a force for good.
Mr Bingle: Yes.

Q337 Chairman: Fair enough. Mr Granatt, are you a lobbyist?
Mr Granatt: I think perhaps, in the widely understood term, we probably are, sir. We do not advocate on behalf of our clients generally. We generally advise them to advocate for themselves because we think that is much more effective. We advise them on how to do it. Very rarely, we do actually put a case forward for a client but I think in the wider sense of the term we probably are lobbyists.

Q338 Chairman: Why do the Speaker and the House of Commons Commission need lobbyists?
Mr Granatt: They hired me, sir, as a media adviser, not as a lobbyist.

Q339 Chairman: I see, and when was the contract given to Luther Pendragon?
Mr Granatt: May 2005, sir.

Q340 Chairman: Does Luther Pendragon still have a contract with the House of Commons Commission? I know you severed your connection with the client, if I can put it that way, but is the company still involved with the Speaker and the House of Commons Commission?
Mr Granatt: No, sir. I was the individual named in the contract to provide the service.

Q341 Chairman: You were. Do you feel very bitter or betrayed about what happened?
Mr Granatt: I feel very sad about what happened. Betrayal is a strong word. There are people who should have not let it happen. That is betrayal of a sense.

Q342 Chairman: You were misled and in turn you misled others. You misled the press, and you say in the public print that the Speaker did not mislead you, so who misled you?
Mr Granatt: I am sorry, sir. I am not prepared to go into details of names or places in respect of client business. It was not the Speaker and it was not, as it was put to me, Mrs Martin.

Q343 Chairman: It was not. But you feel that the record should have been corrected by someone after it appeared in the public print that the Speaker's wife was going shopping with the housekeeper and not with an official.
Mr Granatt: No, sir. I think the statement should have been corrected before we said it.

Q344 Chairman: It should have been corrected before. Have you been in correspondence? I ask you all these questions, you see, because in the written

material you have given us you place great store on ethical behaviour, playing it with a straight bat. That is why I am asking you these questions.
Mr Granatt: Of course.

Q345 Chairman: After you resigned, did you write to the House of Commons Commission expressing your concerns about what happened and asking them what they intended to do about it?
Mr Granatt: No, sir. I spoke to the Speaker before I announced the fact that I was standing down. I spoke to senior officials of the House.

Q346 Chairman: And that is it?
Mr Granatt: That is it.

Q347 Chairman: A line has been drawn under it?
Mr Granatt: Yes.

Q348 Chairman: Earlier, Mr Bingle, I quoted you as saying that lobbying was a force for good. Can you just give me a few examples so the Committee gets a flavour of campaigns that you have been involved in which had a beneficial outcome? Not a long list, just so we get a flavour.
Mr Bingle: I advised for 10 years on a campaign whose objective was to retain VAT at zero on newspapers, books and magazines. That was a campaign we won. We advised the institutional shareholders for Railtrack over getting compensation at £2.40 per share. That was successful. I could go through, but public affairs is ultimately to deliver for your clients an outcome that is successful.

Q349 Chairman: No, I ask the question because lobbying, public relations, can get a very bad press.
Mr Bingle: So we have seen, yes.

Q350 Chairman: I am giving you an opportunity to tell us the good things that you do.
Mr Bingle: In the past I have advised the Police Federation over the Sheehy inquiry—I think the outcome of that was beneficial to the Police Federation. I have advised on a whole range of issues in terms of financial services and others. We are retained by a client ultimately to give them a competitive advantage in their particular sector, and that is our job.

Q351 Chairman: That is fair enough. Mr Granatt, do you want to add anything?
Mr Granatt: No, sir, because you are asking for specific examples.

Q352 Chairman: Is lobbying/public relations always benign? Can it have malign effects? If so, give us some examples.
Mr Granatt: I think it should be benign in the sense that it should properly inform the public policy process. I think it would be malign if the activities of a lobbyist squeezed out other people's opinions or made a case that was strong but was not truthfully based.

Mr Bingle: We will turn down clients. We had a call from Zimbabwe asking us to advise Zimbabwe. We said, "Thank you very much, but no." That would have been, I think, a very malign campaign if somebody had run it. We take every single day decisions whether what we are doing is right in the sense of whether it plays a part in the due process. My earlier point is that the debate in a way is about good lobbying versus bad lobbying and how it is done: is it done well and ultimately is it successful? That is the debate. Blurring lobbying and public affairs with PR and communications, in a way, you are blurring what we do.

Q353 Chairman: I am blurring. It will become clear by the end of the session exactly what you do. Was Zimbabwe a one-off? Would you take a commission from the North Korean Government, for example?
Mr Bingle: I would have thought not. What we do, often if we get a call from an overseas client, we would talk to the Foreign Office, take a view, look at whether or not actually we would want to work for that kind of country or a particular company. In the past we have fired clients; if we had clients we were working for we did not like, we did not like what they were doing in terms of using our name, we said, "Thank you very much and goodbye."

Q354 Chairman: Because your reputation is such you do not want to have it sullied?
Mr Bingle: The Bell Pottinger brand, I think, is very special; it is very blue chip, and it is our job to actually maintain it.
Chairman: Fair enough. Let me bring in some of my colleagues.

Q355 Mr Liddell-Grainger: Can I stick on ethical grounds. Can you give me an example of an ethical case that you have not taken up, both of you?
Mr Bingle: Zimbabwe.

Q356 Mr Liddell-Grainger: No, other ones than that, not a country. Something in this country—I do not know—foxhunting or something like that.
Mr Bingle: I am a Catholic. I could not work for a pro-abortion campaign. Whether my company did would be a matter for other people to determine. In terms of ethics, my view is quite straightforward. If there is a case to be made which is a legal case and that case has a right to be heard, in my view, as Bell Pottinger, we would probably be prepared to make that case.

Q357 Mr Liddell-Grainger: What about you, Mike?
Mr Granatt: I can think of two instances which I think fall inside your criteria. One was an approach by an overseas political party, which we felt was not—there was something else behind it. It was not open to us. We felt very uneasy about it, and we did not think we were being told the truth, so we turned them away. Another was a case where somebody came to us with a business proposition that they wanted to promote to the public which seemed to be along the lines of coercing people into a belief that was false, making them uneasy about something and

then essentially saying "To protect yourself in these circumstances, take up our offer." That seemed to us to be wrong.

Q358 Mr Liddell-Grainger: Have you any examples of the second one?
Mr Granatt: To give you a precise example, sir, would tell you who it was and I do not want to do that. Let me try and do it generically, if I can. It was coercing people into believing that they needed to take out a form of insurance that actually was not necessary.

Q359 Mr Liddell-Grainger: Can I talk about ethical policies, coming back to you, Peter, about, say, General Pinochet? There was a furore when he came over here. He was arrested and it all went wrong. Were you looking after him at that time?
Mr Bingle: No. Bell Pottinger Public Affairs tends to deal with things like financial services and public policy in the UK. We are part of a wider group and that wider group does advise presidents, countries, overseas companies, but not Bell Pottinger Public Affairs.

Q360 Mr Liddell-Grainger: Is Pinochet part of your—
Mr Bingle: He is dead.

Q361 Mr Liddell-Grainger: No, but his family or anything like that? You do nothing. You do not do anything for that family at all?
Mr Bingle: In Bell Pottinger Public Affairs, no.

Q362 Mr Liddell-Grainger: What about Mark Thatcher? Are you still looking after him?
Mr Bingle: We do not tend to deal with individuals. We tend to deal with PLCs, FTSE 100 companies. We do not tend to deal with personalities.

Q363 Mr Liddell-Grainger: Are you working for Syria or Saudi Arabia?
Mr Bingle: At the moment Bell Pottinger Public Affairs is working for neither Syria nor Saudi Arabia.

Q364 Mr Liddell-Grainger: What other countries are you working for at the moment?
Mr Bingle: We have a small piece of work with the Embassy for Japan in London and one of my colleagues is currently out in Abu Dhabi. That is it.

Q365 Mr Liddell-Grainger: If you were looking at somewhere like Syria, where there are obviously connotations over international events that are going on over and above what we are looking at, would you turn Syria down? You would speak to the Foreign Office, the foreign office would say, "Hm, not so sure about this."
Mr Bingle: What would happen probably with an overseas country, they would come to a different part of Bell Pottinger. We are the public affairs company. We are not Bell Pottinger Sans Frontières. I am not Lord Bell. We tend to deal with UK-based policy, UK-based public policy, so we can go down this track but I will keep bringing you back to the fact that we tend to deal with the Parliament in the UK.

Q366 Mr Liddell-Grainger: You have an American arm. They have a different way of lobbying out there. We have been to America to talk about lobbying, as you are well aware, and it was very interesting indeed. They have to declare a lot more. If your American arm said they were unhappy, "We are getting it in the neck from Congress and the Senate that you are looking after somebody," as a British company, would you then say, "Right, we had better drop that because the Americans are pressurising"?
Mr Bingle: That would go to his Lordship. Tim would take a view. It would not be me. This path might not be very fruitful for you.

Q367 Mr Liddell-Grainger: In other words, you would say, "Right, okay, come on, we are getting pressure from the Americans, my lord. Yes or no?"
Mr Bingle: We tend to deal with things like home credit insurance, private equity, that sort of thing. We do not tend to deal with world affairs. We are a public affairs company in the UK. We are not sort of global domination.

Q368 Mr Liddell-Grainger: You are really, because you will look after anybody, will you not?
Mr Bingle: No, not true.

Q369 Mr Liddell-Grainger: Mike, can I come to you on this? The wider scope of lobbying is to try and, as you have said, achieve what you want for your clients, within parameters. Your bosses will say to you, "Look, we are not very sure about something." Have you ever gone back and said, "No, we think this is a good idea. We are going to go with it"? You have worked in the very heart of government, you have been in front of this Committee before on another issue, and you know how government works better than anybody.
Mr Granatt: Let me give you a clear example. I did actually do some work in Syria. I supported some work for the wife of President Assad, who was running a youth employment scheme, a scheme to try and improve the employability of young people in Syria to reform the economy. It is an issue I was working with in partnership with somebody else. I went back to my partners in the company and said, "This is the sort of work we are being offered. Have you any objections?" We discussed it and they did not, and indeed, we were encouraged and briefed by the British Ambassador in Syria.

Q370 Mr Liddell-Grainger: Have you ever, rather like a colleague you probably did not work with, who has just gone into the private sector from government, offered meetings with ministers, Secretaries of State or senior ministers?

Mr Granatt: To clients? No.

Q371 Mr Liddell-Grainger: Do you think that is right? Is that ethical? There has been a very high-profile case recently, as you are well aware.
Mr Granatt: I think to claim special access and I think to say you can get something done for a client because you have special access is wrong. The essence of the argument about lobbying is, are you actually doing something to contribute to the public policy process or are you distorting it? To my mind, offering a meeting with a minister, and thereby implying that you will get some great change in place, is probably wrong if you have particular access. I also happen to think it is not very useful. If you really want to get involved with the public policy process, you talk to MPs and you talk to the officials in the department who are actually putting together the advice, because that is where it makes an impact. I think most ministers are grown-up enough to know that an approach by somebody because they are who they are has to be looked at rather carefully.

Q372 Mr Liddell-Grainger: Ministers themselves like to get information. We are all curious people. That is why we are MPs. You do like to get people to brief you correctly, and the same goes all around this table. Therefore, what you are saying is that, although you do not like it, it does happen.
Mr Granatt: I am sure people do it. I am sure people do arrange meetings with ministers.

Q373 Mr Liddell-Grainger: But if you were asked by your company—because you have had enormous access at the highest level—let us be honest—and it is well documented. If your company came to you and said, "Look, we want you to get hold of a minister. We want you to get us special access," you could probably do it because of your background and the knowledge you have. Would you do it?
Mr Granatt: If I thought it was a proper thing to do, that it was something that would not cause a problem for the client or for the minister or for the process, I might well suggest a way in which it could be done. I think to do it merely for the sake of doing it, to show how clever we are, would be wrong. I think it would probably attract suspicion from the department concerned, it might well attract suspicion from the minister, and it would certainly attract the suspicion of other people that we were doing something outside the bounds of proper activity.
Chairman: You do not want to do a Derek Draper.

Q374 Mr Liddell-Grainger: There is an ethical line here which you seem to go on either side of, and in your own mind you think it should not be allowed.
Mr Granatt: I think it is very difficult to say you should not allow something just like that. I think there are bounds to what you should properly do. I think if a minister's office was in the business of listening directly to people on an issue and was inviting people to come in, so you were not in a position of getting something that somebody else could not get, I think it might be proper. I think to say something should never be allowed is silly because, as you say, ministers are entitled to take advice from wherever they can. I think, for example, buttonholing a minister walking through the atrium of this building would be quite wrong.

Q375 Mr Liddell-Grainger: You could certainly do that because a minister by and large would know who you are if you were sitting out there and saw so-and-so.
Mr Granatt: It is entirely possible. I think the controversy that surrounds this, the inequity that is seen in that particular circumstance, particularly by other people who have perfectly legitimate positions on that same issue, would put you in the wrong.

Q376 Mr Liddell-Grainger: Do you agree with that, Peter?
Mr Bingle: I have a different view, I suppose. My view is that if one goes back to 1995 to now, one of the changes has been the links between business and government. This Government has probably been the most open government I have known and I go back in this job to 1981. I have never known a government that has been so willing to talk to and involve business. Part of that involves CEOs[1] talking to members of the Cabinet and ministers, and that is a perfectly legitimate thing for them to do. That by itself achieves nothing because where Mike is right is it is the civil servants, it is the NGOs,[2] it is Select Committees, it is whatever, but actually there is a role. We do not advocate a view to a minister on a client's behalf; a client is their own best advocate, but ultimately, it is important that senior ministers hear directly from business how life is, both here and internationally, in a particular sector. A lot of our work is encouraging dialogue between government and business at the very highest level. That seems to me an essential part of our work.

Q377 Chairman: So you are just facilitators.
Mr Bingle: To be fair, the impression that is given is of a black art.

Q378 Chairman: That was not derogatory.
Mr Bingle: You pick up the phone, you ring the diary secretary and the minister will say "Yes, please come and see me next Thursday at half past two." That happens all the time and that is a perfectly good thing to do.

Q379 Mr Liddell-Grainger: So basically, you are opening the doors at whatever level and providing—
Mr Bingle: No, we are not opening the doors. We are giving advice to clients as to what they must do ultimately to achieve what they want to achieve. If that involves meeting a minister, that is fine. If it involves meeting an all-party group, if it involves meeting MPs with a particular interest, that is fine.
Mr Liddell-Grainger: Opening doors.

[1] Chief Executive Officer
[2] Non-Governmental Organisation

Q380 Chairman: That was helpful. You advised McDonald's at the height of the BSE crisis, did you not?
Mr Bingle: We did.

Q381 Paul Flynn: Can I confirm you have in the past worked for General Pinochet, Thaksin Shinawatra, Mark Thatcher, BAE Systems, the South African National Party, Boris Berezovsky and the Governments of Saudi Arabia, Syria and Iraq? You say you do not want to sully your reputation. What reputation?
Mr Bingle: We also advised Newport Council when it became a city, a good campaign that was successful.

Q382 Paul Flynn: Against my advice, may I say.
Mr Bingle: But it worked brilliantly.

Q383 Paul Flynn: That is what your claim is. I will not be diverted into that. You mentioned the *pro bono* things you do, the nano-proportion of your work that that probably is, but your work is to further advantage the already advantaged.
Mr Bingle: We are giving our skill; our objective is to give commercial advantage to our clients, yes, like lawyers, accountants and bankers.

Q384 Paul Flynn: Mr Granatt, what attracted you to lobbying?
Mr Granatt: I did not join the company, sir, to be a lobbyist. I joined it because my speciality is basically things like crisis management and strategic advice. I was not attracted to being a lobbyist and I did not join the company as a lobbyist.

Q385 Paul Flynn: You have left the Civil Service, where you held very high office. When the final obituary is written to Mr Granatt, what would you like to see at the top? Your work as a lobbyist or your work as a public servant?
Mr Granatt: I think my work as a public servant, sir.

Q386 Paul Flynn: So why are you a lobbyist now? What was the attraction?
Mr Granatt: Earning a living seemed to be a rather good idea.

Q387 Paul Flynn: Is it a handsome living compared with the Civil Service? How would you compare it? I do not want you to give us your pay rate but just give us some idea. It is crucial to our work.
Mr Granatt: I think it is essentially equivalent.

Q388 Paul Flynn: So there was no major attraction, unlike some others who have come to lobby or which we know in America, where there are huge sums of money?
Mr Granatt: It was not for the money, sir. I actually wanted to continue to earn a living. I am serious about that. Secondly, this is an organisation, a company, that offered me the chance to do much of what I had been doing before.

Q389 Paul Flynn: If the Government brought in a law to make it obligatory for your firms to announce who their clients were, how would you react?
Mr Bingle: If it is the law, it is the law.

Q390 Paul Flynn: And you would co-operate with that?
Mr Bingle: We disclose 99% of our clients. Most of our clients are on our website today. Occasionally, clients will ask us to sign a nondisclosure agreement if there is a commercial situation in terms of a potential bid where it would be unwise, but the crucial point over disclosure is that, even if we are working for a client whose name is not public, when my staff deal with government advisers, civil servants, ministers, they will say on whose behalf they are calling. The issue is simply whether or not we put their name on a public website. In terms of interaction with yourselves and government advisers, we will always say on whose behalf we are calling.

Q391 Paul Flynn: Do you think you have a commercial advantage by not belonging to any of the three associations that have certain minimum standards for lobbyists?
Mr Bingle: If it is the view that we are the largest company in this sector, it would seem not. We have had a consistent view. We agree with everything in the various codes apart from one thing: we are not prepared to join the APPC[3] and then break the rule by saying we will declare all clients when we cannot. I would rather be honest and upfront and say we support the code apart from one issue. We do not pay MPs, we do not pay peers. Everything in the codes we support. All of my staff are members of the CIPR.[4] That code is very stringent, quite Draconian, and that is a condition of employment. From my point of view, Mr Flynn, everything we need to do in terms of disclosure we do.

Q392 Paul Flynn: Do you not think the public have a right to know . . .
Mr Bingle: No.

Q393 Paul Flynn: . . . who is lining the pockets of people who are advocating cases?
Mr Bingle: I think the tone of the question suggests the answer. No, I do not. The public has no right to know who our clients are.

Q394 Paul Flynn: You are arguing for large contracts and so on. They might have repercussions later on. You might have ministers or former ministers through the revolving door who might be working for you. Do you have former ministers or former special advisers working for you now?
Mr Bingle: I have one former specialist adviser, Jonathan Caine, who was an adviser to Sir Patrick Mayhew in Northern Ireland.

[3] Association of Professional Political Consultants
[4] Chartered Institute of Public Relations

Q395 Paul Flynn: We have cases, if I can interrupt you there, where ministers have been involved in awarding contracts between companies A, B and C, and then, remarkably, within a year or so after stepping down as ministers, finding themselves working for those companies. There might be a doubt that those ministers might well have been influenced in their decisions by their future prospects of riches.
Mr Bingle: You are describing a world I do not know. I have been doing this for 27 years and my view of advisers, politicians and ministers who I have dealt with—I have a high regard for them. I do not believe politicians act in that way.

Q396 Paul Flynn: We have heard this before. I presume this is from your book of how to address a committee, by praising the Labour Government and praising the wonderful things that we are. You will tell us what a wonderful Committee this is in your next sentence. What is the attraction in employing special advisers? What do they bring to you? Is it contacts that is the main advantage?
Mr Bingle: My earlier point is that the idea that public affairs people are required to pick up the phone and speak to a minister's office, anybody can do it. In the past there may have been the attempt to create a little black book, the black art of lobbying. The reality is to arrange a meeting between a client and a minister is one phone call, and on the basis of the company concerned, often they do it themselves. We may say who they should meet. Often they do it themselves. The advantage of employing people with knowledge of politics—in fact I actually employed John Grogan's former special adviser.

Q397 Paul Flynn: Mr Granatt, you started work at Luther in March 2004 but you were banned from lobbying until 2005. What did you do for the company in that period?
Mr Granatt: I did what I joined them to do, sir. I exercised my expertise as somebody who deals with strategic communication and things like crisis management.

Q398 Paul Flynn: What miraculous thing happened in 2005 that made it possible for you to lobby when it was thought to be in the public interest that you could not lobby in the nine months before that?
Mr Granatt: I am entirely unclear about what happened at that point.

Q399 Paul Flynn: Was your memory washed out? Did you forget all your contacts? What was the purpose of that? Should it not be a lifetime ban? If people have information like that, should they not be told that they have had their careers in the civil service and high office and they should not go around and hawk the information and contacts they have to lobbying organisations?
Mr Granatt: I think there are two points there, sir. One is that the rules are laid down by the people you had before you, the people who run the committee on business interests. It is there to prevent the fact that somebody can suddenly let contracts one day and then leave the civil service or the armed services and join the company that won the contract the next day. I think that is a perfectly understandable restriction. I do not see any reason why I should not be allowed to ply my trade as an individual outside the Civil Service when I have plied it inside the Civil Service, if I do it against certain standards. I did find the idea that I could not lobby until March 2005 slightly odd because I could not work out what it meant.

Q400 Paul Flynn: Mr Bingle, you have given us an example of your principled stand as a Roman Catholic, that you would not yourself be involved in advocating abortion, but you work for a company that would do that and this is an accommodation you make, presumably. How many other accommodations do you make on principle?
Mr Bingle: I am running a business, and every day in terms of our dealings between business and government all of my staff have to make sure they react in a way that reflects well on my company and the brand. In terms of how they behave, that is governed ultimately by the CIPR code. If they were to break that code, if there were to be a complaint against them, if the CIPR asked them to leave, I would have to get rid of them. My view is that day in, day out, I have 32 people who are acting professionally, with ethics and integrity and doing a very good job.

Q401 Chairman: There are an awful lot of acronyms flying around, are there not? You mentioned earlier the APPC, the Association of Professional Political Consultants—is that right? In an article that you wrote you said you wished they ceased to exist.[5] So you feel quite strongly about some of those umbrella organisations in the industry, do you not?
Mr Bingle: I was a member of the APPC for 18 months working at a previous company. I just think there had been an attempt to create almost a closed shop whereby only by membership of the APPC or other bodies is there a label that you are a good, ethical, professional company. I do not accept that.

Q402 Chairman: I get the impression you think of them like a dose of anthrax; it is not good for the industry.
Mr Bingle: There are very good members within the APPC. I just happen to feel it has failed as a body.

Q403 Chairman: Can I just pick up briefly the point about transparency that Paul touched on. One of our colleagues, John Grogan, reminded us when he was before the Committee that Bell Pottinger had as clients the National Federation of SubPostmasters and also the Royal Mail. Would it not help if there were greater transparency so that people could see or form a view if there were a conflict of interest because you were representing clients with diverse interests?

[5] Peter Bingle, "Opinion: Memento Mori", *PA News*, November 2006

Mr Bingle: The SubPostmasters had been a long-term client of Bell Pottinger. We were then approached by the Royal Mail, they knew we worked for the SubPostmasters, the SubPostmasters knew we worked for the Royal Mail and were perfectly happy. In a previous life a company I was working with was advising the Police Federation and the Bar Council at the same time. Both knew about it and both were happy.

Q404 Chairman: It sounds totally schizophrenic to me, but you can manage it?
Mr Bingle: The Chinese walls come into place.
Chairman: We will ask you about Chinese walls later.

Q405 Julie Morgan: Mr Bingle, you said that if the law said you had to declare your clients, you would declare your clients.
Mr Bingle: Of course.

Q406 Julie Morgan: You have been giving answers to the Chairman about how you can manage this situation, but you do not want to declare your clients so, if you had to, what are the difficulties you foresee?
Mr Bingle: If you were to look at our website this morning, every few minutes up come two more clients with examples of our work for them. Ninety-nine point nine-nine per cent of our client base is public. In fact, most of our clients, when we win them, are very happy to have a press release in the local trade papers stating that we have been appointed. Occasionally we are asked by a client not to make our appointment public, which we respect, but my earlier point applies. Even if client A says to us "Do not make public on your website that we are a client of yours", when dealing with government, our consultants will say to a civil servant "I am calling from Bell Pottinger on behalf of [that company]." So all we are talking about is whether or not on a public website we have to reveal all our clients. In our day-to-day dealings with government we are always open about every single one of our clients.

Q407 Julie Morgan: Are the only clients not on the website clients who have asked you not to reveal them?
Mr Bingle: Yes.

Q408 Julie Morgan: You do not not reveal any clients because you feel they may embarrass you?
Mr Bingle: It is interesting. Sometimes one pitches for a piece of business and you know that you are up against companies who are members of the APPC, but you also know that if you were to win that piece of business that client would not allow you to make public an appointment, so I would be interested in how a member of the APPC in that scenario deals with it.

Q409 Julie Morgan: The Chairman also referred to Chinese walls between clients. Could you say how you manage that situation?

Mr Bingle: I think one of the advantages of being 30-strong means that one gets separate account teams. So if you are working for two clients who have an actual or perceived conflict of interest, what we will do is make sure that there are two account teams. It is possible by IT to protect the information on the computer systems so that only members of the account team have access to that information. In the context of a conflict of interest, let us assume we are advising company A, we are approached by company B, potentially a client with a conflict of interest. We will tell company A first of all, the current client, we have been approached by a potential conflict. If they say that is fine, we will then speak to company B and explain about company A. If company A says to us at the start "Sorry, that's a conflict," we would go no further. It sounds like *The Mikado*!

Q410 Julie Morgan: So when company B applies, do they at that point know company A is your client?
Mr Bingle: Yes. We believe that this is a long-term business about relationships, trust and respect. We will do nothing in the short term which in the end, ultimately, would undermine our reputation among politicians and the business community. If we are working for a current company and we are approached by a competitor, we will tell our current client we have been approached. If they say it is okay to talk to the competitor, we will do so, but we will tell the competitor we have a conflict already.

Q411 Julie Morgan: Has this ever caused any difficulties?
Mr Bingle: Sometimes. I can think of recent examples in the energy field where, because we have a current client, we have not been able to take on quite lucrative additional work simply because we are not prepared to have a conflict that our current client does not like.

Q412 Julie Morgan: So you have refused work?
Mr Bingle: Yes, absolutely.

Q413 Julie Morgan: Because it would compromise your present client?
Mr Bingle: In this business reputation is all. If we are not respected by our peers, by business and by government, we cannot operate. Taking on a conflict which would damage us could be very, very damaging to us.

Q414 Julie Morgan: Do you feel you have ever been damaged by any clients you have taken on?
Mr Bingle: I am proud of my client list. We had a client two years ago who were using our name inappropriately. They were fired by me on the phone because we are not prepared to have our name sullied.

Q415 Julie Morgan: Do you think you have ever done anything unethical as a firm?

Mr Bingle: I have been there seven years. I have known Lord Bell many, many years and I do not believe that Tim would allow us to do anything that was not appropriate. We have high standards. That is why we are the largest company in the industry.

Q416 Julie Morgan: I wondered, Mr Granatt, whether you could say the difference that you find in the ethics, having come from the public sector and coming to work in a different scene.
Mr Granatt: I think in terms of the importance to the organisation you work for, nothing, because it comes down to reputation. Not sullying the reputation of government and not sullying its credibility is as important to government as not sullying your reputation or credibility is to a private company. In that sense, it is just as important to have a set of rules by which you work and to stick by them. In that sense, yes. I think there are differences, of course, between what government does, because it is working for the public as a whole, and what a private company does.

Q417 Julie Morgan: Did you find it relatively easy to move between the two sectors?
Mr Granatt: Yes, in the sense that it was not particularly painful. I think it took me some time to work out how relationships worked and what clients expected of you. It is quite different from working for one organisation, a government department, or indeed one single company, than working for a number of different clients where you may have differences of interest, differences of priority, differences of pressure.

Q418 Julie Morgan: But did you feel there was anything different about the ethics?
Mr Granatt: I have found that the people I work with in the company I work with, Luther Pendragon, are very clear that they want to be seen to be abiding by rules because it is good for them and it is good for the business that we do. They are very interested in making sure that people understand that they work to standards.
Mr Bingle: I was a councillor in my youth for eight years and having seen the other side in terms of public service, officers, councillors, and now doing this job, reputation is reputation whether you are in the public sector, local government or the private sector.

Q419 Chairman: Mr Granatt, your company has its own code, does it not?
Mr Granatt: Yes.

Q420 Chairman: The Luther Code. Is that more ethical than the other codes?
Mr Granatt: It is more comprehensive. The code that we operate is based on the CIPR code.

Q421 Chairman: That is the Chartered Institute of Public Relations.
Mr Granatt: That deals, for instance, with all of the stakeholders involved, not just one set of stakeholders. The particular example I am thinking of is that the CIPR code deals with, for example, client confidentiality. The APPC code does not.
Paul Flynn: It seems to me significant that you did not say that your company is abiding by the rules; you said your company is keen to be seen to be abiding by the rules. Is that significant? This messianic vision that you have of yourself and the man you referred to as "his Lordship", you admitted to employing people who are mass murderers, who are racialists, who have oppressed their own people.
Mr Walker: And your Prime Minister talks to them on a regular basis and rolls out the red carpet.
Paul Flynn: I am just saying, do you see yourself as a principled operation when you have taken on some of the worst people in the world as your clients?
Mr Walker: Who are regularly entertained at Number 10 by Gordon Brown.

Q422 Chairman: Can I ask what I was going to ask?
Mr Bingle: Thank you, Chairman.

Q423 Chairman: It makes great television, but on this central question of client confidentiality, this is one of the things we are looking at because there must be regimes elsewhere in the "developed world" where companies such as yours publish the client lists. John Grogan, a colleague who has spent a long time looking at lobbying issues, said this: an absolutely essential and non-negotiable part of any decent system of self-regulation—and that is what we are talking about, self-regulation, the Luther code and all that—for consultancies engaged in public affairs work is the public declaration of all client and employee names. Mr Granatt, what is wrong with that?
Mr Granatt: I think if a client does not wish to be named in public, sir, I see no reason why they should be named in public. They are entitled to their privacy.

Q424 Chairman: Are there instances elsewhere in the world where there is complete disclosure?
Mr Granatt: Truthfully, sir, I do not know.

Q425 Chairman: Goodness me! You are involved in this business. You must know what happens in, say, Canada, where there is regulation, or the United States.
Mr Granatt: Sir, if I knew, I would tell you, but I do not know. I have not studied elsewhere. I have studied what we do in this country and I have studied the circumstances of this country but I cannot say to you I have studied comprehensively what happens elsewhere in the world.

Q426 Chairman: You would have to wait until you got a client from Canada or the United States or Australia.
Mr Granatt: We have clients from the United States. You asked me a specific question and the truth is I do not know.

Q427 Chairman: On something as fundamental as this—I am sorry to press this point—I am not springing something on you that you could not possibly have thought about before, and you cannot give an answer.
Mr Granatt: The answer I gave you, sir, is the only answer I can. You asked me across the world what the position is. The answer is I do not know. I am sure there are places where there is full disclosure and I am sure there are places where there is not. I am also 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.
Chairman: It is a slippery business, is it not? Goodness me!

Q428 Jenny Willott: I want to ask you some questions more about what regulation there could be in the UK. First, you talk about the APPC being a closed shop. There are plenty of other parts of society in Britain where you have one regulator. If you are going to put in a gas appliance, you have to get somebody who is CORGI registered. If you are going to be a solicitor, you have to be registered both with the Law Society and now the Solicitors Regulation Authority and so on. There are plenty of areas where actually there is one regulator that you have to sign up to if you are going to operate. What makes public affairs and lobbying different so that that rule should not apply?
Mr Bingle: I thought what was interesting in your first session was when Stephen Pound was saying it is for Parliament to work out how you want to engage with us, and then when you come to a decision about that, we can then obviously deal with it. In the context of the APPC, there was a recent survey which showed that for in-house public affairs people actually appoint people like me. Five per cent of those people thought the APPC was an issue. There is a danger that we all take this terribly seriously but to the rest of the world, they do not sit at home thinking about whether I should be declaring my clients on the website. It is much more about how we behave day in, day out with the Government. My concern with the APPC is how they have behaved over the last few years. The PRCA,[6] the director, Francis, is extremely good. The CIPR are extremely good. We have no problem with their codes, with one exception, which is the issue of having to declare all clients. Because we could not keep to that particular part of the code, we would rather say, "Hands up, we will not join you. We do not want to lie", rather than do what Mike said, which is just trade the company in two and hide conflicts and therefore not declare what we are doing. All of my team are on our website; every single member of staff is on the website; their background is on the website. It is entirely open. We are simply talking about whether or not every client should be on a public website. Our answer is 99% of them are. Occasionally they say "Don't" and we say, "That is fine." That is the debate: whether or not I put all of my clients on the website. I do not think that defines what kind of company we are.

Q429 Jenny Willott: If everyone were forced to sign up to disclosure, if all companies had to do that, clients would then have the option of either having their names made public or not paying a lobbying company. What would be the problem with that?
Mr Bingle: Most clients are happy for their names to be made public. We press release 95% of our wins and they are pleased because it gives the impression "We are doing really well and people can be appointed by us." We are keen to be out there telling the world who our clients are.

Q430 Jenny Willott: What is the problem?
Mr Bingle: What we are saying is that there are instances when sometimes a company has a global policy for their suppliers not to make public that they work for that company. We respect that. What Mike was saying was if a company wants our appointment to be kept private, we think that is fine. I can see situations in terms of a bid scenario where a consortium coming together would not want made public that they were bringing together a consortium for commercial reasons. Again, that is entirely fine. Everybody else is happy for their names to be made public. If you read *PRWeek* and *Public Affairs News*, it is full of our clients.

Q431 Jenny Willott: I understand that but specifically on the point that if it was compulsory for everybody, what problem would that cause?
Mr Granatt: The obvious problem would be for people who wanted to buy professional advice and found that they could not get it from the best people in the industry because they were not prepared to sign up with a company that would be forced to reveal who all their clients were. I really do not see the case for saying you should deprive people of getting good professional advice by imposing a code for one particular reason that may not apply to other circumstances.

Q432 Jenny Willott: I am talking about if every company had to sign up to that, if it was compulsory, and so whether it was by law or by self-regulation, everybody had to declare the clients. There is no commercial advantage for any one company then to go to Bell Pottinger or Luther Pendragon because they do not declare their clients.
Mr Bingle: I would expect you would find law firms developing public affairs practices because they would not have to disclose their clients.

Q433 Jenny Willott: That is our next session as to whether or not that is valid.
Mr Granatt: That is right. You would end up with an unregulated, covert sector essentially.

[6] Public Relations Consultants Association

Mr Bingle: That is right.

Q434 Jenny Willott: Is there a code that you would be able to sign up to?
Mr Bingle: The CIPR code. All of our staff sign up to the CIPR code. As Mike was saying, if you look at the discipline procedure, the complaints procedure, what it demands of my consultants, it is much more demanding than the PRCA code or the APPC code. All of my staff have to sign that code.

Q435 Chairman: The acronyms are losing people, I am sure. That is the Chartered Institute of Public Relations and about 90% of people involved in the industry are signed up to that.
Mr Bingle: They have 9,000 members, they have a Royal Charter, and it is by far the most comprehensive and detailed code. All of my staff have to sign up to that code or they cannot work for us.

Q436 Chairman: In so far as you have a problem, it is with the other two?
Mr Bingle: The PRCA I am fine about. It is the other one.
Mr Granatt: Can I make a point? There are the guiding principles of conduct that have been drawn up jointly by the APPC and the PRCA and the Government Affairs Group of the CIPR, which we would easily sign up to because basically we comply with all of them. Our only problem with the other codes is this business about client confidentiality. That is the only point at issue.

Q437 Jenny Willott: The difference though between the CIPR code and the others is that the CIPR is for individuals, not for firms, so it does not get round the issue of potential conflicts of interest and so on, because it just regulates how one individual behaves.
Mr Bingle: It does actually. If you read it, it is very precise about client confidentiality and breach of a client's confidential information risks a complaint, risks being suspended. If that were to happen, I would have to fire somebody. So it is very precise. That code deals with all of those issues.
Mr Granatt: The reason that we put together a code of our own was twofold in that sense. One, because we wanted to make sure that we could extend the individual to the corporate and secondly, it helps us train our staff.

Q438 Jenny Willott: If 90% or whatever proportion of people working in public affairs are bound by the CIPR, why do you feel that other companies, other firms, felt there was a need for other codes?
Mr Bingle: I was around at the time that the APPC was first created, and it came into being because there was a particular scandal at the time, and the major five players in the industry at that time came together, and their view was the big five at the time setting out principles for behaviour. It was never the intention at that time that the APPC would last for ever. The view was to sort it out and then move on. We now have it, it has grown and grown, and they have been trying to bounce people like us into joining them, and our view is we should have a right whether or not to join the APPC, the PRCA or the CIPR. We have chosen the CIPR.

Q439 Jenny Willott: There has been a suggestion—and I cannot find the exact quote—that the best way to regulate and to disclose lobbying activity would be for a register to be held in Parliament, similar to all-party parliamentary groups so that Parliament would hold a register of names and clients and so on. Are either of you supportive of that as an idea?
Mr Granatt: I think there is a difficulty with it only in this sense: who do you put on it? Do you put companies like ours on it? Do you put organisations that lobby for themselves on it, like campaigning groups like Greenpeace and Friends of the Earth? Do you put on it all those people who work in-house who actually do it?

Q440 Jenny Willott: I think the suggestion is that all of those people would be on it.
Mr Bingle: Trade unions, for example?
Mr Granatt: I think it is an idea that could be put into place. I am not entirely sure what it would do, what it would achieve. That is the problem.

Q441 Jenny Willott: I was going to ask, given the current climate around public unease about parliamentary rules, whether that would actually help the situation or just make it worse.
Mr Granatt: Certainty is a good thing but if you create more uncertainty by creating a huge list that seems to have no great utility, I am not sure it makes things better.

Q442 Jenny Willott: Final question: Bell Pottinger operates in the United States as well, I believe. Does Luther Pendragon have any operations in the States?
Mr Granatt: We have affiliates, companies that we work with in the United States.

Q443 Jenny Willott: Given that the rules are much, much tighter in the States than they are over here, I was wondering if there was any evidence that having those sorts of rules restricting your business opportunities in the States could cause problems for the clients over there.
Mr Bingle: I am not really able to go into detail because my dealings in the US personally are nil because I am entirely UK-based.

Q444 Chairman: But you must know. Goodness me!
Mr Bingle: No, because Bell Pottinger in the States is linked to a different part of the group called Bell Pottinger Sans Frontières. That is the company which tends to deal with overseas companies.

Q445 Jenny Willott: Would you be able to provide a note for us after the session about whether it is has had any implications on your business? We would find that very useful.

Mr Bingle: Of course.[7]

Q446 Chairman: Can I just say there has been a huge amount of comment on the tightening up of the regulation of lobbyists in the United States. You cannot switch on the television without Barack Obama talking about the role that he played in the legislation that went through Congress on lobbying. You do not follow what is happening in America very closely, do you?
Mr Bingle: I am more focused on what is in the Budget for my clients.
Chairman: I think that is astonishing. I have been following the American presidential case quite closely. It does not personally affect me. But there you go.

Q447 David Heyes: We mentioned Chinese walls. Can you help us understand how these Chinese walls operate in your companies? How does it work?
Mr Bingle: Company A, company B. Company A will have a director and two or three staff working on it. The same with company B; a different director, different consultants. The information in terms of the PC relating to both clients is security-locked, so any members of that account team can get access to the information about that particular client by password security. On that basis, it is entirely possible to work for two companies with a potential or a real conflict. We would only be in that situation if both companies were happy for us to be working for them. In the past I worked for a company called GPC,[8] which was known to have the best health team. They at the time worked for most of the British pharma-industry. All of the companies in that sector were aware of it, were perfectly happy; why? They had a very good health care team. In theory, lots of conflicts. In reality, the companies were perfectly happy for GPC to advise a number of health companies. It is two things. One is openness to both sides you are working for about the other company. Secondly, it is making sure that the two account teams are separate and distinct. Thirdly, it is making sure that in terms of the information about both—back to the CIPR code and client confidentiality—we would only allow one account team to have access to that particular client's commercially confidential information. Again, the loser if that were to break down would be us, therefore it does not break down.

Q448 David Heyes: Is it similar in Luther?
Mr Granatt: It is very similar. You make sure the information being held by the account team is confined to that account team. There are, of course, issues about making sure there are not conflicts of interest that would offend the CIPR code, for example. We rely on the fact that partners discuss regularly whether there are issues coming up within an account that they think would affect the reputation of the company or offend the code. We also make sure that if a client is not known publicly, and therefore may not be known to a number of people in the organisation, the partner responsible for the knowledge of that client makes sure by looking at what is coming up in terms of proposed new business and other activity that there is no conflict of interest.

Q449 David Heyes: How do the CIPR monitor the workings and the validity of your Chinese walls?
Mr Granatt: The CIPR do not, as far as I am aware, monitor companies or individuals directly. They rely on the fact that the code encourages people to report to the CIPR any breaches of the code.

Q450 David Heyes: It is not surprising that you give that answer. We had the CIPR here a few weeks ago and they explained that with the 9,000-plus membership they have, it would be impossible for them to do detailed monitoring. They are not equipped to do that. It is light-touch monitoring. It is mostly self-monitoring and self-regulation. If that is the case, how is it that the CIPR are the right organisation to produce these codes and for you to try and work to their methodology?
Mr Bingle: I have six directors, and they have a job in terms of line management and mentoring. We have a system whereby for somebody to go from being a consultant to senior consultant their behaviours are monitored and they are checked; there is regular interaction between the junior staff and the more senior staff. It is on that basis that we are monitoring almost day in, day out how our junior staff are behaving. We cannot afford any of our staff not to behave well at all times and in a company of 30 people you can monitor them day by day.
Mr Granatt: Within our set-up we are appointing somebody who will be independent, who will look at the way in which we operate our code and how we do that, and will report to the board of directors every year on how that is doing, and will be available to anybody in the company on a confidential basis if they wish to report something they feel is a breach of the code.

Q451 David Heyes: Basically, it is "Trust us. We are good chaps and it would be bad business to not create this system."
Mr Granatt: I think it would be "Trust us, sir, because we do the best we can to make sure we are accountable."

Q452 Mr Walker: Last time I checked we lived in a democracy, despite the best efforts of the current Government, and part of living in a democracy is the right to put your case to government, whoever you are, be you a private citizen or an organisation. So I do not believe lobbying is either grubby or dirty, but I do think a lot of it is rather amateurish and there has been a mushrooming growth in lobbying across all sectors: the public sector, the private sector, the nebulous third sector. Really I just want to know why, in your view, so much of it is just so bad and is just so low-grade.
Mr Granatt: One reason is that people do not understand how parliament or government works. They have a view they get from watching television and reading newspapers which is a very surface view.

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[8] Government Policy Consultants

They believe that certain things work and certain things do not and that is basically it. If people knew more about what happened, if there was more guidance offered by government and parliament on the best way of making approaches, that would be helpful.
Mr Bingle: I think it is a number of things including quality control by the public affairs companies themselves. I am not sure 10 years on there has been a dramatic improvement in the quality of people employed in public affairs companies and that is an issue both for the companies and for their clients. It is for clients to be more demanding of what they expect from their consultants. There are too many clients who pay fees and do not get an awful lot back in terms of monitoring. They could read *The Times* in the morning and get as good information. Ultimately it is about people like me being very tough in terms of who we recruit and the quality of people. It is for the client, if you were approached by a public affairs consultant who was hopeless, to ring up his boss and say he is hopeless.

Q453 Mr Walker: What responsibility do you, as individuals and leaders of your profession, bear for improving its profile both within the House of Commons and more generally outside the House of Commons.
Mr Bingle: I used an example in an article a while back. When the Press Council was in difficulty it was replaced by the Press Complaints Commission and they appointed Lord McGregor, and Mark Bolland, as its director. One of the issues for the industry is to have somebody talk on its behalf who is a skilled communicator, who actually can get across what we do and be proud of our industry and that would encourage a higher quality of person coming into it. At the same time, it is then down to us to be very, very tough and if people are hopeless to get rid of them.
Mr Granatt: Another point to add to what Peter said is that we do offer you evidence and the fact we are prepared to stand up by the standards we espouse.

Q454 Mr Walker: I am going to ask you a question regarding your relationship with the Speaker. Do you think your decision to resign that account has enhanced your professional reputation and that of your organisation?
Mr Granatt: I will let other people be the judge of that. I have taken no view on it. I have to tell you it is not something that I wished to happen. It is not something I would have calculated to happen. If it had never happened, I would be a happier man.

Q455 Mr Walker: You did say earlier on in your evidence session that your speciality was crisis management but actually you resigning turned a crisis into a disaster potentially. I am not meaning to have a go at you but this is a legitimate question. If I was running a large plc, I might think that Mike Granatt took a principled decision to resign that account but my God I would not want him doing that for me. You might become rather toxic out there in the private sector because you could be seen as fairly high risk.
Mr Granatt: I am sure that is a possibility.

Q456 Mr Walker: Would you make the same decision again?
Mr Granatt: Under the same circumstances, yes, I would have to.

Q457 Mr Walker: How many accounts have you resigned in your professional career as a lobbyist?
Mr Granatt: One.

Q458 Mr Walker: It is not something you are going to make a habit of doing.
Mr Granatt: No.

Q459 Mr Walker: Do you think you and your organisation did enough due diligence before accepting that role?
Mr Granatt: At the time I certainly thought we did. The one mistake I made was believing that the standards and behaviour I enjoyed from colleagues in Whitehall for 25 years I would also find elsewhere.

Q460 Mr Walker: Part of crisis management, having done a bit of it myself, is knowing where all the skeletons and bodies are buried and getting everything out on the table from the outset. Do you perhaps feel that you, or your business, did not quite achieve that when you took on the account?
Mr Granatt: It is entirely clear I did not achieve it in that particular instance but in many other instances I did. If you are asking me if I failed to achieve it in the one you are talking about, it is self-evident that I did not.

Q461 Mr Walker: You have learned some lessons.
Mr Granatt: You learn every day in this business.

Q462 Chairman: I have a few questions to wrap-up what has been a fascinating hour or so. Do you pay any MPs or Peers or offer them retainers?
Mr Bingle: No.
Mr Granatt: No, we pay no-one in that respect. We do actually engage one MP, who was a professional presenter in a previous life, to do professional presentation training for some of our staff.

Q463 Chairman: Who is that? It will be in the public record.
Mr Granatt: Mr Opik.

Q464 Chairman: Lembit Opik.
Mr Walker: My God! That's damaging. Forget the Speaker that's your problem.
Mr Granatt: I'll tell him you said so.

Q465 Chairman: I really did not want to give Lembit any more publicity but there you go. You talked, Mr Bingle, about your staff and how good and professional they are. Do you employ former senior civil servants, politicians, special advisers?
Mr Bingle: I thought you might be asking that question. In terms of civil servants, we employ a former private secretary to the former Deputy Prime

Minister, John Prescott, when he was at ODPM.[9] I retain John Grogan's former researcher, which is slightly ironic. I employ a former researcher to Ben Chapman. I am happy to give you a list of people.[10]

Q466 Chairman: That is not confidential then?
Mr Bingle: No, that is on our website always.

Q467 Chairman: Do you get value for money from them?
Mr Bingle: They are good people. They understand politics and that is our game.

Q468 Chairman: There are people out there skilled in lobbying and PR. What special attributes do they bring to an organisation such yours, which is a world leader you tell us?
Mr Bingle: A former special adviser will understand private office, committees, cabinet committees, the workings of parliament. He will understand how government has changed over the last 10 years in terms of where the centres of power are between parliament, the executive and the like. A former researcher will understand process: Standing Committees, Select Committees, Second Readings, Report Stage, how the House of Lords work. That is interesting and important and what we try and do is to use that knowledge of how the system works.

Q469 Chairman: Someone like Patrica Hewitt, who is now being paid by Boots the Chemist, Boots probably hired Patrica Hewitt because of the knowledge she would have about how the Department of Health is run.
Mr Bingle: Why not ask her?

Q470 Chairman: We may well do.
Mr Granatt: We obviously employ one ex-senior civil servant which is me. We have a number of people, not many, who were former press officers in departments. We have somebody who is a Labour councillor in Hackney. Again, if you want a list of those people we are happy to provide it. What do they bring? They bring a knowledge of how systems work and a particular experience of how certain issues work as well.

Q471 Chairman: I could get a job if I wanted with you because I know how Select Committees work?
Mr Bingle: Not now but after you stand down from the House.
Mr Granatt: We would not employ you as an MP.

Q472 Chairman: There are some serving MPs who are involved in the lobbying business, we know that. The former Prime Minister is making a lot of money, millions upon millions, and he said way back in 2004: "We intend to continue to recruit extensively [that is the Government] from outside the Civil Service to senior posts including at the highest levels. We also need to examine the business rules to make it easier for civil servants to move into the private sector and back again." I am looking at you, Mr Granatt. Is there a problem there at all or should it be very easy for senior civil servants like you to move out of the Civil Service into business, where they make a lot of money—you told us you are getting as much now as you did when you were Head of Government Communications—and back again with no problems?
Mr Granatt: You have to have some system which ensures that this is not generating a circle of people who then take advantage of their position in government. I think there is a very serious question about public confidence personally. I do not think I would advocate in any way letting up on the Advisory Committee rules.

Q473 Chairman: You take issue with Mr Blair.
Mr Granatt: If he wanted to loosen those bonds to let people move in and out more quickly and in that way, expose the public service to criticism and even more decline in trust, I would certainly disagree with him.
Chairman: Thank you both very much for giving us your time in coming along this morning. We have learnt a great deal.

[9] Office of the Deputy Prime Minister
[10] Ev 176

Witnesses: **Mr Richard Schofield,** Acting Head of Regulatory Affairs, Law Society and **Mr Eben Black,** Director and Head of Media, DLA Piper Global Government Relations, gave evidence.

Q474 Chairman: I want to welcome to our Committee meeting this morning our witnesses from the Law Society and from DLA Piper Global Government Relations. We have Eben Black who is Head of Media at Global Government Relations, which is part of the law firm DLA Piper. You were, in a previous life, with the *Sunday Times* and industrial editor at *The Sun.*
Mr Black: That is right.

Q475 Chairman: Richard Schofield comes to us from the regulatory affairs section of the Law Society, Head of Regulatory Affairs, but that regulation is moving, I believe, elsewhere in due course.
Mr Schofield: Regulation has already moved to the SRA[11] in anticipation of the implementation of the Legal Services Act. My role is on the representative side of the Law Society dealing with representative issues.

Q476 Chairman: Do either of you want to make a preliminary statement to tell us about law firms and how they are getting involved, and are involved, in lobbying and touch on some of the key issues that we should be aware of?

[11] Solicitors Regulation Authority

Mr Black: I think law firms are becoming more and more involved in lobbying and the reason is we are moving into an area of full service essentially. The idea is that clients will not want a simple straight forward traditional legal service but want other things as well to take them right from the beginning to the end of a particular project. Because this is very much the American model, with American law firms moving into London in greater numbers, we will see very much more in the future.
Mr Schofield: I agree with everything that Eben said. Obviously law firms have many of the skills you would associate with effective and skilled lobbying in that they have a lot of detailed expertise in somewhat arcane areas. Also they have relationships, particularly with the regulatory branches of government, which they have built up over many years doing transactional work and applying some of that skill and knowledge to a broader lobbying audience in a similar way to American firms.

Q477 Chairman: Can you tell the Committee the effect that the Legal Services Act has had on the law firms engaged who want to go into lobbying?
Mr Schofield: The Legal Services Act itself will have no particular impact on that in that as now any law firm that engages in lobbying will be subject to the Solicitors' Code of Conduct and the full regulatory framework governing the profession, and the Legal Services Act will continue that. There will be developments around entities being regulated as well as individuals and firms where you might have people practising more than one discipline but that is more about how the entities are owned and managed rather than whether or not they will be regulated. They will continue to be regulated in a similar way.

Q478 Chairman: Am I right in thinking that law firms will become multi-disciplinary? They could act for people drawing on the expertise of a multiplicity of experts and that is a step change, is it not?
Mr Schofield: Yes, it is, but what the Legal Services Act is permitting is more around the ownership of law firms and who is allowed to be engaged in the management of them. Law firms now might well employ accountants, tax advisers, some even employ barristers, but those people are not allowed to own and are excluded from certain parts of the management, particularly the financial management, of the organisation.

Q479 Mr Walker: I am quite interested in the growth of lobbying within law firms. As you know, in the US law firms do a lot of lobbying; in fact lobbying in the United States is probably far more professional than it is over here for that reason. One of the problems with lobbying is actually that it commands very low cash premiums compared to other forms of advice. Lobbying companies, when you compare them to lawyers, barristers, people working in the financial services sector, tend to charge much smaller fees. Is it really not the case that law firms are eyeing this up as a very lucrative way of charging £1,000 an hour fees not just for legal advice but also public affairs advice as well? It is quite a lucrative market for you to be in.
Mr Black: I would say that our fee structure for the public affairs side of things is different to the legal structure. One thousand pounds an hour is not exactly the amount we are talking about here.

Q480 Mr Walker: It is an ambition.
Mr Black: Certainly. I think it is about full service. It is about the concept of giving a full service to clients, giving them every possible avenue of advice they could possibly want.

Q481 Mr Walker: I am interested in your fee structure. Is it 50% of what a lawyer would charge, is it 80%?
Mr Black: It depends on the seniority. It is less than a lawyer would charge for similar seniority.

Q482 Mr Walker: Is it going to be a lawyer providing that advice?
Mr Black: No, it would be somebody such as myself or one of my colleagues in most cases. We will obviously draw on legal advice. There are occasions when you might consider that lawyers are doing what you might consider lobbying work but it is a very, very fluid idea.

Q483 Mr Walker: What sort of growth do you see in the market-place as far as your organisation is concerned? Do you see it as a fairly immature market where there is plenty of room to grab market share, as far as the lobbying spend goes, of organisations?
Mr Black: We have a unique offer within the public affairs market because of our attachment and being part of a legal firm. There is no other legal firm in London which does it in the same way we do. We think it is definitely a growing market. We are exploiting it and we are the market leader in it.

Q484 Mr Walker: How do you get around the thorny issue of publishing client names? One of the issues we are concerned about is the fact that some organisations do not allow their names to be published or some lobbying firms do not want to publish the names of their clients.
Mr Black: At the moment there is no way around that because we, as part of a law firm, even though some of us are not lawyers, are actually subject to the SRA, and the SRA demands confidentiality. The only way around that is to supersede it. We have suggested in our written evidence[12] that we would like to see a statutory register of lobbyists and their clients administered by the House of Commons.

Q485 Mr Walker: That would allow you to participate in that. You are in favour of full declaration and openness.

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Mr Black: Absolutely.

Q486 Mr Walker: You would argue you are on the side of the angels.
Mr Black: I would not go that far.

Q487 Jenny Willott: The point that you just made links to a question I asked the previous witnesses. Given the public unease at the moment about parliamentary regulation of anything, do you think that having a register held by the House authorities would overcome the perceived problem?
Mr Black: I certainly think it would be superior to a voluntary disclosure register held by something like the APPC, yes.

Q488 Jenny Willott: Why?
Mr Black: Because that is entirely voluntary. 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. We think that perhaps the House of Commons, as a respected institution, would be better to organise that.

Q489 Jenny Willott: You have a very generous view of the House of Commons and regulation. From the SRA's perspective, is there a problem with disclosure of client names?
Mr Schofield: There is no problem with disclosure of client names so long as the client gives consent to that disclosure.

Q490 Jenny Willott: If there was going to be a situation where it was statutorily required, or it was required by some form of self-regulation, that all companies, all firms, who were operating any business which was involved in lobbying had to make their clients' names publicly disclosed and, therefore, any firm that was signing a contract with a firm that did lobbying was aware their name was going to be disclosed, the SRA would not have a problem with that.
Mr Schofield: The SRA would not have a problem with that, no. Just a nuance, if it was a statutory code there would be no issue. Law firms would comply with the law, and the general law would supersede the confidentiality rule in Rule 4. In relation to self-regulation, if what we are talking about is where any firm engaged in lobbying voluntarily signed up to a code and said that they would disclose the names of their clients under some kind of a register, then, yes, they would have to refuse to act for any client who refused that disclosure but that comes to the issue of whether or not law firms would want to enter into a voluntary arrangement of that kind.

Q491 Jenny Willott: If the APPC dropped the client disclosure requirements and toughened up their regulation, would your organisation be happy to sign up to their code?
Mr Black: We do not see the need because we are all members of the CIPR. We have our own code and we also are bound by the SRA. We cannot see what is the point of the APPC from our point of view.

Q492 Jenny Willott: If the CIPR code is generally signed up to by most companies and you are bound by the SRA and you think that is enough, what should the situation be for firms like Bell Pottinger and Luther Pendragon? What should they be signed up to?
Mr Black: That is entirely up to them.

Q493 Jenny Willott: From your perspective.
Mr Black: They are members of the CIPR.

Q494 Jenny Willott: The CIPR code is for individuals not organisations. The SRA regulates your behaviour as an organisation. Therefore, if you are bound by two different codes and you are saying that is good enough for your organisation, then surely there should be similar arrangements for your competitors rather than only having to sign up to one which is the individual's code. In those circumstances, what do you personally think other organisations should sign up to, those that are not bound by the SRA?
Mr Black: That is matter for them. I do not think I am qualified to comment on what they should do.

Q495 Jenny Willott: I am asking you as an individual in terms of our remit of looking at what regulation there should be for lobbying organisations.
Mr Black: I think that the code which one signs up to should be as stringent as possible. It is really up to them to defend whether they think what they signed up to is stringent or not.

Q496 Jenny Willott: In terms of public concern about lobbying organisations, which there does appear to be from various polls, and there does seem to be a general feeling that something should be done to try and tighten up regulation, effectively you are saying that what is there at the moment is enough.
Mr Black: We are suggesting, as I say, to get over the disclosure problem, a register held by the House of Commons of lobbyists and their clients. That would get over the question you are asking me and that depends whether you want to move into statutory regulation of the lobbying industry or not. That is not a question for me because I am already subject to statutory regulation.

Q497 Jenny Willott: Around the issue of conflict of interest, if you are bound, as you say, by the SRA regulations which cover client confidentiality, how do you get around issues of the conflict of the interest between clients?
Mr Black: We are strictly bound by the conflict of interest rules as would any other employee of a legal services organisation. We have to not work if there is any chance of a conflict of interest whatsoever.

Q498 Jenny Willott: How do you manage that on a day-to-day basis?
Mr Black: In the same way that any law firm does, by constant conflict checks.

Q499 Jenny Willott: Unlike the two previous witnesses, you would not take on an organisation if they seemed to be potentially conflicting with an existing client.
Mr Black: Absolutely not. We simply would not be permitted to do that.

Q500 Jenny Willott: Do you think that strictness of rule should be applied to other lobbying firms?
Mr Black: Possibly, it is a matter for the clients. Certainly in a law firm it is impossible to have a conflict like that.

Q501 Mr Walker: That was interesting what you said about the statutory register because one of the issues we have touched on during our investigation is that there are literally thousands of organisations lobbying, not just private companies, public companies, but also third sector organisations and charities within that sector. How would you feel the register should address those sort of organisations?
Mr Black: I think they should be on it because they are acting as lobbyists. For example, any pressure group, any interest group, will have people who are lobbying parliament who are employed to do so and they should be on the register and it should not just be the commercial aspect of it.

Q502 Mr Walker: How do you define lobbying? Is a one-off meeting with a Member of Parliament from an organisation active lobbying? Would that need be to registered? Would the whole organisation need to be registered? Where do you draw the line as to what is active lobbying?
Mr Black: Can I quote from our written evidence? This is how we define lobbying. We would define lobbying as being "any activity undertaken with a view to influencing government or party policy; the outcome of a decision in which a politician is the final arbitrator or upon which they may have an influence; and alterations and interpretations of legislation or regulations." Yes, would be the answer to your question.

Q503 Mr Walker: It is a tough one. If Broxbourne Canine League came to see me about the Council and stray dogs and what I was going to do in parliament, would they have to be registered on that list? Not that there is such an organisation but let us say there was.
Mr Black: I suppose, and this is simply an idea, one way around this would be that branches such as the Broxbourne Canine League would often have a national organisation behind them and therefore you would have one, two or more people registered for that national organisation as lobbyists who would be the conduit for the local organisation.

Q504 Mr Walker: What if it is just a local drugs charity that is concerned about a bill passing through parliament and the impact it may have on their clients? What if it is just a clinic in Hertford?
Mr Black: Perhaps there should be some distinction made between a constituent and a lobbyist.

Q505 Mr Walker: One of the reasons we are told we need a register is for greater transparency. If we have the register, a lot of concerns that are covered in the press will go away and the press will move on to other things. You are an ex-*Sun* journalist, is that really going to be the case or is it too rich a source of stories to ever be left alone? Once it is in the public domain it will make your colleagues' job so much easier to go through with a red pen every Monday morning and see who is doing what and what stories that enables them to write.
Mr Black: The essence of the story is surely the alleged or implied secrecy not fact. If there was more openness, there would be fewer stories. I think that is true of life in general from my experience.
Mr Walker: That is a valid defence of your former colleagues' motives.

Q506 Jenny Willott: I am not sure it is true that the more open the fewer stories there are. In my experience it is completely the reverse of that.
Mr Black: But the implication in a story is different.

Q507 Chairman: You made your position clear that you want to see a statutory register that lobbyists sign up to. You are not happy with the Association of Professional Political Consultants. I am going to try and get away from these acronyms because I am sure we are losing people. I am losing myself. You have a problem with the Association of Professional Political Consultants, have you not?
Mr Black: Yes.

Q508 Chairman: My colleague, John Grogan—this is the third time I have mentioned his name this morning but he does take a special interest in lobbying matters—told us this: "Those firms like DLA Piper"—and then he goes on to mention Bell Pottinger who were here a few moments ago—"who choose not to subscribe to the ethical approach laid out by the APPC and PRCA are badly letting the side down." Do you disagree with that?
Mr Black: Yes, I do disagree with that. I cannot speak for Bell Pottinger, and Mr Bingle has had an opportunity to speak for himself, but as far as we are concerned letting the side down absolutely not because we are regulated by the SRA. I do not consider that to be letting the side down in any way. In fact, I consider that to be far superior to a voluntary code drawn up by a self-selecting group such as that of the Association of Professional Political Consultants.

Q509 Chairman: I want to ask you where we are on this. DLA Piper wrote in September last year to the Office of Fair Trading (OFT) and they asked them to intervene because public authorities, like the Greater

London Authority, allegedly were going to let contracts to those organisations in membership of the APPC.
Mr Black: That is not quite how it was to be frank. The reason we wrote was a letter which was sent out by the chairman of the APPC to all MPs saying that in her view only lobbying firms which signed up to the APPC should be eligible for public sector contracts. We saw this an attempt at restrictive trade, as an attempt to set up a new closed shop and return our industry to 30 years ago. We thought some action had to be taken so we wrote to the OFT to ask them to investigate.

Q510 Chairman: I do not know how long it takes to get to grips with these things but what is the position as it stands at the moment?
Mr Black: The OFT wrote back to us and said that we certainly had a case but that the guiding principles which were released after this by the APPC, CIPR and the PRCA, which did not include this particular suggestion, superseded the letter which had been sent. Therefore, although they agreed that we certainly had a case on the basis of the letter they did not propose to put public funds into investigation.

Q511 Chairman: What does that actually mean if we deconstruct it? Does it mean that the GLA,[13] and other public authorities, can go to lobbying firms who sign up to the APPC?
Mr Black: It means they can or cannot; it is entirely a matter of policy for the GLA or any other body.

Q512 Chairman: That must disappoint you.
Mr Black: No, not at all. The point of our letter was an attempt by the APPC to impose a closed shop, not to interfere in the internal runnings of any other body. It is up to a body whether or not they employ people who are or are not members of the APPC. That is not for me to determine. What I think is for us to challenge is an attempt by something like the APPC to corner the market for their members.

Q513 Chairman: I am being very slow. You are saying it is up to the GLA to decide what their policy is on who they recruit and if they just want to go to people who are in membership of the APPC then that is a matter for them.
Mr Black: I would suggest so, yes, would you not?

Q514 Chairman: I got it completely wrong then. I thought DLA Piper saw this as being anti-competitive, that DLA was going to be frozen out of lucrative contracts because public authorities were going to go to the APCC.
Mr Black: No, that is not the point. The point is that the APPC wanted to make it an absolute requirement for a public sector body when letting a public affairs contract that the company which they employed should be a member of the APPC. That is very different from allowing a body to decide who it should employ.

[13] Greater London Authority

Q515 David Heyes: I am going to pursue the same thing further. I am taken aback by the level of antagonism that exists. I did not realise it was quite so deep-seated and almost personal. You are accusing the APPC of pursuing a closed shop, building its membership to the point where they have a monopoly position.
Mr Black: No, I did not say that.

Q516 David Heyes: That was my projection.
Mr Black: They are not building their membership to a monopoly position. What they are trying to do is to freeze anybody else out of the public sector market by the issuing of this letter.

Q517 David Heyes: Is it not the case that because of what you describe as your full service, your unique offer, you are already effectively in that closed shop position in relation to your clients, in relation to your market, because of your base in the legal practice?
Mr Black: It is really up to clients whether they come to us or not. It is not a question of that. I do not see there is an analogy between the two at all quite frankly.

Q518 David Heyes: Part of your unique offer is less openness about your client base than would be required from a member of the APPC.
Mr Black: That is because we are part of a law firm. It is up to them whether they come to us or not. I am saying we would be very happy to disclose our clients under the terms we have suggested today.

Q519 David Heyes: You have said several times that you believe there should be a register held by the House. How does that work? How do you envisage that?
Mr Black: A register works by having people registered on it. If you are a lobbyist lobbying politicians in any way then you should be on that register. That is the way we would see it, as would be our clients. For example, I would be registered as a lobbyist for Global Government Relations DLA Piper and you would have a list of people I would be working for and that list would change as people dropped off or joined it.

Q520 David Heyes: Where would the rules and regulations surrounding that derive from?
Mr Black: I assume they would derive from the House of Commons.

Q521 David Heyes: Perhaps ultimately from a recommendation from this Committee.
Mr Black: Yes.

Q522 David Heyes: You mentioned your preference for membership of the CIPR.
Mr Black: Yes, we are members of the CIPR, my colleagues and I.

Q523 David Heyes: You also talked about the need for stringently applied standards. The evidence we have had from the CIPR is that they are not in a

position to require stringent standards because they are a multi-member organisation and operate on light touch self-assessment monitoring.

Mr Black: The point I must make in that case is that we are regulated, as I have said several times, by the Solicitors Regulation Authority, which is an extremely stringent organisation as Richard will no doubt tell you. We are regulated by them so whatever criticisms you have with the CIPR quite frankly do not really resonate as far as we are concerned.

Mr Schofield: Can I add something to what has been said? Taking Eben's suggestion of a statutory register and your question about how that would actually work, whatever regulatory rules you put in place are only as good as the monitoring and enforcement regime you put around them. That is the problem of just having a register or the Association of Professional Political Consultants' code or the other codes; they simply do not have the resources to monitor and enforce them to the same standard of efficacy of the SRA which is required by statute to provide the resources to ensure that can be done. That is a weakness of all these voluntary schemes and potentially a statutory code unless it is backed by that kind of regime.

Q524 David Heyes: That was my question to you. Where does that happen in relation to a register that might be held by the House of Commons? The names would be registered but where would the monitoring and enforcement take place?

Mr Black: That is a very interesting question. You may wish to put something in place to work with that. That is not a matter for me but I think there should be very stringent monitoring and enforcement and we are subject to that.

Q525 Jenny Willott: Does that mean from what you were saying you believe that regulation of PR firms and public affairs should be on a statutory basis?

Mr Schofield: I do not think I am making that case. What I am saying is if it were on a statutory basis then there would have to be a decision to commit the resources to ensure the regulation was effective.

Q526 Jenny Willott: DLA Piper operates in the States as well. A question that I asked the others is, is there any evidence that the very tight enforcement of regulations in the US as regards lobbying has made any difference to the clients' attitude of purchasing services or being prepared to put their names on a register. Has it made any difference to the lobbying market in the States?

Mr Black: As far as I am aware, no.

Q527 Jenny Willott: Companies generally are not afraid of having their names made public or having it much more tightly regulated than it is at the moment.

Mr Black: It does not seem that way from the evidence I have seen. I am not an expert on the American market.

Mr Schofield: If I can make a point about the American model, my understanding of the Lobbying Disclosure Act is that there are a couple of provisions in there which specifically address some of the issues of the law firms. It is very explicit within the Act that anything which constitutes legal advice, and there is a statutory definition of that, is excluded from the definition of lobbying and is therefore not disclosable to ensure there is client confidentiality guaranteed around pure legal advice. There is a *de minimis* rule so that if the lobbying advice you give to clients is incidental to the broader legal advice, and I think the current number is about 20% of time in any reportable period, if it is incidental to the legal advice that you are giving, given that it can be in complex commercial transactions, that would be excluded from disclosure. There are just a couple of points there. Any statutory code, in most of the jurisdictions that have any kind of statutory provisions, do address the issues that affect law firms as indeed do some of the recommendations coming out of the European Commission through their European Transparency Initiative.

Q528 Jenny Willott: The distinction in the States is between the activity you are carrying out rather than the original basis of your firm. For example, with DLA Piper and GGR[14] it would not be what the individual was actually doing which meant which set of regulations they were controlled by rather than who they worked for.

Mr Schofield: Not really. This goes back to the point I was making about the Solicitors' Code here which says you can only disclose the name of your client if it is required by law. The Lobbying Disclosure Act means that in the States it is required by law that when you engage in this kind of activity you have to disclose. If you introduced a statutory provision here then you would have to disclose clients for whom you engage in that activity.

Chairman: Disclosure does happen in America and life goes on, yet our people earlier did not know anything about what was happening in the United States. That is just an observation.

Q529 Mr Walker: Am I right that DLA is based in the Midlands? Was it a Midlands law firm?

Mr Black: It is a northern law firm.

Q530 Mr Walker: It has grown quite quickly over the last decade and has a reputation for being hard-nosed and aggressive, moving into new markets and making its name.

Mr Black: If you say so.

Q531 Mr Walker: That is nothing to be ashamed of; that is the nature of the private sector. You claim that anecdotal evidence of non-compliance with the APPC code is abundant. I have not read in detail what you have submitted but the Committee staff have so if I am misquoting I apologise. Can you share some of those examples?

[14] Global Government Relations

Mr Black: I cannot give you any named examples, no. It would be improper for me to recount rumour but within the industry it is very well known that if you happen to not want to register somebody then perhaps they might not be registered. It is quite obvious and you had an example earlier on of firms who are members of the APPC clearly pitching for work which they should be excluded from by their membership. The thing with the register is that it is un-policed. You really do not know what is going on, it is entirely voluntary and it can be used the other way as well: to put a client on who you have done £300 worth of work for and you might have had a conversation with. If it is actually a very big name and you put that on the register, then it is marketing. It does not work, in both ways, if you see what I mean. That is the important thing about it.

Q532 Mr Walker: In reality you want to increase the regulatory burden on small agencies to make it harder for them to operate so you can hoover up their market share.
Mr Black: Not at all. We think that if there is concern then we are suggesting one way forward. We have no intention of it making us more competitive or able to squeeze out smaller agencies. If you want to go to a smaller agency, you are probably not thinking of going to us anyway. That is not in our interests.

Q533 Mr Walker: It must really annoy you as an organisation when you have this big blue chip client and they are using a PR agency, a public affairs agency, like the Communications Group, Westminster Strategy, and you think: why are we missing out on that fee income; we must get that in-house; we must make it as difficult as possible for them to operate.
Mr Black: Why would it make it more difficult for them to operate under this suggestion than us?

Q534 Mr Walker: Because the regulatory burden would be higher for them than it would be on you. You have more financial resources to meet that regulatory burden than they would.
Mr Black: What financial resources would we actually need to put our names on a register and say who our clients were?

Q535 Mr Walker: When I was in recruitment I worked for a very large company and we loved the regulation that this Government was producing at the time because it knocked so many smaller agencies out of the market-place which meant more for us. Perhaps I am applying my past business experience.
Mr Black: You are suggesting that we are suggesting regulation as a way of squeezing other people out. What we are actually doing is reacting to the concerns that have been expressed and offering a possible way forward.

Q536 Chairman: I have just a few final questions to tie things up. We spoke earlier about the revolving door: politicians and very senior civil servants going into lobbying firms. Can I ask you, Mr Black, how many senior civil servants and how many politicians work for you?
Mr Black: Senior civil servants, none. As you may know, our co-chairman of Global Government Relations is Lord Tim Clement-Jones, a Member of the Upper House, and that is it.

Q537 Chairman: That surprises me. What about Norman Warner?
Mr Black: He is a consultant to DLA Piper but not directly to GGR.

Q538 Chairman: He is not involved in your business at all?
Mr Black: He will give us advice as asked for but he is not actually employed by GGR but by DLA Piper.

Q539 Chairman: He is still a Member of Parliament, is he not?
Mr Black: Yes.

Q540 Chairman: Lord Norman Warner left the government in December 2006 and he was Minister of State for NHS reform. I remember his plans to move 250,000 people employed by the NHS Primary Care Trusts out of the NHS into the private sector, the voluntary sector, and the not-for-profit sector. What kind of advice is he giving you?
Mr Black: He is basically there to give advice as needed on policy development. I have here a list of what he is supposed to do for us if you would like me to repeat it.

Q541 Chairman: Just a couple of things to give us a flavour. As an issue we have 28 former ministers now who are employed in one way or another in the private sector. Maybe 28 is a bit over the top because someone like John Reid is Chairman of the Celtic Football Club and I do not find a problem with that. It is an issue and I mentioned earlier that the former Secretary of State for Health, Patrica Hewitt, is now getting £50,000 or £60,000 from Boots the Chemist. This is all in the public record. What are Boots getting for this? My question to you is what are you getting from Norman Warner, policy advice?
Mr Black: Identifying upcoming public policy, assist in and advising in raising the profile of the firm—and this I stress is DLA Piper not GGR—deepening client relationships, introducing new contacts, undertake speaking engagements.
Chairman: We overran earlier but I do want to thank you both for coming along this morning and giving us the benefit of your experience. Thank you very much.

Thursday 8 May 2008

Members present

Dr Tony Wright, in the Chair

Paul Flynn	Mr Gordon Prentice
David Heyes	Paul Rowen
Kelvin Hopkins	Mr Charles Walker
Mr Ian Liddell-Grainger	Jenny Willott

Witnesses: **Rt Hon Lord Warner,** a Member of the House of Lords, **Rt Hon Richard Caborn MP,** and **Mr Stephen Haddrill,** Director General, Association of British Insurers, gave evidence.

Q542 Chairman: I am delighted to welcome Richard Caborn, Lord Warner and Stephen Haddrill. We have asked you to come because the Committee is conducting an inquiry into lobbying. One of the matters on which we want to touch is what is sometimes called the "revolving door" issue, that is, the traffic from government into the outside world, particularly industry, business and lobbying, and also traffic the other way. Because all of you have experience of this, two of you as former ministers who have gone to work for outside organisations that may involve lobbying and one of you a former civil servant who has gone to work for an outside organisation that may involve lobby activity, you seem to be a representative panel to whom we can put these kinds of questions. I should like to start by asking how it has been for you. When it was time for you to move on, two former ministers and one a former senior civil servant, and find other things to do you had to apply to the Advisory Committee on Business Appointments to ask what you could and could not do. Could you explain how that system worked for you?
Mr Caborn: The revolving door issue is an interesting one and we will answer that, but there was a life before and a life after being a minister, if I may say so. Whilst I have been in this place and had the privilege of representing Sheffield Central I have also spent five years as a Member of the European Parliament and, before that, I was a convenor of shop stewards at Firth Browns and now Forgemasters. I was Apprentice of the Year. I served my time and am immensely proud to be an engineer. As an engineer I have been consulted on many occasions. Before the revolving door issue arose I was consulted by Forgemasters to give advice on the building of a 16,000-ton forging press. If Members want to join me afterwards I will take them to my office and show them a picture on my wall of a 4,000-ton forging press. I am very proud that that was the first thing I built when I came out of my time as an apprentice engineer. I am advising Forgemasters on building the largest forging press in the world to take on, I hope, competition from Japan. In addition to that, I had European experience and spent 10 years as a minister. Further, like yourself I chaired a Select Committee, for four years on the Trade and Industry Committee, which at that time covered energy. You will remember that in the early 1990s the Department of Energy became part of the Department of Trade and Industry. I was the first chairman of that Select Committee which did a major report on energy policy and the closure of 31 pits at that time. I do not know why Ian McCartney and I have so excited some of members of the Committee that we have been mentioned in dispatches all over the place. It would be good to have an inquiry into why we have been singled out, if I may say so. That being the case, I am more than willing to answer "the revolving door". I do not believe that the revolving door that has excited some of the members of the Committee was anything to do with my being a minister; it was my incarnation before that.

Q543 Chairman: We see you as representative figures; we could have chosen others but happen to have selected you.
Mr Caborn: That is a good reason why.

Q544 Chairman: I am interested that you were Apprentice of the Year, but I do not think there is any discussion as to whether you are qualified to do the kind of work you are now doing. That is a quite separate issue. I return to the question. Faced with the prospect of pursuing these activities, you had to access the business appointments system. Perhaps you would describe how it worked for you.
Lord Warner: You ask how it was for me. People have commented on how young and healthy I look since I ceased to be a minister, so life has not been bad. Mr Caborn's point is an important one. I shall not give you my life history, but most of us did things before we were ministers. I was a minister for only four years and I had a lot of expertise and knowledge before that. It is that knowledge and expertise as much as anything that has been the reason why I am doing the particular things I am doing since I became a minister. As far as concerns the Advisory Committee on Business Appointments I just accepted it as part of life. After I ceased to be a minister I spent quite a few months doing nothing. Last September about nine months after I ceased to be a minister I went through a process of assembling a portfolio of activities some of which needed to be cleared with the Advisory Committee on Business Appointments and some of which did not. I filled in the forms and sent them off. They dealt with them in a reasonably sensible way and sent them back to me and said what I could and could not do. The main thing they said I could not do for the first year after being a minister was to lobby ministers, whatever

that means. We might come to what that means at some stage. I have honoured that. In my first year out of office the only time I saw ministers was at their request to talk about government business.

Q545 Chairman: Is the experience that Lord Warner has described typical of all of you?
Mr Haddrill: I suppose that mine is slightly different because I did not cease to be a civil servant and then look for other things to pursue. I had an offer from the Association of British Insurers which I wanted to take up, so went into the business appointments process whilst still a civil servant. It worked reasonably well and quickly, which is important, because a prospective employer wants to know whether and when you will be on board. I thought that was quite good. I was surprised how little I knew about it even as a senior civil servant before I started. I had a vague idea that there would be some process but I did not have a very clear idea of exactly what it involved. The fact is that it involves subjective judgments which is almost bound to be the case in that kind of system. A subjective judgment is hard to predict. In the circumstances I did not quite know whether I would be able to leave the Civil Service one day and pick up my new role fully the following day or whether I would be having a conversation with my prospective employers about doing only half the role for the first year which they might not find very satisfactory and put me in a rather difficult position. That subjectivity creates a bit of an issue for someone in those circumstances.

Q546 Chairman: Was it an entirely paper exercise for all of you, that is, you filled in a form, it went in and somebody told you what had been decided?
Lord Warner: I was written to by the chairman of the Advisory Committee on Business Appointments when I left ministerial office to remind me that I had to submit would-be appointments to the Committee.

Q547 Chairman: But nobody interviewed you or asked for more details about what you were doing?
Lord Warner: No.

Q548 Chairman: Presumably, you all think that to have a process of that kind is necessary, or was it seen as irksome?
Mr Caborn: I think it is necessary. There needs to be integrity and accountability in the system and that is part of it. From my point of view the 12-month period is fine and is absolutely right. The system must have that integrity. I have always taken the view as chairman of the Select Committee and during my 11 years as a trustee of the Industry and Parliament Trust that it is absolutely right to try to bring industry and wealth creators close to Parliament so there is an exchange and an understanding of each other. I think that Parliament is the richer for that.
Lord Warner: I did not take any objection to it, and I would not have done so if someone had asked to see me to talk about these things. I thought it was a fair and reasonable process. Personally, I would not have objected to being interviewed either by a member of the commission or someone on behalf of it.

Q549 Chairman: Did you think that the restriction on lobbying imposed on all of you for differential periods was entirely reasonable, and did you understand what it meant?
Mr Haddrill: I found it a bit odd but I thought it reasonable and necessary. In my case it was six months but it was in two parts: part one was that I should not lobby government ministers and officials. I spent a lot of my time talking to other public bodies, for example the Financial Services Authority, not the Civil Service. Indeed, so much of government goes on outside the Government and Civil Service that there is a question about how widely that runs. The second part was an understanding that the ABI[1] was an organisation that the Government talked to quite a lot as part of normal business and so if the Government wanted to talk to me I should be able to talk to them, so it was really a "you can't but you kind of can" message. It took a little interpretation but in practice I got a sense of what I could and could not do. I could not put an issue on the agenda with a minister; I could not call him up and ask to see him, but if there was something troubling him and he called me up I could talk to him.

Q550 Chairman: But if any of you were to bump into former colleagues during this period of purdah and had a conversation about matters relevant to what you were doing that could conceivably be described as lobbying. There is no enforcement mechanism. The prescription is put in but there is no monitoring of it; it is all down to just how people behave, is it not?
Lord Warner: I think one has to see it in context. If you look at the dictionary definition of "lobbyist", which means essentially someone who hangs around legislators or ministers to try to influence their decision/vote, you can say that chief whips do that. If you are health minister in the House of Lords you do that. I was a minister and received MPs who came to argue their case for their constituents some of whom had a commercial interest. Is that lobbying or is it a conversation or discussion?

Q551 Mr Prentice: We do not get paid another £75,000 for doing that, do we?
Lord Warner: I am not trying to make a cheap point. I am saying that the word itself is open to a variety of interpretations and on a strict dictionary interpretation you could say that all sorts of people are in the business of lobbying in terms of trying to influence the decisions of ministers. This is part of a spectrum.

Q552 Chairman: It is a matter of being paid to do it. Two of you are Members of the two Houses. Is there a sense in the country that there is something

[1] Association of British Insurers

unseemly about Members of Parliament also working for outside organisations and lobbying government?

Lord Warner: Speaking personally, I have not been lobbying government. I was hired to give my advice largely on health and social care issues but also on how government, including local government, worked and decisions were taken. I have spent all of my time doing that. In my time as an adviser I have had only one meeting with a minister. That was not a private meeting; it was with civil servants and it was merely to enable someone to put a point of view. I do not believe I have lobbied at all in my time as an adviser, and I do not think I was hired by any of the organisations for which I worked. I am not a naïve person. I was hired to give them advice in the areas where I had some expertise.

Q553 Chairman: But DLA Piper for whom you work tells us that your job involves "deepening client relationships" and "introducing new contacts".[2] The contacts that are useful to them are entirely those that you have gleaned through your work inside government. In the case of Mr Haddrill the ABI says that it aims, "to shape and influence decisions made by the Government, regulator and other public authorities".[3] It says this of you: "Stephen aims to ensure that the ABI is highly influential with government and regulators on behalf of all its members."[4] Your role is quite explicit.

Lord Warner: Most of the clients I advise are related to the people I know and the systems of local government that I understand, the NHS and sometimes government departments but not ministers. We have to understand that government and public bodies are often seen by the outside world as rather opaque institutions; it finds it very difficult to penetrate them quite a lot of the time. Indeed, that was why I made the point about MPs bringing people to meet ministers. I was not trying to make a cheap shot. They do that because those people often find it very difficult to understand the workings of institutions in the public sector. They are facilitating a conversation.

Q554 Chairman: I would like to get you to answer the question I asked which was: do you consider that the public thinks there is something unseemly about people who are still members of the legislature and working inside government taking on paid employment to lobby bits of government in which they are involved?

Mr Caborn: Obviously, you are going to lobby government. I looked at the questions very carefully. You will know that I was asked to come to this Committee late last week because my colleague Ian McCartney is having an operation. I read the terms of reference and some of the evidence that has been submitted to the Committee. It is all predicated on an attempt to affect Parliament and government. It is not about having a set of ground rules to ensure that Parliament and government are accessible. I go back to my earlier point. One thing I did when I was chairman of the Select Committee on Trade and Industry was to ensure, as far as I could, that Parliament was knowledgeable about what industry was saying. My 11 years on the Industry Parliament Trust were spent trying to bring Parliament and government closer to wealth creators in industry and commerce. It is as though we have in the House of Commons political virgins who cannot be touched by anybody who seeks to lobby them.

Q555 Chairman: It is the fact that large sums of money are involved in this relationship.

Mr Caborn: Let us come to that. The one interest you did not read out was mine: AMEC. I can tell you that AMEC for whom I am a consultant is more to do with my trade union and European background. I am an engineer. I have dealt with North Sea oil in which it has been deeply involved. I have also known the past three managing directors of that company on a fairly personal level. The reason I agree with the 12 months is that I was a trade minister for two years and that could have affected it. I think it was absolutely right that it should be 12 months in terms of the conditions laid down. But I am not in the game of lobbying government in that sense; I am there to advise on the skills I had before I became a minister.

Q556 Mr Walker: All of you bring experiences to your employers. Those experiences have value. Just before you go to sleep at night does it occur to you that you are also there for your contacts and relationships with people in government and senior decision-makers, so it is not just a matter of your experiences but your relationships? After all, business is driven by relationships.

Mr Haddrill: Relationships are important. It is three years since I joined the ABI and it is remarkable how fast government turns over in that period. Almost from day one you start to find new relationships emerging and becoming important. We keep using the word "lobbying". Most of the time I find that what government want to know is what our industry, consumer groups and all sorts of organisations think and, quite rightly, they come to us. I am glad they do. We give them what we think is a view of the world from our perspective and they value it, but, to pick up an earlier phrase, they are not policy virgins either; they are perfectly capable of assessing that. They know where I am coming from and are capable of assessing it against the views of others and forming an opinion. That is a good public policy-making process; it is much better than government sitting in a box and not speaking to anyone.

Lord Warner: I do not lie awake at night thinking about this and it does not occur to me before I go to bed in the way you put it mainly because, for reasons of personal vanity, I took some care about what I was getting myself into. I have a mixed portfolio: I have a public appointment, some private appointments and some voluntary ones. I deliberately wanted a mixed portfolio so I could see

[2] Q 541
[3] Our Vision and Mission, www.abi.org.uk
[4] Our Director General, www.abi.org.uk

aspects of public service and involvement of private and public sectors from different perspectives, and that is what I do.

Q557 Mr Walker: Does it ever occur to you that your contacts and relationships may be part of the value you bring to your clients—because that occurs to everybody else?
Lord Warner: We are talking about two things here. I acknowledge that contacts are important, but we are talking about whether it is ministers or a wider range of contacts. I know huge numbers of people. I have been in paid employment for nearly 50 years and have spent a lot of time in local and central government and I know lots of people. I can pick up the phone to a chief executive in a local authority and have a conversation about what is going on in local government on a particular issue at the moment. Of course people value that contact but you are not seeking to influence a set of decisions; you are having a conversation with someone about a piece of information.

Q558 Mr Walker: But business is about influencing by decisions. I have nothing against lobbying, but why be so po-faced about it? Why are you so defensive about it?
Lord Warner: I am not defensive.

Q559 Mr Walker: Ultimately, you work for a number of health clients because you have been a minister for health for four years. There is nothing to be ashamed of; it is just a fact of life. You are of commercial value to them because of your contacts, experiences and relationships.
Lord Warner: We come back to the issue of what is meant by lobbying. What Mr Caborn is saying is that it has been given pejorative overtones in the way we are sitting here having this discussion. Most of the time I am having a conversation with people who value my advice or ask me to find out about something. Finding out about something does not mean that I seek to persuade somebody of a particular point of view. There is a difference and I do not regard that as lobbying.

Q560 Mr Walker: For the record, I have nothing against what any of you do, but ultimately business is about selling things and influencing buying decisions. It is not the public sector; it is about profit and the generation of it.
Mr Caborn: I accept that. There is no doubt that when you have been a minister a number of people come to you. I have been sports minister for a few years. I have now become president of the Amateur Boxing Association and the UK School Games and I advise the Prime Minister on the 2018 World Cup. I am also a member of the Football Foundation. None of that is paid work and I can assure you that I lobby very hard on those. As far as AMEC is concerned, it has a major constituency influence. If you look at the record, back in the mid-1990s I was very critical of government about how we had missed fantastic opportunities by standing down some of the best engineers and designers on the nuclear kit. I said at the time Michael Heseltine was president of the Board of Trade that we would rue the day we stood down some great engineers and teams. Out of the blue I got a call directly from AMEC asking whether I would advise them on some of the supply chain issues, which I did. Obviously, that has a big constituency interest. We could develop off the back of what I believe will be a nuclear and manufacturing renaissance, which is at the heart of my constituency and the company where I served my time. I was already in discussions with companies in my constituency about the supply chain when AMEC came along and asked whether I would advise them on wider social, regional and European issues. Obviously, being an engineer I agreed to that. I did not even know what they would pay me; it was only after that. I say that very genuinely. That was why I took the decision which was based more on my constituency and something in which I deeply believed. I am on the record as to that. I also say that having been in this place for 25 years and served on many committees it needs to open itself up. You are absolutely right that these types of inquiries should take place but they should not be predicated on trying to isolate this activity; they should be predicated on a set of rules on which the vast majority of people act, whether on the business side or our side, with integrity, honesty and openness. I entirely agree that you must have ground rules but the need for an interchange of ideas and views is absolutely essential. I have done that consistently for 25 years. When I took this job I did so for those motives.

Q561 Mr Walker: This question needs to be asked. The crux of it is that in 1997 the Conservative Party was wiped out. Many secretaries of state lost their jobs; they were no longer Members of Parliament. Many people, even people who had been in the Cabinet, struggled to find employment. I ask this question of the two politicians: if there is a Conservative government after the next general election do you think your market value will go up or down?
Mr Caborn: I shall not be here after the next election.

Q562 Mr Walker: But your ability to influence may be changed?
Lord Warner: It depends how quick it is. I think that my ability to influence will be determined largely by whether people think I still have something sensible to say on health and social care and whether or not I am sufficiently well informed about developments in the sector on which I am advising. They may say that my time is up: I am out of touch and I do not know. I think that will have more to do with the passage of time and age than with a change of government.
Mr Caborn: I am in broad agreement with that. The fact I have been a minister is a minor consideration. Given the job I am doing now, it is much more to do with the background that I have been privileged to have outside as well as inside this place.

Q563 Paul Flynn: Mr Caborn, we all do what you describe in constituencies. I bang the drum for EADS, Life Force and other companies there. If they came to me and said they were going to give me £70,000 for the work I was doing that would be rightly regarded as corruption. Explain the difference. You are getting £70,000 for doing a constituency job that you should be doing anyway as an MP.
Mr Caborn: With all due respect, Mr Flynn, I said that I was already working on the supply chain, not the development of the new nuclear—

Q564 Paul Flynn: But you made the case that you were doing it because of the constituency base?
Mr Caborn: I was already doing that. I said that it was something about which I was deeply concerned in the 1990s as chairman of the Select Committee on Trade and Industry that the then government was standing down all the design engineers.

Q565 Paul Flynn: We have had your work history a number of times now and we understand it.
Mr Caborn: Obviously, it has not sunk in.

Q566 Paul Flynn: Do you regard the job of a Member of Parliament as a full-time one?
Mr Caborn: Yes, I do a full-time job.

Q567 Paul Flynn: What would your constituents think of you as a retiring MP with expectations of going to the Lords taking an additional job that is worth £70,000 which is more than your parliamentary salary? Do you think your constituents would regard it as right that you should be doing this while you are their Member of Parliament?
Mr Caborn: The answer to that is yes because the job I have taken is one that will massively enhance the wealth-creating base of Sheffield and my constituents. If you objectively evaluate it you will probably say it is a damn good thing for my constituents.

Q568 Paul Flynn: The point is not coming through. Why is that different from any of the companies in our constituencies we are promoting paying us money to promote them when we should be doing it as part of our parliamentary work?
Mr Caborn: I am not saying that it is solely because of my constituents; I am saying it is the wider issue of the nuclear rebuild and it addresses climate change and security of supply. It is a major part of the energy mix that I argued back in the 1990s. The opportunity arose on a number of fronts. It is difficult to put all of these together, but I made statements in the middle of the 1990s and got the opportunities for my constituency and on the wider issue to become a consultant to AMEC. All of that came together. They were not little silos; the whole thing came together.

Q569 Paul Flynn: But why do you take a salary for it?
Mr Caborn: Because they want to pay me. What is wrong with that?

Q570 Paul Flynn: Lots of people want to pay MPs. What is the point of people wanting to pay legislators in order to prostitute their office to their commercial advantage?
Mr Caborn: I do not believe I am prostituting myself.

Q571 Paul Flynn: I still cannot see the difference between doing your work as a Member of Parliament, as you still are, and working for an outside body that pays you money?
Mr Caborn: With all due respect, if we debated that until kingdom come you would not accept it because you have a different view from mine.

Q572 Paul Flynn: That is fine. Someone in your constituency, possibly a political opponent, might cynically suggest that what you are doing as a retiring MP with a short time to go and expectations of going to the Lords is feathering your nest in order to get a comfortable job after you stand down as an MP?
Mr Caborn: If they want to make that judgment they will do so. They might be as cynical as you, Mr Flynn.

Q573 Paul Flynn: Lord Warner, you have a very busy life. You work for Xansa, Apax Partners, Byotrol, Deloitte, DLA Piper and UK Healthgateway. Were these firms ones with which you were in contact when a minister? Did it involve any contact with them at all?
Lord Warner: No, none whatsoever.

Q574 Paul Flynn: You were a minister from 2003. Were those firms involved in some way in shaping the health service and its present condition for which I am sure you take responsibility?
Lord Warner: I am sure that a number of those firms had contracts somewhere in the NHS and were doing some work for it, but since the health service spends £110 billion a year it is highly improbable that a minister will know what or who is involved in the NHS at any point in time.

Q575 Paul Flynn: You still maintain that you had no contact whatsoever with any of those companies as a minister?
Lord Warner: I am trying to remember. I am not being evasive. Given the number of people who come through a health minister's door, without consulting all of my diaries for those four years I cannot in all honesty say I am 100% certain that I never saw anybody from any of those companies.

Q576 Paul Flynn: So, there was no expectation of future employment in your involvement as a minister?
Lord Warner: To be clear, I did not know until the last minute when I decided to resign when I was going to cease being a minister. I did not spend four

years as a minister thinking what my job opportunities would be after leaving the place. With all due respect, this is a fantasy view of the world.

Q577 Paul Flynn: I am glad you are amused by it, but there are other ministers and former ministers who have been involved in very big contracts valued at billions of pounds and later they have found themselves employed by those companies. These cases exist.
Lord Warner: I am talking about myself.

Q578 Paul Flynn: I appreciate that. There are other ministers who are not before us today. Perhaps we should look at other former ministers and peers who are in the same position. Do you think there is a danger that if someone is in a position of great influence involving contracts somewhere in the back of their minds they might be thinking how they might enrich themselves in retirement by influencing those contracts? In order to avoid any possibility of that, do you not think it would be useful to have a rule that former ministers should not take employment in the areas of their departmental powers after they leave office? Would that not be a sensible precaution to ensure they are not influenced in awarding contracts as ministers?
Lord Warner: To be clear, we have a process in which you sign a piece of paper where you state the job for which you ask approval. You have to indicate on that form whether you have had any previous contact with them. It is open to the Advisory Committee on Business Appointments to say to me that it believes my contact with this previous outfit makes it inappropriate for me to take up the appointment. I have been through that process. I have answered the questions honestly and have accepted the ministerial code and the rules of the Advisory Committee on Business Appointments. Behind your question lies an inference that there is not a process that provides some sort of check.

Q579 Paul Flynn: It is a process that everyone would suggest is imperfect. Why at the end of six months or two years should it become appropriate for you to lobby when it is not appropriate up to that point? What happens at the end of this period?
Lord Warner: Clearly, I have failed to get across the point that I have not spent my time lobbying according to any general interpretation of that word. I can answer this only from my own point of view. If people choose to make a malign interpretation of what we do I cannot do anything about that. I agree with you that if I had gone straight out of the Department of Health and signed up with one of the big contractors, for example, for the national IT programme—

Q580 Paul Flynn: We have very little time and I must ask my final question. How does the income you have from your present employment with these companies compare with your ministerial salary?
Lord Warner: I gave up income to become a minister; I reduced my income when I was employed as a minister, so I had a reasonable expectation that I would quite like to re-establish my income at a reasonable level after I ceased to be a minister. I still have not returned it to the level it was before I was a minister.

Q581 Paul Flynn: And the answer to the question is what?
Lord Warner: I have answered your question.

Q582 Paul Flynn: How does it compare?
Lord Warner: What I am actually paid now is less than I was paid as a minister.

Q583 Jenny Willott: You are all defending the different roles you play. Why do you think we are conducting this inquiry? What do you believe the issues are?
Mr Caborn: I think it is because of the lack of understanding of the role of lobbying. That has become quite evident in the evidence submitted to you and from what you are trying to put this morning. It is about the revolving door and we have tried to answer that. To be quite honest, the one thing I want to get across is that I hope that the recommendations that emerge from the Committee are ones that positively encourage the lobbying of Parliament per se, whether it is the business sector, the voluntary sector and others who need Parliament to be knowledgeable about their concerns. This is but one area of that. I honestly believe that industry does not know how this place works in the main. You might refer to one or two big companies and big contracts that have been awarded, but in the main—I say this as a former chairman of the Select Committee on Trade and Industry and one who has come from industry—there is little knowledge about how this place can be influenced and affected. It is the wealth creators out there for whom we legislate and sometimes it is done in ignorance. If I may say so, the Industry Parliament Trust was totally misrepresented in this Committee by some witnesses. It is not a lobbying organisation; it is a body that brings outside interests and parliamentarians together which I think is very important. I hope that you make that a central part of your findings.
Mr Haddrill: I hope that the purpose is to find a point of balance between the public perception of integrity and actual integrity. Another factor which I do not believe has to be in conflict with that but is on a different track is that people will not join the Civil Service or enter a political career if they think that after 20 years in it they are not able to use the skills, experience and knowledge they have developed as a result. One wants to make sure that people can see something after that career and experience. Another factor that affects the Civil Service in particular is that as society ages and people work longer we want a group of people who move on in their fifties and sixties and make way for a younger cadre. Particularly at the pinnacle of the Civil Service, the harder it is for senior people to find

other things to go on and do because they are restricted as a result of what they have been doing the more they will just stay put. I do not believe that is in the public interest either. Therefore, it is about balancing those sorts of things.

Q584 Jenny Willott: Obviously, all three of you come to it from a particular perspective and you seem quite defensive about whether or not there is an issue. There is a huge range of views on this Committee and there are lots of experiences of lobbying, good and bad, having done it or not done it. The reason we have undertaken this inquiry is that there are some concerns, whether genuine or not, specifically around public perception. If you have looked at the evidence we have received clearly there are issues about lobbying. You have all said that the Advisory Committee on Business Appointments was a fair and reasonable process and looked carefully at your appointments. Do you think that the system as it now is does enough to allay concerns that people may have when looking at the process? What do you think could be done differently to make it tighter?

Mr Haddrill: I do not think it is very well understood or well known. Does it do enough? I think it does enough when the question is asked and is debated, but in terms of public confidence I do not suppose that most of the time the public has a clue that it exists. Therefore, a bit more openness about how it works and its very existence would be very useful.

Lord Warner: I can see that there is some public concern and why you are here. I do not feel defensive; I am just trying to be fairly robust about my position here today. I sense that the Committee is starting from a different position from me and Mr Caborn about the whole business of accepting private sector appointments after one has been a minister. I do not think we start from the same position as some Members of the Committee, but I do not feel defensive about it. If you want me to be constructive about how the system might be improved to deal with some of these public perceptions, you could change the Advisory Committee on Business Appointments so that it was an outside independent body; you could take it out of the hands of parliamentarians if that was something you wanted to do. You could also define a bit more clearly what you mean by "lobbying". I do not believe everybody has the same view about what constitutes lobbying. Those are two constructive suggestions about how you might improve the system around this issue. I do not think any of us argues that it is inappropriate there should be some vetting process of the appointments that former ministers take up when they leave office. As Mr Haddrill said, the public understanding of the fact that there is such a process is probably not very good.

Q585 Jenny Willott: One matter that has been raised with us in relation to the Advisory Committee on Business Appointments is that there is no enforcement; it does not follow up. When you were given advice about what you could take up and for how long the lobbying ban would be in place, did you have any impression as to what would happen if you breached it?

Mr Haddrill: The thing that most concerned me was that I would damage the reputation of my new employer. If this is about integrity my new employer does not want there to be any question about whether or not it has acted with integrity. The fact that I have been through the business appointments process was included by them in the press notice that announced my appointment. I was perfectly open and said what the restrictions were. If I had breached them in the kind of public space in which we operated it would have been obvious and damaging. Therefore, there is a kind of self-enforcement. Is there any further enforcement? You write back after whatever period of time it is to say what you have done and that is about it.

Mr Caborn: Having been privy for 10 years to the discipline of public office, I believe that those standards are inherent in the way you conduct your daily life, whether it is in the business sector or anywhere else. It may well be that you will look at some type of enforcement of the Advisory Committee on Business Appointments. I agree that how it comes to its decisions could be more transparent; it could be more rigorous. There could be some face-to-face interviews, but the important point is: how do you address public perception? The fact is that you are holding this inquiry and there are journalists here who will probably not report it in the most objective ways. Their business is to sell newspapers. Without digressing, the fact that we are here is rather like the funding of political parties and the constraints on that. Are we using a sledge hammer to crack a nut here? I think that phraseology has been used before. It is about having integrity in the system to make sure it is transparent and robust. I think that is absolutely central. Once you have got that it is a matter of saying to the general public that that is what we have. I do not think that is out there at all. The danger is that if we do not have it people will become very concerned about anybody who comes to discuss matters either with ministers or Members of Parliament which to me is a negation of democracy.

Q586 Jenny Willott: It seems to me that, given the system as it is at the moment, there is quite a big difference between the position of civil servants who move from one job to another and sitting MPs and peers taking on additional roles; they are not giving up one job and moving to another but effectively it is being done on top. Is the present system fair to both situations, which are different? Is it appropriate to have the same set up to deal with both scenarios, or would it be more appropriate to have a different system for politicians who are still sitting in either the Commons or Lords and to separate that out from civil servants and potentially special advisers?

Lord Warner: Perhaps I may start off by making clear that peers are not paid; they are not salaried appointments.

Q587 Jenny Willott: I understand that.
Lord Warner: And peers do not represent anybody in any sense; they have no representative responsibilities and so they are in a different position.

Q588 Chairman: Do they not represent the public interest in a general sense?
Lord Warner: The point I am trying to make is that we do not have constituents. There is not a group of people who have voted for us, which is a sore point with quite a few parliamentarians. We are not elected to represent a particular geographical area and we are not paid a salary. I am not trying to stir up House of Lords reform—I am happy to debate it if you wish—but making a point. The question was whether there should be a parliamentary and non-parliamentary system. The point I make is that peers are in a different position from those who continue to be MPs.

Q589 Jenny Willott: But the difference is that in theory we as sitting Members of Parliament or Members of the House of Lords are in a position to influence legislation, the Government and so on. We are in a role that does that anyway and you are taking on a paid job in addition to being a parliamentarian, which is a little different from a civil servant or special adviser who moves from one role to another and does not maintain that previous role.
Lord Warner: The earlier questioning by Mr Flynn was all about whether an individual who was receiving the pay of a sitting MP could continue to do an outside job. The point I am making about peers being unpaid is that they have a reasonable expectation of being able to earn some kind of living outside their parliamentary duties. I am not trying to make any wider point than that. I can see as a former minister that if one came from the Lords one would need to be subject to the same discipline as someone who left the Commons. But I do not think it would be reasonable to impose such onerous restrictions that effectively one would seriously affect the ability of a departing minister from the Lords to earn a living.
Mr Haddrill: I think the fundamental issue is probably the same on both sides. Obviously, one must take into account how serious is the risk. As now one puts in place different sanctions on different people, but I am not sure I particularly want to divide the system in half and say that somehow the issues of integrity for civil servants are different in nature from those governing ministers or MPs. The discussion has been very much around lobbying. People probably think of it in terms of public policy lobbying; at least I tend to view it in that way. It seems to me that these issues are probably sharpest in the public mind where there are big contracts at stake, and maybe that is something that has not come out sufficiently. If the Advisory Committee on Business Appointments does different things in different places then it is about being clearer in relation to potential contracts rather than informing public debate which, perhaps more kindly, is what I say I do.

Q590 Mr Prentice: I want to come to big contracts in a moment. Mr Caborn, we know that you get £75,000 for what you do for AMEC. We know that Ian McCartney gets £115,000 a year for what he does for the Fluor Corporation, which is a nuclear decommissioning group. We know that Patricia Hewitt gets £65,000 for her job with Boots the Chemist because all of that is in the Commons Register of Members' Interests. Lord Warner, when Mr Flynn pressed you on how much you got paid you danced around the issue. Should the money that you get from all your appointments be listed, if it is not at the moment, in the Lords register?
Lord Warner: I am paid as an adviser according to the number of days' work I do. I do not know in advance in any one year what my pay will be.

Q591 Mr Prentice: So, it is done on a daily or weekly basis; you have no idea?
Lord Warner: I have an idea. I was trying to make a calculation in my head very quickly and my answer was my best judgment.

Q592 Mr Prentice: We understand that. One of your employments is DLA Piper. What do you do for that company? Is there a job description?
Lord Warner: There is a contract.

Q593 Mr Prentice: It lists what you are expected to do?
Lord Warner: In very general terms, but I have—

Q594 Mr Prentice: I was looking at the DLA Piper—
Lord Warner: Do you want the rest of the answer? I have a contract with a particular part of DLA Piper concerned with infrastructure and public services and that requires me to give advice in those areas, including a bit of health regulation. Therefore, it defines the territory in which I shall be giving advice and the contract is with a particular part of DLA Piper.

Q595 Mr Prentice: I was about to say earlier that buried deep in the DLA Piper website—you must really search for it—is this: "Raids by regulators often happen at the crack of dawn, at weekends or at times when least expected. Such crises require immediate management by specialists", and then there is all this stuff about dawn raids and having people who know how the regulatory system works.[5] Are you involved in that side of DLA Piper at all?
Lord Warner: First, I have not seen its website; second, I do not remember being asked to be involved in any dawn raids or advising anyone who has been the subject of them.

[5] Rapid Response, www.dlapiper.com

Q596 Mr Prentice: Anyone with five minutes to spare can bury deep into the DLA Piper website and read what I have just read out to the Committee. I want to be clear what you do for the money you get.
Lord Warner: I give them advice.

Q597 Mr Prentice: You give them advice?
Lord Warner: I give them advice. I do think that if we are to have a conversation—it is a bit like being on the *Today* programme. One likes to be able to answer the question and complete the sentence.

Q598 Mr Prentice: I am conscious that we are under time pressure here. Let us have brief questions and answers.
Lord Warner: I am trying to do that but it would be quicker if we were allowed to finish our sentences. I give advice in the area of public services, public sector infrastructure and health regulation in particular. I do not give advice on environmental regulation or any other form of regulation.

Q599 Mr Prentice: When you were minister for health service reform one of your policy objectives, which was subsequently overturned by Patricia Hewitt, was to move a quarter of a million people out of primary care trusts in the health service and into the private and not-for-profit sectors. Does that make you and your expertise an attractive proposition for private sector companies that want to get into the NHS?
Lord Warner: That is your interpretation of what I was trying to do. What I was actually trying to do, as distinct from your interpretation, was to separate out the provider side from the commissioning side of PCTs. That is a different proposition from the one you put.

Q600 Mr Prentice: You do not dispute the fact that the corollary of all that is that a quarter of a million people would be transferred out of the NHS and into the private sector?
Lord Warner: I do dispute that. I do not think it follows from that policy objective that they would all suddenly be employed by the private sector. I think that is nonsense.

Q601 Mr Prentice: You were sold on the Healthgateway website. In "Meet the Team" you are right at the top; you are described as "Lord Norman Warner, expertise and insight in the UK health market."[6] It then talks about your expertise as Minister of Health and the fact you led a number of reviews and improvements in the delivery of UK healthcare. It goes on to say: "You can contact Norman directly". Do many people contact you directly?
Lord Warner: No. It is a sad fact that clearly we are not doing terribly well. This hearing may help a little.

Q602 Mr Prentice: Mr Caborn, I want to ask about nuclear decommissioning. This is the elephant in the room, is it not? I have a note here saying that the *Financial Times* reported in November that AMEC was part of a consortium competing for a £5 billion contract to run Sellafield.[7] We know that you are barred from making any approaches to the Nuclear Decommissioning Authority until June of this year. What is your involvement, if any, in nuclear decommissioning?
Mr Caborn: It goes much wider than that: it is new build and the supply chain in terms of what AMEC is doing. I have given advice on the problems in South Africa and the energy gap there. I have advised on the trade unions and also the planning and regional development agencies in terms of clean up, reprocessing and new build. Therefore, in all those areas they have asked for my advice on various aspects.

Q603 Mr Prentice: This is a big issue, is it not? Mr Haddrill told us when he last spoke that one issue was the big contracts. We know that the Nuclear Decommissioning Authority faces a bill of £73 billion to clean up nuclear facilities and that the company that employs you and Mr Ian McCartney is heavily involved in the bidding process to get these contracts. My question is very simple: would you pull back from that and say that you do not want to be involved in it because the British Government will make a decision that is worth billions of pounds before the end of the year on the consortium that cleans up nuclear waste?
Mr Caborn: You are wrong.

Q604 Mr Prentice: In what way am I wrong?
Mr Caborn: The British Government is not going to make that decision.

Q605 Mr Prentice: Who is to make the decision?
Mr Caborn: The NDA will make that decision. Get your facts correct if you are to ask me questions. The NDA is a non-departmental—

Q606 Mr Prentice: Will you have anything to do with the Nuclear Decommissioning Authority?
Mr Caborn: I have absolutely no contact with the Nuclear Decommissioning Authority.

Q607 Mr Prentice: And you will not have any contact after June?
Mr Caborn: Your question to me is predicated on the assertion that the British Government will make that decision. I am saying that it will not be the British Government but Parliament through an accountable non-departmental public body. The accounting officer is Dr Ian Roxburgh who will come to the House. If you understand how government works, that is where the decision will be made. The NDA will make that decision.

[6] Meet The Team, www.ukhealthgateway.com

[7] "Caborn is latest ex-minister to take nuclear job", *Financial Times*, 17 November 2007, p 2

Q608 Mr Prentice: Let me rephrase my question. When the one-year period of purdah expires in June will you make any approach whatsoever to the Nuclear Decommissioning Authority about these nuclear issues?
Mr Caborn: The answer to that is no because as I understand it the decision will be made on 11 July. That is what the NDA has announced publicly. Therefore, I shall be making no recommendations or have any influence over the NDA. I do not think it takes much notice of me anyway, but that is when the decision will be made.

Q609 Mr Liddell-Grainger: Mr Caborn, come and lobby me any time you want about Hinckley Point nuclear power station. You know where I am and I look forward to hearing from you. We are decommissioning, commissioning and trying to build a few more. One of the witnesses made the point that nobody really understands how to lobby. We all get lobbied as MPs; we are lobbied all the time. It was said that people want us because they really do not know how to do it themselves. We have all had the PR companies in here; we all glaze over. I am sure that you have done the same; you think, "Oh, God! It's a PR company." If you have a former colleague or Member of the House of Lords coming in you take it more seriously. You know what you are doing and know how the game works. Looking at it from the other point of view—not that of Mr Flynn and others—surely a better way of doing it is to have experts who know what they are talking about rather than some spotty kid from Pimlico?
Mr Caborn: The answer to that is yes. When I was chairman of the Select Committee I found that the memoranda sent in were extremely useful. You are absolutely right. If you have people with authority, knowledge and understanding of the subject-matter you take them very seriously. In the various jobs I have done I have been lobbied thousands of times. There is no doubt that you place more importance on someone who knows the subject-matter, and that is why it is so important that industry, business and commerce—the wealth creators—have a voice and a much clearer line into this. I have worked in Europe. When you work in an adversarial system of politics as we do, as opposed to consensus politics when one works in the institutions of Europe which is totally different, it is a much more politicised civil service in terms of lobbying. Influence over regulations and directives within the European Union is totally different from how you would influence legislation that goes onto the statute book here. The adversarial system of politics is different from the one that operates in Europe and in many other countries round the world. That is why it is sometimes a bit difficult—I read with a lot of interest the evidence that has been given—to think you can transplant what has happened in the US to here; it just would not work, but I do believe there is integrity within our Civil Service and parliamentary institutions which is revered around the world because of the type of cross-examination we have here and the system we operate.

Q610 Mr Liddell-Grainger: Can I take you on to the spotty youths?
Lord Warner: I have never seen any spotty youths when serving as a minister but I am perfectly prepared to believe they exist. Your basic point is a sound one. If you are sitting there as a minister there will be a variety of people from public and private bodies, including voluntary ones, who will lobby you about something. On the whole, the people from whatever sector who do better with ministers are those who look as though they know what they are talking about and can put across a coherent argument. Sometimes that is someone from PR; it can be the director of public relations; it can be a variety of people, but on the whole your point about competence is absolutely valid. Having spent 25 years as a civil servant, I would say that if you are a minister there is a tendency for the Civil Service to wrap you up in cotton wool to some extent and stop you being exposed to what might be called more radical opinion on a particular issue. That is built into the system. I think that the people who find it most difficult to get their point across to government, from all sectors, not just the private one, are those on the innovative edge who are trying to do things differently. Very often they find it very difficult to get at ministers and put their point of view. I think we should do nothing that makes it more difficult for ministers to be exposed to a wide range of opinion.

Q611 Mr Liddell-Grainger: Mr Haddrill, do you recognise Lord Warner's point about ministers being wrapped in cotton wool?
Mr Haddrill: Frankly, I do recognise it. There were one or two honourable exceptions whom we never quite manage to wrap up. If there is an opportunity to meet a minister frequently we will bring people from the industry with us because they will tell the story in a rather different way. They are very expert and want to get it over. I think that what we do to some extent is make sure thought waves follow the same sort of path so that the conversation can happen in half an hour and important information can be imparted, but it is vitally important to get people close to the industry into the ministerial room.
Mr Caborn: I can assure you that *Yes Minister* is still alive in Whitehall.

Q612 Mr Liddell-Grainger: Is that not one of the problems? Mr Caborn, you hit on a very important point. If the Government makes a decision on 11 July my constituency will probably get two new nuclear power stations; it will be a hundred years' worth of building, commissioning, running and decommissioning. That is a major decision. I am delighted that I am being lobbied. I do resent being lobbied by the spotty youths, but I accept being lobbied by the head of EDF or whoever because they have a depth of understanding and know what they are talking about. But if I was not lobbied I would not know and then the only thing I could do would be to dig through websites which is the other way of finding out as Mr Prentice said. Therefore, if the

system is working in that way what would you change? Obviously, you have to lobby MPs; you must accept that because you have been there. Where are we going wrong—or is there nothing wrong?

Mr Caborn: There is a certain perception in the general public's mind, but, broadly speaking, in the past 10 years, looking at what has happened in terms of codes of conduct, the way that the Advisory Committee on Business Appointments and so on are working, there is reassurance that the system is regulated and to a large extent is being policed and is operating reasonably well. Can it be improved? There is no doubt that it can always be improved in two ways: one is to reassure the general public that there is transparency, openness and integrity and the other is to make sure that you and the rest of parliamentarians and Whitehall in general are exposed to ideas and developments, whether it is industry, trade unions or the voluntary sector. That is absolutely right, because we are making decisions that affect people's business lives or daily lives. It is absolutely essential to the democratic process. The adversarial system that we operate here is somewhat different from what happens in other countries. Decision-makers in the power chain here are not as accessible as they are elsewhere.

Q613 Chairman: What do you say about the proposal that has been put to us for a lobbyist register elsewhere so that lobbyists have to register but also each lobbying transaction has to be registered? The point of it is to say that lobbying is a valuable and necessary activity.

Mr Caborn: What is your definition of "lobbying"?

Q614 Chairman: But people need to be reassured that there is not improper access and the only way to do that is through transparency which a register would provide. Is there not something in that?

Mr Caborn: I think you would have to define what lobbying is .

Q615 Mr Prentice: There is a model in the United States. There is an Act on the statute book which lists lobbying contacts in the way the Chairman described.

Mr Caborn: But the system in the States is a totally different one from the one we operate here. I would ask you: how would that improve the system?

Q616 Chairman: You acknowledge that there is a problem of public perception and that is the reason for thinking that transparency may be the answer. If you want to have transparency you have to think about a mechanism to ensure that happens and that is the argument for having some kind of register.

Lord Warner: Is not the problem what is meant by the word "lobbying"? Its origins have pejorative overtones. I have been in a state legislature on the last day of a session when literally in the lobby between the House of Representatives and the Senate there are hundreds and hundreds of lobbyists. We do not have that system in this country. We have to be clear what we mean by a register. Are we to say that any conversation that Mr Haddrill has, for example, with a minister or a civil servant above a certain grade or one engaged in a particular area must be registered? What is the definition of what you have to register? It seems to me that that is the challenge facing the Committee. If you devised something that became a bureaucratic nightmare 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.

Q617 Mr Liddell-Grainger: Let me give an example. I refer to Dr Ian Roxbrough of the NDA. He has been lobbying me to know my thoughts about my constituency in the future. He is effectively a government-paid official but he has been lobbying me basically to ask whether my constituency will take two nuclear power stations. Is that right or wrong? I suppose that the rhetorical question to ask is: why should he not do so, and if he did not how would you know? Is that lobbying or not?

Mr Caborn: From your point of view, yes.

Q618 Mr Liddell-Grainger: Mr Haddrill, as a former civil servant what do you say?

Mr Haddrill: 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. It also creates a lobbying profession, if you like. We will be defined by whether or not we are on the register. I do not believe that this country or the United States is particularly served by having a lobbying profession. You must not create rules that absolve people of the duty to act with integrity. That is a cultural aspect that you have to find ways to build up. When I was in the Civil Service I visited a civil servant in the United States. I did not know the system and I said that I would buy him lunch. He said I could not do that because it was not allowed. I then suggested that he should buy me lunch because I was hungry and he said he was not allowed to do that either. Now you cannot even buy a cup of coffee. Because the rules in the United States at that time did not apply to the way in which public officials acted when abroad I got an email from him a couple of months later which said he was visiting the UK and asked me whether I could obtain a couple of tickets for the Arsenal. I thought that was a system beset by rules but it did not generate any integrity at all.

Q619 Mr Liddell-Grainger: You have hit the nail on the head, have you not? This is where the anomaly arises: if you do not lobby you cannot get the message across; if you do lobby you are castigated. Is the system in this country with three wise men working just about as well as it will work without the creation of a stifling system like that in America which is completely farcical? You cannot even buy a cup of coffee. Is it about right?

Mr Caborn: I think it is. Mr Flynn has gone now, but the innuendo was that a minister was leaving and a big contract was signed to get a job. I just say: produce the evidence. If there is evidence let us deal with it. Broadly speaking, I think the system is

working. Can it be improved? I suppose that it can be improved but broadly speaking it works. I think that it is the perception out there that needs to be addressed.

Q620 David Heyes: It seems that several months into this inquiry we are further away from a definition or agreed understanding of what lobbying is than when we started. That has been a constant theme this morning. I think it is a big problem for the advisory committee. We know that Lord Warner was banned for a year. He could take up the appointments but in respect of several of them he was banned from lobbying for a year. That also applies to the other two witnesses. You are banned from doing something but you do not know what it is. When you referred to lobbying you said "whatever that means", so you know that you cannot do it but you do not know what it is. I believe that is a major problem. I thought I picked up from what Lord Warner said earlier that if an official or minister approached him during the 12-month ban to ask for advice or an opinion he would regard it as legitimate and he would co-operate. Did I understand that correctly?
Lord Warner: Yes. If a health minister wanted to come and talk to me and get my views on something, fine. Usually they are not asking me about a particular company; they are asking me a policy question, that is, whether they should do *x* or what would I think if they did *y*. Frankly, that is the way Parliament works. If ministers have an idea about something they come and talk to MPs and all sorts of people about what the reaction to it is. That is not lobbying.

Q621 David Heyes: How do you negotiate that transaction without falling into the trap of lobbying for the firm which now employs you?
Lord Warner: If a minister came to ask me now I am outside the lobbying period for my view on some aspect of health policy I would not dream of bringing into the conversation the name of a particular company. I do not pretend that I am a perfect person, but it just would not occur to me to do that. I would deal with that conversation on the basis on which it was being conducted by that minister.

Q622 David Heyes: But nobody would know if you did anyway because there is no policing or monitoring of what you get up to in these private meetings; there could not be?
Lord Warner: As a country we have to decide how we treat parliamentarians. We have to start from some baseline proposition about their level of integrity given the wrap-around of rules and regulations that already exist. If we are to start from the position that we have in Parliament a load of rogues and charlatans who cannot be trusted to behave in a reasonable way that is a rather sad commentary and it then begins to become very difficult to get people to go into politics.

Q623 David Heyes: But we have seen a breakdown of the traditional approach that all parliamentarians are gentlemen and can be trusted. There are many examples where that has been breached and it has resulted in all sorts of criticisms of parliamentarians. Mr Haddrill, have you found yourself in a similar situation where during the ban on lobbying you have been approached for advice or an opinion from former colleagues?
Mr Haddrill: Yes, but the letter I received was not a straight ban; it contained a paragraph which said that if I was approached in that way I could take part in the discussion. It seems to me that what is controlled is a process, not an outcome. The process is: thou shalt not have these meetings, and so on. You really do not get any measure of the outcome. The measure is that you should not do anything that brings public service into disrepute. That is the way I like to think about it. It is a bit hazy as to what you can and cannot do in terms of having conversations that you do not initiate. That was what I had in the back of my mind. Nothing could be said as a result of that that could bring public service or my own employer into disrepute.

Q624 David Heyes: Lord Warner, in your case did that understanding exist in relation to your 12-month lobbying ban? If the approach was made to you would that be legitimate? Was that written into your ban?
Lord Warner: 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. In those circumstances, I think that at the end of the day we put around parliamentarians and former ministers a set of rules about how they behave. By all means tighten up the Advisory Committee on Business Appointments but to some extent you have to allow people to operate on the basis that they will not let themselves or public bodies down in the way they behave.

Q625 Kelvin Hopkins: I regard some of the answers given this morning with a bit of scepticism, but let that pass for a moment. Do you not make a clear distinction in your mind as I do between actions for which you receive money and actions you do because of altruism or because you believe them to be right? Is there not a clear distinction between money and something you do because you believe in it?
Mr Caborn: No. To be quite honest, if I did not believe what I was doing was right and what I wanted to do I would not have done it.

Q626 Kelvin Hopkins: Would you do same without the money?
Mr Caborn: I probably would do the same without money because I am already doing it in my constituency. People come along and ask me to do

it. I never went out to seek that money. People came to me and offered it; they asked whether I would give assistance in a number of areas and the answer was yes.

Q627 Kelvin Hopkins: I would be very suspicious if somebody offered me money for something. I do a lot of lobbying, as we all do, but if somebody offers me money the relationship is very different.
Mr Caborn: That is your opinion and one that you hold very dearly, and that is fine.

Q628 Kelvin Hopkins: Another distinction that I draw—I would like to think other Members of Parliament agree—is between what is in the interests of commerce, business and profit and what is in the direct interest of the citizens which is often in conflict with commerce, business and profit. I give an example. Recently, I took organisations including Age Concern to ministers to lobby for the human rights of care home residents. This would make life more and not less difficult for private care home owners. I thought it was the right thing to do. I did not receive anything. When they came to see me I bought the tea. Is that not very different from lobbying for a private company, especially one that seeks massive contracts from government?
Mr Caborn: You predicate the whole of your argument on the fact that I am a consultant to AMEC because it is about lobbying. 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 and therefore I am advising on a whole series of things which have nothing to do with my ministerial career. I emerged as a sports minister after six years. You could well argue: why do we pay ministers? Is that against their duty as Members of Parliament? Why do they not serve without payment? On the purity of your argument, do not pay ministers; they are Members of Parliament who happen to be in the Executive and now they are ministers, so they should not be paid.
Lord Warner: Your first question was whether my view was conditioned by the fact I was receiving payment.

Q629 Kelvin Hopkins: Is there not a clear distinction between acting for payment and acting according to one's own views?
Lord Warner: I do not change the quality of my advice whether I am giving it to a voluntary, public or private sector organisation with which I am working. I do not tailor my advice on the basis that I am being paid by one and not the other. I also start from a different position from you in that I know—it is a fact—that, as Oxford Economics showed in a report published last December, about £44 billion of public services are provided in this country by the private sector. The private sector is already, whether anyone likes it or not, providing a very large amount of the public services in this country, and I do not simply mean building capital plants. Because I care about public services I believe it is important that the private sector like others understands how public services and government work.

Q630 Kelvin Hopkins: You may recall a conference organised by UNISON at which you spoke and I asked some fairly sharp questions. You were a minister central to Mr Blair's determination to drive a lot of health services into the private sector. He was absolutely determined to secure private involvement in the NHS. You were a minister centrally involved in that process.
Lord Warner: I was the minister centrally involved in delivering the 2005 Labour Party manifesto commitment, on which many Members here were elected, on contestability in the health service.

Q631 Kelvin Hopkins: I do not want to go too far down that road. I refer to the Advisory Committee on Business Appointments. Is it not a toothless waste of time? The Committee has had before it the chairman, Lord Mayhew, who is a nice man. Essentially, it is cosy, cuddly and toothless. Is that not the reality?
Lord Warner: Toughen up the Advisory Committee on Business Appointments, bring in some independent people and ask individuals to appear before them to explain what they will do. If you want to, ask us to come back after a period of time to say what we have been doing. I do not object to that.

Q632 Kelvin Hopkins: Are not the rules pathetic? You took up a whole series of appointments in October and November 2007. You could take up those appointments forthwith, so you could take the money but not lobby ministers for a year.
Mr Caborn: You predicate the whole of the question on the basis of money. It is not. We have a life outside ministerial office, to be quite honest.

Q633 Kelvin Hopkins: Take away the money in that case.
Mr Caborn: Take away the question.

Q634 Chairman: I want to pick up a point made by Mr Haddrill a little while ago. He said there was now far greater interchange between government and the private and other sectors and this was a good thing. But what does that mean in the context of the point in which we are interested, namely what is meant by lobbying? It could mean either that we must therefore make the interchange mechanisms easier and be more relaxed about them or that because it highlights the problems of the revolving door we should tighten them up and make them more stringent. In a nutshell which of those approaches is it?
Mr Caborn: It could be either of them. Broadly speaking, the system is fairly rigorous. It can be made more transparent, as Lord Warner said, in terms of public appointments. It is then a matter of making sure that people out there know what the system is. I am bound to say that some of the questioning today has not been as sharp as it ought to be; it has been ill-informed in some areas. If that

is the public perception of what MPs are asking people like ourselves then you have to start to question it. It is just a simple question. I am not necessarily having a go at Mr Prentice here, but to say that it is the Government that is making these contracts is wrong; it is the NDA. That is absolutely fundamental.

Q635 Mr Prentice: Mr Caborn, come on: that is just my shorthand.

Mr Caborn: The very point I make is that it is shorthand in the context of public perception. You want to rubbish that part of it but you do not do it. You have to be factually correct if you are to ask questions about the integrity of the system we are operating.

Q636 Chairman: I think that should be continued outside.

Lord Warner: If you believe there is public concern and you want to toughen up the system in the way I suggest I have no problems with that. All I would say is that you should think very carefully before you impose a set of rules whose outcome is that ministers and government are less exposed to a wide range of views particularly from the private sector in terms of its ability to develop public policy.

Mr Haddrill: I agree that it could be more transparent and consistent. At the moment it is a bit too subjective.

Chairman: We have had a bracing session. Some of us are about to go to Gwyneth Dunwoody's funeral and she would have approved of such a session. The session has been lively, interesting and useful. Thank you very much for coming along.

Thursday 15 May 2008

Members present

Dr Tony Wright, in the Chair

David Heyes
Kelvin Hopkins
Mr Ian Liddell-Grainger
Julie Morgan
Mr Gordon Prentice
Paul Rowen
Mr Charles Walker

Witnesses: **Ms Lucy Neville-Rolfe**, Executive Director, Corporate and Legal Affairs, Tesco plc, **Mr Chris Brinsmead**, President, AstraZeneca Phamaceuticals UK, and **Mr Tom Kelly**, Corporate and Public Affairs Director, BAA Limited, gave evidence.

Q637 Chairman: Could I welcome our witnesses this morning. We are delighted to have Chris Brinsmead, President of AstraZeneca UK; Tom Kelly, the Corporate and Public Affairs Director for BAA; and Lucy Neville-Rolfe, Corporate and Legal Affairs Director at Tesco. You have kindly come to help us in our inquiry into aspects of lobbying and there are two areas we particularly want to explore with you: one is broadly what you get up, that is how lobbying sits in terms of the range of activities that you and your organisations engage in. The second area we would like to talk about is how you feel about some of the proposals to have more regulation in this area. I do not know if any of you want to say anything by way of introduction but this may be what you were going to say anyway. Let me ask you about the role of lobbying in the work that you do and the organisations you are engaged in and how it works?
Mr Brinsmead: In addition to being President of AstraZeneca I also represent our trade association which is the Association of the British Pharmaceutical Industry. There are three things which are really important. We, as an industry, provide tremendous value to patients and to the NHS and to UK plc. For a wealthy country it is sad that patients do not always have access to the medicines they should have. The bedrock of what we do is about trust and how we work with our partners. The industry employs about 70,000 people and invests nearly £4 billion in R&D. We have a lot of relationships with government in lots of different areas, for example government will come and talk to us about education, science, trade or the Medicines Bill and we would have a dialogue with them. Whether you call that lobbying or straight forward dialogue that would be the way we work.

Q638 Chairman: I do not want you to be coy with us; I want you to tell us like it is. Do not come and lobby us. You are engaged in trying to influence policy. We have some notes here where you talk about your role as president of ABPI.[1] I have notes here of a briefing to the Pharmaceutical Marketing Society in 2000 where ABPI described what it called its battle plan. It talks about, we are going "to deploy ground troops in the form of patient support groups, sympathetic medical opinion and health care professionals . . . which will lead the debate on the informed patient issue. This will have the effect of weakening political, ideological and professional defences . . . Then the ABPI will follow through with high-level precision strikes on specific regulatory enclaves in both Whitehall and Brussels . . . ".[2] Tell us about all this.
Mr Brinsmead: The first thing you have to remember is the industry, the NHS and the Government are all working to the same end, which is to improve patient health care and that is really what we are about. It is not that surprising that we would work with the Department of Health who have the same end in mind. Patient groups as well would be seeking to improve patient welfare. It is perfectly true that the industry, either through the Association or through companies, will work with various different people, whether it is civil servants or ministers, to talk about some of the issues of the day. I started by saying that today the UK has the lowest uptake of modern medicines out of any European country and that cannot be right for people in the UK not to have access to modern medicines.

Q639 Chairman: The big issues that you are lobbying on all the time, do you do that primarily directly through your company, through the ABPI or by taking on outside lobbyists?
Mr Brinsmead: The answer to that is probably all three. AstraZeneca, for example, have been approached by DIUS,[3] by Science and Education, by Trade and Investment, to work with them on issues relevant to the Government. Also we will work through the Association if there are issues which are common right across the industry. We will do both of those things.

Q640 Chairman: Lucy, you were director of the Deregulation Unit in the Cabinet Office.
Ms Neville-Rolfe: I was but I moved into business 11 years ago and have had a career with Tesco.

Q641 Chairman: I can see that you would be attractive to Tesco who do not like regulation.
Ms Neville-Rolfe: I am not quite sure I would put it like that. We get affected by a lot of regulations and, therefore, we know how regulations impact

[1] the Association of the British Pharmaceutical Industry

[2] The Association of the British Pharmaceutical Industry (ABPI): A Corporate Profile, www.corporatewatch.org.uk

[3] Department for Innovation, Universities and Skills

employees and consumers. We have 300,000 employees in the UK. Our approach is to try and work with government to explain what is good and how you can do things that will help society and help the economy. To the extent we engage with government, we tend to do it ourselves as Tesco. A number of you have stores in your constituencies so you will know that is what we do.

Q642 Chairman: Tesco does its own direct lobbying and does not employ outside lobbying firms?
Ms Neville-Rolfe: On government affairs we have a team of five people led by a director who came from within the business. She started work doing customer panels and worked up to become director of government affairs. They would talk to MPs like yourselves and within Whitehall. Other people in the company get involved, for example people involved on the technical side who talk to the FSA about salt. Then we have some local executives who do community lobbying, who get involved in regeneration schemes, property schemes and so on, in local communities across the UK. We do employ some firms, particularly on projects like a regeneration project, because part of the Government's approach now is to encourage people like ourselves to consult local people and get involved but we do not always have the capacity to do that without support.

Q643 Chairman: Lobbying is not a dirty word. It is to do with exercising influence but we are interested to know how central it is in the activities of your organisations and how you do it and then to go on to ask whether there are ways in which we can make some of this more transparent.
Ms Neville-Rolfe: Obviously engaging with government is important, particularly if, like ourselves, you sell a lot of things right across the board. We are in digital, general merchandise, garden furniture and things but also a lot of food. We, therefore, have a lot of knowledge about how the regulatory system is working and so it makes sense for us to talk to government at every level.

Q644 Chairman: But you want to influence policy. You want outcomes that are favourable to your companies.
Ms Neville-Rolfe: Actually, in a sense, we have a win/win with government, the economy and the parties in that if the economy does well and productivity is improved, that helps us and helps our business. It enables us to invest abroad which, since I have been in Tesco, is one of the main things we have been involved with. This has completely changed the business so we now have more space overseas. That is our approach. We come at it from a constructive approach. With something like climate change, we have been working with the Government on trying to reduce CO^2.

Q645 Chairman: I see at the moment Tesco dislike the fact that the Competition Commission recommended there should be a competition test for local supermarket sitings. You do not like this and have spoken against it. What are you doing to try to influence the outcome of all that?
Ms Neville-Rolfe: We have just had the Competition Commission Report.

Q646 Chairman: Which Tesco did not like.
Ms Neville-Rolfe: We like the fact that this is the third inquiry they have done and they have found that supermarkets were good for society and prices had come down.

Q647 Chairman: You did not like this competition test idea.
Ms Neville-Rolfe: We feel it could be counterproductive in its effect. We do a lot of regeneration schemes and the detail of the competition test could actually stop us doing some of those schemes.

Q648 Chairman: You do not like it and what I am asking is how do you go about trying to influence?
Ms Neville-Rolfe: We go about explaining publicly and privately to MPs, if they wanted to know, why we think it would be a mistake. I have put articles in newspapers explaining that. I think openness and transparency on public policy issues can improve where you get to and that is my starting point.

Q649 Chairman: Tom Kelly, you are a seasoned practitioner of communications inside government, formally Number 10, as we well know, now gone to BAA. We discovered that BAA has been doing lots of lobbying of a rather subterranean kind. I quote only from *The Sunday Times,* and who can trust *The Sunday Times,* where it says "The airport operator BAA has used an elaborate network of lobbying and PR groups headed by senior Labour figures with access to the Government to promote its controversial plans for a third Heathrow runway."[4] There has been a lot documented about the lobbying activities and the contacts with government departments.
Mr Kelly: I will not comment on *The Sunday Times* if you do not mind, but in terms of our position our arguments are there for all to see. The Government established its policy through the 2003 White Paper which was for a third runway so long as environment impacts could be contained at a certain level. We support that policy and that is our public position. There is nothing subterranean about our argument. The important thing is that government fully understands the implications of policies it adopts, but equally that we understand that in the end it is government that makes the decision. The distinction I would make is in terms of do we put forward an argument or arguments. Yes, I think that is right and proper but in the end we have to recognise it is government that makes the decision. Equally, opposition groups are perfectly entitled, and it is entirely legitimate, for them to put forward a point of view and for that point of view to be considered as well.

[4] "Labour's flying club lobbies for BAA", *The Sunday Times*, 16 March 2008, p 10

Q650 Chairman: The information that has come out, and you say you do not want to comment on it, has been that BAA and departmental officials have been agreeing to work on air quality measures so that they would produce figures that produce outcomes that are favourable to the project. That is what has been asserted.
Mr Kelly: We provided a detailed response to *The Sunday Times* at the time, and if it is helpful to the Committee I can provide that. Unfortunately *The Sunday Times* did not use it in any detail. What that said was that, of course, officials at the department were anxious to check whether evidence they had was correct or not and we co-operated with them. It would be very strange if, as the owner of 60% of Britain's airports and in particular, in this case, Heathrow, we did not co-operate in answering questions.

Q651 Chairman: Does BAA do its own lobbying or does it use someone else?
Mr Kelly: We primarily have a small team at the centre which liaises with MPs, government and community groups around Heathrow. We also employ Finsbury primarily in a media role but they do some lobbying for us as well.

Q652 Chairman: Do you do lobbying yourself?
Mr Kelly: In the sense of do I discuss with officials aspects of BAA policy, yes, but in terms of the main interfaces we have a range of contacts. We are a business which operates at different levels. There is the day-to-day operation which impacts directly on the national life. If say, the BAA plane lands the wrong side of the runway at Heathrow then of course there is government interest in establishing how quickly we can get the runway up and running again; that is one level. There are then the more strategic issues about how we maintain not just Britain's airports as a whole but also Heathrow as a global hub airport and that is at a different level. It is important to recognise, as you say, the discussions, whether you call it lobbying or dialogue, are important in reaching those decisions which will have an influence on this country for decades to come. This is a long-term business.

Q653 Chairman: Presumably your role in government and the people that you know in government, rather like Lucy Neville-Rolfe's role in the Deregulation Unit, is very helpful.
Mr Kelly: It is important to understand what my role in government was. I was a communicator and not a policy maker. My job was to act as a spokesman first in Northern Ireland and then at Downing Street. I did not make policy. What I helped do was shape the way in which policy was explained and fed back into government and what my perception was of the media climate, the public climate and so on. What I did not do was decide policy and I have always been very clear about that.

Q654 Chairman: But quite a contacts book.
Mr Kelly: Actually no, because my main contacts are with press officers. My main contacts on a daily basis were with other department's press officers. Again my role was a communicator not a policy maker.

Q655 Mr Liddell-Grainger: First of all, I have to declare a slight interest. I am the secretary of the All-Party Parliamentary Group on Pharmaceutical Companies and our secretariat is the ABPI, so good morning Chris. You said something quite intriguing before, that you have many government ministers and people coming to you to ask about drug policy. You have obviously all had that, where government wants to know from you. Can you give us examples of what they are after, what they are looking for and, more importantly, who?
Mr Brinsmead: For example, we have a shortage of science teachers in this country and for the future of the pharmaceutical industry and life sciences that is critical because we need to ensure we have a well trained workforce. We have been working with various government ministers and government civil servants on that specific issue about how can we work together, not just the life sciences industry but other industries as well, to find solutions to finding more science teachers. That would be one example.
Ms Neville-Rolfe: I suppose the area of skills and apprenticeships and getting degrees for people who are retail workers and how that links into the education system would be a very good example because we have a large workforce (with a range of different skill needs). The Government are very interested in engaging with us and we are interested in engaging with them. Tesco management is well regarded. Climate change is another area where our contribution has been about trying to engage the consumer in climate change, using fewer bags and that sort of thing. Then little things they are interested in, when the national minimum wage came in they asked us whether we would be able to put the national minimum wage on our payslips which actually was going to cause a problem because our IT system would not do it without changes. That is quite helpful for all employers across the economy. There is usually quite an interest in engaging on practicalities. Government and opposition parties are interested in moving forward on social issues; we are in communities so people often come to us to talk about that and we try to be as helpful as we can.
Mr Kelly: In the past we have been at the forefront of arguing that aviation emissions should be included in the ETS.[5] We were very much to the fore in arguing that, both here and in Europe as well. We are a regulated industry and that regulatory framework was put in place in 1986 when the incentives were to commercialise airports and to drive up passenger numbers. Those are very different circumstances to where we are now and the Government has just launched a regulatory review. We obviously would want to make our view known

[5] Emission Trading System

as to why that regulatory view should incentivise quality of service, new infrastructure and environmental awareness. Those are the sorts of issues where we should be properly putting forward a point of view.

Q656 Mr Liddell-Grainger: You want extra capacity at airports, there are runways, et cetera, yet on one side you are getting lobbied by government about green issues and they are wanting you to do more to cut them in flight times, et cetera, and on the other side you want extra capacity built in. Where do the two cross and, when they cross, how do you rectify that?
Mr Kelly: What that illustrates precisely is why, in the end, these are matters where only governments can decide the right balance because they are properly national strategic questions. For 50 years in this country we have been able to rely on the fact that because of our geographical position Heathrow is a meeting point for the world and that has had enormous benefits for this country in terms of maintaining air links around the world. Going forward global competition is going to be such that other countries, such as Dubai, Mumbai and Shanghai, are trying to take that role away. Therefore, there is a real debate between, on the one hand, the need to be globally competitive and, on the other, quite rightly the need to minimise environmental impact. We have a point of view, we recognise the need to address the environmental impacts and we are doing so, but equally we recognise that in the end it is only government that can decide the right balance.

Q657 Mr Walker: What is the role of your business, Mr Brinsmead, the pharmaceutical industry?
Mr Brinsmead: Our business discovers, develops and commercialises new and innovative medicines to treat health care.

Q658 Mr Walker: Ms Neville-Rolfe, what is the purpose of your business?
Ms Neville-Rolfe: We are retailers and in our business we try to earn lifetime loyalty of customers.
Mr Kelly: Our business is to address the strategic need for aviation in this country and to provide a service to our customers.

Q659 Mr Walker: What about maximising profits? I thought the role of business was to make a profitable return for shareholders. Why have none of you mentioned that? In fact, no-one we have seen has ever mentioned the profit motive as a driving force in their decision making. Why do you think that is?
Mr Kelly: I have no problem at all in recognising that unless you get a proper rate of return you will not get proper investment, but could I remind you that in our industry in this case new infrastructure is funded not by the public paying but by the private sector. Therefore, the return for the country is that it gets its aviation infrastructure renewed by the private sector rather than from the public purse.

Q660 Mr Walker: The purpose surely of lobbying is to influence decision making at a governmental level that is positive for your businesses and allows them to generate profit which is not a bad thing. Profit is a pretty good thing because you pay corporation tax which funds the NHS and all the things we value in your society. I wonder why you struggle, and you do all struggle, to say that. Why do you feel constrained from saying that?
Mr Brinsmead: I would not feel constrained in any way. The pharmaceutical industry has delivered well over 90% of the world's medicines and the UK has a pretty proud record: 18 of the top 100 have come from UK research which is tremendous. The model is that it is privately funded, it is capitalist and, at the moment, there is no other game in town. A pharmaceutical company has huge risk. It takes $1.5 billion to develop a new drug and get it to market, a massive risk. If that drug fails then there is no return. Companies have to make a profit to keep the shareholders happy. The model globally is that companies are in business to make a profit, as you say, but we will only make a profit if we deliver medicines that meet medical needs because otherwise governments will not buy them. I have no problem with discussing that.

Q661 Mr Walker: You did a pricing deal with government a few years back which you thought was fixed for a certain period of time and now the Government is coming back to you and trying to change the deal to make it less advantageous to the pharmaceutical industry. How do you feel about that? How are you trying to persuade them that they have got it wrong?
Mr Brinsmead: It is a good example of the comment around lobbying and influence. Clearly if we had that much influence we would not be in a situation where we would be going back to a deal that was supposed to be five years, but the Government has decided unilaterally that it would end the deal early. We are working very closely with the Government to see if we can find a way through that to come to an agreement between industry and government. At this moment it would be inappropriate to go into the details of that.

Q662 Mr Walker: Do all three of you do secondments from the Civil Service into your businesses?
Mr Brinsmead: We have had some but very few.
Ms Neville-Rolfe: We have two people: one working on climate change and one working on corporate responsibility. We are about to take an extra person on climate change because the other person is going back to government.
Mr Kelly: I am not aware we do but speaking from personal experience, as someone who went from the BBC to the Civil Service and now to BAA, I believe that this change between different organisations, between government and outside government, is only beneficial. What it allows is an insight into the way in which you can work, within your perfectly appropriate roles, to achieve the same end. To take your broader point, the Government in my industry

has a strategic policy. It has to be able to understand how its decisions on particular aspects affect that strategic policy and that is only possible through dialogue. If you put up a barrier which stops that dialogue then the real danger is that government unintentionally defeats its own strategic purpose. It is a perfectly legitimate activity.

Q663 Mr Walker: We have had lobbying companies come and see us and there is always a concern about what lobbying companies get up to, some of which is misplaced. As individual organisations, what value do lobbying companies bring to your business? I think the three of you have some pretty top level contacts in government and opposition where Secretaries of State and Shadow Secretaries of State are more than happy to take your phone calls personally because you are very big employers and generate a lot towards their balance of payments. Why would you employ lobbying companies to help you?
Mr Brinsmead: From our perspective it very often is an issue of capacity. A project might come up, we do not employ a lot of people internally, and it may be that there are too many things to do so we would seek outside help. We would be looking for people with the skills and experience to complement our own but also extra pairs of hands. It is very often as simple as that.
Ms Neville-Rolfe: I would agree with that. I made the point about needing to consult. We tend to employ companies to talk to you on local schemes because they will have specific local knowledge. They will understand how to get the transport studies done and so on and that can be a valuable supplement. We would also want them to say they acted for us because our brand is important to us.
Mr Kelly: I agree with both the capacity point and the supplementary point. In the end it is we who have editorial control over the message. The only other point I would make is I always believe personally it is valuable to have an extra pair of eyes, perhaps slightly detached from the day-to-day policy making, to give you a real view of what perception is. The worst thing is that you are so engrossed in your own perspective that you lose the outside perspective. They can provide a useful pair of eyes.

Q664 Julie Morgan: I wanted to ask you about your contacts with local government. How would you set about making the contact with local government and to lobby local government for any developments that you wanted to put forward or to generally influence local government? Tesco have expanded enormously and rapidly and local government is an essential part of overseeing that expansion.
Ms Neville-Rolfe: We have two sets of relationships with local government. First it would be on things like health and hygiene where they are responsible for enforcement. It is incredibly important to us and to them that you do not have food safety incidents. We talk to them about that and have a relationship in those sorts of areas. Where you have a specific development scheme, it is part of the process that you have to explain to local government what you are doing and we would set out our proposal. I mentioned we have local people around the country so typically the person in Manchester would get involved on a Manchester scheme and when the planning application was being put in would seek to talk to local government about the scheme, how it was green, what people wanted and did not want, and try and make sure that the scheme was more likely to be attractive to local people.

Q665 Julie Morgan: In each area you have somebody who is responsible for lobbying, liaison, or whatever you call it.
Ms Neville-Rolfe: They do quite a lot of things. They are interested in local sourcing, working on apprenticeships and things. You are asking how we would do it. If we had a local development, their local knowledge would be extremely valuable in terms of saying this is a council with particular characteristics. It may be that the local MP would be interested in development so we would try and talk to the local MP. We would probably have an exhibition to show what the development is about. Very much part of the philosophy in planning is that you need to engage the local community. People debate the merits of our sort of investment and it is very important to talk to people, and that includes the councils.

Q666 Julie Morgan: This debating the value, I have been involved in my constituency quite extensively and we have met before. The public often feel that organisations like Tesco have an enormous amount of power and they feel they have little power when they are objecting to a development. Do you think there are any ways that your so perceived power should be regulated?
Ms Neville-Rolfe: I think it is regulated by the planning system, to be honest. There are lots of checks and balances in the planning system including consultation. We often have to change our proposals or do not get them through. We try to talk to individuals but we are bringing investment and jobs into communities and, at the end of the day, the councils have to decide through the planning system. Ultimately, in difficult cases, they go up to government ministers and that seems to be right.

Q667 Julie Morgan: Have you ever felt any concern about any lobbying that has been done by Tesco which you thought has been unethical or illegal at any level?
Ms Neville-Rolfe: I think not. Clearly I do not know about every exchange that goes on in every area but I try to get my teams to have an approach which is ethical. If we get involved with external companies, as in buying, they have to have a commitment to trading ethically. We have a review system with anybody we use externally which is very similar to performance management in the business. You sit down with them after six months and if they have done something which does not seem right or the right approach then you would have a conversation with them about that. We try to run all our businesses in a similar efficient way that allows

feedback. Obviously I am sure we do not do absolutely everything right but that is the approach. The way we do it is similar throughout Tesco. We say we are Tesco and we try and talk about the benefits of Tesco but also understand the concerns people have and then try constructively to meet people's concerns. I feel that is the best way forward. We try and have the same approach in our overseas markets.

Q668 Julie Morgan: What about the other two witnesses, do you have any comments about local government?
Mr Brinsmead: We do not have the same footprint. One example is up near Manchester where we have a site with about 5,000 people doing research and development and clearly we have dialogue with both local government and with the MPs who are in that area and that can be about local issues, about development, or it could be about issues that the MPs are interested in. We have a dialogue with those people. All of the people in our industry are regulated by a code. It is interesting the comments on transparency but if I could just read you one sentence from the code: "The Code aims to ensure that all relationships between the industry and its stakeholders are ethical and transparent." That would apply to any employee of AstraZeneca or any employee of a pharmaceutical company, or indeed any lobbying companies that we signed up. If we were working with a lobbying company they would be expected to operate to our code. There are codes in place which govern these things.
Mr Kelly: Clearly our relationship with local government varies from region to region. Take an example such as Southampton where the airport is a vital part of the local authority's plan for development. There we can work very much hand in glove, and the same is true in Edinburgh and elsewhere. Heathrow is a more mixed picture because Heathrow employs some 77,000 people directly so there is a strong local interest in the success of Heathrow. At the same time we have environmental impacts and councils represent those who suffer those environmental impacts. Irrespective of whether people agree or disagree with us the important thing is there is an open dialogue. Whether you call that lobbying or whether you call that dialogue or proper discussion, it is vital we maintain those links. It is vital we listen to those whether they agree or disagree with us.

Q669 Julie Morgan: How many of those links would be informal links that people would know nothing of?
Mr Kelly: Inevitably you have the formal discussions, the public discussions, but equally inevitably you have people phoning up saying there is a particular problem and asking can we look at it, and so on. Again, I would be concerned with anything that would get in the way of that dialogue, whether you call it informal or formal, because the important thing is that dialogue takes place. The problems I have always come across, whether in government or outside government, have always been, in the end, down to people not understanding what the other side is saying or not understanding the full implications perhaps of the decision because of a lack of dialogue. I would be concerned with anything that got in the way of that process.

Q670 Mr Prentice: We are trying to find out if there is a problem with lobbying and, if there is, what the remedy should be. Let me try this on you and just a one word reply to begin with. Is there a problem with lobbying?
Mr Kelly: My answer would be no.
Ms Neville-Rolfe: My answer is not that I am aware of but I can only speak for my own area.
Mr Brinsmead: I do not believe there is a problem with lobbying.

Q671 Mr Prentice: Lucy Neville-Rolfe, you told us at the beginning that you favoured more openness and transparency and I think you said it improves public policy. When you said that, were you inferring that there is less openness and transparency at the moment than there should be?
Ms Neville-Rolfe: I was saying I do not know. You get things in the newspapers about how things are kept secret, which to be honest is not my experience because people know a lot about Tesco and there is a lot debated about it. I have found that being open about what you want to do, what is good and that there are problems tends to lead to better public results.

Q672 Mr Prentice: You would not have any problems with full disclosure, tell it as it is, openness and transparency is the order of the day and it is win/win for everyone.
Ms Neville-Rolfe: There is obviously an issue about commercially confidential information. If you are engaged on something where there is an intellectual property issue, which there might be in drugs, or individual commercial numbers that you are trying to give to somebody in the political world because they are interested in those, you need to make sure, particularly in an industry where there is a lot of competition and people are longing to get hold of your figures, that their confidentiality is protected. You, as legislators, have an interest sometimes in knowing things which are commercially confidential but we have to try and find a way to make sure that does not go to a competitor.

Q673 Mr Prentice: I have an interest in who influences who. We have Friends of the Earth coming along after you and they have been pressing for a mandatory lobbying register with full financial disclosure as a first step, they say, in ensuring democratic oversight of influential lobbyists. The question to the three of you, who told us earlier there is no problem: is this something you could live with, a mandatory register of lobbyists?
Mr Brinsmead: I am not quite sure what problem it is trying to solve. All three of us have spoken about a dialogue with ministers, civil servants or

government about things. People may use the term lobbying but very often the Government will come to us.

Q674 Mr Prentice: You maintain that there is no problem. That is a starting point.
Mr Brinsmead: Yes, there is a dialogue. In the case of the pharmaceutical industry and our own company, we would expect anyone who works with us, internally or externally, to sign up to our code. Our code is recognised internationally as being one of the strongest in the world and that is why I do not think there is an issue in lobbying per se.
Mr Kelly: Can I add a different perspective on this? It is not that we are not scrutinised. In the six months since I joined BAA we have appeared twice before the Transport Select Committee, we have been the subject of a CAA[6] price review and we are still the subject of a Competition Commission hearing. The scrutiny is there and it is constant and if you are a regulated industry that goes with the territory and rightly so. It is not the case that there is a lack of scrutiny.

Q675 Mr Prentice: You appearing before this Committee today, that is above the ground. Tony earlier talked about subterranean influence and that is what interests many people. I was about to remind you of the Information Commissioner's ruling, quite ground breaking I think, that details of meetings held between the then DTI[7] in 2001 and the CBI[8] should be made public. That was an action that was brought, I think, by Friends of the Earth. Does it give you any problem that meetings between the CBI and government officials should be on the public record and published?
Mr Brinsmead: It would be wrong of me to speak for the CBI. You would have to get Richard Lambert to come and talk to you.

Q676 Mr Prentice: I am talking about the general principle.
Mr Brinsmead: My personal experience is meetings with ministers basically are very rarely one to one. Generally they are recorded. If anyone wanted that information they could get it under the Freedom of Information Act. In a sense I have no problem with that being available, subject to the comments made earlier about commercial confidence and IP.[9] Companies do not want to share that around the world because that is the basis of their business. By and large these conversations are recorded and could be made available.

Q677 Mr Prentice: We do not know whether the Government is going to appeal against the Information Commissioner's ruling but if the Information Commissioner's ruling stands, then that is absolutely going to change the terms of trade. Lobbyists are going to know that their contacts with government officials, and indeed government ministers, are going to be put out in the public domain at some stage. You are saying you are relaxed about that.
Ms Neville-Rolfe: Subject to the point about commercial confidentiality which could be important, and also obviously the notes of the meetings that are done by government are done on the government's side and do not necessarily get shown if you go to a meeting. It is important to make sure the record is accurate but subject to that. But you need to ask the Government because they may feel that will change the way things work and they may not be happy about it. All we can do is speak for ourselves.
Mr Kelly: The only thing that slightly disturbs me about this approach is that in some way it suggests that contact between government and companies such as ours is wrong. I think that is completely perverse. If you, as we do, control 60% of Britain's airports, if you are responsible for delivering a strategic industry which affects thousands of people's lives on a daily basis, and thousands of people's lives for the foreseeable future, then surely it is only right and proper that you fully understand the Government's intentions and the Government fully understands what you are doing. Therefore, contact, far from being in some way wrong, is beneficial.

Q678 Mr Prentice: I do not think I am suggesting, and no-one on the Committee would suggest, that contact between leading players and the Government is wrong, it is the nature of the contact and whether it is open to public scrutiny to see if influence is being exercised properly.
Ms Neville-Rolfe: The other point is it would not only be business but other people who are engaging. I do not know what plans you have.

Q679 Chairman: What has been put to us is that the problem, in so far as there is a problem, is certainly one of public perception. Lobbying is a natural, necessary and, in some senses, good activity but there is a perception that, certainly, powerful people have disproportionate influence and, therefore, in order to allay that perception we ought to have more transparency in the process, for instance, Mr Brinsmead, when your organisation has these high-level precision strikes on specific regulatory enclaves someone knows about it and meetings are recorded and it says "strike on regulatory enclave".
Mr Brinsmead: We have a dialogue with the MHRA[10] between the industry and the Department of Health which is all minuted. We have moved on from those days and we have much better collaboration. I would say, in my experience, when you are talking about big players or small players, a friend of mine set up a charity, and it has been a very worthwhile charity, helping people from disadvantaged backgrounds. He found no problem at all getting access to talk to government ministers. He rang them up and said could he come and talk to them about this and they said yes. We have to

[6] Civil Aviation Authority
[7] Department of Trade and Industry
[8] The Confederation of British Industry
[9] Intellectual Property
[10] Medicines and Healthcare products Regulatory Agency

differentiate between access and influence. It seems to me that everybody has access if they ask for it. I personally, and I know people in small companies, have found it is perfectly possible to access people. The point made by Tom is very important. If you are in a strategic industry that brings huge benefit to the UK as all our industries do, then it is right and proper there should be a dialogue.

Q680 Chairman: If there were a record of who meets whom and what they talk about, bearing in mind we shall not do the stuff that gets into trouble, that would be perfectly straight forward and you have no objection to that.
Mr Brinsmead: My only slight concern would be that it would become awfully bureaucratic. If you were going to try and record every single conversation or phone call that happened, that would be a nightmare. I do not think there is anything wrong with meetings being recorded generally. I would not worry about that because the dialogue is proper and is about the relationship between the Government and industry.
Mr Kelly: The one caveat I would enter is that 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. From my period in government just observing this, and now on the other side, there is a danger of that and that needs to be considered quite carefully.

Q681 Kelvin Hopkins: I was interested in your last phrase "government and the other side". To be specific, it has been suggested in some circles that the public interest might be served by breaking up BAA. If the three major airports in the London area where run by separate companies then competition might be beneficial. BAA clearly would not want that. You worked as a trouble-shooter spokesperson for the Prime Minister so you are better placed than almost anybody in Britain to make sure that BAA's interests are served in the centre of power because of your experience. Would you not agree that there might be a conflict between the public interest and BAA's interests, and you are the person with the maximum possibility of serving BAA's interests rather than the public interest?
Mr Kelly: I am not sure whether I should say I am afraid but I am afraid that you vastly overstate my role in government and you vastly overstate my influence. I was a spokesman. My job was not to represent the views of Tom Kelly but to represent the view of the Prime Minister at the time just as in Northern Ireland my job was to represent the views of the Secretary of State, whether that Secretary of State was Mo Mowlam, Peter Mandelson or John Reid. In this role my job is to represent the views of BAA. It is then for the Government of the day to make its decision. Therefore, a key distinction is between putting forward an argument, in the same way that those who oppose BAA put forward an argument quite legitimately and quite properly, and then the Government making a decision on that. As I said earlier, these are matters which are of vital national interest and only the Government can decide. We have to be cognizant of our appropriate role in that but it is right and proper that we put forward an argument which is about our view of what is necessary for aviation in this country.

Q682 Kelvin Hopkins: You have the opportunity to literally walk into Downing Street into the heart of power and speak to the shakers and movers in the Prime Minister's immediate entourage in a way other people do not. Even if the Department of Transport or Parliament and others were thinking that BAA being broken up would be good for the public interest, you could literally walk into Downing Street and say not to go down that route.
Mr Kelly: Again you overstate my role. I was a spokesman not the policy maker. I was known in Downing Street as the spokesman not the policy maker, and that distinction is very clear. The other thing I would remind you of is I was a civil servant not a special adviser and, therefore, that puts that in context.

Q683 Kelvin Hopkins: Going back to this point about government and the other side, Lucy Neville-Rolfe you were a senior civil servant who moved out at the peak of your career with all the experience and skills you developed in the Civil Service and put it to use representing the private sector rather than the public interest. Am I right to feel deeply uncomfortable that civil servants do this? Do you think there is a different set of ethics governing the public interest and the civil servants and good companies like Tesco who are doing a legitimate business job but are actually private sector businesses seeking profit?
Ms Neville-Rolfe: I do not think it is wrong. The world has changed. When I entered the Civil Service I assumed I would stay there the whole of my career but the Civil Service has changed quite a lot. We were encouraged to go and work in business, that business was fantastic and that doing so would be really good and improve your skills. In fact, I became a much better manager from working in Tesco. I have got on in Tesco. I have had a number of promotions. I am now running a large part of Tesco and have helped them overseas and I think that is probably good for the country. We bring certain skills. I have a certain ethical code which I find chimes quite well with the Tesco values, which are quite broad church, treating people how you like to be treated, and I do not think that is wrong. It is quite rare for people from Tesco to go and work in government. One of our HR directors now works in the NHS. A certain amount of interchange can be useful because you bring different skills.

Q684 Kelvin Hopkins: There is a difference between a civil servant who sees their primary loyalty to the State going back to have some experience to make sure they understand how business works and going into private business for personal and financial reasons no doubt. Am I right to feel uncomfortable about the possibility that civil servants working in senior posts and dealing with private industry might anticipate a lucrative career outside the Civil Service on what Tom Kelly has called the other side and that this might influence, to an extent even semi-consciously, their activities when they are civil servants? They cannot see that clear, and I would say, deep ethical divide between serving the public and serving the private sector.
Ms Neville-Rolfe: I cannot speak for the Civil Service as it was 11 years ago when I was last there. There were proper procedures for clearance to ensure that if you went to work outside then that was considered. In some cases where there is a conflict gardening leave is imposed and I would support that. I come back to my point that overall there can be benefit from people moving. It happens quite a bit in other countries like France and it can be useful. When you are a civil servant you absolutely have to have regard to the code for civil servants. What you do is to try and serve the government of the day as best you can. I do not think that is necessarily incompatible with having a change of career mid-stream.

Q685 Chairman: Is not Tesco pursuing people in Thailand through the courts for speaking out against Tesco?
Ms Neville-Rolfe: There is a case in Thailand by the local business. There has been a long running problem in Thailand about certain criticism. They libelled us in relation to tax avoidance and various other things and a case was taken by the local company.

Q686 Chairman: That is not something that a public servant would do? You do not seek to silence your opponents by taking them to the courts.
Ms Neville-Rolfe: You have to remember Thailand is a different place. The corporate and legal director there actually has had experience in government previously. That was a legal problem in Thailand being pursued under Thai law.

Q687 Chairman: You are the director of corporate and legal affairs in Tesco?
Ms Neville-Rolfe: I am, yes.

Q688 Chairman: Do you feel comfortable with that?
Ms Neville-Rolfe: Certainly I understood the difficulty the Thai business had with this particular repeated libel. They took local advice and that was the way they proceeded.

Q689 Chairman: So you do feel comfortable with it.
Ms Neville-Rolfe: I obviously support the legal advice that was taken locally, yes.

Q690 Chairman: It does not sound to me as though you do feel terribly comfortable with it.
Ms Neville-Rolfe: I think I should go back and just explain there was a serious continued libel and that was the way it was dealt with in local Thai circumstances which are different to here. We run local businesses overseas and they have to fit in very much with the local culture and that is the way we operate in Thailand.
Mr Brinsmead: I have never been a civil servant. I have been an industrialist for nearly 30 years and the only thing that troubled me about the question was the notion that the public interest and the commercial interest always have to be different. I would like to think the pharmaceutical industry is about helping patients to get better and that is what the NHS and the Government are about. The notion that there has always got to be a difference in the goal is probably not necessarily valid.

Q691 Paul Rowen: Tesco and BAA have employed a number of civil servants or former politicians close to the centre of government. Tesco have employed Philip Gould, David North; BAA, Stephen Hardwick and yourself. Peter Ainsworth talks about this and described that this "reinforces the sense that there is a charmed circle around the Prime Minister which major corporations feel they need to get inside".[11] Why do you employ so many people who have been close to the Prime Minister or close to the centre of where decisions are made?
Ms Neville-Rolfe: David joined us six years ago and he had worked within government. He was an ex-civil servant as well and he has led our community and climate change work within the company. We had used Philip Gould's firm, who did polling to help us primarily with our internal communications in Tesco to try and improve our messaging, but that was nothing to do with the political side. He has now sold the company which we continue to get help from on that issue. Compared with 300,000 people in the UK, that is a positive but quite small influence on the company.

Q692 Paul Rowen: He was the Prime Minister's private secretary. Is that not one of the reasons why you wanted him?
Ms Neville-Rolfe: As always with senior appointments, we went to headhunters and they came forward with a number of different people. David went through five interviews and was eventually appointed for his skills and ability to be able to work in Tesco. His powers of analysis and his knowledge of things like environment and climate change have helped us to do some very good things.
Mr Kelly: In our case if you think about our industry we are at the interface of a variety of issues: on the one hand, aviation and, on the other hand, the environment and regulation. We are affected to various degrees by government policy and we are also affected by the debate that there is over the environment, and quite rightly so. I do not

[11] "Tesco recruits two Blair aides", *The Independent on Sunday*, 9 December 2001, p 9

think it is surprising that the company would want to employ people who are accustomed to dealing with those kinds of issues and forming responses in that kind of debate. I think, therefore, it is not surprising that it wishes to have people who have experience in contributing to those kinds of debates. What is a mistake is to say that because you have worked in government you automatically continue to have access to policy makers. As I said, in my case I was a civil servant. I am not a policy maker but a communicator.

Q693 Paul Rowen: I will give you another comment from John McDonald. He said "BAA dominates the Government's aviation policy. There have been a number of front organisations over the years that have promoted aviation. They are all funded by the industry and are largely paid lobbyists."[12] A number of those are former Labour politicians now being paid. Why are you employing these front organisations?
Mr Kelly: There is a coalition of groups on both sides of the debate. You know that those who oppose a third runway at Heathrow have their coalition of groups and they have paid people who lobby on their behalf. I do not think it is surprising that the aviation industry as a whole, not just BAA, contributes to, on the one hand, Flying Matters which is promoting aviation in general and equally to Future Heathrow. These are matters which are of public debate and, therefore, it is entirely appropriate we contribute to that debate.

Q694 Paul Rowen: You do not think it is coincidental that Clive Soley happens to head one of those organisations where you paid £48,000 last year?
Mr Kelly: We are not the sole contributor to that organisation; it represents the aviation industry as a whole. As for Lord Soley, his interest in this area goes back quite a long way. I think it is entirely appropriate we have someone who is knowledgeable about this industry and who cares passionately about this industry.

Q695 Paul Rowen: Gordon asked you earlier on about Freedom of Information. Given those emails that you sent to the Transport Department, would you have been happy for those to be released on a Freedom of Information request?
Mr Kelly: That is a matter for people to make the request and for us to process in the normal way.

Q696 Paul Rowen: If we put the request in, would you be happy for the figures you supplied to the Department of Transport, which appear to modify the basis on which a third runway meets environmental standards, to be made available and that one of your officials was actually dealing directly with an official inside the Department of Transport?

[12] "Labour's flying club lobbies for BAA", *The Sunday Times*, 16 March 2008, p 10

Mr Kelly: We deal directly with the Department of Transport on a daily basis because they ask us for information and it is entirely appropriate. I have already offered to supply the Committee with our written responses to *The Sunday Times*, which unfortunately it did not print in full but which sets out clearly the nature of the dialogue.

Q697 Chairman: Could you do your job if you thought the expansion of Heathrow was not a good idea?
Mr Kelly: I do my job as a representative of BAA in the same way that I was a spokesman for the Prime Minister. I do my job because that is what I am paid to do. I am a communicator. What I do not do is pretend that I make the decisions.

Q698 Chairman: You do not have to believe in what you are communicating?
Mr Kelly: In terms of Tom Kelly as a person, that is one thing; in terms of what I am paid to do that is another matter and that is why I am here to answer questions.

Q699 Chairman: You could be an opponent of Heathrow expansion.
Mr Kelly: I think that goes into what I used to call, in my old job, the hypothetical. I am a user of Heathrow Airport on a weekly basis. My home base is in Northern Ireland and I fly in and out of Heathrow all of time. I, therefore, have self-interest, if nothing else, in making sure that Heathrow Airport works and works properly.
Chairman: I can see why Mr Blair called you in when he was having difficulty with Alastair Campbell.

Q700 David Heyes: Chris, you are the only one of the three who has not been a civil servant. I guess your firm has employed retired civil servants for their skills, is that right?
Mr Brinsmead: I believe we have but I cannot be specific.

Q701 David Heyes: I was going to ask you to comment on what benefits you get from that from your point of view?
Mr Brinsmead: When we employ anyone, regardless of their background, we would be looking for someone to do a job and we would be setting out what we are seeking to do with that job: what skills, what experience, what knowledge we would expect. It is perfectly possible that someone who has worked in the Civil Service would have those skills. I do not understand the logic of saying if someone has worked in one career then for some reason it would be bad for them to have a career on the other side. As AstraZeneca we would look at each job on its merits and if somebody had the relevant skills and experience we would employ them.

Q702 David Heyes: We have a Business Appointments Committee which vets the suitability of these types of appointments. Have you ever had encounters with the Business Appointments Committee?
Mr Brinsmead: No. We have employed people who have been civil servants and made sure they have observed the code which you have put in place for MPs and civil servants because we think that is proper but I have never had any experience.

Q703 David Heyes: Perhaps I should direct the question to the other two witnesses. What I am getting at is the impact of the Business Appointments Committee on your movement of people between the Civil Service and your firms or the other way.
Ms Neville Rolfe: My one experience, not direct because it was perfectly harmonious, was when David North joined us six years ago. He took a period of gardening leave because he had been working at Number 10. I think it was three months but I could confirm that.

Q704 David Heyes: What was the logic behind that?
Ms Neville-Rolfe: I do not know but I accepted it.
Mr Kelly: My own experience is I believe my appointment went before the Business Appointments Committee. They considered the matter and I accepted their view, which was that it was OK for me to join BAA. I think it is perfectly right and proper that should be the case but I have no indication other than the system works.

Q705 David Heyes: From the point of view of BAA, it must have been a great disappointment to you that the Business Appointments Committee blocked the appointment of Sir David Rowland recently. He would have had an awful lot to offer BAA.
Mr Kelly: It would be wrong for me to talk about individuals but all I would say is it is important that the Business Advisory Committee does its job and that it does it properly. As with all these matters, sometimes it will say yes and sometimes it will say no and that is whole point of having a Committee. It fulfils a very useful function.

Q706 David Heyes: The offer of appointment to Sir David Rowland was made by the firm. It was subsequent to that that the Business Appointments Committee blocked it.
Mr Kelly: It is entirely proper that people who are changing from government to outside government go through a process which considers whether it is right and proper to take up particular roles. I do not want to talk about particular individuals because I do not think it would be right to do so but that is precisely why the Government has the committee and it will consider all the relevant information. What I do think, however, is that it would be to the disadvantage of this country's national life if you stopped people using their expertise and their experience in different roles. I fully declare I went from the BBC into the Civil Service and I was a much better, in my view, spokesperson because of my experience in the BBC. I hope that worked to the advantage of the Government. Therefore, my view has always been that of course there is a core Civil Service complement, many of whom will stay for their entire careers in the Civil Service, but I believe the Civil Service benefits from two-way traffic.

Q707 David Heyes: Does not this episode betray a lack of understanding by BAA of the ethics of this situation? If the Business Appointments Committee said Sir David could not take up his appointment for a year, should BAA not have spotted that as an issue and, therefore, have refrained from making the offer? Should your code of ethics not have led you to that conclusion?
Mr Kelly: These matters are never black and white but are matters of judgment and, therefore, it is right and proper that we have a process, and we do have a process, whereby those judgments are made and that Committee makes those judgments.

Q708 Mr Walker: I still think our witnesses have been very defensive. Why do you not stick it to us? Why do you not just tell us to grow up? Why do you not tell us that you employ hundreds of thousands of people across the country and of course you are going to talk with government because you are putting food on families' tables and you are generating billions of pounds of profit that is taxed? Why are you so defensive? It is a criticism but it is not meant to be a criticism. The private sector is good, is it not?
Mr Brinsmead: I do not think we have been defensive. All of us have said there is a dialogue with government, ministers or civil servants and for good reasons, whether it is for Tesco, AstraZeneca, the Association or BAA. You are right that we all produce enormous economic benefits for the country. We produce good things for the people in the country and it is absolutely proper there should be a dialogue. If I have been defensive, I apologise but I would say there is an absolute place for a dialogue.

Q709 Mr Walker: Perhaps you have not been as robust as you could have been.
Ms Neville-Rolfe: I think it is good to work for government and Parliament and you want to have a strong Civil Service. The only concerns I would have as a mother of four boys who will no doubt have careers, hopefully some of them in public life, is that you do not want to get a system which perversely discourages people from going into public life, the Civil Service or politics, in the recommendations you make.
Mr Kelly: I fully understand and accept the scrutiny but I would be very wary of anything which would stop proper dialogue taking place between the private sector and the public sector because if that happens government will not hear the voices it needs to hear to understand the

implications of the decisions it makes. That is my way of saying that. I do not think I will go down your way of saying it.

Q710 Chairman: What kind of recommendation would stop your boys going into public life?
Ms Neville-Rolfe: A recommendation that somehow suggested that the Civil Service did not have a good part to play in the State or politics. I was making the point because I was concerned that if you said no civil servant could ever have a different career, with young people much more interested in moving around, that could perversely cut them off from that particular choice and make it even more likely they go into banking.
Chairman: I think I can give you and your boys some reassurance. You can put Charles on your payroll instantly! We are grateful to you for coming along. We have had a very interesting session. We have learnt a lot and we shall draw upon what you have told us.

Witnesses: **Mr Tim Hancock**, Campaigns Director, Amnesty International, **Mr John Sauven**, Director, Greenpeace and **Mr Owen Espley**, Corporate Power Campaigner, Friends of the Earth, gave evidence

Q711 Chairman: I apologise for being slightly late in getting you on but thank you very much for coming along. We are delighted to have Tim Hancock, Campaigns Director for Amnesty International, John Sauven, Director of Greenpeace, and Owen Espley who is the Corporate Power Campaigner for Friends of the Earth. You know what we are about. Do any of you want to say anything by way of introduction? If not, let me ask you how central is lobbying. I asked the question to the people who were here before and it was quite difficult working out exactly how central lobbying was to them. I imagine to you, for your organisations, lobbying is absolutely central, is it not?
Mr Sauven: Yes, that is absolutely true but there is a difference. The comment was made in the last session about access and influence. Certainly we do have access but I would not say we had the same kind of influence. I would also say that we are about putting things out into the public domain and engaging people. Lobbying and campaigning is all part of that. That is about increasing people's role in government and influence over government. It is all about citizenship and that is very different, for example, from the three speakers you heard before. One might be trying to get the expansion of Heathrow and another might be interested in stopping regulation that might be around the expansion of supermarkets or whatever. We are much more engaged in the whole process of how people and the public can be engaged in issues and how we can put things more openly on the table. For example, a lot of the campaigning that all three organisations have done, even around requests under the Freedom of Information Act is about getting some of the things we think are going on subterranean out into the public domain. If you want to ask some more specific questions about Tom Kelly and BAA, I think it was quite revealing what he did not say rather than what he did say. Apart from the fact he said they have daily contact with the Department for Transport, none of us have daily contact, and certainly not in the kind of ways that he has contact and influences government policy. I would say that our work is about lobbying and campaigning but it is very much about doing it in public and with the public.

Q712 Chairman: Would it be fair to say that if the object of their lobbying is government directly then the object of your lobbying is predominantly the public, who in turn might be expected to have influence upon government?
Mr Sauven: It is both. We meet ministers, we meet MPs, we provide evidence to committee, and so on, but I would say we do a lot more in the way of engaging the public. It is very different. On the expansion of Heathrow we are involved in a campaign with lots of non-governmental organisations and local authorities; we worked with all the Mayoral candidates including the current Mayor of London, with church organisations and so on. That is a very different relationship in terms of lobbying and campaigning and engagement with the public than BAA is involved in.
Mr Espley: To add to that from Friends of the Earth's perspective, we have over 200 local groups around England, Wales and Northern Ireland and they are the bedrock of Friends of the Earth's different actions. They are the ones who sit on the board of Friends of the Earth and decide the overall direction and we are accountable to them for the directions we go in. Inspiring them to take action, and inspiring lots of different people to take action, is what we are all about and encouraging people to get engaged in that political process.
Mr Hancock: From my perspective, lobbying is important. I share the same kind of views that John and Owen have just described about the importance we attach to getting awareness of human rights issues out to the public, Parliament and the Civil Service. We also have a structure of groups, and this will be quite interesting because there will be some campaigns which will be run where we are proactively trying to get them to talk to their MPs and constituencies and there will be other examples where they will do that on their own initiative. They will contact their MP about the human rights situation in Russia (for example), and that will not necessarily have been coordinated by us but they will be using our information which is quite useful. In that sense it is political lobbying but that is different from the co-ordinated work which we also engage in. We also engage in direct face-to-face contact with officials, ministers and MPs which does not necessarily form part of a public facing campaign.

Q713 Chairman: When Charles asked our previous witnesses what they thought their job was, they all managed to avoid saying they were in the business of making profits for their companies. They told us all kinds of public interest things that they are engaged in. Could I ask you the same kind of question and suggest that you are all lobbying for sectional interests; you may describe it as the public interest, but on the whole all the groups that lobby us here in Parliament are representing only their bit of the territory or only a part of an argument, are they not?
Mr Sauven: Quite clearly we want to influence government opinion; there is no question about that. We also want to change business practices and make them more sustainable. That is our job. We are a campaigning organisation and we are quite open about that.

Q714 Chairman: You do not write to us and say about nuclear power that there are arguments on this side and arguments on that side, the arguments in favour of nuclear power are this and the arguments against nuclear power are that. Your job is to do a section of the argument, is it not?
Mr Espley: That question touches very closely on the issue about transparency. You mentioned the Freedom of Information request but we are not aware of what arguments are being put to government, what claims are being made. One of the reasons we made that Freedom of Information request was because we felt, at the time, that the CBI was making exaggerated claims about the cost to industry of environmental regulation or underestimating the benefits of environmental regulation. If we are not able to see what those arguments are, we cannot address them. We give our sectional interest to the Government so the Government can adequately weigh those different discussions and be able to come to a properly informed decision. That is where that transparency is so important. You are not just seeing one side or one argument, or at least policy makers are not; there is that open dialogue between different sectional interests. Sometimes we see an argument and we change our mind. It does happen.
Mr Sauven: You are right in terms of the nuclear debate, for example. We have advocated that we do not think an expansion of nuclear power in this country is the right direction for energy policy and we have been quite open about that. 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. I think that is really the question in terms of what this Committee is asking in terms of the kind of openness and transparency, people being made aware of what the links are and the meetings that are talking place and the influence that has been brought to bear on decisions that the government is taking. That does lead, I think, to better government and better trust in government. The Government actually itself runs into a lot of difficulties because it is not more open and transparent about what is happening. Because the High Court judge said that the first public nuclear consultation process was deeply flawed, they then had to have a second consultation process which was run by Debbie Mattison's company OLR,[13] again very close to Number 10, a very close friend of Gordon Brown and other ministers. Now that is the subject of an investigation by their own governing body because of the number of complaints made by academic bodies, by people who participated in that consultation process, as well as other NGOs.[14] The problem is that all this subterranean activity, as you called it, 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.

Q715 Chairman: The recommendations that have been put to us for more regulation of lobbying usually involved the idea of a register. Everybody would have to register their lobbying activities which would all be recorded and published in some form. The argument has been that this should apply universally to campaign groups as much as to big corporate interests. I want to ask if you are happy with that or whether it would not be a huge bureaucratic burden for organisations like yours.
Mr Espley: From Friends of the Earth's perspective we would be happy with mandatory lobbying registration. In terms of our recommendations, we would recommend that there is a threshold which needs to be passed before you have to register and that can be done in two ways. In Canada it has been done on the basis of time. If you spend more than five days a quarter engaged in lobbying activity, then that triggers the need to register. In the US it is done on the basis of lobbying expenditure over a certain period. That threshold helps ensure that local groups or small community organisations are not in any way burdened by it.

Q716 Chairman: It may not capture one crucial meeting that affects public policy. If you measure it by the number of days devoted to it then that would not capture a decisive meeting between an outside organisation and a policy maker.
Mr Espley: The idea of the register is to put on the record who is lobbying who, for which issues and what resources are going into lobbying. That is separate and addresses a different need to the idea of the transparency around meeting notes and minutes of meetings and so on and so forth.

[13] Opinion Leader Research
[14] Non-Governmental Organisation

Mr Hancock: I have come to this quite fresh. It is something I have been interested in looking at since the invite came to appear before the Committee. My impression of it is that some kind of mandatory register would be fine. I would not want constituency contact brought into that because that is something, as I said before, that is voluntary and not co-ordinated and would not necessarily be right to be brought in and would be difficult to administer. Transparency matters and it matters to understand not only who are lobbyists but it is really important to understand what the contacts are between the lobbyists and the officials or the MPs, but that also means at what level. One thing that is important to understand is the difference and frequency between the contact that Amnesty International has with the Foreign Office and a company like British Aerospace and at what level those contacts are taking place. I am not necessarily saying those contacts are right or wrong but they should be visible.

Q717 Mr Walker: You all do fabulous work in your own areas and you play a very important part in civil and civic life but the cold reality is that the three people we saw before you from the private sector between them, or their organisations, employ thousands of my constituents, and that in turn supports thousands of families but you do not. That is the reality of it: you simply do not. As much as I admire everything you do, the building block of my constituency and its stability is people having jobs and places to go to work and wealth to spend. It is perhaps unrealistic to expect that you will have the same or similar levels of contact with government than say an organisation that employs half a million people.

Mr Hancock: It is important to recap what I was saying and perhaps I was not clear enough. I was not saying that the volume of contacts is right or wrong, just that we should make sure that it is visible. Quite clearly jobs are an important factor in how politicians make decisions and how officials make decisions but jobs are not the only part of your constituents' lives. They also have values and they have interests as well and you will factor those in in terms of how you approach your parliamentary life. It is part of a complex mix. All we are saying is make it visible.

Q718 Mr Walker: Public services are a huge part of their lives, hospitals, transport, crime, but all of those things need to be funded off the back of an economy that can generate wealth. It does, in the end, come back to wealth generation, and this is more a question for Friends of the Earth and Greenpeace. You are competing against that at the end of the day. We, as politicians, have to balance our ability to generate wealth and meet people's expectations against the need to take a longer term view of our responsibilities to the environment and our children and grandchildren's future.

Mr Espley: That is exactly right. Going back to the different claims the CBI was making around 2005, they were claiming to represent the whole of business at a time when there were significant dissenting voices from that viewpoint. We were concerned that government was uncritically accepting that as the voice of business when there were areas of potential for the growth of more environmentally friendly industries which would provide those jobs for your constituents which could transform that. At the same time, the claims that the CBI were making about the impact of environmental regulations and the impact of that on job losses were exaggerated. While your constituents would want good jobs, they will also want to live in a clean and healthy environment. It is important that we have a system where government and the way that policy making is made effectively balances those different considerations. That is enabled on a much greater basis when we have that transparency, when we can see who is a player in different policy making discussions, and when those exaggerations are made different people are able to see those exaggerations and question whether the negative impacts of a policy have been exaggerated or whether the benefits of that policy have been underestimated so that government is in a position to strike that balance in the best way possible.

Mr Sauven: All we are calling for is more openness and transparency. We are not anti-business saying business should not have the right to lobby and influence government decisions. Of course they have and nobody has an issue about that. Coming back to, for example, the Heathrow expansion, which will affect the lives of millions of people if it goes ahead, it was only through Justine Greening, the Tory MP, who put in the Freedom of Information requests that we found out there was something called the Project for the Sustainable Development of Heathrow Airport which was being run by BAA and the Department of Transport. This was collusion between two bodies where they had already decided what the outcome was and they were doing a bit of reverse engineering to try and fix the results of that. It was only through extracting a lot of information from requests that she put down that we were able to understand a bit more about the relationship between BAA and the Department for Transport, how embedded BAA was within the Department and how influential it was. All we are saying is that should be much more open and much more transparent. It should be much easier to get that information rather than having to drag it out. That is really the core of what we are saying. Then you will have better consultations, the public will be better reassured about the way government is running and dealing with issues than it currently is. I then think people like BAA need not be quite so defensive about what they are doing because this is out in the public domain and people can say whatever they want to say about it. At the moment there is far too much going on in a very underhand way, too many revolving doors, too many secret meetings, too many lobbying groups where people do not know who is doing the lobbying and who they are influencing. When you draw up the maps of all the politicians and civil servants in these companies it is very, very expensive. It is a lot of people and it is

involving a lot of money, even more so when you have a lot of public/private partnerships now in the health sector and other areas. It does mean there is a lot of public money involved in the commercial area as well that needs proper scrutiny and openness around it.

Q719 Mr Walker: I do not understand the argument for more runway space when we can have flights going to Alicante for £30 return. It strikes me we probably have more runway space than we need if we can sell it off at £30 return. I am not convinced by any of BAA's arguments on that I have to say. From Greenpeace's perspective, you are very involved in renewable energy and campaigning around renewable energy. I am not an expert on biofuels but even I, humble backbencher from Broxbourne, two years go could see the potential disasters attached to biofuels as far as food pricing was concerned. Was Greenpeace campaigning actively for biofuels or did you also have reservations about it?
Mr Sauven: We did have reservations about it. This was more done by the need to keep the farming lobby happy and also to keep the car industry happy, because rather than dealing with fuel efficiency targets in the transport sector they thought they would shove biofuels into the tank instead. We did make very strong representations, with Friends of the Earth, RSPB, WWF and others, to Ruth Kelly at the Department of Transport to try and slow down the kind of mandatory targets that they had in place and to do a proper review, including land use planning in terms of what was required for food and what was required for fuel.

Q720 Mr Walker: Did you feel your voice, although heard, was competing against much louder voices which ultimately have been proven to have it completely wrong on biofuels?
Mr Sauven: We found it very difficult to convince her, but Gordon Brown actually became more concerned about this for development reasons and because of the food riots and other things that were happening globally. He then started to raise it and has put it on the agenda of the G8. He became aware of it much faster and took much more serious concern over that issue than Ruth Kelly did.

Q721 Kelvin Hopkins: I am surprised you did not come back more robustly to the Chair's provocative question when he lumped you together with commercial and corporate lobbyists. Do you not make a clear distinction between lobbying for the corporate sector and the kind of thing you do, which is essentially, and often against the corporate sector, on behalf of the vulnerable, the poor, citizens who do not have such a powerful voice and certainly do not have their money?
Mr Sauven: It is both. It depends on the organisation, charity, NGO or whatever it is, in terms of what its remit is. As Owen said, we are for business and not anti-business. We also lobby strongly for energy-efficiency regulations, for energy-efficient industries, for renewable-energy industries, for a whole variety of businesses. We would join forces with them, sometimes in partnership alliances. We support some of the lobbying they are doing in conjunction with them, producing reports with them and lobbying MPs and governments about these issues. That is quite a key thing to understand because we do not make widgets; we are not here to make a profit. We do not have the same motives that the corporate sector has but still we want to see some business sectors succeed because that is ultimately what, particularly Friends of the Earth and Greenpeace, are about in terms of more a sustainable environment done also in a more socially responsible way in terms of human rights and so on.

Q722 Kelvin Hopkins: I see you as driven by altruism, by ethics and not by money. In a sense, you are trying to persuade us that you are business friendly as well in a way that the business sector are trying to persuade us they are altruistic and on the side of the citizens.
Mr Espley: There are two levels of debate in terms of lobbying and transparency. When it comes to the regulation of that democratic space, that right to petition government, that right to talk to MPs and express views, the right for people to come together within their communities and express a viewpoint, we are not suggesting a distinction should be made within that space. Through that process it is up to MPs to form a judgment and weigh different issues and where the public interest lies, and it is up to the Government to do the same. I would hope that there would be an understanding that we come from different places and we are different types of organisations.

Q723 Kelvin Hopkins: I belong to a number of organisations like yours including Amnesty and several aid organisations. Every year I get requests for donations and subscriptions. From the corporate sector I get none of that; I get offers of splendid lunches with good wine. If any of your organisations started to invite me to posh lunches free of charge with good wine I would start to be suspicious of your organisations. I know where they are coming from, the business sector, but I like to think you do have this altruistic, ethical drive which is what you are about.
Mr Hancock: We do have that ethical drive. We are not here to maximise profits, although as much donation as you can offer would be gratefully received. There is a sense in what we are trying to do, whether it is Amnesty International itself or trade associations or business, that we try and influence the political system and try to get information into it. In that sense we are about the same game but there are differences in approach to that. You talk about business lunches or free lunches but we do not have the money to do that on a widespread basis. It would not be something we could do financially so it is not even a question for us. We have to be a bit lean, a bit mean, and try to use other techniques that are less based on our ability to spend.

Mr Espley: There is a difference in the way we lobby in that we want people to know who Friends of the Earth are. We want them to know what our position is. We want them to support us and we want them to become active in their communities and join a local group. As Tim pointed out, there is a difference in resources there. To give an example, lots of Friends of Earth local groups have been involved in the local planning system, in developing what the local plan says around retail space. Their experiences of the influence which organisations like Tesco can have is quite illustrative of why we need all of that community engagement which we heard about earlier, why we need to understand how big that actually is. You have a situation in Dartford where there was a local plan made and then there was a proposal for a development to build a Tesco. There were changes made to the local plan which removed the limitation on a retail floor space and then that proposal went ahead. It was put out to public inquiry with the planning inspector and the planning inspector ultimately said that he could not accept those changes because it had not been through the due process. A local group will try and engage with their councillors, and so on, but Tesco will have planning experts, lawyers and public relations companies who can engage and draw up what they call battle plans to be able to engage in lots of different local community groups, to lobby the local authority and to threaten legal action to local councils if the due process is not taken. We have research, which I can share with the Committee, which demonstrates how that imbalance of resources creates a situation where councillors are often afraid of stopping a development not because they do not want it necessarily, not because they have not passed a council resolution about what they want in their area, but because the threats of legal action if costs were awarded against them would be so huge that it would be impossible for them to act in that democratic way. It is that sort of system where those massive resources are being deployed across the country in terms of development, where local people are engaging, being active citizens who meet on a rainy Tuesday in the local community hall but are facing these huge resources from particular interests. We need to say how much is Tesco spending on these community engagements. They are producing these websites and sometimes developing quite complicated communication tools to sell a new development and explain the benefits of it. Sometimes in the research of details particular exaggerated claims are made about the benefits of it, or whether it is on the high street, down the road or out of town, and so on. If you are in that local group on a Tuesday evening you are very interested to know how much Tesco is spending across the country on those issues. It is important that we move some of this debate from the Westminster village to think about those people in a community hall on a Tuesday night so that they can have faith that the system is working in their interests too.

Mr Walker: That is about informing local government, and most parties would agree.

Q724 Kelvin Hopkins: I agree entirely with what you are doing although I might have a difference of view about the scientific argument. Am I right in having this gut feeling that organisations like yours do not take back-handers from the corporate world to lay off them or from corrupt authoritarian governments to stop exposing torture?
Mr Sauven: You are definitely right about that.
Mr Hancock: Yes, you are right.
Kelvin Hopkins: That sets you apart from the corporate world and from corrupt authoritarian governments.
Mr Walker: From a small part of the corporate world maybe.

Q725 David Heyes: The three of you have been around campaigning and lobbying for a number of years. Have you seen any change in the balance of power during that time? My feeling is that corporate lobbying is growing in its intensity, organisation and volume and increasing in its impact and ability to persuade governments of its point of view and, in terms of a balance, maybe your kind of campaigning and lobbying is, therefore, less effective. Is there anything in my perception?
Mr Sauven: It is a growing industry. I think 20,000 people in this country are involved in lobbying and it is a several-billion-pound industry. We are also finding it is becoming increasingly powerful in Brussels because so many of the regulations now are designed and passed through the EU. There are also 15,000 lobbyists now employed in Brussels, a lot on behalf of UK-based firms. It is a massive industry and it is growing in power and influence and in terms of the resources that are being thrown at it. I think in comparison we are really small and our job is not made that easy. For example, it is not just in terms of looking at what you might be able to do in terms of the impact of lobbying but also the other related areas where there has been some work in terms of MPs putting their interests into the public sector which has not been followed through with the lobbying industry. It is also other areas around Freedom of Information which were also meant to help make some government decisions more transparent and open but is itself fraught with problems. Sometimes you wait years for Freedom of Information requests to be answered. Sometimes you have to go through very lengthy processes like Friends of the Earth did with the Tribunal in order to get the information. None of these things are made particularly easy for relatively small organisations like ourselves in comparison to what we are up against.

Q726 David Heyes: Is that a shared perception?
Mr Hancock: Coming from my perspective, we have only been looking at the impact of business on human rights for a relatively short amount of time so probably have less experience of that business politics dynamic than Friends of the Earth

or Greenpeace. One thing I would say is that in recent years government departments have put a lot more emphasis on what they call stakeholder engagement which is a process where they go out and talk to people like us and others, and that is welcome. If we are in a process now which is about going out and consulting stakeholders and then we are going to go into a closed room and decide on the basis of what we heard, that is process where all the stakeholders get involved, whether it us, business or trade associations. Then they really do go into a closed room and decide rather than then talking to the company concerned. If we are in that sort of thing, that is good news because it is equality of arms. Sometimes I have been at civil service seminars where we are talking about the process of what we do, how we try to influence government, and we are characterised as being a pressure group, which is a relatively pejorative term but one I am comfortable with on the basis we also understand that British Airways, BAA and Tesco are also pressure groups. That is what I want: I want equality of arms. I want equality of opportunity.

Q727 David Heyes: You are accusing them of tokenism, is that right?
Mr Hancock: No, I am not accusing them of tokenism. Sometimes it can be tokenism and sometimes it can be genuinely meant. What I am saying is I do not have the money that a lot of corporations have to spend so when I am told this is a consultation phase for something, I want to know that I am engaged in a consultation on the same basis as anybody else and we are not going to get into a position where I have had my opportunity to contribute but business or anybody else has got lots of avenues.
Mr Sauven: The Heathrow consultation with BAA involved running it with the Department of Transport and that was a poor example of a consultation taking place.
Mr Espley: I am still quite a young man so I have not been around long enough to see a massive growth but what I understand of the evidence is the numbers are growing and the industry is growing. What you can also perceive is different issues have changed over time. Business has increased. We have heard today how Tesco is about communities and climate change, which maybe 10 or 20 years ago they were about groceries. There is this increasing interest and they are exercising their ability to influence in wider and wider areas. That means, in a sense, they are trying to lead those debates which, in certain instances, we absolutely encourage. Business can make a massive contribution to creating the just and sustainable society we want to see but in other instances they are engaged in greenwash and initiatives which do not stack up. It moves the debate from where the core impacts of their business are to one or two minor impacts on the side which are not addressing the real issues of where that business impact is on the environment.

Mr Walker: What is, in your definition, a just and sustainable society?
Chairman: I am going to intervene because we do not have time for that.

Q728 Mr Prentice: There is a difference between proper influence and improper influence. I had a Catholic priest down from my constituency yesterday wanting to speak to me about the Human Fertilisation and Embryology Bill which is proper influence. I am interested in information that you have, and you can let the Committee have, where policy decisions have been taken as a result of what you would say is improper influence. I would be interested in getting that information. There was a huge U-turn in government policy on nuclear power: the White Paper in 2003, non-nuclear from where we are now where the Government is embracing nuclear. Is that an example where the U-turn was the result of improper influence?
Mr Sauven: I would go back to what I said before. There are a huge number of Labour ministers and Labour MPs involved in the nuclear industry and in lobbying organisations working for the nuclear industry, or working for companies associated with the nuclear industry, and obviously their influence is massive. I think that kind of revolving door situation and the power and influence they have is, for example, different from what British Airports Authority did with the Department of Transport with the Heathrow consultation. One was more revolving doors influence able to have an impact on government thinking, while the other one 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. The reason why it was in that situation was because in the 2003 Energy White Paper it said it would consult the public if it ever went back to the nuclear question. Partly it went back to the nuclear question because it had failed to carry out anything that it said it would do in the 2003 Energy White Paper, which was develop energy efficiency, renewables and so on and so forth. There are lots of complex reasons about why that change happened and how it happened but there was certainly a failure at the heart of government policy.

Q729 Mr Prentice: You mentioned a number of MPs. We had Dick Caborn in front of us last week. I do not want to misquote him, absolutely not, but I think he told us he got £75,000 from AMEC because

he was apprentice of the year many years ago and he was doing some work for Forgemasters and nothing to do the Nuclear Decommissioning Authority or any contact with the nuclear industry. We all believe that to be the case, do we not?

Mr Espley: One of the difficulties with providing the kind of examples we are talking about is, in a sense, 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.

Q730 Mr Prentice: I understand all that. Dick Caborn told the Committee last week that he did not have any contact with the Nuclear Decommissioning Authority and so on, absolutely not. The Advisory Committee on Business Appointments had actually banned him from lobbying on behalf of the Nuclear Decommissioning Authority for a year, but he told the Committee the date when the decision was going to be made on the contractor who was going to get the billion-pound contract for the clean-up at Sellafield. When I subsequently put in a parliamentary question I was given a holding answer. My question comes back to the Business Appointment Rules. Are there any changes that you would like to see made to the Business Appointment Rules? At the moment they are not policed. We know that the Advisory Committee said to Dick Caborn you cannot lobby for a year but it is not policed. Are there any specific changes you would like to see to the Business Appointment Rules?

Mr Sauven: I have a list of members of the Nuclear Decommissioning Authority itself and three of its most senior executives are ex-DTI civil servants. There is a revolving door that is happening not just with the Civil Service but with former ministers and this is becoming an increasing problem. You are talking here about hundreds of billions of pounds worth of contracts. The clean-up bill is currently £70 billion or £80 billion and takes up about 40% of the Department of Business's budget. It is huge amounts of public money.

Q731 Mr Prentice: You are not telling us that retired civil servants cannot go into the private sector subsequently, are you?

Mr Espley: For senior civil servants and ministers there should be a period that is set when it is not appropriate for them to be engaged in lobbying activity.

Q732 Mr Prentice: There is at the moment.

Mr Hancock: Amnesty International is not pushing this but I am looking at it with a fresh pair of eyes. It seems the 12 month period, or whatever period you institute for this, is a little bit arbitrary when you consider some of the issues that are under consideration. I think companies or charities can benefit from the kind of knowledge of the way government works when ex-civil servants, former MPs, former researchers for MPs, come and work for us. That for me is a good thing. When we start getting that insider knowledge which is specifically related to a contract, whether nuclear decommissioning or building an oil pipeline, then we have a problem because it is not about the lobbying contact as much about the knowledge of who is making the decisions and when the decisions are going to be made. If you consider the duration of some of these projects before they get to implementation stage, the length of time it takes from the inception of an idea to build an oil pipeline to the date the oil starts running, that is going to take a lot longer than one, two or three years. It is not about the period of time but about saying if you have been working as a civil servant intimately involved with all the negotiations and all the issues around this particular issue then you should not be touching that issue in the private sector at all. That is not Amnesty International speaking but just what I have observed thinking around this issue.

Q733 Mr Prentice: If Tony will allow me a few final points about the register of lobbyists. Should we have a situation where lobbyists have to file their game plans? We had an interesting submission from SpinWatch who told us how the people lobbying on behalf of the nuclear industry were going to try and change government policy. They would focus on climate change, nuclear is clean, and it would be led by workers in the nuclear industry. They would be the shock troops. It worked and government policy changed. Would you like to see, in this register, lobbyists filing their game plan saying this is their lobbying objective and this is how they intend to go about it? You are already calling for financial disclosure, Friends of the Earth. What should be in this register?

Mr Espley: 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 are other areas such as using the Freedom of Information Act and the availability of those minutes of meetings where we can be clear that these are the arguments they are making. If an organisation is representing workers in the nuclear industry, their staff, if they have staff, would register as lobbyists and you would see how much money that organisation was

receiving from individual donations from workers in the nuclear industry and how many donations it was receiving from the nuclear industry itself. That information would help journalists, ministers, civil servants and MPs judge the evidence those groups are putting.

Q734 Mr Prentice: We heard about the 15,000 lobbyists in Brussels but would this register include organisations like the Society for the Protection of Unborn Children? Would it include charities and micro-lobbying groups, or would there be a cut-off point?
Mr Espley: I said earlier 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. I was talking to a lobbyist in the US who has to register on the US register and it takes him about 20 or 30 minutes. It is a bit of an administrative task every quarter but that is all it takes him to fill out his declaration on what he has been lobbying on. We are not talking about a massive burden. We are talking about something which is quite easily done. If I am about to employ a public affairs consultancy, they are going to send me a bill every now and then and I hope they will tell me what issues they have been working on and what work they have been doing for me. They have that information available. We are not asking for the moon here, just that basic simple information which is readily available that you can file every quarter and have it there so that when you get that approach, or when civil servants have that approach, they can go to one place, look at it, these are who those people are representing and these are the kind of issues they are working on.
Mr Sauven: It will not solve every problem, and like tax people find ways to get around it, so front groups, micro-groups, people who get under the threshold and so on and so forth but so what. That is daily life and those are the kind of things you expose and find out about. Basically you are trying to set up a system that is workable, manageable, fair and equal, and which applies to all groups in society who are involved in lobbying and pressuring people.

Q735 Mr Prentice: You are telling us it is possible to have a register that would not collapse under its own bureaucratic weight.
Mr Sauven: Do not set up one that is designed in that way.

Q736 Chairman: In some of your answers to Gordon there was an implicit assumption that policy outcomes are determined by these networks of influence and some people have more influence than you and therefore the outcomes are such, because you tell us who works for whom and so on. Is it not just conceivable that the Government takes the decision it thinks is the right one balancing evidence and is then held to account for it politically by Parliament and the people? You are not held to account for things that you do. Is it not conceivable that they actually evaluate evidence and come to a decision which often involves very complex trade-offs but on balance they think is right?
Mr Sauven: That could well be true but we need to know that. For example, when they were looking at the economics around the expansion of Heathrow Airport it is quite important people should know that the research they based those conclusions on was paid for in a joint study by the Department for Transport and the aviation industry and that other reports done by other people were not taken into account. It was only afterwards that a whole range of people, including Bob Ayling who used to run British Airways, came out against the expansion of Heathrow, as did lots of other business groups and academics who began to question the studies and the facts that had been put on the table. It is quite important that people know who funded the information that the Government was making that decision on. This is really where it is important. When we dealt with the Judicial Review over the nuclear consultation, for example, the judge laughed at some points because we asked for information to be put into the public domain on the terms of which the Government had made that decision and there were entire reports that were redacted and blanked out except for the title. It was a kind of a joke and laughable and the Government lost the case. That is the problem and the whole issue around this is to be more open and transparent. I accept the fact that, at the end of the day, government makes decisions and either wins or loses elections as a result of how people think they have made those decisions, whether they are right or not.

Q737 Chairman: You could be wrong.
Mr Sauven: Absolutely. I am not saying we are right and they are wrong or vice versa; all I am saying is let us be more open and more transparent. Let us increase the trust that people have in the decision-making processes in the government process.
Mr Espley: The point of holding the Government accountable is precisely the reason why you want more information about what lobbying activity is taking place because without that information you cannot judge whether the Government has weighed different arguments in a fair way. If you are going to hold the Government accountable for its decisions, both that they do take a decision which balances that effectively but also that we can judge and hold them accountable for where they do not, that is precisely the reason why there needs to be more transparency in lobbying.

Q738 Paul Rowen: Do any of you employ any MPs, former MPs or civil servants as part of your organisation?
Mr Sauven: I do not think we do.
Mr Espley: I do not know of any examples.
Mr Sauven: It is not that we would not. It is a fair point when Tesco employs 100,000 people and we employ 60 or 70 that on balance we are less likely to have every sector of society employed on our books whereas for a large corporation that is more likely to be the case. Also there is an issue around Tom Kelly

downplaying his role on how important he was and saying he was not very influential. I am sure in the interview for the job he said he was very important and influential and had lots of access to people. You have to take into account how people describe themselves.
Mr Hancock: We employ one person who was a political adviser; we employ a former researcher for an MP; we have one person from a UK Civil Service background but not in a front-line lobbying role; and one from a non-UK Civil Service background.

Q739 Paul Rowen: What proportion of your income is spent on lobbying?
Mr Sauven: For our organisation that is more difficult because we are campaigning organisations. It is how you define that.

Q740 Paul Rowen: Influencing government and Parliament.
Mr Sauven: We have two people whose job in particular is to be involved in dealing with parliament and with that kind of political process. I would say that one way or another a lot of our staff are involved in engaging civil servants, MPs, engaging the broader public in how they can be mobilised to engage with MPs, but that is the nature of a campaigning organisation rather than a manufacturer or a retailer or whatever.

Q741 Paul Rowen: Do any of your organisations engage in any illegal acts or issues that might push the law to its limits?
Mr Sauven: We are often accused of being involved in illegal acts. Juries normally find us not guilty but magistrates sometimes find us guilty. We have tested the security at Heathrow Airport and found security doors hanging off their hinges and things like that.
Mr Espley: Friends of the Earth always attempt to act within the law.

Q742 Paul Rowen: I know you said you are very young, but Des Wilson, your former chairman, went from poacher to game keeper when he went to work for BAA and helped them get Terminal 5. Do you think that is a legitimate career move for him to make?
Mr Espley: There is a big difference between revolving doors between different private entities or businesses and civil society than there is with public servants. There is a clear distinction there between public servants who need to be seen to be acting within the public interest.

Q743 Paul Rowen: Was he not setting himself up as a paragon in defending the environment and then he is helping an organisation that in some of your eyes is the opposite?
Mr Espley: It is an issue for an individual's choice. Some people believe it is better to be in an environmental campaigning group to make changes, other people believe they can make more difference within companies.

Q744 Paul Rowen: Is it the same answer for ministers or MPs who are now on the payroll of some of these companies?
Mr Hancock: It comes back to the knowledge and the ability to influence the decision-making process. We had one person about 10 years ago who went from Amnesty to the Foreign Office. That was her choice and good luck to her. If there was an internal decision-making process that Amnesty was going through then we would not want her involved with it because she would be representing the Foreign Office. We would be careful about maintaining that kind of distinction.

Q745 Paul Rowen: Des Wilson's skills learned at Friends of the Earth clearly worked because BAA got the fifth terminal, did they not?
Mr Sauven: That is why they employed him for his campaigning skills and that is presumably why people employ ex-ministers or MPs, or whatever, for their skills in terms of influencing the political process.

Q746 Paul Rowen: According to Tom Kelly he is merely the mouthpiece, a very simple one as well.
Mr Sauven: He obviously has got very extensive contacts. In Tom Kelly's case it goes much deeper than the individual in terms of how BAA were treated within the Department of Transport. It was very difficult to draw a line between the government department and BAA when it came to the Heathrow consultation?

Q747 Mr Prentice: One final thing on the Information Tribunal ruling, do you have any sense that the government is going to challenge that?
Mr Espley: We hope they will not.

Q748 Mr Prentice: If it is not challenged, you will be putting in requests for this kind of information across all the government departments will you?
Mr Espley: Probably not. Those requests came about at a particular time immediately following the 2005 election where we understood the Government and the Civil Service would be going through a slightly deeper policy-making process. There were a lot of issues there on the table at the time which had environmental and business crossovers and links. We were particularly concerned about the influence which the CBI, then Digby Jones, was having on the DTI and being listened to uncritically and that is why we put in those requests. I cannot judge when we would use Freedom of Information again but it would not be worth our time spending our resources doing blanket Freedom of Information requests left, right and centre.
Chairman: A generation or so ago you say there were insider groups and outsider groups and that the insider groups, like those in the previous session, get ready access to policy makers and outsider groups do not and, therefore, they have to go off and campaign with the public. The difference now, listening to you, is that you are not saying you do not have access. It has been a big development that groups like yours do now have access but the

suggestion is that other groups have even better access and that some of that has more influence than you do and, therefore, the conclusion is the process should be more visible and that would inform public debate. It is interesting that that is the argument we are now having. Obviously the questions we have given you have been to try and see if there are any improvements we can make to present arrangements that will impact across the board on groups like yours and on the groups that were here before that are all going to be equally useful or equally burdensome and contribute to the public good in some way. It has been very interesting being able to test these out on you so thank you for all of that.

Thursday 19 June 2008

Members present

Dr Tony Wright, in the Chair

David Heyes
Kelvin Hopkins
Mr Ian Liddell-Grainger
Mr Gordon Prentice
Mr Charles Walker

Witnesses: **Mr Tom Watson MP**, Parliamentary Secretary, Cabinet Office, **Mr Tom Harris MP**, Parliamentary Under Secretary of State for Transport, Department for Transport and **Mr Iain Wright MP**, Parliamentary Under Secretary of State, Department for Communities and Local Government gave evidence.

Q749 Chairman: Could I extend a very warm welcome to our witnesses and colleagues this morning. We are delighted to have with us Tom Watson from the Cabinet Office, Iain Wright from the Department of Communities and Local Government and Tom Harris from Transport. This is the last session that we are doing in our inquiry into lobbying and it seemed right we should have some ministers in to try to get an official view, if there is one, and to hear from ministers about their experience of being lobbied. We thought of the three of you because Tom in the Cabinet Office has responsibility inside government, Iain because of the housing brief and therefore the interests of the property world in what you are doing, and Tom because your department gives out lots of contracts for rail and, therefore, liable to be the subject of a certain amount of lobbying. I have been given something from one of our Committee staff who went to a Cabinet Office event the other day and managed to win champagne for two in the Pugin Room with Tom Watson and he wondered if this would do instead.
Mr Watson: That was the Trooping of the Colour charity raffle and I was not trying to apply undue influence to the Committee!

Q750 Chairman: What would be interesting to hear is your experience of being lobbied. Who wants to come and talk to you and who do you talk to?
Mr Harris: I am responsible for the Highways Agency as well as the railways but I have been in railways for longer so on that side of the job it is mostly industry associations who represent either a group of supply companies or a group of train operating companies like the Association of Train Operating Companies. I have regular meetings with them and they want to speak to me and I want to speak to them so there is no question of not giving them access. I need to get their feedback and their perceptions of what is happening in the industry and that happens as frequently as my diary will allow it.

Q751 Chairman: How do you decide who to see?
Mr Harris: The Rail Industry Association is a respected organisation and represents a number of private sector suppliers mostly to Network Rail but to other train operating companies as well. When I first became a minister one of my first meetings was with the Rail Industry Association so I guess, in that respect, coming into the industry brand new and not really knowing how the industry was structured, I accepted the advice of my private office who had dealt with them on a number of occasions with different ministers before then. Unless there is a very good reason not to meet someone, I would generally say let us see what they have to say.

Q752 Chairman: Who would you say no to?
Mr Harris: The vast amount of lobbying that happens directly to me is from parliamentary colleagues. I have a rule in the office that if a parliamentary colleague wants to see me about anything at all the answer is yes and then ask them what the subject is, so in that sense it is a very open door as far as colleagues are concerned. I genuinely do not remember saying no to any organisation if I think they have something interesting to tell me. For example, there are different rail user groups and there is one called Rail Future which is essentially a group of volunteers who are train spotters. These gentlemen feel very strongly about the industry. They do not have any statutory authority or anything but they really appreciate having access to the minister for half an hour every few months and I am happy to give them that because I think it is quite interesting for them to tell me what they think of the state of the industry. I am not aware of having said no to anybody.

Q753 Chairman: Who wants to see you, who do you see and who do you not see?
Mr Wright: My answer is very similar to that of Tom Harris. I have responsibility for the house building sector, sustainable construction and the private rented sector and in terms of groups with regards to those organisations and individuals I am keen to see them as much as possible. I too am like Tom Harris and would say that MPs have privileged access. I would never ever turn down a meeting with an MP and I think that is very important. One of the things I enjoy doing is going up and down the country and actually speaking to people. I have responsibility for the social rented sector as well and I go and speak to tenants in different regions, which again I think that is very important to do. The second part of my answer is to do with the Housing and Regeneration Bill which I have just taken through the House of Commons and which is now in the House of Lords. People were trying to have meetings with me in order

to get my take on particular aspects of the Bill and I would divide up the meetings I had in terms of the Bill into landlords, social landlords and tenants. That was a particular focus in the early part of the year with a series of meetings to decide their views on particular aspects of the Bill.

Q754 Chairman: Do you keep a record of all these meetings?
Mr Wright: Yes.

Q755 Chairman: Everybody you meet is recorded.
Mr Wright: Yes, from the diary secretary everything is recorded.

Q756 Chairman: Including meetings with MPs?
Mr Wright: A formal meeting in the department, and I can think of one with regard to gypsies and travellers from a colleague, is certainly recorded but a quick chat in the tea room is different and would not be recorded.

Q757 Chairman: What happens to these records?
Mr Wright: As far as I am concerned they are collated and maintained. I have records of the meetings I have had since I was a minister.

Q758 Chairman: One of the issues that come up in talking about lobbying all the time is the idea that there are these meetings that go on and lobbyists have preferential access. There have been FOI requests made to different bits of government including your department. I know, for example, that between the 20 March and 22 April this year you met nobody.
Mr Wright: That is not quite correct then.

Q759 Chairman: Given what you just said I was quite surprised by that because it sounded as though you were busy meeting people all time.
Mr Wright: I am. What I would say with regard to that is every meeting that I have is recorded by the diary secretary. In terms of the specific provisions of FOI, I am not entirely certain what is required. Certainly I am confident that every meeting that I have had is recorded.

Q760 Chairman: Do you know how this is supposed to work inside government in terms of recording all this?
Mr Watson: What governs whether ministers should or should not see an individual or representative of a body is the Ministerial Code. There is a duty on ministers under the Code to make objective decisions, and that means not giving undue access to individuals or particular groups. My feeling is that departments are very, very serious about how they apply the Code. Most ministers I know would take advice from their officials on who they should and should not see and they make sure that they get an array of opinions when it comes to formulating policy or legislation. I am not an expert on the Freedom of Information Act but the Ministerial Code will dictate who gets to see a minister and who does not.

Q761 Chairman: A mystery to me is why we have to rely upon freedom of information requests to get pretty basic information. Departments are collecting this so why can they not routinely publish all the contacts that are made?
Mr Watson: The argument would be that there are some meetings that ministers have which are very sensitive. They might be commercially sensitive. You would find it difficult with the Ministry of Defence to perhaps publish the diary meetings of all defence ministers for example. They might give an impression that early thinking on policy is going one way and give undue influence to an industry so there are reasons that people give. The Freedom of Information Act does allow you to ask me which companies I have met and that would be answered. Of course MPs also have parliamentary questions they can ask as well.

Q762 Chairman: You are covered by the exemptions under the FOI Act anyway but it seems silly that people have to keep putting FOI requests in. I have a list here of all the meetings ministers have been having. I teased Iain about a particular period but if I go to January and March you did have some meetings. You met the Bradford & Bingley and you met someone called Places for People. You met the Tenant Participation Advisory Service and the National Housing Building Council and you met City West Homes. Do you remember these meetings?
Mr Wright: Yes, I do.

Q763 Chairman: We have a record of them. The constitutional sky does not fall in when you tell the world that this happens. I cannot see why the department cannot routinely publish the records of who ministers and officials saw and what they talked about.
Mr Watson: I have put the case why that does not happen now. If you are going to recommend that in the report then we would take a look at it.

Q764 Chairman: When I look at the records like this that you give, what it does not tell me is how many of these contacts were mediated by lobbyists and lobbying firms or indeed how many lobbyists were at these meetings. It gives the name of the organisation itself but many of these organisations are using lobbyists who are selling their access skills to these bodies. What the record does not tell me is what has been the role of the lobbyists in all of this and that could usefully be done.
Mr Watson: The record will find it difficult to give you clarity on that because there is a problem with the definition of what is a lobbyist. If the Committee can find an accurate definition then that might be helpful. When does a diary secretary or permanent secretary define lobbyist? Shami Chakrabarti of Liberty, who has been having a lot of meetings with ministers and MPs over the Terrorism Bill in the last months, would you define her as a lobbyist?

Q765 Chairman: Yes.
Mr Watson: Others would not so if we could get an accurate definition.
Chairman: We will worry about that and you worry about these other things.

Q766 Mr Walker: Do you think government needs some space in which to operate? My concern is that if companies, individuals or groups feel that conversations they have with you are going to be published in full or in part then communications will simply dry up. There is a need for government to have some space for organisations, be it Greenpeace or BAA, to come to you and have confidential conversations and a confidential exchange of views. The problem is with FOI you get this move towards sofa government which is all done on the back of a fag paper with no proper record keeping and it is not actually good for democracy.
Mr Harris: I think there is a balance to be struck here. I absolutely understand that concern. My own view is if I am having an official meeting at the department between me and a Member of Parliament and there is no other outside interest there but there very often are. As you know, you might want to see me and bring along constituents, et cetera, but if it is a one-to-one meeting essentially and no other people are there or my civil servants taking a note my own view is I am happy for the event of the meeting to be reported. I would be less happy with the note of the details of that discussion happening just because I think Members of Parliament should have some confidence that details of those discussions are not going to be released. Having said that, if there are outside organisations it is the practice that the note of that meeting would be made public simply because you have other outside organisations who may divulge their own version of events and it is better to have the official record. I absolutely accept this argument that you move towards sofa government but in my experience the extra transparency provided by the Freedom of Information Act is probably providing more of a benefit than the disbenefit that might be created by going to a more informal form of government. I think it has helped more than it has hindered.
Mr Watson: I think you should take it back to the Nolan principles. Nolan said effectively it is everyone's right to lobby Parliament and it is the job of government departments to moderate the activity of professional lobbyists so that ministers can make objective decisions. I have a small role looking at the technology sector and my understanding of the industry has improved because of trade bodies in the sector giving me their advice. It is important that that access is maintained but I also think it is perfectly reasonable for me to justify why I meet someone and why I do not under the Freedom of Information Act.
Mr Wright: Housing policy at the moment is particularly interesting with lots going on and I do not want to make housing policy in a bubble. I want to be as accessible as possible and make sure that I speak to as many people as possible in order to have views about various interests and how we go forward. In that regard, in terms of formulation of policy, I understand your point but I think it is very important. As Tom Watson said, the Nolan principles and the framework that the Ministerial Code provides enables us, as ministers, to have individual judgments based upon that.

Q767 Mr Walker: How do you respect commercial confidentiality? How do your civil servants define whether a conversation is commercially confidential? Is it decided that it is commercially confidential because the organisation having the conversation with you tells you that it is commercially confidential or is a view taken by your civil servants perhaps in conversation with the organisation you are seeing?
Mr Watson: It is very difficult to give you a general answer to that. You would have to take advice from your officials and occasionally legal advice.

Q768 Mr Prentice: Lobbying can be malign or benign. There is nothing in itself wrong with lobbying but it is where lobbying results in the exercise of improper influence. Do you think there is a problem with lobbying in that context in Britain today?
Mr Watson: 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.

Q769 Mr Prentice: Would it bother you if we recommended a register of lobbyists or would we have to identify a problem first?
Mr Watson: There is very little this Committee would do that would bother me, Mr Prentice.

Q770 Mr Prentice: You must not call me Mr Prentice!
Mr Watson: You must remember that the last Select Committee I appeared before was the Defence Select Committee which was rather more formal. I have read the transcripts of your previous interviews and the debate about a register which I found quite interesting. I would want to know whether you have identified a problem that would be remedied by a register and I have not seen evidence to show that there is a problem yet. If you have identified a problem then we would probably want you to justify why a register would be the way to go forward. I have an open mind on it.

Q771 Mr Prentice: You are a former defence minister and we have a debate in the House today on defence procurement. There is a huge amount of traffic between people who worked in the MoD and in defence companies, not just civil servants and military people but also colleagues and former colleagues; Ivor Caplin is a good example. Would it

give you any problems if the register were to include meetings between lobbyists and senior civil servants serving in the Ministry of Defence?
Mr Watson: Which register is this?

Q772 Mr Prentice: This would be a register that would detail meetings sought by lobbyists with civil servants buried deep in the Ministry of Defence who may be key people when it comes to recommending procurement contracts and so on.
Mr Watson: I think civil servants are entitled to have private meetings, although of course for the first time this year we will be producing, and we are compiling it now, a register of civil servant's hospitality which will be published hopefully later in the year; we are compiling the figures for 2007. We are trying to give you some kind of transparency about who senior civil servants have met outside office hours.

Q773 Mr Prentice: We had David Owen before us a month or so ago and he said the Freedom of Information Act has changed everything, and what with MPs expenses and all that kind of thing the name of the game these days is openness and transparency; in fact, just closing things down creates more problems than it is worth so that is what is behind my question. If we were to recommend a more open transparent system which includes meetings with civil servants and ministers, you would be relaxed about that. Is that what you are telling us?
Mr Watson: What I think you need to do first is put the cart before the horse and if you feel there is a problem with the integrity of civil servants awarding procurement projects or giving advice to ministers then we would be duty bound to look at your recommendation. I have an open mind on that. My sense is we actually have a really robust system. Civil servants are guided by the Civil Service Code. They are given guidelines on how they deal with lobbyists and I have not seen a great deal of evidence that they do not adhere to that.

Q774 Mr Prentice: Can I ask Tom and Iain, because you told us earlier that you meet any colleague that wants to see you, have you ever been lobbied by a former colleague? We do have MPs who work in the lobbying industry and if a lobbyist were a former colleague would that make you more inclined to see them?
Mr Harris: I have had a drink with both David Jamieson, who was actually one of my predecessors, and also with Ivor Caplin who I met at conference. I was friendly with him when he was an MP but he did lobby me. David actually asked to meet me and we had a drink in the Pugin Room. The reason he wanted to meet me was because he had some good advice on how to deal with my civil servants as a former minister. I am not telling you whether I took his advice or not but he was not actually lobbying on behalf of any third party.
Mr Wright: I have seen Ivor Caplin at a reception but I have never had formal meetings with former colleagues, it was literally "Hello, how are you" and that was it. I have never been approached either.

Q775 Mr Prentice: That gets me to on the issue of revolving doors which the Committee have been looking at. The Cabinet Office is responsible, is it not, for the Advisory Committee on Business Appointments? Do you think the present system works well? We have an increasing number of serving Members of Parliament who have outside jobs in industries that are linked in some way to the jobs they did when they were serving as ministers. Patricia Hewitt is a classic example, a former health secretary now working for Boots. Do you think the rules on business appointments are robust, do they need changing or are you happy with the situation as it stands at the moment?
Mr Watson: The rules were slightly strengthened last year by the Prime Minister. He changed the rules so that former ministers would be obliged to take advice where previously they were in an advisory capacity. My view is that it works pretty well. They have to justify their decision to do whatever they are doing to the Committee and they are pretty thorough.

Q776 Mr Prentice: We know, because we have been told by Patrick Mayhew, that the Committee will say to a former minister you must not lobby for 12 months but that is not policed in any way. Should it be policed? People who came before us were not interviewed: Ian McCartney, former chair of the Labour Party now working for the Fluor Corporation, was not interviewed, Patricia Hewitt was not interviewed. No-one is interviewed and the whole system is not policed.
Mr Watson: First of all I think you have to find the evidence that there is a problem and if you have found that there are former ministers who are not taking the advice of the Committee or breaking the terms in which they have taken jobs then I would want to look at that and take your recommendations.

Q777 Mr Prentice: You do not need to answer this because it is outside your ministerial brief but when a serving MP, who is a high profile figure, takes a job with a company that is bidding for the Sellafield clean-up contract which will bring in millions of pounds to that organisation, should it be a matter for that individual MP or should the party organisation, whether it is the Parliamentary Labour Party or the Conservative parliamentary party, have a view on it? It is not just a matter for that individual but it affects all of us, does it not?
Mr Watson: The integrity of the decision to award contracts would be taken by ministers and they are guided by the Ministerial Code. The behaviour of individual MPs is open to scrutiny. I would say that if an MP chooses to take a contract like that they must be aware they could be hauled in front of the Public Administration Committee and interviewed and made to justify themselves. They would

probably end up in the pages of newspapers given their answers and they have their integrity to protect. It is for them to justify their own decisions and for the court of public opinion to form a view.

Q778 Chairman: One answer you gave was about the hospitality register which you are going to publish shortly.
Mr Watson: They are compiling it now so very shortly, yes.

Q779 Chairman: As I understand it, and I have a note here from the Cabinet Office, it is committed to publishing an annual list of hospitality received by board members of departments. In fact these are not going to be the people that Gordon is describing, these people who are buried away in the recesses.
Mr Watson: The people who take the decisions would be senior civil servants. It is senior civil servants who would give advice to ministers on procurement I would say.

Q780 Chairman: You are talking about a handful of people in each department. You are not talking about the people down the line who may be actually the target of lobbyist activity.
Mr Watson: First of all let us identify if there is a problem with that. I do not know who you refer to or if there is a particular case you are trying to refer to. I would say that senior civil servants are going to be the ones who actually make decisions and give advice to ministers and they are the ones we are opening up to a greater degree of public scrutiny.

Q781 Chairman: I was puzzled why the restriction is to board members of departments.
Mr Watson: If you think we should go further down the line then let us look at it in the report. I am fairly confident that we are covering the Senior Civil Service in the way we are doing it.

Q782 Mr Walker: How could you make an informed decision without meeting interested parties who will be, by definition, lobbying you? You cannot make decisions in a vacuum. Everything you do has causes and consequences and without meeting interested parties, and occasionally breaking bread with them at some grotty restaurant, or a nice restaurant, how on earth can you make decisions?
Mr Watson: You cannot. The key thing is, as a minister, you would have to justify you are giving a broad access to a range of views and not just meeting a narrow group of interested parties and the Ministerial Code ensures that happens.

Q783 Mr Walker: I am sure you have very experienced skilled civil servants who can separate the wheat from the chaff as well.
Mr Watson: Pretty much.

Q784 Mr Liddell-Grainger: Can I ask Tom, you were a spin doctor before, were you not?
Mr Watson: No.

Q785 Mr Liddell-Grainger: You worked for the Rover Task Force and it was a government appointed body to extend the life of the Longbridge plant so you were a spin doctor.
Mr Watson: No, I was representative on the Rover Task Force which was an unpaid position.

Q786 Mr Liddell-Grainger: You were a spin doctor.
Mr Watson: No, I did not do any press.

Q787 Mr Liddell-Grainger: You were trying to keep the plant open. You were determined to do it and you were going to spin it any way you could.
Mr Watson: No, the Rover Task Force was the task force set up by the Government to deal with the closure of the plant or the job losses that came down from the downscaling. I did not do any press at all on the Rover Task Force.

Q788 Mr Liddell-Grainger: None at all?
Mr Watson: None whatsoever. I was not a press officer but I obviously spoke to the press as a member of the Committee.

Q789 Mr Liddell-Grainger: You were also political adviser to Ken Jackson of the Amalgamated Engineering and Electrical Union.
Mr Watson: That is right.

Q790 Mr Liddell-Grainger: Were you a lobbyist then?
Mr Watson: In the sense that I represented the interests of members of the Amalgamated Engineering and Electrical Union, yes, I was.

Q791 Mr Liddell-Grainger: Lobbying then, when you were looking at it from the other way as a lobbyist, to now being a minister. I do not know how long ago this is, 15 or 20 years?
Mr Watson: I worked for the Amalgamated Engineering and Electrical Union from 1998 to 2001.

Q792 Mr Liddell-Grainger: What do you see that is different looking at it from both sides?
Mr Watson: What I would say is when I worked for the Amalgamated Engineering and Electrical Union I did not spend a great deal of time talking to government; there was a lot more to my job than that. I do not think I particularly influenced government policy in the direction the Union wanted to go in those years. I probably was not very good at what I did.

Q793 Mr Liddell-Grainger: We still have unions. You have come from a position in two cases where you could have influenced government ministers for two very different reasons. Do you think lobbying has changed looking at it as objectively as possible from your two positions?
Mr Watson: Here is a problem that the Committee have and that is definition. Lobbying takes on many different forms and has different intents and is ever

changing. Yes, I think it has changed. What was absolutely clear to me in the times when I talked to government ministers from 1998 to 2001 was they were taking a broad range of views from across the industry, quite often to the frustration of the members of the Amalgamated Engineering and Electrical Union.

Q794 Mr Liddell-Grainger: Following on from the Freedom of Information Act do you think you could get away with more influence regardless of the government of the day than now or vice versa? How do you define it?
Mr Watson: It is difficult for me to tell but I thought I got fairness not favours, to use the slogan once coined by Tony Blair.

Q795 Mr Liddell-Grainger: How do you define lobbying?
Mr Watson: When preparing to come to this Committee the best definition I found was on the UK Parliament website which was the process of influencing and informing MPs and lords to make policy and legislation.

Q796 Mr Liddell-Grainger: Do you agree with that?
Mr Watson: Yes, I do.
Mr Harris: I have no problems with that.
Mr Wright: Yes.

Q797 Mr Liddell-Grainger: You were also a lobbyist, or you were an accountant.
Mr Wright: I have never heard an accountant being called a lobbyist.

Q798 Mr Liddell-Grainger: I read here that you were a season ticket holder of Hartlepool United, which I agree is not lobbying but is actually sad! You were actually with One NorthEast. I remember One NorthEast as being a lobbying organisation. It wanted to lobby to do the best for the North East. That is right, is it not?
Mr Wright: It is the Regional Development Agency charged with improving the competitiveness of the region.

Q799 Mr Liddell-Grainger: Were you involved in any way in lobbying? You were an accountant within the organisation.
Mr Wright: What I was responsible for within the RDA was governance. There were a number of companies being set up as part of the RDA and making sure that they had appropriate financial and non-financial controls. There was no lobbying.

Q800 Mr Liddell-Grainger: One of our colleagues, Michael Meacher, stood up and said in a debate that he felt that civil servants should be disciplined or sacked if they have colluded, and it is a very specific example, with BAA over the Heathrow expansion. Do not comment on that particular one but on the wider picture. If you discovered that your civil servants, regardless of level, were pushing government policy without your knowledge, taking hospitality from whoever and you did not know, what would you do about it?
Mr Watson: There is a very robust Code in the Civil Service Code and the guidance is set out. Gus O'Donnell is responsible for discipline in the Civil Service and I know that he would take a very dim view of civil servants breaking the terms of the Code.

Q801 Mr Liddell-Grainger: Do you think it is robust enough?
Mr Watson: I have been trying to apply the principles of the Code to another area of policy in the last few weeks and I think it is a very robust piece of work. If you think it requires strengthening and can find ways it can be further strengthened then I would be interested to see it.

Q802 Mr Liddell-Grainger: That is one of the problems, is it not? Tony read out a list of who you had met, or had not as the case may be, but to get a list of who the civil servants met in your department, and each of your departments is quite big, you are not going to know. To take another example, the nuclear issue, there has been a lot written about civil servants being lobbied about nuclear. I know that you do not cover that area.
Mr Wright: Although I have a nuclear power station in my patch.

Q803 Mr Liddell-Grainger: But you are not the minister responsible. I have a nuclear power station in my patch so I do not mind being lobbied. They have obviously had an awful lot of input and they have been trying to get hold of civil servants because civil servants tend to go on. Do you think the system needs to be tightened on lobbyists being able to wine and dine civil servants?
Mr Watson: I would be interested to see what the recommendations of the report are with regard to transparency and senior civil servants meeting members in industry. The Civil Service Code and the guidance given to civil servants on how they deal with lobbyists is very robust. If you think there is a case that they need to justify that with greater transparency then I would be interested to see it.

Q804 Mr Liddell-Grainger: You have not quite answered the question. The question is very direct. Do you think, and I am talking about you, it is strong enough? This is obviously going on because there is enough documented evidence to show BAA and I suspect the nuclear industry. There are other examples in this piece, and in fact I was actually at one of the occasions so I know there were civil servants there. Whether or not they were declared I do not know and I am not interested but do you think that is right?
Mr Watson: Yes, the guidelines can be justified and they are robust. Do I think that you might have a case that there needs to be greater transparency in the system? You might have a case and I would be interested to see what the report comes up with. The

Civil Service Code is very, very powerful and I think the guidelines given to civil servants about how they meet and deal with lobbyists is again very strong.

Q805 Mr Liddell-Grainger: Have you had any evidence in any of your departments that civil servants have spoken to lobbyists and you said "We better find out. Could you check up and get hold of the lobbyists?" Do you do that?
Mr Watson: I would not know on every specific occasion.

Q806 Mr Liddell-Grainger: Have you said to them "Can you go and get this information?"
Mr Watson: I have asked for information. I would not know necessarily where they would get the source but I certainly have no evidence of my civil servants breaking the Civil Service Code or the guidelines given to them when they meet lobbyists.
Mr Harris: There is an appropriate example in my own department. Jack Paine, who is with me today, is the head of rail procurement and is responsible for overseeing the franchising process. These franchises are worth millions in some cases resulting in a premium to the Government of more than £1 billion so we are talking about a lot of money. You talk about a lot of private interest in gaining those franchises and Jack is religiously obsessive—I hope he does not mind me using that expression—in that he will not speak to anyone who he thinks may have a vested interest in the particular franchising process. That allows me, in fact, to be protected as well because he puts himself in a silo as far as a particular franchise is concerned and makes sure that he is absolutely untouchable. No-one could ever say that anyone from outside has any influence at all on who gets a particular franchise and I am grateful for that because that protects me as well.
Mr Wright: My experience is very similar to the two Tom's which is I am confident that the framework is working. Linking the two things, this is all down to good governance. I have examples, in my own ministerial experience, where there is good governance and where there are related questions about conflict of interest and on the civil service advice we have moved quickly and the individual was removed. My experience of the whole process about procurement, potential conflict interest and good governance is that it is working.

Q807 Chairman: The guidance for civil servants is very robust on paper but I am not sure if it is for ministers. Ministers have simply these rather general-sounding statements in the Ministerial Code. Civil servants have page after page of detailed guidance on particular circumstances but ministers have none of that and just have these general exaltations.
Mr Watson: I am trying to give you a government view. My personal view is the Ministerial Code has guided me and my conduct as a minister quite well in a way that I could keep my integrity in tact. I know that opens you up immediately but it has worked pretty well for me.

Q808 Chairman: If one of the big property companies came in and waved a Centre Court ticket for Wimbledon in front of you what would you do?
Mr Wright: It has never happened. I probably would turn it down. I would take advice from officials but at the minute I would probably turn it down.

Q809 Chairman: What if one of the train operating companies came along with a bit of hospitality like that?
Mr Harris: The Ministerial Code is quite strict in terms of accepting hospitality. I have been given gifts in various contexts, almost invariably model trains inside Perspex boxes. That is very nice and when I eventually move on they will remain the property of the department. You just accept it. It really does depend on your private office and you always accept the advice of the private office. If the private office ever said to me that I cannot accept it and it is inappropriate there would be no question, you would not even argue: you would not accept it. Before you get to that stage I would like to think that we have some judgment ourselves and we would know when a gift was inappropriate and therefore not to accept it.

Q810 Chairman: If you look at the actual rules, there is nothing which prevents you from taking hospitality of that kind; indeed, the registration requirements are on a level where that would not be covered.
Mr Watson: There are a number of things that guide you as an MP and a minister. If you were offered hospitality you would clear it with a permanent secretary. Each department sets their own rules for monetary value that requires declaration and, of course, you are also guided by the Register of Members' Interests which requires you to declare.

Q811 Chairman: It actually matters if every time a minister is offered hospitality he or she consults an official about whether it is acceptable or not.
Mr Watson: 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.

Q812 Chairman: The question was would each offer of hospitality cause a minister to take advice from an official about it?
Mr Watson: Most offers of hospitality would come through a department so the officials would know about it anyway.
Mr Harris: It would depend on what you mean by hospitality. For example, if I am invited to go along to a reception in the House of Commons in one of

the dining rooms and I walked through the door and accept a glass of orange juice and a canapé, I do not consult my civil servants about whether or not that is acceptable and I do not think that is recorded.
Mr Wright: It is certainly ministerial responsibilities as opposed to being an MP. For example there are two occasions that I can recall where I have been the guest of the managing director of Tyne Tees to go and see Middlesborough Football Club. If I was a sports minister that would certainly have gone through but as a housing minister I have not consulted officials but that is recorded in the Register of Members' Interests.

Q813 Chairman: I have been told now that on the week beginning 28 January 2008 you met the Liverpool Football Club.
Mr Harris: You have been misinformed.

Q814 Chairman: Liverpool Football Club, Merseytravel, do you know what that was?
Mr Harris: I meet Merseytravel quite a lot because they are the Passenger Transport Executive but I have never met Liverpool Football Club. I wish I had. I am afraid you have been misinformed. I meet Merseytravel all the time and since they are the best performing rail company in the country I quite like to meet them.

Q815 Chairman: Can I say for the record that it comes from the record issued by your department about your meetings with outside interest groups. I suspect you will go back and ask them why they are putting out that you are meeting Liverpool Football Club.
Mr Harris: Or why I do not remember meeting Liverpool Football Club.

Q816 Mr Walker: We are talking about hospitality and civil service rules relating to their relationships. What about hospitality with the press, for example? If you are called out and a member of the press corps wants to take you out to lunch at a nice restaurant, do you seek advice from officials on that? That is hospitality so why would you treat that differently than an invitation from an organisation?
Mr Harris: On the few occasions where the press actually agree to buy me lunch, I would simply say to my private office can we make space in my diary to meet so-and-so. To be honest, the actual discussion does not go along the lines of do I accept it if he picks up the tab; it is just a question that I am meeting a colleague for lunch.

Q817 Mr Walker: If you have lunch with a member of the press do you take an official with you to record what is said?
Mr Watson: No.

Q818 Mr Walker: Why would the press potentially be allowed to operate to a different set of rules than Joe Bloggs train spotter or Joe Bloggs train manager?
Mr Watson: This goes back to the principles of the Ministerial Code that you need to justify how you make objective decisions. It is not unreasonable for ministers to seek advice where they think that organisations are trying to influence policy making.

Q819 Mr Walker: The press certainly influence policy making more so than any organisation.
Mr Watson: I suspect most of the time that is not the reason why MPs lunch with journalists.

Q820 Mr Walker: I am not talking about MPs but ministers and senior civil servants. What is the Code relating to ministers and senior civil servants, not special advisers or not press officers but senior civil servants, accepting hospitality from the *Daily Mail* or *The Express* or somebody? What are the rules relating to that?
Mr Watson: You have to let me clarify this after the Committee. I suspect the publication we are going to do later in the year if it was hospitality over a certain amount would include the press, but if I could come back to you on that I will find out exactly.

Q821 Mr Walker: Obviously when you meet the press there is a purpose. The press tend to report the conversation but not all meetings with the media get reported by the relevant journalist. If there was a register of meetings that you had had as part of your day-to-day jobs with private companies, should that register be extended to all meetings and include meetings with journalists. It might cause some embarrassment occasionally if something was leaked and not attributed but do you think that should be covered?
Mr Watson: If that is a recommendation of the Committee then obviously we will have to consider it.
Mr Walker: I did not ask that.

Q822 Chairman: That is ministerspeak.
Mr Watson: Let us be candid with you. 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.

Q823 Mr Prentice: Something that was raised by Tom Harris about franchising, because decisions there are worth millions, we are not talking about business lunches, £100 or £200, but millions perhaps billions. You told us that Jack Paine, who is here, is the filter who protects you. The Transport Committee, my notes tell me here, says that the re-franchising process is driven by consultants and lawyers. What steps do you take to ensure that the consultants the Department of Transport employs to advise you on franchising and re-franchising do not have another foot in the industry because many of them have an old British Rail background I suppose? Do you check them out?
Mr Harris: It is true that the re-franchising process is driven by consultants and lawyers working for the individual train-owning companies. At the very start of a process of course they are hyperactive, they are trying to get as much information as they can about

the franchise, about the nature of the geographical area and a huge amount of work goes into those train operating companies. They always employ firms of consultants to gather that information and input it into the system. In terms of making sure that civil servants are not unduly influenced by those consultants, as I say as soon as an invitation to tender is actually issued that is when the hatches are brought down as far as the DfT is concerned. Nobody who is involved at all in assessing those bids is open to influence by outside consultants from the invitation to tender, including myself. That is the advice I have been given. For example in the South Central franchise, ITT goes out later this year and at that point I would no longer meet any of the trade and operating groups who have expressed an interest in the franchise.

Q824 Mr Prentice: It is hermetically sealed and there is no possibility that consultants could be working for both sides.
Mr Harris: They can be working for both sides. What I would hope is that civil servants involved in the franchise process would be open in as much as if a train operating company, represented either by themselves directly or by a consultancy, needed more information that was a legitimate piece of information I would hope they would get that information. I would not want it to be a situation where they could not speak to the edifice which is the DfT. There has to be some reasonable access to get information for a bid. I do not have a problem with that. In terms of being able to exert influence, it does not happen. Can I give you one example? Within a couple of weeks of my becoming a minister I was asked to open the envelope announcing the winner of the South West franchise. It was a very strange process because at that point opening the envelope was a bit like announcing the winner of an Academy Award. That was the first time the minister has any idea about who has actually won the franchise. Likewise, almost nobody in the room, including officials, knows the name of the winning company until the minister opens that envelope and the only person who knows, who put that bit of paper into the envelope, is Jack who is effectively hermetically sealed from the whole industry from the minute the ITT is put out. It is a very robust system.

Q825 David Heyes: I was going to ask about this area. Going back to the beginning of this session when we asked which lobbying organisations came to mind, the first ones you mentioned were the Rail Industry Association and the Association of Train Operating Companies. You described them in passing as respected organisations. You then went on to talk about what I guess are more user orientated groups and you mentioned Rail Future. You were a bit disparaging about them and said they were train spotters.
Mr Harris: I do not use train spotters as an insult at all; it is a fine occupation.

Q826 David Heyes: Is there a hierarchy in your mind of the people you should listen to?
Mr Harris: If I am being completely honest, if there are a lot of demands on my diary and I have room to put one more meeting in and the choice is between the Director General of First Group or a rail user group representing a small station somewhere in the West Midlands the chances are I will speak to the Director General of First Group because I have a relationship there. There is almost always a financial relationship between the department and the particular train operating company. In all honesty I could not say that someone who is a member of a voluntary group supporting the railways would have exactly the same access to me as one of the train operating companies.

Q827 David Heyes: You did not mention, when you were volunteering who you get lobbied by, rail unions. I would have though they would be making very significant attempts to influence.
Mr Harris: On the first day I became a minister I was presented with a long list of organisations by my private secretary of people I should meet. I took one look at it and said there were no trade unions on the list and could you put the three rail unions on it and give me the list back. I have not had the list back yet but I do make the effort to meet the trade unions on a regular basis.

Q828 David Heyes: I am not sure how you make the decision about which type of organisations to give weight to. Is it something that is in you because you are a politician or does it come with the status of minister? Is there a process you go through?
Mr Harris: In February this year we had a political difficulty with First Great Western, the train operating company in the South West of England, whereby the Secretary of State and I had to decide what to do about its under-performance. Given the political sensitivity and given the effect that was having on passengers, I think it was entirely legitimate of me to spend quite a lot of time speaking to First Great Western on a formal basis with the managing director and with the route director of Network Rail in that area.

Q829 David Heyes: That is more consulting and taking soundings rather than you being on the receiving end of lobbying from them and that is the focus of our interest.
Mr Harris: It was two ways and it always is with train operating companies. If any train operating company comes to see me because they want to raise a concern about rolling stock shortage, for example, I will always use the opportunity to ask them or to promote the Government's policy to them as well. I have never from memory been in a situation where there has not been exchange and where it has only been one way.

Q830 David Heyes: How do you go about ensuring that you listen to a variety of perspectives and not just the big strong powerful ones?
Mr Wright: Given the thrust of the department about locally devolved matters, I am particularly keen to speak to relatively small scale tenants

groups. I think that is very important and is one of the reasons I go up and down the country discussing that. I take advice from officials and I trust the judgment that I get. A big part of my ministerial box every night is diary engagements and advice as to whether we should or should not meet with them. I can only think of one example where officials advised that I should not meet with people but I said I would like to and that was a transport group, because I think the importance of housing communities and related infrastructure about transport is very important. That is when I went against official advice and said I would like to meet with these people.

Q831 David Heyes: Are you the minister who is responsible in government for this issue of lobbying?
Mr Watson: I think ministers themselves have to take personal responsibility for how they conduct themselves. What underpins our approach to lobbyists is the Ministerial Code. It is very important that ministers on the subject of access strive to give a level playing field. There should be no question of preferential access for different groups. You also have to recognise that some people carry gravitas, greater weight, greater strength of knowledge on particular issues, so you have to allow ministers some flexibility to make a judgment on who comes to see them and who does not. They should always take advice from officials as well.

Q832 David Heyes: When our report is published later this year, whether it is a controversial report or not—we do not know at this stage what the recommendations will be—is yours the desk it will land on?
Mr Watson: I suspect it will land on my desk and others. I have an open mind on where to go next on some of this stuff so I would read the report with great interest. Can I also say that from previous experience it usually pays to listen to the Public Administration Committee. I just have memories of the MoD.
David Heyes: I think I have just been lobbied!

Q833 Kelvin Hopkins: I separate in my mind two kinds of lobbying: lobbying for contracts and lobbying on policy issues, which is altruistic and I like to think I do quite a lot of that myself, as a Member of Parliament. If we can go back to the rail franchises, I am sure Tom is right and within that box Tom describes everything is absolutely straight. But something somewhere happens which means that decisions are made which could be construed as being against the public interest. South East trains sort of collapsed and it was later run effectively in the public sector for a time when its performance improved both as an operating company and also financially. But it was forced back into the private sector despite the fact that it was apparently doing a better job for the public than the private franchisees. Someone somewhere lobbied hard for that to happen. Presumably it was ATOC[1] or the TOC[2] saying we do not want a public sector comparator which shows us up as not doing a good job. How did that happen? How was that decision taken and who lobbied you?
Mr Harris: As you know, that happened long before I was appointed as minister. I would be happy to confirm this after the meeting but I would be very surprised if any private sector company would have to lobby on that since having a privatised railway system, fully privatised without a public sector comparator, is actually government policy. If it were to remain in public hands that would be against government policy so I do not think you needed a private company to lobby in favour of government policy on the railways in that instance.

Q834 Kelvin Hopkins: Even when it was evidently in the public interest to keep it in the public sector and not put it back in the private sector?
Mr Harris: My own view would be it would not be in the public interest to keep it in the public sector and the performance of South East Trains has improved since it went back to the private sector.

Q835 Kelvin Hopkins: Let us take Jarvis. Jarvis has a pretty appalling record in many respects and almost went bankrupt at one point. At this point we still have not found out the whole truth about Potters Bar. Questions are still being asked and we still want to find out what happened. That was clearly a Jarvis responsibility and yet Jarvis continues to get government contracts. What pull does Jarvis have? Who lobbies you? Who lobbies government on behalf of Jarvis?
Mr Harris: I can honestly say that I have never been lobbied, as far as I am aware but my published diary may show this to be different, by Jarvis for any reason let alone a contract. As far as Potters Bar is concerned, as you know the Secretary of State has still to make a decision as to whether there will be a joint public inquiry on Potters Bar and that decision will be made later this year. I would not want to go into too many details there but I have never been approached by a private sector company ever lobbying me for a specific company. To add to that, the contract that you are referring to would actually have been let by Railtrack, now Network Rail, rather than by the Government. The Government does not actually let out contracts for maintenance or renewals on the railway network. Ministers do not take those decisions.

Q836 Kelvin Hopkins: I asked a question of the previous Prime Minister about Jarvis some time ago, I understand Cabinet was panicking at the time and desperate to keep Jarvis alive and fed them lots of contracts, but that is another story. What you say, and what has been said today, suggests that the real power, influence and decisions take place in a rather mysterious way not at your level. Things happen which seem to have been influenced by the private sector and yet for some reason we do not know how it happened. At your level I am sure everything is straight. It is rather like having a respectable front,

[1] Association of Train Operating Companies
[2] Train Operating Company

but behind that there is the "walk in the park". Someone, somewhere is actually influencing decisions above or away from your level.
Mr Harris: If you forgive me that is an unnecessarily cynical approach to take to what is a very robust and effective system. Let us go back to franchising. When the short-listed companies are actually in the process of having their bids assessed the key officials who are making the assessment on whatever grounds, deliverability of rolling stock programmes or whatever, do not even know which companies they are assessing because they are all given code names at that stage. They will be called Tom, Dick and Harry, and Tom may have advantages in this area and Dick in others. Actually in a paradoxical way the process has to be less than transparent in order to make sure it is an absolutely level playing field and no company has any advantage over the other. In that respect we can have absolute confidence that it is not lobbying that has resulted in a particular contract being awarded but actual deliverability and the assessment of their bid.

Q837 Kelvin Hopkins: I will move on. There was also the mysterious reason why Midland Mainline had its franchise taken away when it was apparently the best of the franchisees.
Mr Harris: Midland Mainline came to the end of their franchise and there was a new franchise issued and another company put in a better bid.

Q838 Kelvin Hopkins: You will remember that I am a member of the Council Housing Group in the House and we recently had a meeting in this building. I had a very strong feeling, and forgive me for saying this, that we were something of an annoyance, an irrelevance, a bit irritating and we were not going to be taken seriously.
Mr Wright: Absolutely not. I completely disagree with that.

Q839 Kelvin Hopkins: Not just on this front but on a whole range of fronts there is a very strong feeling that there are outsiders and insiders, insiders who have pull with government and outsiders who do not. Consultants—the "consultocracy"—big business lobbyists, have much more pull than backbench MPs, even when there is a substantial body of parliamentary support for a particular view.
Mr Wright: Let me talk in general and then talk about that specifically. I go back to one of the earliest points I made to the Committee today which was that I will always agree to meet with MPs. With particular regard to that meeting which was organised by Austin Mitchell, that came in response to a Report and Third Reading of the Housing and Regeneration Bill and certainly in terms of the role of local authorities in the delivery of new houses it is something I am particularly interested in. It is something where we are trying to remove some disincentives and barriers so that local authorities do play a greater role and it is something I am interested in. Maybe it was my presentational skills but the idea that you are an irrelevance is absolutely completely wide of the mark, certainly not.

Q840 Kelvin Hopkins: You are very kind and you were very charming at the time but I just thought it was something you had to get through and you would go on to more serious consideration of policy after that. That was a strong impression, and it is not the first time it has happened with ministers. Is it not the case that with a high proportion of what used to be in the public sector now in the private sector, the companies who are bidding for the contracts at every level of government are much more significant than Members of Parliament, MPs who often have irrelevant ideas like mine that council housing was a good idea and that we ought to have more of it?
Mr Wright: The idea is not irrelevant. I think we all agree that if an MP wants to meet I would always say yes. I cannot think of a time when I would turn down a Member of Parliament. I see the status of a Member of Parliament as being very privileged. You do have privileged access to ministers and that is how it should be.

Q841 Kelvin Hopkins: My last question is something I raised before, particularly with the previous Prime Minister and I guess the present one too. Downing Street seems now to be open to big business lobbying in a way that even with Mrs Thatcher it was not. We get constant reports of gambling corporations from America, health corporations, and no doubt railway corporations as well, but particularly health and gambling, who are welcome in Downing Street and have immediate pull with the core of our government, the Prime Minister's office and the immediate Downing Street staff. How much do you sense that decisions are really taken rather above your level? You do a splendid job and are conscientious ministers but really the core now is in Downing Street and that is where lobbying really counts.
Mr Watson: You have a view on that but I disagree with you. The principles of the Ministerial Code apply to prime ministers as well as irrelevant junior ministers and I think you have to make your case and provide evidence to show that.
Kelvin Hopkins: Perhaps we can discuss this further over a glass of claret some time.

Q842 Mr Walker: To go back to something you said, I am a little concerned that when you opened that magic envelope you do not know what is in it. You are the minister and you should know. You are paid to make decisions; you are paid to bring your intellect and understanding of the issues to bear on that decision making process. I am also concerned that all these bids are coded so no-one knows which bid belongs to whom. You could have some really crummy operator with a track record of failure who has a great bid but history tells us they should be avoided like the plague. Do you think perhaps it has gone too far and we do need a little bit of subjectivity in the decision-making process? After all, you are paid to make decisions and stand by those decisions as your civil servants are.
Mr Harris: I can imagine nothing worse than having to appear in front of this Committee having made a subjective judgment about giving a £1 billion

contract to particular firm with whom I has just had dinner the previous week. You have to understand that when that envelope is opened I do not know what the name of the company is but long before that point is reached there has been a process of analysing all of the interested bidders and short listing those bids. Those are short listed on the basis of things like deliverability and track record so no-one with a track record that would indicate they cannot provide the service in the new franchise would even be short listed anyway. I have absolute confidence that whichever of the three or four short listed companies, whatever name is in that envelope, will be able to deliver. It is the job of my civil servants to assess the bids at a much earlier stage so if they are short listed, if they get that close, of course they can deliver the bid. I think everyone on all sides of the House can absolutely 100 % guarantee that there are no deals being done and there are no favours being made. I think that is absolutely essential in a system.

Q843 Mr Walker: What is your role as a minister? Does the Secretary of State know what is in the envelope?
Mr Harris: No. I only opened it at that point because the Secretary of State happened to be on holiday. Usually it is the Secretary of State who does it.

Q844 Mr Walker: I personally, in my humble opinion, find it pretty frightening that the Secretary of State who is paid to run the Transport Department has no idea what is in the envelope.
Mr Harris: I can assure you that it would be a lot more scary if you thought that Labour ministers were making a subjective judgment about which company to give a contract of that size to. That is a situation no government would want to put themselves in.

Q845 Mr Walker: I would still like you to be able to know what was in the envelope before you opened it.
Mr Harris: Bless you, but that will not happen.

Q846 Mr Prentice: Maybe the lobbying, if we can call it that, is at an earlier stage when you are drawing up the specifications for the franchise. When GNER went down the pan, people who travel on the East Coast were very complimentary about the on-board dining services and I do not know if that was in the specification.
Mr Harris: It was not. We do not specify catering but you are right. I know you do not want to go down the road of franchising but in terms of lobbying when a franchise is originally put together in order to come up with a service specification and an invitation to tender the people whose opinions are most valued are the users of that service. They are consulted extensively not just by the department but by all the companies who are interested in putting in a bid so they do have a say in the shape of that franchise.

Q847 Chairman: Do you know what the APPC[3] is?
Mr Wright: The Association of Political Consulting.

Q848 Chairman: Did you know what it was?
Mr Harris: What he said.
Mr Watson: It is one of the three trade bodies that represent the lobbying industry.

Q849 Chairman: Some bits of the public sector have started saying that companies the Government does business with should be a member of this trade organisation. Do you have a view on that?
Mr Harris: Can I point out that in a previous life I was not exactly a lobbyist, Ian may refer to me as a spin doctor, but when I worked for a passenger transport executive I was down here before I was an MP lobbying and doing the job of a consultant, although I was in-house, lobbying Members of Parliament on the Transport Bill 2000 on railways. I suspect that if such a requirement were made, that ministers and even MPs could not deal directly with people who were not in that organisation, I would have been excluded from some of the avenues that I used at that time and I think that would be unfair to organisations who cannot afford to hire rather expensive consultancy firms.

Q850 Chairman: What is the Government line on this?
Mr Watson: A publicly funded organisation would have to justify that it is in the public interest to employ the skills of a lobby firm.

Q851 Chairman: I had a letter from DLA Piper, lobbyists who are not members of APPC. They say that 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 and in the public affairs PR world, stipulated that respondents should be members of the APPC to be eligible to apply for the work and obviously they are complaining about that. Is that the direction of travel inside government?
Mr Watson: What I think this Committee has already done has got the industry to get its act together. I notice three trade bodies have tried to adhere to a common set of principles by which they go about their business. I do not think it would be unreasonable for members of the trade body to use that as a positive in the way they pitch for business. If I was awarding a contract I would probably want to make sure they are reputable firms who are members of trade bodies who adhere to a particular code. That is one consideration that an organisation has to make when they decide to award a contract and I can understand why the Met Office have gone down that road.

Q852 Chairman: You have a choice: you can either regulate government in relation to lobbying, as we do in relation to the codes for civil servants, what we said about ministers and so on, or you can regulate

[3] Association of Professional Political Consultants

the lobbyists. Which of those models is the better one, or do you think there is a case for doing something on each side?

Mr Watson: 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. My concern about regulation is you cannot partially regulate an industry because there are always consequences. The process already has put the industry under a bit of pressure. I saw the press release the three trade bodies put out and in a sense you are already helping some of them bring a bit of common sense to the way they ply their trade.

Q853 Chairman: One of the issues is whether multi-client lobbyist firms should have to disclose who their client list is. What view would you take on that?

Mr Watson: If I was a blue chip company I would probably want to employ a contractor that was pretty straight about who their clients were. Their argument back would be that some of their clients are entitled to privacy and confidentiality. I would say that if you think there is genuinely a problem with multi-client lobbyists, if you can define them that way and I have never heard that definition before, then I would have an open mind about what your recommendations would be.

Q854 Chairman: From your experience, just generally outside Parliament and inside Parliament as ministers, we all know that the lobbying of government is an integral part of the democratic process but do you think the lobbying industry adds value to that process?

Mr Watson: Yes, on balance I do. Sometimes we forget how complex government is, and people who understand the interrelationships between various the parts of government help voluntary sector and private sector communicate better with government so in general I think it is a pretty healthy thing. There are always bad apples in every industry.

Mr Harris: I agree with that. If you are a part of an organisation, say a voluntary organisation or a charity, and you want to lobby on a particular policy it is an incredibly opaque process. I take it for granted now and because we have been MPs for so long there is a danger of assuming that every organisation out there knows exactly who to speak to, what is the process of the Bill and the consultation process. It is actually a very difficult thing to get your head around and if a lobbying company or a firm of consultants can help a company get through all of that, even if they do not achieve the policy aims at the end of it, as long as an organisation has had the opportunity to make their case then that is very important. If lobbyists can facilitate that I do not see anything wrong with that.

Mr Wright: Following on from what Tom was saying, where it adds value, from my own experience, is in order to clarify some of the complexities of how government works and to show how the legislative process is undertaken. That is where it adds value rather than the access point, access to ministers or access to civil servants, which is what people have concentrated on previously.

Chairman: That is very helpful. It has been an interesting session. I hope it has not been one of those sessions that have been described by Kelvin as one you have to get through and get on to the real business of life. We have enjoyed it and we have learnt a lot from it and we are very grateful for that. I am afraid, Tom, it still does not let you off having champagne in the Pugin Room with one of our staff. Thank you very much to all of you.

Written evidence

Memorandum from the Cabinet Office

Thank you for your letter to Sir Gus O'Donnell of 3 April. You asked for information which would help inform the evidence session which is now taking place on 19 June, with a panel consisting of Tom Watson MP, Tom Harris MP, and Iain Wright MP. I am sorry for the delay in replying.

1. *What rules apply to civil servants (including special advisers) and Ministers on contacts with people outside Government (including rules on accepting gifts and hospitality)? Please provide copies of these rules, or indicate where they are readily available*

The *Ministerial Code*, the *Civil Service Code*, the *Civil Service Management Code* and the *Code of Conduct for Special Advisers* set out the standards of conducted expected of the respective office holders. There are also specific rules on civil servants' contacts with lobbyists, the acceptance of gifts and hospitality and on the use of official information. The relevant extracts from the Codes of Conduct are set out in Annex A.

In implementing the business appointment rules, departments (and where appropriate the Advisory Committee on Business Appointments) pay particular attention to those moving into the lobbying industry and restrictions are often imposed.

The *Directory of Civil Service Guidance* contains a section on contacts with lobbyists which is also contained in a stand-alone document, a copy of which I enclose at Annex B for your ease of reference. It is also accessible on the Cabinet Office website at (http://www.cabinetoffice.gov.uk/propriety_and_ethics/civil_service/lobbyists.aspx)

2. *What guidance is available to civil servants (including special advisers) and Ministers on contacts with people outside Government? Please provide copies of any central guidance and of any Department-specific guidance from those Departments for which Ministers are coming to give evidence on 19 June (including Departmental guidance and rules on accepting gifts and hospitality). If any of these Departments does not issue specific guidance, please supply guidance from another Department instead*

As referred to in paragraph 1 above, the principles and guidance which set out the ground rules for contacts with people outside Government are contained in the various Codes of Conduct and guidance on contacts with outside interest groups, including lobbyists.

In addition, the Cabinet Office, the Department for Communities and Local Government, and the Department for Transport all produce internal guidance for civil servants which supplements the central guidance noted at 1 above. This guidance includes rules about the acceptance of hospitality. Copies of the guidance issued by the Cabinet Office, Department for Communities and Local Government, and Department for Transport are attached at Annexes [C, D and E][1] respectively.

3. *What records are civil servants (including special advisers) and Ministers required to keep of their contacts with people outside Government?*

(a) How much of this information is subject to public or other scrutiny?

(b) What use if any is made of this information for internal monitoring purposes?

The decision on when and what to record will be taken on the merits of the individual case taking account of the requirements of the respective code of conduct and relevant guidance. The decision will be a matter of judgement for the individual concerned, after discussion with line management where appropriate. Disclosure of such information would also be considered on the merits of the individual case taking account of the legislative framework. However, the expectation is that requests for information about meetings with outside interest groups would normally be disclosed unless FOI exemptions applied for example for reasons of policy or commercial confidentiality. It will be for individual departments to consider whether and how such information should be used for internal monitoring purposes.

4. *Please provide copies of the hospitality registers for those Departments for which Ministers are coming to give evidence on 19 June, from the beginning of 2007*

The Government is committed to publishing an annual list of hospitality received by Board members by department. The Cabinet Office is currently collating information for 2007 with a view to publication shortly. This will be the first time such a list has been published. I will send you the information as soon as it is ready. The Ministerial Code sets out the rules and requirements expected of Ministers in relation to the acceptance of hospitality.

[1] Not printed.

5. *How many complaints has the Government received in each year since 2000 about the propriety of the behaviour of civil servants (including special advisers) and Ministers when in contact with people outside Government?*

(a) What was the outcome of these complaints? How many of the complaints were investigated? How many resulted in disciplinary or other sanctions? How many resulted in other action being taken?

6. *How many complaints has the Government made to other organisations in each year since 2000 about approaches made to civil servants (including special advisers) and Ministers by people outside Government? Please provide details*

The information requested is not held centrally. However, the Cabinet Office is not aware of any such complaints being made or received. Informal soundings of departmental contacts bear out this position. If the Committee would find it helpful, the Cabinet Office would be happy to write round to departments to confirm the position.

7. *What information does the Government hold on the subsequent employment of staff leaving the civil service?*

(a) Is information analysed on trends in the employment of former civil servants, centrally, by Department, or by unit within Departments? (for example, to monitor whether substantial numbers of civil servants from within a unit are moving to a specific private company)

The Advisory Committee on Business Appointments publishes information on its website and in its annual report on the advice it gives on applications under the Business Appointment Rules from the most senior civil servants once the appointment has been taken up or announced (see http://www.acoba.gov.uk/former_crown_servants_appointments.aspx). Information on those applications under the Business Appointment Rules that are dealt with at departmental level is held within departments.

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.

I would of course be happy to discuss.

June 2008

Annex A

CIVIL SERVICE CODE

You must always act in a way that is professional and that deserves and retains the confidence of all those with whom you have dealings. [Para 5]

You must not misuse your official position, for example by using information acquired in the course of your official duties to further your own private interests or those of others. [Para 6]

You must not accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgement or integrity. [Para 6]

You must not disclose official information without authority. [Para 6]

You must not be influenced by improper pressures from others or the prospect of personal gain. [Para 8]

You must not act in a way that unjustifiably favours or discriminates against particular individuals or interests. [Para 12]

MINISTERIAL CODE

Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests. [Para 1.2f]

Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation. [Para 1.2g]

It is a well established and recognised rule 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 offered to a member of their family. [Para 7.20]

This is primarily a matter which must be left to the good sense of Ministers. But any Minister in doubt or difficulty over this should seek the advice of their Permanent Secretary and the independent adviser on Ministers' interests where appropriate. [Para 7.21]

Gifts given to Ministers in their ministerial capacity become the property of the Government and do not need to be declared in the Register of Members' or Peers' Interests. Gifts of small value currently this is set at £140, may be retained by the recipient. Gifts of a higher value should be handed over to the department

for disposal unless the recipient wishes to purchase the gift abated by £140. There is usually no customs duty or import VAT payable on the importation of official gifts received overseas. HMRC can advise on any cases of doubt. If a Minister wishes to retain a gift he or she will be liable for any tax it may attract. The Government publishes an annual list of all gifts received and given by Ministers valued at more than £140. [Para 7.22]

Gifts given to Ministers as constituency MPs or members of a political party fall within the rules relating to the Registers of Members' or Peers' Interests. [Para 7.23]

If a Minister accepts hospitality, the Minister should notify their Permanent Secretary and it should be declared in the Register of Members' or Peers' Interests. Registration of hospitality would normally be required for hospitality over £600 in value for the Commons and £1000 for the Lords. [Para 7.24]

The Civil Service Management Code

Civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity. [Para 4.1.3d]

Departments and agencies must inform staff, taking into account the principle in paragraph 4.1.3(d), of the circumstances in which they 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. [Para 4.3.5]

Code of Conduct for Special Advisers

Special advisers should not receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity. [Para 6]

Annex B

Guidance for Civil Servants: Contact With Lobbyists

All civil servants, including special advisers, are employed by the Crown and paid by the taxpayer to serve the Government of the day in a manner which upholds the highest standards of propriety in public life.

Basic Principles

2. The basic principles are set out in the Civil Service Code, attached. They are demanding. But it is worth remembering that they are reflected in every department's Management Code and that any breach may give rise to disciplinary proceedings.

3. Civil servants should conduct themselves with integrity and honesty. They should not deceive or knowingly mislead Parliament or the public. They should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others. They should not receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity. They should not without authority disclose official information which has been communicated in confidence in Government or received in confidence from others.

4. The principles of public life set down by the Nolan Committee in its first report in 1995 are also relevant: in particular—

- selflessness: holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends;
- integrity: holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties; and
- honesty: holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Lobbyists in the UK Political System

5. The Nolan Committee said in their first Report, "it is the right of everyone to lobby Parliament and Ministers, and it is for public institutions to develop ways of controlling the reaction to approaches from professional lobbyists in such a way as to give due weight to their case while always taking care to consider the public interest".[2]

[2] First Report of the Committee on Standards in Public Life, page 35.

6. The Government's approach, reflecting the approach of the Nolan Committee, is not to ban contacts between civil servants and lobbyists but to insist that wherever and whenever they take place they should be conducted in accordance with the Civil Service Code, and the principles of public life set out by the Nolan Committee. This means that civil servants can meet lobbyists, formally and informally, where this is justified by the needs of Government.

Practical Application to Contacts with Lobbyists

7. These basic principles apply to all contacts between civil servants and people outside Government, be they businessmen, trades unionists, journalists or campaigners of any kind. What the principles mean in practice will depend on the circumstances of each case. It is not possible exhaustively to cover every situation which may arise, but the main points to have in mind in dealings with professional lobbyists, given the nature of their work, is as follows.

8. Some things are completely unacceptable. For instance:

— DO NOT leak confidential or sensitive material, especially market sensitive material, to a lobbyist.

— DO NOT deliberately help a lobbyist to attract business by arranging for clients to have privileged access to Ministers or undue influence over policy.

These would be serious disciplinary offences and trigger procedures under which you would be liable to dismissal.

9. Much more common are situations where dealings with a lobbyist are acceptable provided that they are handled with care. These are grey areas where common sense has to be used. Here again, breaking the basic rules may lead to disciplinary action.

— DO NOT say or do anything that could be represented as granting a lobbyist preferential or premature access to information, Parliamentary or Governmental, which you have received because of your official position.

— DO CONSIDER whether meeting one group making representations on a particular issue should be balanced by offering other groups a similar opportunity to make representations.

— DO NOT accept gifts or other benefits from a lobbyist which are offered to you because of your official position and could place you, or reasonably be considered to place you, under an obligation to the donor.

— DO NOT give the impression to a lobbyist that any particular advice, idea or information from their clients could or will be decisive in the decision-making process. Decisions are for Ministers who will want to weigh up all the evidence and all the advice they receive before they judge the public interest.

— DO NOT do anything which might breach Parliamentary privilege or offend against the conventions of Parliament. Remember that the papers and reports of Select Committees are the property of the Committees and subject to Parliamentary privilege. If in doubt whether particular papers are in the public domain, seek guidance from the Clerk of the Select Committee.

— DO NOT use your knowledge about what is going on inside Government to impress your contacts in the lobbyist world. What may seem simple gossip to you may make money for someone else, or amount to improper help.

— DO NOT use your position to help a lobbyist get a benefit to which he or she is not entitled.

— DO NOT offer, or give the impression of offering, a lobbyist preferential access to Ministers or their officials. Where you think someone can contribute some interesting ideas, you should tell those concerned and let them decide for themselves.

— DO always declare to your Department any personal or family business interests which may at some time create an actual or potential conflict of interest with the work of your department, and comply with any instructions from the Department designed to eliminate the conflict.

— BE CAREFUL about accepting hospitality from a lobbyist: see next section.

These guidelines must of course be interpreted with common sense. 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 not get tempted into doing something which would lay you open to criticism or be misunderstood.

Hospitality

10. Departments usually have their own rules about accepting hospitality which reflect the circumstances of their work. You should read them. If there is a complete ban on accepting certain kinds of invitation, you must comply with it.

11. Where the decision whether to accept hospitality is left to your judgement, you need to ask yourself some common sense questions: for instance, whether there is benefit to the Government in your accepting the invitation; whether the entertainment is lavish, on a scale which you could not personally afford; whether you are accepting too much hospitality from the same source; and, if your post is prominent, whether just your attendance at an event may be open to interpretation as a signal of support.

12. Provided that you are satisfied about the propriety of accepting, it may be legitimate occasionally to take modest hospitality from a lobbyist, if for instance it gives you the opportunity to gain a better understanding of an industry or a group or a particular point of view. But if you find this happening to you a lot, you should pull back quickly.

If in Doubt

13. If you are in doubt about what is proper, there are three particular things you should do.

- DO err on the side of caution. If you would feel uncomfortable if it became public, do not do it.
- DO consult your line manager, if you are still unsure.
- DO consider putting a brief note on the file recording that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with the Civil Service Code, if you decide to go ahead.

Lobbyists in Other Roles

14. The focus of this note has been on professional lobbyists—whether individuals, partnerships or companies—who earn their living by providing their clients with contacts, information and advice about how to persuade the Government and other public sector bodies to do or give them what they want. Remember that you may meet a lobbyist in other roles: for instance as a journalist or consultant. Bear all his or her interests in mind in your discussions. You cannot expect lobbyists to keep their different roles in watertight compartments.

Conclusion

15. Lobbyists are a feature of our democratic system. There is no ban on civil servants having dealings with them where this serves a proper purpose and is conducted in a proper manner. But the need for propriety is crucial. Lobbyists themselves are bound to want to talk up their own influence and contacts. It is the job of all civil servants to make sure that they conduct their dealings with lobbyists in a manner which is proper and not open to misinterpretation.

Letter from Sir Gus O'Donnell, Cabinet Secretary to Paul Rowen MP, Member of the Committee

Lobbyists and Access

During my evidence session to the Committee last week,[3] I said I would look into allegations about lobbyists' access.

Ministers and civil servants meet many people as part of the process of policy development and advice. It is important that whenever such contacts take place they do so in accordance with the requirements of the *Ministerial Code, the Civil Service Code, Guidance on Contacts with Lobbyists, the Code of Conduct for Special Advisers* as appropriate, and the Nolan principles of public life. In the particular case raised, I am satisfied nothing improper occurred. Neither the Prime Minister nor his office had any knowledge of any photo calls.

Separately, Richard Houghton, Chairman of the Public Relations Consultants Association has written to the Cabinet Office confirming that it is satisfied that Hanover has acted within the Association's code of conduct in its tender for the Medical Technology Group.

I hope this is helpful and I am copying to Tony Wright MP, Committee Chairman.

October 2007

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[3] Public Administration Select Committee, Oral and Written evidence, Session 2007–08, *The Work of the Cabinet Office,* HC 92–i, Ev 14

Memorandum from Tom Watson MP, Parliamentary Secretary, Cabinet Office

Further to my appearance before the Committee on 19 June, I am writing to clarify the rules relating to senior civil servants accepting hospitality.

The Civil Service Code states that civil servants should not accept gifts or hospitality or receive other benefits which might reasonably be seen to compromise their personal judgement or integrity. The Civil Service Management Code sets out detailed rules on standards of conduct expected of civil servants.

You are aware that we are compiling, for the first time, a list of hospitality received by departmental board members. This will be published shortly. I will ensure that the Committee receives a copy as it is published.

A summary of the rules issued by individual departments on accepting hospitality will be published alongside the list of hospitality. 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. I am copying this letter to Charles Walker.

July 2008

Memorandum from Tom Harris MP, Parliamentary Under-Secretary of State for Transport

I am writing to clarify some of my comments made during my appearance before the Public Administration Select Committee on 19 June regarding a specific part of the Department for Transport's (DfT) procurement procedures.

I named Jack Paine, DfT Director of Procurement, as the senior official responsible for Procurement and gave an overview of the contract award process. In explaining the final stage of the anonymised contract award process I suggested that the Director of Procurement knew the identity of the winning bidder before the Secretary of State (or other Minister) opened the sealed envelope containing the name of the successful bidder.

I should like to clarify that Jack Paine does not know the identity of the winning bidder. The Procurement Project Manager, who reports to Jack Paine, for that particular contract knows this as they are in direct regular contact with the bidders. Only a small number of officials and advisers know the actual identity of the bidders, and subsequent winner, and this is kept confidential throughout the procurement process. The full DfT procurement process is published on the DfT website and accessible to the public.

Ministers approve the initiation of specific procurement projects, the specification published in the OJEU Notice, the full specification published in the Invitation to Tender and the processes leading to the award of the contract. Ministers and Accounting Officers are not part of the evaluation or negotiation procedures.

Each stage of the award process is subject to governance controls by an appropriate Board or Committee to ensure due process, affordability, deliverability and value for money. In addition there are independent reviews undertaken by the Office of Government Commerce as part of the "Gateway" process and all procurement projects can be subject to an internal audit. The procurement process itself has been approved by the DfT Board and has recently been reviewed as part of the OGC's Procurement Capability Review Programme (report to be published 24 June 2008) and has been audited as part of the National Audit Office audit on Rail Franchising (their report is due to be published mid-July).

I would also like to correct my comments regarding a meeting in the week commencing 28 January 2008. I did indeed meet the Chief Executive of Liverpool Football Club with the Chief Executive of Merseytravel and Peter Kilfoyle MP. The meeting was to discuss proposals for reopening the Bootle Branch line for passenger trains to manage increased capacity relating to the new football stadium. I apologise for any confusion about this.

June 2008

Memorandum from Peter Luff MP

I am delighted I will have the opportunity to give oral evidence to the committee during its investigation into lobbying. I hope this note will help the committee in advance of that evidence.

I must begin by declaring my interests. I was for many years a public affairs consultant and I was (but am no longer) retained by a public relations consultancy for a number of years after joining the House of Commons. I am a Fellow of the Chartered Institute of Public Relations (CIPR). I associate myself with the general spirit and tone of the evidence from the CIPR to the committee, but I do have two points of disagreement with the Institute's evidence.

I strongly support the view of CIPR in paragraph 27 that think tanks, special interest groups and public affairs consultancies make a significant contribution to restoring the balance between the executive and Parliament. Effective lobbying of the House of Commons and of the rest of the political and governmental process is crucial in our sophisticated democracy. Lobbying, as long as it is done openly and transparently, is a necessary and even honourable part of the political process.

The Role of Consultants in Lobbying

I think it is important to emphasise, as the Institute does in Paragraph 6 of its evidence, that the majority of public affairs work is not actually undertaken by consultancies, but by in-house teams. It is my empirical observation that in-house teams working for NGOs typically have more power and influence over the decision-making process than private and corporate sector organisations working with their own in-house teams or when using multi-client consultancies.

I believe, therefore, that it is vital for a balanced debate that the private sector uses the best possible advice to enable it to compete on level terms with the very cogent and well- argued views put forward by the experienced professionals working within NGOs.

It is also entirely appropriate for public sector bodies that need to communicate with politicians or the general public to retain communication consultants, just as they would retain accountants, lawyers or many other professional disciplines to support them in their key tasks.

Is There Really a Problem?

As Chairman of the Trade and Industry Committee for more than two years, I am probably one of the most lobbied backbench Members of Parliament in the House of Commons. I therefore feel able to endorse very strongly the views of CIPR in paragraph 10 of their submission, that standards are much higher than they have been in the past.

I would go so far as to say that I am not aware of any practical issues that should cause the committee any serious concern about the nature and practice of lobbying. Although I welcome the fact the committee is looking again at this important question, I honestly do not believe there are any systemic failures which should prompt any significant recommendations from the committee.

Access to Parliament

There is one exception to this general presumption and that relates to the issue of parliamentary passes. When I was working in the industry prior to my election to the House of Commons it was often very difficult to obtain information from the House of Commons. Having a pass was the only way that practitioners, whether in-house or in consultancies, could gain access to documents that ought to have been freely available to the general public.

The subsequent establishment of a Parliamentary bookshop meant such documentation was freely available and the development of the internet now means there is now no longer any need whatsoever for any public affairs practitioner, whether in-house or consultancy, to have access to the precincts of Westminster simply to obtain information. I can therefore see no reason why any practitioner should need a Parliamentary pass and I urge the committee to reject the proposal in paragraph 12 of the CIPR's evidence for an EU style system of passes. Indeed, I believe there may be a strong case for tightening the existing rules.

However, I believe the lobbyists I am aware of who hold Parliamentary passes hold them for Member of the House of Lords, not the House of Commons, so there may be limits to what your committee can do in this regard. I should emphasise that I am aware of no abuse of such passes by those who hold them, but the public impression generated is unhelpful and their possession of little real benefit.

I am uncertain about the rules on the activities of former Members who hold passes, but there must be no question of those who hold such passes using them for commercial purposes.

Parliament must set and Enforce the Terms

My central contention—apart from the absence of evidence that there is a serious malpractice—is that Parliament must not subcontract to outside bodies important issues relating to the transparency and accountability of representations made to it. It should not be for the Association of Professional Political Consultants (APPC), the Public Relations Consultants' Association (PRCA), the Chartered Institute of Public Relations or any other external body to regulate the manner in which individuals, whether in-house or consultancy, approach Parliament or the political process more generally.

If Parliament feels that there is insufficient accountability it should be for Parliament to set new rules; it should not delegate them or their enforcement to outside organisations. However, I repeat that I am not aware of any significant concern that should lead to the development of any new rules.

I am particularly concerned that one lobby group in particular, the Association of Professional Political Consultants, may have sought to promote concern about this issue with a view to enhancing the commercial prospects of its own members.

I believe very strongly that lobbying is part of the public relations profession, for reasons I will happily explore with the committee in more detail. However, lobbying by professional consultants is not restricted to public relations practitioners. Legal practices in particular often lobby on behalf of their clients as do accountants, bankers and others. To restrict access to the House of Commons and the wider governmental machinery in any way to those who are members of the APPC would be to create a closed shop that would be contrary to the wider public interest.

I happen to believe that members of APPC or of the Government Affairs Group of the CIPR are probably the best people to employ to ensure your case is well made in the corridors of Westminster and Whitehall, but that is because they are more likely to understand how such lobbying is best conducted. However, neither the House of Commons nor the Government should insist on such a restrictive practice being imposed on those who wish to have their voice heard.

Although I understand the motivation therefore behind paragraph 40 of the CIPR's evidence that should Parliament ever decide one body should be charged with the responsibility of formalising self-regulation, that body would best be the CIPR, I urge the committee to make no such recommendation. No one body is in a position to replace the current very effective system of self-regulation and commonsense.

Declaring Clients

The issue of the declaration of clients served by multi-client consultancies is, fraught with difficulty and one to which the media and the APPC attach undue importance.

It is absolutely essential that any individual who approaches any part of the political or governmental process seeking to represent the views of an organisation who pays him or her specifically to represent their views should do so in an open and transparent manner.

I can see many circumstances, on the other hand, where the provision of simple advice to a client when no representative services are ever offered, should properly remain a confidential matter between the consultant and the client. One example is where the information being discussed was price-sensitive or commercially confidential. Additionally, the declaration of a full client list could in many circumstances put a consultancy in breach of other professional codes of conduct such as those of the Law Society or even the Stock Exchange

What is clearly essential is that any individual who approaches by whatever means a Member of Parliament or a member of the Government is at all times open and transparent about the interests he or she is representing. I believe this is best done by the individual concerned being requested to make an open and full declaration as and when appropriate to the circumstances of the case he or she is supporting.

Effective Lobbying

In my two years as Chairman of the DTI Select Committee I believe that the consultants with whom I have dealt have always been completely open and honest with me about the interests they were representing. My one wish is not that they should be more open, but that many of them did their jobs better.

The issue for me is not about openness and transparency, but about effectiveness. Many public affairs consultancies still, sadly, simply do not do a good enough job and can even be an obstacle to the effective transmission of their clients' interests to the political process. Indeed I often wish the consultant was less visible. When I was a consultant it was my practice, wherever possible, never to represent the interests of a client to anyone in a position of authority or influence, but to advise the client on how best to do it for themselves. An articulate client is always the most effective advocate for his or her cause—and my experience over the last two years certainly endorses that view.

I rather reluctantly used to describe myself as a lobbyist because people thought they understood what it was, but actually I was an adviser, identifying arguments that needed to be made and advising on how they could be deployed in a timely and appropriate way to the right people. The good public affairs consultant or lobbyist should, in my view, remain in the back room while his or her client openly and transparently puts the argument.

CONCLUSION

I strongly endorse the views of CIPR in paragraph 47 of their evidence, where, referring to comparisons with the United States of America, they conclude that regulation alone does not guarantee ethical standards of behaviour. I believe the system in the UK generally operates to a high standard.

I conclude that the current arrangements work well, with the possible exception of the appearance of preferential access given to those who possess passes to the Palace of Westminster. I believe it is right and proper that the Public Administration Committee should re-visit this issue from time to time because of the sensitivity and importance of the subject, but I believe that the system is not broken and therefore does not require to be fixed.

The mythology generated by some of the more excitable media comment that lobbyists can in some sense buy influence in a way denied to others is just that—mythology. Members of Parliament are clever enough to recognise when they are being lobbied, and what the reasons for that lobbying are. An elaborate rules-based system that displaced commonsense would be contrary to the interests of democracy and be a nightmare to enforce.

Perhaps the most important paragraph in the CIPR evidence is paragraph 33 which says "it is up to MPs, ministers and civil servants and special advisers to exercise their judgment as to how much weight they attach to each individual representation." This is simply a re-statement of the old principle of caveat emptor, and I strongly endorse it.

November 2007

Memorandum from Rt Hon Ian McCartney MP

My work with Fluor—an outline

- I advise on economic, social, political and environmental issues
- I advise on anti-corruption and business ethics practices
- I advise on regulatory matters
- I advise on outside relations, eg trades unions

WHAT I DON'T DO FOR FLUOR

- I don't lobby for Fluor and this is explicit in our agreement, lodged with the House authorities
- I am not involved in any bidding process or negotiations
- I don't benefit in any way if Fluor is successful

My Fluor role is not to supplement my personal income, although some Members do this and quite legitimately. I instead utilise the resource to recruit staff from my own area to work in London and provide opportunities that would not normally exist for them. I pay good wages and supplement them with appropriate enhancements including stakeholder pension contributions.

Throughout the process of my appointment with Fluor I have done everything I can to act in an honest, open and transparent way.

Fluor approached me and asked me if I was interested in advising them on the areas of work I have outlined above, I then took advice firstly from a range of sources, who all confirmed that the company was held in extremely high regard and was one which took seriously its governance and corporate social responsibilities.

I then went to my constituency party and asked them if they were happy about me taking on the role, and they were. If they had not been, I would have taken the matter no further.

I approached the Advisory Committee on Business Appointments and I have already sent you previous correspondence from them confirming their approval of the appointment and the rules surrounding it.

At the same time I contacted the Register of Members' Interests and asked them to ensure that the appointment was registered and placed in the public domain immediately.

I took advice from my accountant, my solicitor and the Advisory Committee on Business Appointments on what was the most open and transparent way to ensure the identification and the properly audited accounts in order that the public or any other organisation interested could easily check the records, of transactions, income and expenditure.

As a result of the advice I received, I established with my wife Ann the company Aim & Aim Limited. For the record, Aim & Aim stands for Ann and Ian McCartney, Ashton-in-Makerfield.

I have a number of other roles and activities which I have established since leaving the Government last summer. I have broken them down into three categories: advocacy, campaigning and policy development work. If you wish to have any further information on any of these roles in advance of any committee session, please advise.

ADVOCACY ROLES

— President of the Money Advice Trust

— UK Commissioner-General, Shanghai World Expo 2010

I receive no remuneration from these two appointments. In respect of the Expo 2010, I am reimbursed my travel expenses—which I do not believe is unreasonable.

CAMPAIGNING ROLES

— Assisting the Fire Service and the British furniture industry to plan a joint work programme to promote fire safety in the home

— Working with the British fireworks industry and the major fireworks retailers to promote improved safety regimes

Again, I receive no remuneration or expenses from this work.

POLICY DEVELOPMENT

— Occasional lecturer at the Civil Service College

My fees for this work go entirely to the Women's Interlink Foundation, a body established to rescue and care for street children in Kalkutta, India.

— Sewer water flooding—working closely with the water industry, the ABI and the Pitt Review, utilising my previous activities in the area of sewer water flooding, in order to try to influence in a positive way future government policy and practice in this area.

— "4 Pillars" project—is in the early stages of being set up. I will be working with a number of people involved in business, politics, academia and the City, looking at future issues for workers in the workplace, workers as consumers, workers as shareholders and workers as citizens. The "4 Pillars" is simply a working title for the four areas.

Again, for these two roles this is work that I am resourcing myself to enhance my role as a parliamentary legislator.

— Last, but not least, I am going to hopefully co-author a book on the creation of National Minimum Wage, a project I was closely involved with.

Given that your inquiry is into the lobbying industry, I thought it important if I was coming along as a witness that at the very least I was allowed by the Committee to submit some proposals for change to the lobbying industry, most of which would be recognisable to you in the Committee—a number of which were rejected in the early 1990s but which I believe should now be seriously considered by your Committee.

1. A MANDATORY REGISTER OF "PROFESSIONAL LOBBYISTS" who lobby the Government, MPs, Lords or officials.
2. A MANDATORY DECLARING OF RESOURCES spent on lobbying activities.
3. A MANDATORY CODE OF ETHICS which lobbyists must adhere to.
4. A ROBUST DISCIPLINARY CODE, including powers of expulsion.
5. THE RECORDING OF ALL MEETINGS & CORRESPONDENCE between lobbyists and Members, officials and ministers.
6. INVOLVEMENT OF LOBBYISTS IN THE PROCESS—lobbyists could work with the House to draw up an effective register, and help to maintain the ethical and disciplinary procedures.
7. A RENEWED SET OF LOBBYING RULES and an appropriate timescale for appointments of former ministers.
8. A PRECISE DEFINITION OF "LOBBYING"—A proper definition, for the public record, of what the term "lobbying" actually means in terms of this House.
9. PUBLIC RECORDING OF LOBBYIST BRIEFINGS & AMENDMENTS IN COMMITTEE PROCEEDINGS—A natural extension of the publication of written and oral evidence already submitted to committees.
10. BAN ON MPS DOING PAID WORK FOR COMPANIES WHICH ARE PRESENT IN THEIR CONSTITUENCIES.

Each of them are worth a debate in their own right. I hope this will be helpful to Committee members and will be accepted as part of my contribution to your deliberations

January 2008

Joint memorandum from the Association of Professional Political Consultants, the Chartered Institute of Public Relations and the Public Relations Consultants Association

The APPC, the CIPR Government Affairs Group and the PRCA represent organisations and individuals involved directly in lobbying institutions of government or advising clients on lobbying. As such, the three organisations have been at the heart of the debate about what is appropriate in lobbying and have worked hard to raise standards through, for example, adopting Codes of Conduct governing their members.

We are very aware that a much broader group of organisations and indeed individuals are involved in, directly or indirectly, lobbying institutions of government, such as law firms, management consultancies, charities, local authorities and individuals from all walks of life. We believe that it would be both desirable and helpful for all to follow a clear set of principles in their dealings with institutions of government.

We have therefore set out a draft set of principles, which I am enclosing, for ease of reference for the Committee's consideration. We have commenced on a process of consultation with a wide range of organisations involved in interacting with or influencing government, Parliament and the broader public policy community to gather support for the principles. In time, our aspiration is that such guiding principles would be adopted by representative organisations (and their members) as the basis of more specific codes of conduct akin to those operated by the APPC, PRCA and CIPR.

We would hope to see a version of our principles, or something similar, adopted by the Cabinet Office and House authorities as a framework promoted and made available to anyone seeking to influence government or Parliament. We are in close and regular touch with the Parliamentary Commissioner on Standards and the Chair of the Committee for Standards in Public Life, both of whom are broadly supportive of our initiative.

We very much hope that the Committee will welcome our initiative to encourage greater transparency, openness, accuracy, honesty, integrity and propriety amongst all those who interact with the institutions of government; and that our efforts will be placed in context with the questions raised by the Committee.

APPENDIX

GUIDING PRINCIPLES OF CONDUCT

It is a fundamental right of all to make representations to holders of public office in pursuit of a change in policy or legislation, to seek information, to plead a case or to set out views. It is however important that all those making representations do so in an appropriate manner consistent with safeguarding standards in public life and trust in the democratic process.

These principles should apply to everyone seeking to influence policy and the institutions of government, whether for their own benefit or on behalf of others, and whether through direct representation, advice to others, or third parties.

The principles are designed to complement, rather than replace, any codes of conduct applicable to specific professions or groups which aim to influence policy.

1. Transparency & Openness

   — Always be clear and precise about your identity and any organisation you represent, either directly or on an advisory basis.

   — Never give a false identity or claim to represent an individual/organisation without express permission.

2. Accuracy & Honesty

   — Never knowingly make false or misleading claims or misrepresent the views of others, and take action to avoid doing so inadvertently.

   — Always provide accurate information.

3. Integrity

   — Never offer financial or any other inducement, including direct or indirect payments, offers of employment or substantial gifts or entertainment, to any holder of public office in an attempt to influence the decision making process.

— Clearly declare any relevant financial or other links to the public office holder in order to ensure he or she is protected from a potential conflict of interest.

4. Propriety

— Always seek to follow the rules of the public body to which you are making representations, and where appropriate seek guidance from the public body on any rules of relevance.

— Ensure that in any dealings with holders of public office, you do not encourage them to break the rules of the institution they represent governing their activities.

Prepared by: The Association of Professional Political Consultants (APPC), the Public Relations Consultants Association (PRCA) and the Chartered Institute of Public Relations Government Affairs Group (CIPR GAG).

September 2007

Memorandum from the Association of Professional Political Consultants (APPC)

Executive Summary

1. Lobbying is a wholly legitimate exercise which seeks to inform the policy debate. External stakeholders from the private, public and third sector have every right to make their case to decision-makers as part of a functioning democracy, and in doing so decisions are more likely to be properly informed and evidence based.

2. Naturally, organisations faced with regulatory or legislative change will seek out the best possible advice from specialists prior to engaging with the Parliamentary and decision making process. That is why many organisations employ specialist political advisers in-house and/or outside political consultants.

3. All those who make their case to politicians and officials will do so in the most compelling possible way. As long as the case is made honestly and transparently, those being lobbied should be able to make up their own mind about its merits.

4. The APPC has defined three principles to ensure that lobbying is conducted in an appropriate way such that:

— there is no financial interest between those undertaking to influence the political process and those whom they are seeking to influence;

— there is transparency in relation to the client when the lobbyist is a third party;

— lobbyists and clients are honest and accurate.

5. These principles are at the core of the APPC Code of Conduct (attached at Appendix 1). Where these principles are not met, lobbying becomes inappropriate. It is important to note that some political consultancies, other advisers, most in-house public affairs professionals, company directors, trade unionists, charities etc., who all lobby, do not adhere to a code of the same rigour as the APPC Code.

6. The APPC Code has been revised and strengthened regularly over the years and updated as required to ensure that it remains relevant to the current political scene. We continue to keep it under review, and will take account of the Committee's findings to its inquiry in making further changes.

7. There is no clear evidence to support the view that outside regulation of the industry would work in the UK. It is more likely to be an unwieldy, ineffectual and, very probably, expensive bureaucracy. Alternatively, there is very clear evidence to support the view that self-regulation, as shown by the APPC, works, and works effectively.

8. We believe that all those involved in lobbying should adhere to the core principles articulated in the APPC Code. To this end, the APPC have worked with the PRCA and the CIPR Government Affairs Group to develop a set of Guiding Principles that could apply to all those who interact with the institutions of government. The three bodies are urging all business, labour and voluntary groups to apply these principles.

9. We invite the Committee to consider the Guiding Principles (Ev XX) as well as other ways to encourage self-regulation amongst all those who interact with the institutions of government, rather than focusing on outside regulation.

10. 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. By contrast a self-regulatory system, such as that of the APPC, is more likely to lead to self-discipline and peer pressure on consultancies to conduct themselves properly.

11. Finally, it is wholly appropriate for public sector bodies to be able to retain public affairs consultancies and to lobby as required. In a democracy the public sector must explain to its stakeholders how it is spending taxpayers' money. It is also right for a public body affected by proposed new policies or legislation to be able to explain the impact to decision makers. Without the expert input of public bodies, policy debates can be skewed and ill-informed.

Introduction

1. The Association of Professional Political Consultants (APPC) welcomes the inquiry into Lobbying by the Public Administration Select Committee. Our member companies make up the vast majority of public affairs consultancies in the United Kingdom. Among a wide range of activities in the public policy environment, many of them are involved in "lobbying" activity. We are delighted to put on record our collective views on transparency of the lobbying industry, the effectiveness of self-regulation and whether there is a need for any change to the Parliamentary rules.

2. As with any membership organisation, it is difficult to encapsulate in a single document the views of all members. APPC member companies may choose to submit evidence separately on points lying outside the scope of this paper, or on points where they have a personal view.

3. The APPC is the representative and regulatory body for UK political consultants and public affairs professionals. The APPC aims to:

- ensure transparency and openness through a register of political consultants
- enforce appropriate standards by requiring members to adhere to a code of conduct
- promote understanding amongst politicians, the media and others about political consultancy and the public affairs sector, and the contribution made by political consultants to our democracy

The APPC currently has 50 member companies, we estimate 85% of the UK political consultancy sector (by turnover).

4. The APPC Code of Conduct governs the way in which consultancies that are members of the Association must conduct themselves, including in relation to "lobbying" activity. It can be seen at: www.appc.org.uk, and a copy is appended to this document. Member companies are required to certify annually through our compliance procedures that they adhere to the Code, have themselves required their consultants to attest that they adhere to it and that it forms part of employees' contracts of employment.

5. The APPC does not regulate in-house communications teams and/or their principals who also engage in lobbying and other public affairs activity. As the Committee recognises in its terms of reference for this Inquiry, this is a significant point.

6. It is a widely-believed myth that political consultancies work only for large corporations. Clients of APPC member companies include private companies, trade and professional bodies, trade unions, public sector organisations, and charities and campaigning groups.

A. *What does it mean for an organisation to lobby government or Parliament?*

7. "Lobbying", in our view, relates to activity which seeks to influence public policy, legislation or practice, or decisions of the executive. For political consultancies lobbying is about helping organisations—their clients—who want to achieve policy, legislative or regulatory change; to understand the people, policies and processes involved; who the key decision makers are, when to approach them, and how best to make their case.

8. There are, however, considerable differences in perceptions about the role of what the Committee describes as multi-client public affairs firms (or "political consultancies"). The reality is that "lobbying" is frequently not the major part of the activities of such firms—and some consultancies do not lobby at all on behalf of clients. Other activities, including monitoring and providing intelligence about the political process, and advising about messaging and positioning in the media as well as for public affairs audiences, also fall under the public affairs heading. These may not be regarded as "lobbying" at all.

9. Further, many consultancies do not lobby directly themselves on behalf of their clients. Instead we typically advise clients how to lobby for themselves. In many cases the consultancy will not itself make the case directly to the political stakeholder: it will be for the client to do so, though often but not always accompanied to meetings with Parliamentarians or Government officials by their consultant. This is significant when it comes to determining who might be registered as a "lobbyist".

10. Indeed many individuals and organisations lobby politicians. Charities, trade unions, companies and trade associations all lobby government. Though these organisations may employ their own in-house public affairs departments and advisers instead of or supplement consultants, all manner of employees participate in lobbying. Lawyers, management consultants, PR companies, think tanks, trade associations, business organisations, former MPs and Civil Servants employed by organisations as trustees or company directors, and many, many individual constituents all "lobby" the institutions of government. The activities of political consultants account for only a very small part of the lobbying world.

11. The Government has itself welcomed the input of outside bodies to the policy-making process. The benefit for policy-makers of a wide range of lobbying is that decisions are better informed and based on a full awareness of the impact they will have.

12. Lobbying is simply about informing the policy debate. Each case will, of course, be presented in the most compelling possible way, but this is inevitable, and if the case is made honestly and transparently the individual or organisation being lobbied should be able to make up their own mind about its merits. Lobbying is a wholly legitimate exercise which helps decision makers and influencers reach informed decisions.

B. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

13. Informing the policy debate is entirely appropriate, provided that the case is made *honestly and openly*. In our view lobbying is appropriate and a positive contribution to the democratic process so long as it meets our three principles:

— Financial interest: Parliament has dealt with most concerns about the impact of direct or indirect financial relationships on legislators. Nevertheless, it is possible for a Parliamentarian to be paid by a political consultancy and only have to declare the payment received from them. As a result a Parliamentarian could inadvertently act in the interests of one of that consultancy's clients.

  The APPC believes that "*it is inappropriate for a person to be both a legislator and a political consultant*" [preamble to our Code], and that there should be no financial relationship between lobbyists and legislators. Therefore, paragraphs 7 to 9 of our Code limit consultancies to providing only entertainment and "*token business mementoes*" to legislators, and prohibits any payment whatsoever to "*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*".

— Transparency: concern has been expressed, most recently by John Grogan MP, that on occasion Parliamentarians and others are lobbied by a political consultancy and it has not been clear on whose behalf the consultancy is working.

  We argue strongly that this is wrong. It is a fundamental tenet of the Code that consultants are transparent at all times. Paragraph 4 says that "*in making representations to the institutions of government, political consultants must be open in disclosing the identity of their clients and must not misrepresent their interests*".

  Reinforcing the Code requirement is the APPC register, which records the names of all clients of APPC member firms. This is publicly available, is online free of charge and is updated on a quarterly basis.

— Honesty and accuracy: it is not conducive to high quality political debate for politicians to be given inaccurate or misleading information. Indeed it skews the lobbying process if one source of information lies or misleads. This brings the whole process of lobbying into disrepute.

  In paragraphs 2 and 3, the APPC Code makes it plain that consultants have to be honest and accurate themselves, and make reasonable endeavours to ensure that clients themselves are honest and accurate.

14. Three key principles are at the core of the APPC Code:

— that there is no financial interest between those undertaking to influence the political process and those whom they are seeking to influence;

— that there is transparency;

— that consultants and clients are honest and accurate

Where these principles are not met there is a risk that lobbying becomes unacceptable. It is regrettable that some consultancies, and most in-house public affairs professionals and/or their principals, are not required to adhere to a code of the same rigour as the APPC Code.

15. In an effort to apply our principles to other lobbyists—be they consultants, trade associations, trade unions, charities, law firms, companies, etc—together with the CIPR GAG and the PRCA we have sought to establish Guiding Principles based on our own principles (Ev XX). The APPC, PRCA and CIPR GAG have commenced dicussion with other collective organisations (eg, the CBI, the Law Society, Management Consultants Association, the Charities Commission and the TUC) to ask them to apply the guiding principles to their members through their own codes of conduct. We should very much welcome the Committee's support in this endeavour.

C. *What evidence is there of the effect of lobbying on the policy and decision making processes?*

16. 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.

17. The Committee may want to refer to the many excellent and award winning public affairs campaigns conducted by consultancies on behalf of their clients if they need further evidence of the success of effective lobbying on the decision making process. The APPC would be happy to provide examples or case studies if required.

18. The value of lobbying has been widely recognised. Last year the Parliamentary Commissioner for Standards concluded that "*the effective representation of interests … is a vital ingredient in a healthy democracy … Nor is there anything wrong with lobbying: indeed it too is a key part of any successful democratic process*".[4]

D. *Do some organisations have more influence over Parliament and Government than others?*

19. The APPC represents member companies who themselves represent organisations of all kinds. That experience leads us to conclude that no one type of organisation enjoys greater influence in policy-making than any other.

20. It might be perceived that big business or trade unions enjoy unfair advantage. However, there is no clear evidence to support such perceptions. In some cases it could be argued that charities instinctively receive a more ready hearing. And it is almost certainly true that individual constituency cases can make the most potent arguments that resonate with political audiences.

21. In the end it is for policy-makers to ensure that the right balance is struck between competing arguments.

22. When looking at the wider spectrum of lobbyists who lobby, we 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.

E. *Is it possible to limit lobbying and yet to ensure that Government and Parliament are properly informed?*

23. We do not believe that there is any realistic way of limiting appropriate lobbying. Nor do we believe that it would be right to do so. We also do not believe that lobbying is harmful: rather, it is a legitimate process and one which ensures both Government and Parliament is informed and aware. Lobbying is an integral and fundamental part of a healthy democracy.

24. It is important not to seek to limit lobbying, but to ensure that lobbyists of all kinds adhere to three core principles: no financial relationship between those undertaking to influence the political process and those whom they are seeking to influence, transparency and honesty and accuracy.

F. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

25. We believe that the provisions of our Code of Conduct are appropriate for a self-regulatory system and recognise that the PRCA's own Code mirrors our own. We believe that the three principles that underpin the Code should apply to all of those who lobby Government and Parliament. That is why, together with the CIPR GAG and the PRCA, we have drawn up generic "Guiding Principles" which we are urging all sectors of corporate society to embrace and apply.

26. The APPC Code has been revised and strengthened regularly over the years to take account of new circumstances and issues. We will continue to keep it under review, and we will consider others' evidence to the Committee on this point, as well as the Committee's own conclusions, when considering the need for any further changes.

27. Although membership of the APPC continues to grow, it is true that a number of political consultancies are not members of the APPC. There are a small number of prominent larger firms in this category but it is also important that the Committee notes the existence of much smaller firms and indeed sole practitioners (sometimes former MPs) where arguably there may be far greater problems in ensuring that practice meets proper standards due to the absence of continuous peer review.

28. Whether or not every consultancy *should* be a member of the APPC or PRCA or a similar body is a matter of on-going debate. The APPC Management Committee has worked hard and succeeded in bringing companies into membership. However, there are those who do not believe our Code is appropriate but it should not necessarily follow that those who choose to operate outside the APPC and PRCA Code are any less supportive of adopting high standards and adhering to our principles.

[4] Ninth Report of the Standards and Privileges Committee, Session 2005–06, Memorandum from the Parliamentary Commissioner for Standards, paras 43 and 44.

29. Non members of the APPC cite a number of reasons for this, including:

- the company employs Parliamentarians (most often Peers), and so is disqualified by paragraph 8 of the Code
- law firms that have public affairs practices claim that the Law Society rules prevent them disclosing the names of their clients
- some consultancies claim that clients have asked for anonymity, and so cannot be included transparently on a public register
- claims that a firm does not lobby or undertake public affairs
- some multi-disciplinary communications agencies argue that the APPC's focus is too narrow to cover the full range of their activities.

30. We believe that all those involved in lobbying should adhere to the principles relating to financial relationships, transparency and honesty and accuracy articulated in the APPC Code. Focusing only on political consultancies is missing the point. All those who lobby, or interact with, the institutions of government and who seek to influence policy ought to be bound by the same principles: hence with the CIPR GAG and the PRCA we have developed generic "Guiding Principles", to be adopted by all those who "lobby".

31. The three organisations, the APPC, PRCA and CIPR GAG, have begun to discuss these "Guiding Principles" with organisations including the Cabinet Office, the Committee on Standards in Public Life and the Parliamentary Commissioner for Standards.

32 We would like to see the Guiding Principles or their equivalent adopted by public bodies, who would then make clear that they expected all those making representations to them to follow the guidelines in so doing. Over time, the guiding principles could become a significantly more powerful tool for raising standards in public life than the regulation of a small and narrowly-defined body of organisations.

G. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

33. There are some members of the APPC who believe that outside regulation would at least deliver a level playing field by applying the same rules to non APPC members. There are others who believe that outside regulation is probably unworkable, and would not deliver the results claimed for it. There are problems with achieving all-encompassing regulation relating to the definition of "lobbyist" and "lobbying". Often those who lobby (or interact with the institutions of government), such as charities, trade unions, management consultancies and law firms, do not consider themselves to be "lobbyists".

34. The APPC argues strongly in favour of self-regulation, but, if introduced, outside regulation would need to be proportionate, focused on our three core principles, applied equally to all who interact with the institutions of government and ensure that different classes of lobbyist were not treated differently. To regulate lobbying it would have to be clear who "lobbyists" are, what they are doing, and what exactly is regulated.

35. Simply regulating the political consultancy sector would leave the majority of lobbyists unregulated. Within the APPC we would be particularly concerned if other firms that act *like* consultancies, on behalf of clients, were not also regulated, including professional services organisations such as lawyers, accountants and management consultants.

36. However, to be consistent, regulation would have to cover in-house employees, trade unions and other representative bodies such as trade associations. It would also have to cover people who lobby on an *ad hoc* basis, such as the company director who has a lunch with his local MP.

37. It would also have to cover every interaction with decision-makers. Does the helpful briefing sent to all MPs by a law firm constitute lobbying? Does the letter to an MP by a company from his or her constituency count? Will the sponsorship of a Parliamentary reception at which no particular policy issue is raised be covered by the regulation? Will the company that sponsors a think tank that speaks to a Minister have to register its role?

38. It is therefore our view that outside regulation may well be unworkable. We also believe it to be philosophically misguided. Regulation will not find hearts and minds: it will only set limits to what lobbyists do, and the reality is that many people will use those limits to regulate their behaviour, not by taking responsibility for themselves. We firmly believe that the current self-regulatory system helps to educate and inform consultants, and by giving us ownership of the system encourages us to believe that it is right.

39. The current system of self-regulation encourages consultancies, when in doubt, to err on the side of caution, for example in declaring a client to the APPC even if no public affairs support (rather than general public relations services) is offered. It also encourages staff to be evangelical about the merits of our Code. We believe strongly that these are the reasons why self-regulation in the UK has proved to be so effective.

40. Finally, the Committee talks, in its terms of reference, about the regulation of lobbying in the United States. It is easy to make glib comparisons, but we would suggest that the experience there compares unfavourably to the UK. Indeed if the Committee wishes to look at a case study of how regulation encourages people to look for loopholes and ways around restrictions imposed, we suggest they look no further than the United States.

41. In short, there is no convincing evidence that outside regulation will be effective. Indeed it will be unwieldy and ineffectual, and very probably an expensive bureaucracy. Instead we contend that self-regulation, as shown by the APPC, works, and works effectively. We invite the Committee to consider ways to encourage self-regulation amongst other lobbyists, possibly based on our Guiding Principles, rather than focusing on outside regulation.

H. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

42. We believe that they are: indeed we would argue that our political system is hugely strengthened by the current requirements for transparency. It is vital that these matters are kept under review, and updated and strengthened when appropriate.

I. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

43. Many public sector bodies make use of public affairs consultancies. Typically these clients are local and regional authorities, Executive Agencies, non-departmental public bodies, and other "arms length" bodies, but there have been occasions on which Government Departments themselves have employed consultancies.

44. However, this does not mean that they have been "lobbying" if narrowly defined. In our experience public sector bodies generally embark on public affairs activity to achieve two aims: to understand better the context in which they operate, and to seek to inform the stakeholders about their activities. Indeed this latter activity may be *required* as part of their public sector remit—they are, after all, spending taxpayers' money.

45. In short, most consultancies are employed by public sector bodies to undertake stakeholder relations activity. This will usually cover national institutions, regional and local government, third parties such as pressure groups and trades unions, and the media. The consultancy is typically asked to advise on the views of stakeholders, and help to develop ways to explain what the body is doing to each audience.

46. However, we believe that there are many circumstances in which public sector bodies *should* be able to lobby. For example, if a Bill is presented to Parliament that specifically affects a particular Agency or NDPB it is surely better that the experts in that subject are able to brief Parliamentarians, rather than relying on a sponsoring department which may have other priorities. If an Agency is affected by a decision of a regional or local institution, it is again surely right that it can seek to make its case in that forum.

47. It is also surely right that public sector bodies can make their case in public policy debates. If private companies, trade unions, charities and pressure groups can all make their case to Parliamentarians and other political stakeholders, interested public sector organisations should also inform those audiences. Without their input many issues would not end up on the political agenda, or if they did the discussion would be skewed.

48. However, it is very unusual for a public sector body to lobby Government directly, outside of its own relationships with officials and ministers. This is an important point. The impression that is sometimes given that public bodies are spending money employing consultants to lobby Government is in our experience wrong.

49. We believe that it is wholly appropriate for public sector bodies to be able to retain public affairs consultancies, and to lobby when required. In a democracy the public sector must explain to its stakeholders how it is spending taxpayers' money. It is also a key part of democracy that a body, public or private, affected by policies or proposed legislation has a right to explain that impact to political audiences. Moreover, without the expert input of public bodies, policy debates can be skewed and ill-informed.

J. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

50. There is a body of academic and other analysis of the lobbying industry from around the world to which we would direct the Committee's attention.

51. There is much to be learned from the most prominent example of regulation, the United States. In particular we would point the Committee to two points:

— The US regulatory system means that clients employ both a registered lobbyist (often more than one to gain expertise with both parties and with the issues concerned) and separately a "public affairs" company to handle every other aspect of a campaign. This is unwieldy, uncoordinated and

potentially expensive, and does not reflect the reality of the UK system, in which—as we have said—many individuals and organisations lobby legislators and the executive, and drawing this artificial distinction would be misleading and probably very difficult; and

— Most significantly, recent issues that have come to light in the United States suggest that regulation is not necessarily working well there.

52. Indeed the evidence is 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. By contrast a self-regulatory system such as that of the APPC seems to lead to self-discipline and peer pressure on consultancies to behave properly. The principles-based regulation offered by the APPC seems in tune with the times.

In conclusion

53. We hope that this evidence helps to inform the Committee's inquiry. The APPC would of course be delighted to explain any of these points in more detail if that would assist the Committee. We would also be very grateful for the chance to give oral evidence.

APPENDIX 1

APPC CODE OF CONDUCT

ASSOCIATION OF PROFESSIONAL POLITICAL CONSULTANTS

CODE OF CONDUCT

Preamble

This Code of Conduct covers the activities of regulated political consultants (defined as APPC member companies, their staff and non-executive consultants) in relation to all United Kingdom, English, Welsh, Scottish and Northern Ireland central, regional and local government bodies and agencies, public bodies and political parties (hereinafter "institutions of Government"). This Code applies equally to all clients, whether or not fee-paying.

It is a condition of membership of APPC that the member firm, its staff and non-executive consultants should accept and agree to abide by this Code for itself and that members will be jointly and severally liable for the actions of their staff in relation to the Code. Regulated political consultants are required to endorse the Code and to adopt and observe the principles and duties set out in it in relation to their business dealings with clients and with institutions of government.

Other conditions of membership of APPC include:

— Undertaking an annual compliance procedure in respect of the Code

— Being bound by the terms of the APPC Complaints & Disciplinary Procedure

— Providing four times a year to APPC the names of all clients and consultancy staff during the previous six months for publication in the APPC Register

The Code of Conduct applies the principles that political consultants should be open and transparent in their dealings with parliamentarians or representatives of institutions of government; and that there should be no financial relationship between them. APPC members are determined to act at all times with the highest standards of integrity and in a professional and ethical manner reflecting the principles applied by this Code. In the view of APPC, it is inappropriate for a person to be both a legislator and a political consultant.

The Code of Conduct

1. In pursuance of the principles in this Code, political consultants are required not to act or engage in any practice or conduct in any manner detrimental to the reputation of the Association or the profession of political consultancy in general.

2. Political consultants must act with honesty towards clients and the institutions of government.

3. Political consultants must use reasonable endeavours to satisfy themselves of the truth and accuracy of all statements made or information provided to clients or by or on behalf of clients to institutions of government.

4. In making representations to the institutions of government, political consultants must be open in disclosing the identity of their clients and must not misrepresent their interests.

5. Political consultants must advise clients where their lobbying activities may be illegal, unethical or contrary to professional practice, and to refuse to act for a client in pursuance of any such activity.

6. Political consultants must not make misleading, exaggerated or extravagant claims to clients about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions.

7. Save for entertainment and token business mementoes, political consultants must not offer or give, or cause a client to offer or give, any financial or other incentive to any person in public life, whether elected, appointed or co-opted, that could be construed in any way as a bribe or solicitation of favour. Political consultants must not accept any financial or other incentive, from whatever source, that could be construed in any way as a bribe or solicitation of favour.

8. Political consultants must not:

— 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;

— Make any award or payment in money or in kind (including equity in a member firm) to any MP, MEP, sitting Peer or to any member of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly, or to connected persons or persons acting on their account directly or through third parties.

9. Political consultants must ensure that they do not benefit unreasonably by actions of any third party that, if undertaken by the consultant, would be considered a breach of the Code.

10. Political consultants must comply with any statute, Westminster or Scottish parliamentary or National Assembly of Wales or Northern Ireland Assembly or Greater London Assembly resolution and with the adopted recommendation of the Committee on Standards in Public Life in relation to payments to a political party in any part of the United Kingdom.

11. Political consultants who are also local authority councillors are prohibited from working on a client assignment of which the objective is to influence a decision of the local authority on which they serve. This restriction also applies to political consultants who are members of Regional Assemblies, Regional Development Agencies or other public bodies.

12. Political consultants must keep strictly separate from their duties and activities as political consultants any personal activity or involvement on behalf of a political party.

13. Political consultants must abide by the rules and conventions for the obtaining, distribution and release of parliamentary and governmental documents.

14. Political consultants must not hold, or permit any staff member to hold, any pass conferring entitlement to access to the Palace of Westminster, to the premises of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly or any department or agency of government. The only exceptions are:

— where the relevant institution is a client of the political consultant and requires the political consultant to hold a pass to enter their premises.

— where the political consultant holds a pass as a spouse of a member or as a former member of the relevant institution, in which case the pass must never be used whilst the consultant is acting in a professional capacity.

15. Political consultants must conduct themselves in accordance with the rules of the Palace of Westminster, Scottish Parliament, National Assembly of Wales, Northern Ireland Assembly or Greater London Assembly or any department or agency of government while within their precincts, and with the rules and procedures of all institutions of government.

16. Political consultants must always abide by the internal rules on declaration and handling of interests laid down by any public body on which they serve.

17. Political consultants must not exploit public servants or abuse the facilities or institutions of central, regional or local government within the UK.

18. Political consultants must disclose the names of all their clients and consultants in the APPC Register.

In all their activities and dealings, political consultants must be at all times aware of the importance of their observance of the principles and duties set out in this Code for the protection and maintenance of their own reputation, the good name and success of their company, and the standing of the profession as a whole.

Revised March 2007

September 2007

Supplementary Memorandum from the Association of Professional Political Consultants (APPC)

The APPC gave evidence to your committee during its inquiry into lobbying earlier this year. Later the Committee visited Brussels to learn more about the European Commission's new voluntary register for lobbyists.

Given that this was not covered in our evidence session, we thought that it might be helpful to set out, briefly, our views on this subject.

The Commission's voluntary Register of Interest Representatives for those seeking to influence its policy-making was launched on 23 June 2008 as part of a wider European Transparency Initiative promoted by Commissioner Siim Kallas.

As the Committee might expect, the APPC is supportive of transparency on the identity of consultancy clients and Members may recall that in the UK our members publish their client lists quarterly. The Commission system differs in that it only requires registration once a year and also in that it is independently held, but, in practice, this latter difference may be not be significant, since the Commission has indicated that it has no intention of policing the lists.

There are two other more significant differences. Firstly, the Commission has indicated that it intends some kind of preferential treatment in consultation exercises for those who have registered. The APPC's view is that this is fundamentally misconceived and we remain opposed to any suggestion of giving registered lobbyists privileges that do not apply to all citizens.

Secondly, the Commission's register requires information about the fees that clients pay. We do not support this, since we believe 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.

We also believe that any system designed to promote transparency must apply equally to all those who lobby and should cover not just public affairs consultancies, but also law firms, management consultancies, companies, trade unions, NGOs and charities. That is why in the UK we continue to promote guiding principles for lobbyists which are equally applicable to all of these categories.

November 2008

Memorandum from the Chartered Institute of Public Relations (CIPR)

The Chartered Institute of Public Relations (CIPR) is the representative body of the UK public relations industry. Established in 1948, and with over 9,000 individual members, the CIPR is Europe's largest professional body for public relations practitioners, and includes in its membership a large number of communications professionals who specialise in public affairs. The CIPR is responsible for promoting the standards of excellence expected of its members in their professional relationships and business dealings.

The CIPR was granted its Royal Charter in 2005, after an exhaustive process of examination by the Privy Council. In the course of that process, the Government accepted the CIPR to be fully representative of the public relations industry, and acknowledged that we operate in the public benefit, with a full education and training structure underpinning membership. Crucially, we also operate a rigorous Code of Conduct, to which all members must adhere.

The CIPR welcomes the opportunity to respond to this PASC inquiry. In preparing our response, we have consulted with the CIPR Government Affairs Group, which represents 600 professionals working in public affairs.

General Comments

It is in the interests of the public affairs profession itself, and of Parliament alike, for self-regulation to work. Lobbying in its broadest sense enables legislators to have access to expert opinion; allows policy proposals to be "reality checked"; and allows those with a legitimate interest in the political process to provide comment on proposals which affect them. When the ability to urge caution or provide expert advice is diminished, so too is the quality of legislation.

A properly-functioning public affairs profession is therefore, in our opinion, key to an effective consultation and political process.

Inevitably, much media interest will focus on the work of dedicated public affairs consultancies. But it is important not to lose sight of the fact that the majority of public affairs work is not actually undertaken by such businesses. While it might be tempting to focus on the work of consultancies, their ultimate impact is doubtless much less than that of in-house public affairs teams working for charities, professional associations or public bodies.

In 2005, the CIPR commissioned an independent study into the size, shape and future direction of the PR profession. Conducted by the Centre for Economics and Business Research (CEBR), it concluded that 48,000 people work in PR, generating £6.5 billion. Of that number, thirty-nine thousand work in-house, and nearly nine thousand work out-of-house, whether in consultancies or as freelancers. We have no reason to believe that the career-path split for those communications professionals who specialise in public affairs would be fundamentally different.

The CEBR research showed that of those working in-house, 51% work in the public sector, the health sector or the charitable sector. Turning to the consultancy sector, it found that slightly more than a third (36%) of consultancy revenue came from the public sector, health sector and charitable sector.

Those figures help to show that the typical stereotype of a PR or public affairs person as being a consultant is some way from the truth, and that much of the resource spent on communications work is spent by non-private sector bodies.

It is the CIPR's contention that, as the Committee on Standards in Public Life has concluded, the current system of self-regulation is broadly effective. Standards are undoubtedly much higher than they were, for example, in the early 1990s, when there was a clear need to address issues of integrity.

Where we do agree that a problem may exist however is around access and transparency. We accept that there are problems with public affairs practitioners "flying under false colours" as it were, through obtaining Parliamentary passes from well-disposed Parliamentarians. And we would acknowledge that this practice poses serious questions of transparency and privileged access.

We would be interested in investigating something closer to the EU model, whereby public affairs practitioners would be able to apply for passes, which would restrict them to certain, closely-curtailed, areas of the Parliamentary Estate, and would clearly identify holders as public affairs practitioners. Naturally, the identity and role of such holders should be publicly recorded in a suitable register. We believe that this might add not only to the ability of practitioners legitimately to provide advice to legislators, but also reduce the current perceived abuse of passes.

Ultimately, the effectiveness of any system of regulation will be governed not only by the attitude of lobbyists, but also by that of Parliamentarians. It is appropriate and natural for organisations and individuals to lobby in favour of, or against, legislation. The ultimate arbiter of the usefulness of, and motivation behind, such advice however, should be left to Parliamentarians and civil servants themselves.

Specific Questions

What does it mean for an organisation to lobby Government or Parliament?

To lobby is to make representations to Parliament with a view to influencing policy or amending legislation.

It is widely accepted that any organisation has the right to inform and to try to influence Parliament—provided that they do so within the rules, and in an honest and transparent manner.

It is our view that the widest possible consultation can only result in better policy decisions and more effective legislation.

It is up to Ministers and MPs to use their judgement to assess the relative merits of the conflicting representations which are made to them. As with our legal system, lobbying is inevitably based on an adversarial system whereby all sides of the argument are put forward. It is then for Parliament (or Government) to be the final arbiter.

Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?

It is acceptable for individuals and interest groups—and their representatives—to seek to make contact with MPs, Ministers, Civil Servants and Special Advisers by letter, email, or telephone.

They also have the right to try and arrange a face to face meeting—subject to the Minister, MP etc wishing to meet them, and having the time to do so. Modest provision of entertainment may also be legitimate, although it is not always appropriate. Any such entertainment should be reasonable and within the framework laid down by the Codes of Conduct governing the behaviour of Ministers, MPs, Civil Servants and Special Advisers. These Codes should be policed and adhered to.

Facility visits and site inspections can be offered—but where appropriate, invitations should be channelled through the relevant Select Committee or All-Party Group.

Attendance by interest groups and their advisers at party conferences is welcomed. Having stands at these conferences enables interest groups to raise their profiles and put across their arguments. Arranging fringe events and hosting receptions is almost universally accepted as a legitimate tool of influence, and entertaining politicians and decision-makers at conference is common practice and broadly acceptable.

Interest groups are often asked to contribute to the policy reviews and manifesto drafting processes of the political parties. Even where they are not invited, it is valid for interest groups to seek to have an input into these processes.

Interest groups and their advisers have the right to make their case robustly—but they should always observe the general commercial proprieties, and they should not seek to exaggerate their claims.

What evidence is there of the effect of lobbying on the policy and decision making processes?

There is no doubt that lobbying has an influence on the policy and decision making processes. This is inevitable and legitimate.

In our experience, Civil Servants welcome the opportunity to "road test" their policy suggestions or proposals, and to receive expert advice from relevant stakeholders. Experienced Civil Servants will always be able to weigh and sift the evidence, judging what motivates the case being made to them.

Where the Government is concerned, individuals, interest groups and their representatives have a role in highlighting the consequences—intended or otherwise—of any policy initiative. This can result in such initiatives being amended, or even dropped.

Where the opposition parties are concerned, interest groups and their representatives have an established and legitimate role in plugging some of the gaps left by the lack of resources from which they suffer. Party HQ staffers and researchers—some of them paid for by Short Money—can do the majority of the work involved. They cannot, however, match the resources at the disposal of the governing party, who have the entire civil service (plus seventy Special Advisers) at their disposal. The assistance of think tanks, special interest groups and public affairs consultancies go some way towards restoring this balance.

Do some organisations have more influence over Parliament and Government than others?

It is undoubtedly the case that some organisations have more influence over Parliament and Government than others—and it is inevitable that this should be the case. Equality of access, however, is the guiding principle. No organisation should be denied the right to make representations, and thereby give politicians the opportunity to reach their own conclusions as to their validity.

Some organisations are simply far larger—and represent far more important groups—than others. It seems to us to be logical and acceptable that the CBI and the TUC should have more influence than, for instance, a small single-issue pressure group.

It is also the case that some organisations have devoted a great deal of time and resources over the years to refining their techniques for monitoring Government policy initiatives, and responding to them in a detailed and considered fashion. This sustained effort will inevitably earn them the right to faster access and a more attentive hearing.

Is it possible to limit lobbying and yet to ensure that Government and Parliament are properly informed?

The simple answer to this question is—no. Lobbying has been around since the days of absolute monarchy, and attempts to limit it would almost certainly result in an increase in underhand behaviour and subterfuge.

All organisations—and their representatives—deserve the right of free access to MPs, Ministers, Civil Servants and Special Advisers. Any attempt to fetter that access would undoubtedly damage the political process.

It is up to MPs, Ministers, Civil Servants and Special Advisers to exercise their judgement as to how much weight they attach to each individual representation.

Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyists firms not members of these Associations?

Some public affairs consultancies consider that their conduct is adequately governed by their own internal codes. It is also often the case that standards of ethical behaviour are specified during the tendering process, and included in the resulting contracts. Some non-member companies also feel that the APPC's efforts to persuade individuals and organisations that non-APPC members should be barred from the tendering processes is an attempt to develop a closed shop.

Some companies also believe that membership of the CIPR and adherence to its Code of Conduct amply demonstrate their commitment to ethical behaviour. A number of CIPR members are employed by companies that belong to one of the trade organisations mentioned above, and we believe that their membership of such trade associations is a positive thing. However, such trade organisations cannot regulate the conduct of individuals as the CIPR can. If self-regulation of lobbying is to work, it must involve

the ability to sanction individuals—that ability resides at the moment with the CIPR through its individual Code of Conduct.

The APPC, the PRCA and the CIPR are working together on a joint set of principles which will apply across the whole industry. The CIPR Executive Board has already approved a draft of those principles, and stands ready formally to adopt the final version once it is agreed.

Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce such regulation?

This is largely a matter for Parliament to decide. Our view is that the present system of multiple self-regulation is broadly effective and should continue.

Lobbyists could be regulated by Parliament itself, or any such regulation could be delegated to an external body such as the Committee on Standards in Public Life.

Alternatively, the current system of self-regulation could be formalised. In that case, and were Parliament to decide that one body should be charged with such a responsibility, the CIPR would certainly be well placed to perform such a function. The CIPR will be 60 years old next year. It has a Royal Charter. It has over 9,000 members—both in-house and in consultancy. It also has a strict and detailed Code of Conduct, and this is backed up by a Professional Practices Committee and a Disciplinary Committee, formed of the CIPR's most senior and esteemed members.

As a Chartered professional body representing both in-house practitioners and those in consultancy, the CIPR feels that we are better placed to regulate the industry than trade associations. However, as stated above, our view is that the present system of multiple self-regulation is broadly effective and should be retained.

Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?

Our view is that the Codes of Conduct for Ministers, MPs, Civil Servants and Special Advisers are fit for purpose.

There is, however, a strong argument for the Codes to be overseen, interpreted and enforced by an external body or person, rather than by the Cabinet Secretary.

Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?

Because so many agencies (Non-Ministerial Public Bodies, Executive Agencies and QUANGOs) have now been set up at arms-length from Government, it is essential for them to have the right to lobby. Many of these groups have a statutory duty to report to Parliament, and the industries and services in which they operate are likely to be of interest to Parliamentarians. As such, whilst it might not be appropriate for such public bodies to campaign, it is legitimate for them to make direct representations to Parliament.

Whether they choose to retain multi-client public affairs consultancies or not is essentially a matter for them. They are in the best position to decide on the strength of their in-house capabilities in this respect, and whether or not this needs to be bolstered by the hiring of an external consultancy. Any tendering process should be centred on the value for money which a consultancy can deliver, although strictures as to ethical behaviour can also be incorporated.

Is there anything that the UK can learn from attempts to regulate lobbying in other countries?

It is important constantly to review procedures and regulations, and, where appropriate, to adapt initiatives adopted in other countries.

The United States probably has the most restrictive regime for lobbyists anywhere in the world. Few people, however, 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.

The European Parliament initiative on transparency championed by Commissioner Siim Kallas is a welcome one, and its voluntary nature is certainly worth persevering with at this stage. The system of having clearly identified passes, offering limited access to lobbyists in return for strict adherence to a Code of Conduct, is certainly worth investigating to see if it could be applied at Westminster.

APPENDIX

THE CIPR CODE OF CONDUCT

SECTION A

CIPR Principles

1. Members of the Chartered Institute of Public Relations agree to:
   (i) Maintain the highest standards of professional endeavour, integrity, confidentiality, financial propriety and personal conduct;
   (ii) Deal honestly and fairly in business with employers, employees, clients, fellow professionals, other professions and the public;
   (iii) Respect the customs, practices and codes of clients, employers, colleagues, fellow professionals and other professions in all countries where they practise;
   (iv) Take all reasonable care to ensure employment best practice including giving no cause for complaint of unfair discrimination on any grounds;
   (v) Work within the legal and regulatory frameworks affecting the practice of public relations in all countries where they practise;
   (vi) Encourage professional training and development among members of the profession;
   (vii) Respect and abide by this Code and related Notes of Guidance issued by the Chartered Institute of Public Relations and encourage others to do the same.

Principles of Good Practice

2. Fundamental to good public relations practice are:

Integrity

- Honest and responsible regard for the public interest;
- Checking the reliability and accuracy of information before dissemination;
- Never knowingly misleading clients, employers, employees, colleagues and fellow professionals about the nature of representation or what can be competently delivered and achieved;
- Supporting the CIPR Principles by bringing to the attention of the CIPR examples of malpractice and unprofessional conduct.

Competence

- Being aware of the limitations of professional competence: without limiting realistic scope for development, being willing to accept or delegate only that work for which practitioners are suitably skilled and experienced;
- Where appropriate, collaborating on projects to ensure the necessary skill base.
- Transparency and conflicts of interest
- Disclosing to employers, clients or potential clients any financial interest in a supplier being recommended or engaged;
- Declaring conflicts of interest (or circumstances which may give rise to them) in writing to clients, potential clients and employers as soon as they arise;
- Ensuring that services provided are costed and accounted for in a manner that conforms to accepted business practice and ethics.

Confidentiality

- Safeguarding the confidences of present and former clients and employers;
- Being careful to avoid using confidential and "insider" information to the disadvantage or prejudice of clients and employers, or to self-advantage of any kind;
- Not disclosing confidential information unless specific permission has been granted or the public interest is at stake or if required by law.

Maintaining professional standards

3. CIPR members are encouraged to spread awareness and pride in the public relations profession where practicable by, for example:

- Identifying and closing professional skills gaps through the Chartered Institute's Continuous Professional Development programme;
- Offering work experience to students interested in pursuing a career in public relations;
- Participating in the work of the Chartered Institute through the committee structure, special interest and vocational groups, training and networking events;
- Encouraging employees and colleagues to join and support the CIPR;
- Displaying the CIPR designatory letters on business stationery;
- Specifying a preference for CIPR applicants for staff positions advertised;
- Evaluating the practice of public relations through use of the CIPR Research & Evaluation Toolkit and other quality management and quality assurance systems (eg ISO standards); and constantly striving to improve the quality of business performance;
- Sharing information on good practice with members and, equally, referring perceived examples of poor practice to the Chartered Institute.

Interpreting the Code

4. In the interpretation of this code, the Laws of the Land shall apply.

SECTION B

Regulations governing complaints relating to professional conduct

1. Definitions

For the purpose of these Regulations the following words and expressions shall have the meanings set against them, unless the context otherwise requires:

committees the Professional Practices Committee and the Disciplinary Committee;

complaint facts or matters, other than those which are sub judice, coming to the attention of the Secretary indicating that a member of the Chartered Institute may have become liable to disciplinary action in accordance with Articles 12-18 (Disciplinary Powers) of the Articles of Association of the Chartered Institute, whether the member works with a consultancy, a commercial organisation or otherwise;

complainant a person who brings a complaint;

defendant a member against whom a complaint has been lodged;

member a member of the Chartered Institute at the time the matter complained about occurred.

Note: It is a condition of membership that members remain subject to disciplinary proceedings in relation to their professional activities during such time as they are members, even though they may subsequently have ceased to be members;

parties (in relation to hearings of the Disciplinary Committee) the Professional Practices Committee and the defendant;

professional practices committee representative (in relation to hearings of the Disciplinary Committee) the person appointed to represent the Professional Practices Committee and to support the complaint.

Other words and expressions defined in the Memorandum and Articles of Association of the Chartered Institute shall have the meanings there assigned to them.
The singular includes the plural and vice versa.

2. Professional Practices Committee and Disciplinary Committee

(a) The Professional Practices Committee and the Disciplinary Committee constituted in accordance with the Articles of Association of the Chartered Institute shall meet as required to investigate and hear complaints against members.

(b) The quorum of the Professional Practices Committee shall be not less than four and of the Disciplinary Committee shall be not less than three.

(c) A member of either of the Committees retiring from that Committee shall, unless the Council otherwise resolves, continue to be a member of the Committee for the purposes of any proceedings before the Committee not completed at the date of his or her retirement.

(d) A member of either of the Committees shall abstain from taking part in the consideration of a complaint if he or she has had previous dealings with the defendant personally or professionally or has taken part in the previous consideration of the complaint or any aspect of the complaint.

(e) Before the date of any hearing before either of the Committees the defendant shall be informed of the identity of the members of the Committee and shall have the right to give notice to the Chairman objecting to any of the members, stating his or her objections.

(f) Upon receipt of the notice mentioned in paragraph (e) of this Regulation, the Chairman, if satisfied that the objection is properly made, shall require the member in question to abstain from taking part in the proceedings. The defendant shall be informed of the identity of any alternate appointed in the place of that member and shall have the like right to give notice of objection.

(g) The Chairman of each Committee shall be present throughout the hearing of a complaint before that Committee. If any other member of the Committee for any reason is absent from any part of the hearing of a complaint, he or she shall take no further part in the hearing.

(h) The proceedings of either of the Committees shall be valid notwithstanding that one or more of the members other than the Chairman becomes unable to continue to act, so long as the number of members present throughout the substantive hearing of the complaint is not reduced below the quorum and continues to include the Chairman.

(i) Any duty or function or step which, pursuant to the provisions of these Regulations, is to be discharged or carried out by the Chairman of either of the Committees may, if he or she is unable to act for any reason, be discharged or carried out by any other member nominated in writing by the President for any specific purpose.

3. Assessors

(a) The Chairman of either of the Committees may direct that in considering a complaint the Committee shall sit with a legally qualified assessor.

(b) Likewise, the Chairman of either of the Committees may direct that in considering a complaint, the Committee shall have the assistance of one or more technical assessors, who appear to the Chairman to have knowledge or experience which would be relevant to assisting the Committee in considering any particular complaint.

(c) No assessor shall be appointed who has taken part in any process of resolution under Regulation 6 (duty to conciliate).

(d) No assessor shall form part of either of the Committees. It shall be for each Committee alone to determine the issues before it.

4. Complaints

(a) Any person (whether a member of the Chartered Institute or not) or any committee of the Council, or the Council itself, may bring a complaint against a member.

(b) It shall be the duty of every member of the Chartered Institute, where it is in the public interest to do so, to bring a complaint against a member. In deciding whether it is in the public interest to bring a complaint, regard should be paid to such guidance as the Council may give from time to time.

(c) The Secretary shall maintain a register of all complaints received and the decision of the Professional Practices Committee and, if relevant, the Disciplinary Committee thereon.

(d) On receipt of a complaint the Secretary shall make such enquiries of the complainant as may be necessary in order to clarify any matters of uncertainty and to identify the specific clause or clauses in the Code of Professional Conduct to which the complaint has reference.

(e) The Secretary shall also ensure that the complainant is aware of these Regulations and the Chartered Institute's disciplinary powers and in particular the Secretary shall explain that the defendant will be notified of the complaint in order that he or she may exercise the right of reply. The Secretary shall also draw attention to the provisions of Regulation 5 (confidentiality).

(f) If the complainant wishes to proceed with the complaint, the Secretary shall send details of the complaint to the defendant and invite him or her to submit written observations. The Secretary shall draw to the defendant's attention the provisions of Regulation 5 (confidentiality).

(g) The defendant's written observations shall be forwarded to the complainant, and, unless the complainant with the consent of the defendant withdraws the complaint, to the Professional Practices Committee.

(h) Any complaint shall be placed by the Secretary before the Professional Practices Committee as soon as reasonably practicable but no later than eight weeks after the complaint was received, except with the consent of both the complainant and the defendant.

5. Confidentiality

(a) Once a complaint has been made and communicated by the Secretary to the defendant, the substance of the complaint and all related correspondence, statements and submissions of the complainant and the defendant and all proceedings before and findings of the Professional Practices Committee shall be treated with complete confidentiality by both the complainant and the defendant, and all public discussion and disclosure avoided.

(b) Any breach, or alleged breach, of paragraph (a) of this Regulation which comes to the notice of the Professional Practices Committee shall be considered by the Committee, which may cause further investigation to be made. Any breach, or alleged breach, may itself give rise to a further complaint being laid before the Committee.

(c) In any case where there has been public discussion or disclosure of the substance of a complaint before receipt of the complaint by the Professional Practices Committee, the Committee shall, in considering the complaint, take into account the nature of and justification for such public discussion or disclosure, which may itself give rise to a further complaint being laid before the Professional Practices Committee.

(d) The requirement of confidentiality extends to all members of the Professional Practices Committee without limit of time.

6. Duty to conciliate

The Professional Practices Committee shall, in all proper cases, explore the possibility of resolving any grievance which has given rise to a complaint by conciliation, mediation, arbitration or otherwise, subject to the consent of the complainant and the defendant, and shall, whenever possible, make arrangements to provide the machinery for such resolution.

7. Power to demand information

(a) Each of the Committees shall have power to call for, and it shall be the duty of every defendant to provide, such information, including papers and records, as the Committee considers necessary to enable it to discharge its functions.

(b) The power in paragraph (a) of this Regulation shall not extend to information relating to any process of resolution under Regulation 6 (duty to conciliate).

8. Professional Practices Committee and Disciplinary Committee

(a) If a complaint is not resolved by the Professional Practices Committee under Regulation 6 (duty to conciliate), the Committee shall consider whether a complaint discloses a prima facie case for disciplinary action. If it considers that it does, it shall:

(i) refer the complaint to the Disciplinary Committee; or

(ii) proceed as in Regulation 9 (consent orders); or

(iii) proceed as in Regulation 10 (letters of advice); or

(iv) order that no further action be taken on the complaint.

If it considers that the complaint does not disclose a prima facie case for disciplinary action, it shall order that the complaint be dismissed.

(b) Before taking any decision under clause (a) of this Regulation the Professional Practices Committee shall be satisfied that the defendant has been given an opportunity either of submitting written representations to it or, if the defendant desires to do so, of appearing before the Committee in person. The Committee shall have the power to require the defendant to attend before it and to request the attendance of witnesses. If the defendant fails to attend or otherwise avail him or herself of the rights of the defendant under these Regulations, the Committee may proceed in the absence of the defendant.

(c) If a complaint has not been resolved under Regulation 6 (duty to conciliate), a defendant appearing before the Professional Practices Committee may at the discretion of the Chairman be represented by a solicitor, counsel or friend and may at the discretion of the Chairman call witnesses on his or her behalf and examine and cross-examine any witnesses called to give oral evidence.

(d) The Professional Practices Committee may, at the discretion of the Chairman, adjourn its considerations from time to time to seek further information, or to give the defendant sufficient opportunity to consider and answer further information or to satisfy itself that all aggravating or mitigating circumstances have been taken into account, or otherwise.

(e) In deciding whether a complaint ought to be referred to the Disciplinary Committee the Professional Practices Committee shall be entitled to take into account any facts or matters which

may have been considered by the Professional Practices Committee on previous occasions in relation to the defendant in respect of which no complaint was referred to the Disciplinary Committee.

(f) If the Professional Practices Committee refers a complaint to the Disciplinary Committee it shall do so by sending to the Disciplinary Committee a full statement of the offence or offences alleged, specifying the sub-section or sub-sections of Section A of the Code of Professional Conduct alleged to have been infringed, together with a summary of the facts and matters which were before the Committee and a summary or copy of any representation made by the defendant to the Committee. A copy of the complaint referred to the Disciplinary Committee shall be given to the defendant.

9. Consent orders

(a) If the Professional Practices Committee decides that a prima facie case has been made out against a defendant in accordance with Regulation 8 and if, after considering all the circumstances including the past record of the defendant, the Professional Practices Committee further decides that the case is one which is appropriate to be dealt with under this Regulation, the Professional Practices Committee may, with the agreement of the defendant

(i) make one or more of the following orders:

A. that the defendant be reprimanded;

B. that the defendant be severely reprimanded;

C. if the complaint relates to work within a consultancy, that within such time as the Professional Practices Committee thinks fit, the defendant return to a client all or part of the fee which the client has paid or pay over to a client funds which have been retained by the defendant in or towards payment of a fee; and

(ii) include in any such order a direction that the defendant pay to the Chartered Institute a sum by way of costs arising subsequent to any attempt to resolve the complaint under Regulation 6 (duty to conciliate), such payment to be made within 28 days of the date the Professional Practices Committee so directs, unless some other date is determined by the Committee.

(b) Before making any order under paragraph a. of this Regulation the Professional Practices Committee shall first give written notice to the defendant:

(i) specifying the order or orders which it is considering making and the direction it is considering giving with the defendant's agreement; and

(ii) stating that, if the defendant does not give his or her agreement to the proposed course within 21 days, the case shall be referred to the Disciplinary Committee, which, if it finds against the defendant, will have a wider range of orders available to it.

(c) If within the period stated the defendant gives his or her written agreement to the Professional Practices Committee proceeding as proposed in the notice given under paragraph (b) of this Regulation, the Committee shall make the order or orders and give the direction specified in the notice. The Committee shall also report the decision to the Council, which shall cause it to be published in the same manner as a decision of the Disciplinary Committee.

(d) If the defendant fails within the time stated to give written agreement to the Professional Practices Committee proceeding as proposed in the notice given under paragraph (b) of this Regulation, the Professional Practices Committee shall proceed to refer the complaint, formulated in accordance with paragraph (f) of Regulation 8, to the Disciplinary Committee, and report to the Council that it has done so.

(e) The breach of any order under paragraph (a)(i)(C) or a direction under paragraph (a)(ii) of this Regulation may itself give rise to a further complaint being laid before the Professional Practices Committee.

10. Letters of advice

(a) The Professional Practices Committee may decide to issue a letter of advice to a defendant if it considers that a complaint laid before it has arisen because of the inefficient management of the defendant's business or the business in which the defendant is employed. By this letter the Professional Practices Committee may require the defendant to obtain advice from such source or sources as the Professional Practices Committee may prescribe and (in the absence of good reason to the contrary) duly to implement the advice so obtained. Where relevant, the Committee may draw the attention of the defendant's employer to the contents of the letter of advice and seek the employer's assistance in the implementation of advice received by the defendant.

(b) Any breach of a requirement under paragraph (a) of this Regulation may itself give rise to a further complaint being laid before the Professional Practices Committee.

11. Joint consideration of complaints

Either of the Committees may, at the discretion of the Chairman, consider together more than one complaint against the same member, and consider together complaints against more than one member.

12. Cases of urgency

In cases where the Chairman of the Professional Practices Committee considers that the public interest demands a more urgent resolution of a complaint, he or she shall be entitled to exercise the powers of the Committee in demanding information and taking forward consideration and resolution of the complaint, in consultation with one or more members of the Committee, and shall report his or her actions to the Committee as soon as reasonably practicable.

13. Publicity in relation to the Professional Practices Committee

(a) The Chairman of the Professional Practices Committee may at any time make such public announcement as he or she sees fit in relation to the consideration by the Committee of any complaint which in his or her opinion is a matter of public concern. Except as mentioned in paragraph (c) of Regulation 9 (consent orders), no other public announcement shall be made in relation to any matter before the Professional Practices Committee.

(b) No public announcement under paragraph (a) of this Regulation shall refer to anything disclosed in any process of resolution under Regulation 6 (duty to conciliate).

14. The Disciplinary Committee

(a) The Disciplinary Committee shall meet as necessary to hear and determine complaints, formulated in accordance with paragraphs (f) of Regulation 8, referred to it by the Professional Practices Committee.

(b) Regulation 5 (confidentiality), adapted as necessary, shall apply equally to the Disciplinary Committee.

(c) In any case where the Disciplinary Committee considers it reasonable to do so, it may:

(i) amend a complaint formulated by the Professional Practices Committee;

(ii) formulate a new complaint relating to any information which comes to the notice of the Disciplinary Committee in the course of proceedings on any complaint referred to it;

(iii) remit any complaint to the Professional Practices Committee for amendment or for the addition or substitution of any other complaint or complaints; provided that;

A. the Committee is satisfied that the defendant will not by reason of such an amendment suffer any substantial prejudice in the conduct of his or her defence; and

B. the Committee shall, if so requested by the defendant, adjourn for such time as is reasonably necessary to enable him or her to meet the complaint as so amended.

15. Further evidence and representation

The Professional Practices Committee may after referring a complaint to the Disciplinary Committee instruct the Secretary to make such enquiries, assemble such evidence and request the complainant to supply such further information and documents relating to the complaint as it thinks fit and may instruct a solicitor and/or counsel to act as Professional Practices Committee Representative if it thinks fit.

16. Convening of the Disciplinary Committee

(a) As soon as practicable after a complaint is referred to the Disciplinary Committee, the Committee shall issue a convening notice giving not less than eight weeks' notice to the parties of the date, time and place appointed for hearing the complaint.

(b) The convening notice shall also set out details of the procedure to be followed at any hearing and contain notice of the rights of the defendant to appear before the Disciplinary Committee in person and/or by a solicitor, counsel or friend, to submit evidence and to make other written submissions, to call witnesses on his or her behalf at the discretion of the Chairman and to examine and cross-examine any witnesses called to give evidence.

(c) The convening notice given to the defendant shall be accompanied by copies of any documents which the Professional Practices Committee intends to adduce in evidence.

(d) An application for postponement of a hearing which has not commenced shall be determined by the Chairman of the Disciplinary Committee in his discretion.

17. Pre-hearing procedures

(a) Not less than 28 days before the date fixed for the hearing the Chairman of the Disciplinary Committee may direct the defendant to state in writing within such time as may be specified:

(i) whether the defendant accepts all or part of the allegations in the complaint and, if the defendant does not accept all of them, on what grounds he or she denies all or part of them;

(ii) whether the defendant accepts the facts as stated in the summaries referred to the Disciplinary Committee under paragraph (f) of Regulation 8 and, if not, the grounds on which such facts are disputed;

(iii) if the defendant accepts all or part of the allegations in the complaint, the grounds on which any plea for mitigation will be made; and

(iv) whether or not the defendant intends to attend and/or be represented at the hearing and the identity of any representative.

(b) The defendant's response to the direction referred to in paragraph (a) of this Regulation shall be drawn to the attention of the Disciplinary Committee at the conclusion of the hearing, if relevant, on the question of costs.

(c) At least 21 days before the date fixed for the hearing, the defendant shall serve on the Disciplinary Committee two copies of a paginated and indexed bundle of all documents on which he or she intends to rely unless the documents have already been included among the documents served under paragraph (c) of this Regulation. The Disciplinary Committee shall forthwith send one copy of the bundle to the Professional Practices Committee Representative.

(d) Either party may inspect the documents served by the other party within 14 days of the service.

(e) Unless the Chairman of the Disciplinary Committee otherwise directs, no witness may be called nor document produced by either party without at least 21 days written notice being given to the Disciplinary Committee. In the case of witnesses, such notice shall include the name and address of the witness and a copy of the statement of his or her evidence, in order that the Chairman of the Disciplinary Committee may decide whether such evidence is material to the proceedings. The Chairman of the Disciplinary Committee shall as soon as practicable give a direction accordingly.

(f) Nothing in this Regulation shall preclude the reception by the Disciplinary Committee of the evidence of a witness a copy of whose statement has not been duly served, or of a document not duly served, provided the Disciplinary Committee is of the opinion that the defendant is not materially prejudiced thereby, or on such terms as are necessary to ensure that no such prejudice arises.

(g) At any time before the hearing the Chairman of the Disciplinary Committee may direct the defendant to:

(i) send an answer to the complaint in writing to the Disciplinary Committee within 14 days, subject to any extension of time if in the opinion of the Chairman of the Disciplinary Committee there is good and sufficient reason for an extension;

(ii) provide such further information and documents relating to the complaint as the Chairman considers necessary for the just and expeditious handling of the case;

(iii) appear in person at a pre-trial review in accordance with Regulation 18 or at the hearing before the Disciplinary Committee at the time appointed for the review or hearing.

(h) At any time before the hearing the Chairman of the Disciplinary Committee may direct that either of the parties indicate which of any information supplied by the other party is not accepted or whether either party wishes to challenge the authenticity of any document supplied by the other party.

18. Pre-hearing review

(a) The Chairman of the Disciplinary Committee either of his or her own motion or on the application of either party may direct that there be a pre-hearing review conducted by him or herself for the purpose of giving directions and of taking such other steps as he or she considers suitable for the clarification of the issues before the Disciplinary Committee and generally for the just and expeditious handling of the case.

(b) The directions to be given and steps taken by the Chairman of the Disciplinary Committee may concern, but not be limited to, the following matters:

(i) whether the hearing should be held in private or in public

(ii) whether more than one complaint should be considered together by the Disciplinary Committee

(iii) application to strike out allegations

(iv) attendance of witnesses

(v) admission of documents

(vi) admission of facts

(vii) the estimated duration of the hearing

(viii) such other matters as he or she deems expedient for the just and expeditious conduct of the hearing.

(c) The Chairman of the Disciplinary Committee shall cause a record to be served on the parties setting out the directions given, admissions made and steps taken at the pre-hearing review.

(d) The parties may, in advance of the date fixed for any pre-hearing review, agree upon the directions to be made and/or steps to be taken at the pre-hearing review and shall notify the Chairman of the Disciplinary Committee of such agreement. Following such notification the Chairman of the Disciplinary Committee may, if he or she thinks fit, make directions in the terms agreed and/or direct that no pre-hearing review is required.

(e) For the avoidance of doubt, the Chairman of the Disciplinary Committee may:

(i) adjourn the pre-hearing review from time to time as he or she considers appropriate;

(ii) upon the application of either party or of his or her own motion, and either with or without further preliminary hearings, give such further directions or take such further steps as he or she considers necessary for the just and expeditious conduct of the proceedings, including extending or abridging any time limit governing the procedures of the Disciplinary Committee on such terms as he or she thinks just.

19. Procedures at hearings of the Disciplinary Committee

The order in which a hearing before the Disciplinary Committee will normally proceed, subject to the discretion of the Chairman of the Committee, shall be as follows:

(i) The defendant will be called before the Committee.

(ii) The Chairman of the Committee will make the members of the Committee known to the defendant. If the defendant is accompanied by others he or she will make them known to the Committee, or the representative of the defendant will make him or herself and those with him or her known to the Committee.

(iii) The procedure to be followed will be explained by the Chairman of the Committee.

(iv) The complaint will be read and the defendant's written answer taken into consideration.

(v) The Committee will put to the defendant any questions arising out of the complaint and the evidence in support of the defendant's written answer which the Committee considers pertinent.

(vi) The defendant (or his or her representative) will be given the opportunity to address the Committee.

(vii) After the Committee has heard the defendant (or his or her representative) and any witnesses, the defendant and any persons with him or her will be asked to withdraw while the Committee makes its findings on the complaint.

(viii) The defendant (and those with him or her) will be recalled and the Chairman of the Committee will pronounce its findings on the complaint. If the finding is against the defendant, he or she (or his or her representative) will be invited to address the Committee in mitigation.

(ix) The defendant (and those with him or her) will again be asked to withdraw while the Committee decides on the nature of the report to be made to the Council.

(x) The defendant (and those with him or her) will be recalled and the decision of the Committee, to be embodied in a report to the Council, will be pronounced.

20. Adjournment

(a) Subject to the provisions of the following paragraph, the Disciplinary Committee shall sit from day to day until it has arrived at a finding and, if any allegation has been found proved, until the decision of the Committee is pronounced.

(b) Notwithstanding the provisions of paragraph (a) of this Regulation, the Disciplinary Committee may, if the Chairman decides that an adjournment is necessary for any reason, adjourn the hearing for such period as he may decide.

21. Evidence and standard of proof

(a) The proceedings of the hearing before the Disciplinary Committee shall be governed by the rules of natural justice, subject to which the Committee may:

(i) admit any evidence, whether oral or written, whether direct or hearsay, and without being bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before any court of law;

(ii) give such directions with regard to the conduct of and procedure at the hearing, and with regard to the admission of evidence thereat, as it considers appropriate for securing that the defendant has a proper opportunity of answering the charge or otherwise as shall be just;

(iii) exclude any hearsay evidence if it is not satisfied that reasonable steps have been taken to obtain direct evidence of the facts sought to be proved by the hearsay evidence.

(b) The standard of proof is satisfied on a balance of probabilities.

22. Hearing in private or in public

The hearing before the Disciplinary Committee shall be in private unless either:

(i) at a pre-hearing review or otherwise it has been directed that the hearing shall be held in public; or

(ii) the defendant has made an application that the hearing shall be held in public, and the Chairman in his discretion does not consider that for any reason the circumstances and nature of the hearing make a public hearing undesirable.

23. Absence of defendant

If the defendant does not attend at the time and place appointed for the hearing, the Disciplinary Committee may nevertheless proceed to hear and determine the complaint, provided that the Committee is satisfied that the relevant procedure has been complied with and the defendant has been duly served, in accordance with Regulation 29 (service of documents), with the documents required under paragraph (f) of Regulation 8 and Regulations 16 (convening of the Disciplinary Committee) and 17 (pre-hearing proceedings).

24. Non-compliance of defendant

(a) If, having been required under these Regulations to answer a complaint in writing, to provide further information or to appear in person before the Disciplinary Committee, the defendant fails for whatever reason so to do, the Disciplinary Committee shall be empowered at its discretion to postpone its findings on the complaint and to report to the Council that it has decided that the defendant should be suspended for such period as the Disciplinary Committee thinks fit for conduct inconsistent with his or her status as a member.

(b) The power of the Disciplinary Committee to decide that a defendant should be suspended under paragraph (a) of this Regulation notwithstanding, a defendant who fails to comply with these Regulations or any direction under these Regulations may be deemed by the Disciplinary Committee to be conducting him or herself in a manner inconsistent with his or her status as a member and the proceedings may be determined by a report by the Disciplinary Committee to the Council that it has decided that one of the range of measures open to the Council under Article 12 should be exercised against the defendant without the formulation of any further complaint for that purpose.

25. The finding of the Disciplinary Committee

(a) At the conclusion of the hearing, the finding of the Disciplinary Committee on each allegation included in the complaint shall be set down in writing and signed by the Chairman and all members of the Committee present.

(b) If the members of the Committee are not unanimous as to the finding on any allegation, the finding to be recorded on that allegation shall be that of the majority.

(c) If the members of the Committee are equally divided as to the finding on any allegation, the finding to be recorded on that allegation shall be that which is the most favourable to the defendant.

(d) The Chairman of the Committee shall then pronounce the Committee's finding on the allegation or allegations as stated in Regulation 19 (procedure at hearings of the Disciplinary Committee).

26. The decision of the Disciplinary Committee

(a) If the Disciplinary Committee shall have found the allegation or any of the allegations included in the complaint proved, after hearing any representations by or on behalf of the defendant, the Committee shall set down in writing its decision as to how the Council should exercise its powers under Article 12.

(b) If the members of the Committee are not unanimous as to the decision, the decision to be recorded shall be that decided by the majority.

(c) If the members of the Committee are equally divided as to the decision, the decision to be recorded shall be that which is the most favourable to the defendant.

(d) The Chairman of the Committee shall then announce the Committee's decision in the form of a report to the Council, indicating how the Council should exercise its powers under Article 12 or that no action should be taken against the defendant.

(e) If the defendant has not been present throughout the proceedings, the report to the Council shall include a statement that the provisions of Regulation 23 (absence of defendant) have been complied with.

27. Costs

(a) The Disciplinary Committee shall have power to make and report to the Council such decision as to direction for costs against a defendant as it shall think fit.

(b) Upon deciding on such direction, the Disciplinary Committee shall either itself determine the amount of such costs or appoint a suitably qualified person to do so on its behalf.

(c) Any costs directed to be paid by a defendant shall, unless some other date is determined by the Disciplinary Committee, be paid to the Chartered Institute within 28 days of the date the Council so directs.

(d) Subject as aforesaid, all costs and expenses incurred by the Committees in connection with these Regulations shall be borne by the Chartered Institute.

28. Record of proceedings

Unless the Chairman of the Disciplinary Committee in his discretion decides in any particular case to make a record of the proceedings at a hearing in any other manner, he or she shall take a hand-written note of the proceedings. A copy of the Chairman's note of the proceedings (or of any other record of the proceedings made in the discretion of the Chairman) shall be made available to the defendant if he requests one within three months of the date of the hearing and reimburses the cost of supplying the same.

29. Service of documents

(a) Any documents required to be served on a defendant arising out of or in connection with investigations or proceedings under these Regulations shall be deemed to have been validly served:

(i) if sent by registered post, or recorded delivery post, or receipted hand delivery to:

A. the address registered by the defendant with the Chartered Institute; or

B. an address to which the defendant may have requested in writing that such documents be sent (including the address of his or her legal adviser); or

C. in the absence of any such request, his or her last known address;

(ii) if actually served on the defendant;

(iii) if served in any way which may be directed by the Chairman of either of the Committees.

(b) For the purpose of this Regulation "receipted hand delivery" means a delivery by hand which is acknowledged by a receipt signed by the defendant.

(c) A copy of all notices and directions served and given by the Disciplinary Committee on and to either party shall be sent to the other party.

(d) The accidental omission to send or deliver a notice or other communication to, or the non-receipt of a notice or other communication by, either party shall not invalidate any investigation or proceedings to which such notice or communication relates.

30. Disposal of papers

The record of each set of proceedings before each of the Committees, including a copy of all written representations made by the defendant, shall at the conclusion of the proceedings (whether the complaint is upheld or dismissed) be delivered to the Secretary's custody for disposal as and when the Council determines.

31. Curing of irregularities

Any irregularity resulting from failure to comply with these Regulations during the course of any proceedings hereunder shall not of itself render the proceedings void, but the Chairman of either Committee may, and shall if he or she considers that either party to the proceedings may have been prejudiced, take such steps as he or she thinks fit before the conclusion of the proceedings to cure the irregularity, whether by the amendment of any document, the giving of any notice, the taking of any step or otherwise.

32. Disputes

If any question or difference shall arise with regard to the interpretation or application of these Regulations or on any matter whatsoever concerning the conduct of the hearing of a complaint, it shall be referred to and settled conclusively by the President, who shall take whatever advice thereon considered necessary.

September 2007

Memorandum from the Public Relations Consultants Association (PRCA)

1. Introduction

(a) *Background to the PRCA*

The Public Relations Consultants Association (PRCA) welcomes the opportunity to respond to the call for written evidence issued by the Public Administration Select Committee of the House of Commons (PASC) on 21 June 2007, as part of the Committee's inquiry into Lobbying.

By way of background, the PRCA was set up in 1969 and is the representative body for public relations (PR) consultancies in the UK. The association provides support to PR consultancies to enable them to become better businesses and helps to demonstrate the value of public relations consultancy to clients.

It has over 130 members across the UK and represents consultancies who account for more than 70 per cent of the consultancy fee income generated in the UK. These consultancies are of all sizes, working for clients in all business sectors. Together they employ around 5,000 people and generate more than £400 million each year in fees from clients.

(b) *The Evolution of the "Lobbying" Debate and the Focus of the PRCA Submission*

At a time when questions of public affairs and its (self-)regulation continue to attract media, Parliamentary and political interest, the PRCA believes that the time is right for a Committee of PASC's standing to conduct an inquiry of this kind.

The world of public affairs has changed radically since 1991, evolving into what we believe to be a highly professional discipline. We therefore welcome the Committee's interest in reviewing objectively modern public affairs practice as it exists now in 2007, rather than the environment of even 10 years ago—an environment that arguably culminated in a set of outdated stereotypes that continue to characterise and skew today's debates.

Our starting point is that in terms of the detailed questions posed in the Committee's *Issues and Questions Paper*, we would align ourselves with the detailed submission that the Committee will have received from the Association of Professional Political Consultants (APPC).

While the PRCA includes in its membership some 25 member companies who provide specific public affairs services—many of whom have also contributed to the APPC's submission—we believe that the APPC submission will provide the Committee with the most representative views available of the specialist public affairs consultancy sector.

In any event, the PRCA has been working closely with both the APPC and the Chartered Institute of Public Relations Government Affairs Group (CIPR GAG) on the *Guiding Principles Initiative*—an initiative that we will return to below and that we hope will make a genuine, positive difference to modern public affairs practice in the UK.

In this submission we will, therefore, limit ourselves to:

(i) an overview of the PRCA's own Public Affairs Code of Conduct (see Appendix 2) —as an example of effective self-regulation; and

(ii) a set of broader observations from the perspective of the UK's public relations trade association on current debates on lobbying and how we believe those debates should progress moving forward.

(c) *Our Core Arguments*

Like the APPC, our fundamental belief is that lobbying—the process of external organisations interacting with the institutions of government and informing the policy making process—remains a central tenet of any effective democracy. As Sir Philip Mawer, the Parliamentary Commissioner for Standards noted in *Public Affairs News* in September 2006, *"Lobbying is a necessary and inevitable part of any democratic process and the more complex government gets, the more there is a place for a professional, informed and ethical public affairs industry".*

Accepting, however, that such interaction will inevitably *and rightly* attract public, Parliamentary, media and political scrutiny, we agree wholeheartedly with the APPC that the best means of ensuring that this process is properly managed is principle and code-based self-regulation—with suggestions of statutory regulation likely to run up against complex issues of definition.

However, our central contention is that in an environment that has been characterised by an explosion and diversification of organisations that interact with the institutions of government, a debate that equates "lobbying" solely with public affairs consultancy is simply not reflecting modern realities.

On this basis, we believe strongly that any discussions over regulation or self-regulation should enjoin all those who interact with government and the policy process, rather than purely a small subset of that whole.

Moreover, we would contend for the lobbying and transparency debate to be meaningful, it must be based on a modern definition of lobbying that reflects today's diversity and moves beyond some of the outdated stereotypes that continue to be propagated in some quarters.

Further, if the lobbying debate—and how it plays out—is to help restore the collective breakdown in trust in the British political system that research in recent years by the Hansard Society and the Committee on Standards in Public Life amongst others has highlighted, the ways in which the "lobbyists" and the "lobbied" communicate and cooperate on these issues merits far closer attention than has been the case to date.

It is these issues, culminating in the *Guiding Principles Initiative* that the PRCA has been driving forward with the APPC and CIPR GAG, that we will focus on in our overall comments below.

2. The PRCA Public Affairs Code of Conduct and Related Best Practice

(a) *The PRCA Public Affairs Code of Conduct and Professional Charter*

As part of its duty as a responsible trade association to contribute positively on issues of ethics, transparency and best practice, the PRCA has developed and maintained a detailed Public Affairs Code of Conduct covering a range of ethical and practical issues relevant to those PRCA members providing public affairs services. The PRCA also has a detailed Professional Charter, backed by a clear set of Arbitration and Disciplinary Procedures (see Appendices 2 and 3).

The Code of Conduct applies the principles that political consultants should be open, transparent and honest in their dealings with parliamentarians or representatives of institutions of government; and that there should be no financial relationship between them. This is based on the conviction that PRCA members must act at all times with the highest standards of integrity and in a professional and ethical manner reflecting the principles applied by the Code.

PRCA membership is contingent on member companies adhering to both the Public Affairs Code of Conduct and the Professional Charter, as well as building induction on these into all company induction processes, relevant contracts of employment and staff manuals. Indeed, political consultants within member companies are required to endorse the Code and the duties set out in it in relation to their business dealings with clients and with institutions of government.

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.

Moreover, all member companies engaging in public affairs activities are obliged to complete a twice-yearly register—available online—listing the names of all staff providing public affairs services and the names of all clients for whom public affairs services were provided during the relevant register period. In addition, the PRCA also holds information on a consultancy's overall declared fee income, particulars of all Directors/Partners, holders of public office, members' parent company and any subsidiary or associated companies.

(b) *The PRCA Consultancy Management Standard*

Furthermore, the PRCA has developed the Consultancy Management Standard (CMS), providing members' clients and others with the assurance that all members accredited with CMS are sound, well-managed businesses who comply with professional codes of conduct and perform according to recognised best practice.

The Standard is an independently-audited set of eight tests which a consultancy must pass before it is eligible for PRCA membership. CMS combines elements of ISO 9000 and Investors in People with criteria specific to public relations consultancy. It was introduced in 1997 as the industry's first quality certification system for public relations firms and has now been adopted by 15 countries worldwide.

(c) *The Process of Review and Evolution*

We would stress that the PRCA views the process of self-regulation and best practice as one of constant review and evolution. The Chair of the Association's Public Affairs Committee reports back to the full Board of Management at every quarterly Board meeting. The Board is frequently asked to debate and decide on issues of relevance to the Association and its members—and crucially members' interaction with other organisations and institutions across Government, Parliament and beyond.

The Public Affairs Code of Conduct—which is aligned in almost its entirety with the APPC's own Code—is kept under constant review, with changes made and signed off by the full Board of Management on the advice of the Public Affairs Committee and its Chair on a periodic basis.

In short, in recognition of the constantly evolving nature of debates around lobbying and transparency, the PRCA is in no way complacent that the existence of a Public Affairs Code (and other best practice tools) *per se* ensures the Association is doing all it can to help uphold the highest standards of ethics and best practice. Rather, it is the ongoing evolution of that Code that will enable the PRCA to play its part in this important area.

3. Self-Regulation and Best Practice Within and Beyond the Consultancy Sector

(a) *Inside or Outside the Self-Regulatory Tent?*

The Committee has quite correctly focused one of the questions in its *Issues and Questions Paper* on the issue of certain public relations or public affairs consultancies choosing to sit outside the membership of either the APPC or the PRCA. Our view on this issue is straightforward and we felt it important to take it head on.

By definition, under a system of voluntary self-regulation, the organisations which have taken it upon themselves to develop, monitor and enforce this principle and code-based regulation cannot and should not endeavour to compel industry partners to join those organisations. That said, it is our firm belief that issues of ethics, transparency and best practice play an important part in the *collective* reputation of and trust in an industry that we are proud to represent—and therefore require a *collective* response.

Therefore it is absolutely right and proper that organisations such as the APPC and PRCA—whose combined membership already covers the vast majority of consultancy-based public affairs practice in the UK—should actively encourage all those in our industry to join one or other of the associations. It is in this way that the already comprehensive system of self-regulation will be strengthened further.

The sole impact of those organisations who appear set on wearing a "go-it-alone" approach to ethics almost as a badge of honour, is to call into question a self-regulatory system that we believe should underpin all consultancy-based public affairs practice and to focus attention on the notion of statutory regulation that we believe to be a largely unworkable red herring.

(b) *The challenge of definition*

The basis for this assertion is that all discussions of the statutory regulation of lobbyists inevitably run up against extremely challenging issues of definition. Public affairs is now practiced across specialist consultancies, charities, public sector bodies, NGOs, single interest and pressure groups, law firms, accountancy firms, management consultancies, investment banks and corporations.

We are not aware of extensive academic work on the likely ratio of public affairs consultancy staff to their counterparts in other walks of life. However, Karl Milner at Leeds Business School in his January 2006 paper *"The Growth of Lobbying Consultancy in the UK"* suggested ratios from US research of 4:1 in favour of in-house practitioners, noting that *"consultancy is clearly only a part of the lobbying market in the UK and in-house practitioners probably do outnumber consultants by some degree" (p.19)*.

For statutory regulation to be meaningful, non-discriminatory and even-handed, it would therefore need to be applied to any individual or organisation interacting with the institutions of government and the policy-making process. In practice, the development of such regulation would need to be able to decide, to

take just one example, whether the chief executive of a three-person charity who leads on that charity's interaction with Government and Parliament is defined as a lobbyist and therefore falls within the scope of the legislation.

Evidence from the Scottish Parliament's attempts to introduce statutory regulation to cover "commercial lobbyists" came up against these very issues of definition and the challenges inherent in them.

(c) *The Guiding Principles*

It is against this background, and in recognition of the enormously diverse range of organisations that now interact with the institutions of government and the policy—making process, that the PRCA—working with the APPC and CIPR GAG—has developed and formally adopted a set of guiding principles that we hope could be adopted by all those organisations involved in such interaction. These are in addition to the three organisations' own detailed Public Affairs Codes of Conduct.

Focusing on six guiding principles of transparency, openness, accuracy, honesty, integrity and propriety, the PRCA, APPC and CIPR GAG have made approaches to, and embarked on discussions with, a range of organisations potentially well placed to work with us in instigating a debate on these principles and their potential adoption across all organisations interacting with government. This includes the Charity Commission, CBI, Local Government Association, NCVO, Management Consultancies Association and TUC.

Our hope is that such organisations will feel able to help in the process of seeing the guiding principles adopted by those within their aegis. In addition, we believe it would be of real benefit for such principles to be translated into codes specific to each walk of life involved.

Indeed, as Sir Philip Mawer also suggested in the *Public Affairs News* article noted above, *"When we talk about public affairs, we shouldn't only think in terms of public affairs consultants. We ought also to be talking about public affairs professionals in large corporations. I would like to see the development of a professional ethic which encompasses all branches of the industry—not just the consultancy side".*

In addition, we have also made approaches to, and embarked on discussions with a range of relevant authorities across Government and Parliament, including the Parliamentary Commissioner for Standards, the Committee on Standards in Public Life and the Cabinet Office. Our ultimate hope is that such standards (and any resulting codes) might be recognised in some way by such authorities and acknowledged as playing a valuable role in enhancing the relationship between the "lobbied" and the "lobbyists"—of all kinds.

We would stress that this is not to say that the consultancy sector should in any way reduce its focus on extending the reach of consultancy self-regulation and ensuring that such self-regulation should reflect the constantly evolving nature of these important debates. Rather, it underlines our belief that the consultancy sector can and should play a leading role in catalysing a set of debates on lobbying best practice that reflect the realities of modern political life in the UK.

We hope that the Committee will find this submission of value and would be more than happy to provide oral evidence in due course should the Committee view it as appropriate.

September 2007

APPENDIX 1

PRCA PUBLIC AFFAIRS CODE OF CONDUCT

Preamble

This Code of Conduct covers the activities of regulated political consultants (defined as PRCA member companies, their staff and non-executive consultants) in relation to all United Kingdom, English, Welsh, Scottish and Northern Ireland central, regional and local government bodies and agencies, public bodies and political parties (hereinafter "institutions of Government"). This Code applies equally to all clients, whether or not fee-paying.

It is a condition of membership of the PRCA that the member firm, its staff and non-executive consultants should accept and agree to abide by this Code for itself and that members will be jointly and severally liable for the actions of their staff in relation to the Code. Regulated political consultants are required to endorse the Code and duties set out in it in relation to their business dealings with clients and with institutions of government.

Other conditions of membership of the PRCA include:

- Undertaking an annual compliance procedure in respect of the Code
- Being bound by terms of the PRCA Professional Charter
- Providing twice a year to the PRCA the names of all clients and consultancy staff involved with Public Affairs during the previous six months for publication in the PRCA Register.

The Code of Conduct applies the principles that political consultants should be open, transparent and honest in their dealings with parliamentarians or representatives of institutions of government; and that there should be no financial relationship between them. PRCA members are determined to act at all times with the highest standards of integrity and in a professional and ethical manner reflecting the principles applied by this Code. In the view of the PRCA, it is inappropriate for a person to be both a legislator and a political consultant.

THE CODE OF CONDUCT

1. In pursuance of the principles in this Code, political consultants are required not to act or engage in any practice or conduct in any manner detrimental to the reputation of the Association or the profession of political consultancy in general.

2. Political consultants must act with honesty towards clients and the institutions of government.

3. Political consultants must use reasonable endeavours to satisfy themselves of the truth and accuracy of all statements made or information provided to clients or by or on behalf of clients to institutions of government.

4. In making representations to the institutions of government, political consultants must be open in disclosing the identity of their clients and must not misrepresent their interests.

5. Political consultants must advise clients where their activities may be illegal, unethical or contrary to professional practice, and to refuse to act for a client in pursuance of any such activity.

6. Political consultants must not make misleading, exaggerated or extravagant claims to clients about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions.

7. Save for entertainment and token business mementoes, political consultants must not offer or give, or cause a client to offer or give, any financial or other incentive to any person in public life, whether elected, appointed or co-opted, that could be construed in any way as a bribe or solicitation of favour. Political consultants must not accept any financial or other incentive, from whatever source, that could be construed in any way as a bribe or solicitation of favour.

8. Political consultants must not:

— 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;

— Make any award or payment in money or in kind (including equity in a member firm) to any MP, MEP, sitting Peer or to any member of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly, or to connected persons or persons acting on their account directly or through third parties.

9. PRCA member companies must ensure that the management activities of their Directors (Executive or Non-Executive) or corporate advisers—be it at a company or holding group level—do not place their political consultants in a position where the consultant could be considered to have breached the Code.

10. Political consultants must comply with any statute, Westminster or Scottish Parliament or National Assembly of Wales or Northern Ireland Assembly or Greater London Assembly resolution and with the adopted recommendation of the Committee on Standards in Public Life in relation to payments to a political party in any part of the United Kingdom.

11. Political consultants who are also local authority councillors are prohibited from working on a client assignment of which the objective is to influence a decision of the local authority on which they serve. This restriction also applies to political consultants who are members of Regional Assemblies, Regional Development Agencies or other public bodies.

12. Political consultants must keep strictly separate from their duties and activities as political consultants any personal activity or involvement on behalf of a political party.

13. Political consultants must abide by the rules and conventions for the obtaining, distribution and release of parliamentary and governmental documents set out by the institutions of government.

14. Political consultants must not hold, or permit any staff member to hold, any pass conferring entitlement to access to the Palace of Westminster, to the premises of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly or any department or agency of government. The one exception is where the relevant institution is a client of the political consultant and requires the political consultant to hold a pass to enter their premises.

15. Political consultants must conduct themselves in accordance with the rules of the Palace of Westminster, Scottish Parliament, National Assembly of Wales, Northern Ireland Assembly or Greater London Assembly or any department or agency of government while within their precincts, and with the rules and procedures of all institutions of government.

16. Political consultants must always abide by internal rules on declaration and handling of interests laid down by any public body on which they serve.

17. Political consultants must not exploit public servants or abuse the facilities or institutions of central, regional or local government within the United Kingdom.

18. Political consultants must disclose the names of all their clients and consultants in the PRCA Register.

In all their activities and dealings, political consultants must be at all times aware of the importance of their observance of the principles and duties set out in this Code for the protection and maintenance of their own reputation, the good name and success of their company, and the standing of the profession as a whole.

APPENDIX 2

PRCA PROFESSIONAL CHARTER

A member firm shall:

1.1 Have a positive duty to observe the highest standards in the practice of public relations. Furthermore a member has the responsibility at all times to deal fairly and honestly with clients, past and present, fellow members and professionals, the public relations profession, other professions, suppliers, intermediaries, the media of communication, employees, and above all else the public.

1.2 Be expected to be aware of, understand and observe this code, any amendment to it, and any other codes which shall be incorporated into this code, and to remain up-to-date with the content and recommendations of any guidance or practice papers issued by the PRCA, and shall have a duty to conform to good practice as expressed in such guidance or practice papers.

1.3 Uphold this code and co-operate with fellow members in so doing by enforcing decisions on any matter arising from its application. A member firm that knowingly causes or permits a member of its staff to act in a manner inconsistent with this code is party to such action and shall itself be deemed to be in breach of it. Any member of staff of a member company who acts in a manner inconsistent with this code must be disciplined by the employer.

A member firm shall not:

1.4 Engage in any practice nor be seen to conduct itself in any manner detrimental to the reputation of the Association or the reputation and interests of the public relations profession.

2. Conduct towards the Public, the Media and other Professionals

A member firm shall:

2.1 Conduct its professional activities with proper regard to the public interest.

2.2 Have a positive duty at all times to respect the truth and shall not disseminate false or misleading information knowingly or recklessly, and to use proper care to avoid doing so inadvertently.

2.3 Have a duty to ensure that the actual interest of any organisation with which it may be professionally concerned is adequately declared.

2.4 When working in association with other professionals, identify and respect the codes of these professions and shall not knowingly be party to any breach of such codes.

2.5 Cause the names of all its directors, executives and retained consultants who hold public office, are members of either House of Parliament, are members of Local Authorities or of any statutory organisation or body, to be recorded in the relevant section of the PRCA Register.

2.6 Honour confidences received or given in the course of professional activity.

2.7 Neither propose nor undertake any action which would constitute an improper influence on organs of government, or on legislation, or on the media of communication.

2.8 Neither offer nor give, nor cause a client to offer or give, any inducement to persons holding public office or members of any statutory body or organisation who are not directors, executives or retained consultants, with intent to further the interests of the client if such action is inconsistent with the public interest.

3. Conduct towards Clients

A member firm shall:

3.1 Safeguard the confidences of both present and former clients and shall not disclose or use these confidences, to the disadvantage or prejudice of such clients or to the financial advantage of the member firm, unless the client has released such information for public use, or has given specific permission for its disclosure; except upon the order of a court of law.

3.2 Inform a client of any shareholding or financial interest held by that firm or any member of that firm in any company, firm or person whose services it recommends.

3.3 Be free to accept fees, commissions or other valuable considerations from persons other than a client, only provided such considerations are disclosed to the client.

3.4 Shall list the names of its clients in the Annual Register of the Association.

3.5 Be free to negotiate with a client terms that take into account factors other than hours worked and seniority of staff involved. These special factors, which are also applied by other professional advisers, shall have regard to all the circumstances of the specific situation and in particular to:

(a) The complexity of the issue, case, problem or assignment, and the difficulties associated with its completion.

(b) The professional or specialised skills and the seniority levels of staff engaged, the time spent and the degree of responsibility involved.

(c) The amount of documentation necessary to be perused or prepared, and its importance.

(d) The place and circumstances where the assignment is carried out in whole or in part.

(e) The scope, scale and value of the task, and its importance as an issue or project to the client.

A member firm shall not:

3.6 Misuse information regarding its client's business for financial or other gain.

3.7 Use inside information for gain. Nor may a consultancy, its members or staff directly invest in their clients' securities without the prior written permission of the client and of the member's chief executive or chief financial officer or compliance officer.

3.8 Serve a client under terms or conditions which might impair its independence, objectivity or integrity.

3.9 Represent conflicting or competing interests without the express consent of clients concerned.

3.10 Guarantee the achievement of results which are beyond the member's direct capacity to achieve or prevent.

3.11 Invite any employee of a client advised by the member to consider alternative employment; (an advertisement in the press is not considered to be an invitation to any particular person).

4. Conduct towards Colleagues

A member firm shall:

4.1 Adhere to the highest standards of accuracy and truth, avoiding extravagant claims or unfair comparisons and giving credit for ideas and words borrowed from others.

4.2 Be free to represent its capabilities and services to any potential client, either on its own initiative or at the behest of the client, provided in so doing it does not seek to breach any existing contract or detract from the reputation or capabilities of any member consultancy already serving that client.

A member firm shall not:

4.3 Injure the professional reputation or practice of another member.

5. Discriminatory Conduct

A member is required to take all reasonable care that professional duties are conducted without causing offence on the grounds of gender, race, religion, disability or any other form of discrimination or unacceptable reference.

APPENDIX 3

PRCA ARBITRATION AND DISCIPLINARY PROCEDURES

Introduction

1. The purpose of the Arbitration and Disciplinary Procedure is to have a mechanism whereby the Professional Charter of the PRCA is seen to be capable of enforcement.

2. It also provides a mechanism by which complaints under the Charter against member firms may be processed effectively and fairly.

3. Additionally it allows parties in disagreement to submit their cases by mutual agreement to arbitration and settlement.

Complaints

4. The following complaints will be covered by this procedure:

(i) An apparent breach of the PRCA Professional Charter or the Memorandum and Articles of Association by a Member Consultancy.

(ii) Where there are reasonable grounds to believe that a member firm has brought discredit upon the profession or the Association.

(iii) Where one member firms considers it has cause to complain about the professional behaviour of a fellow member firm.

(iv) Where having regard to both the letter and the spirit of the Charter a client of a member firm or a member of the public believes cause for complaint against a member firm exists.

5. Stages in the procedure are specified and are designed to ensure that any complaint is dealt with as speedily as possible whilst giving all parties concerned adequate time to respond to each stage.

6. A complaint may be originated by any individual, whether a member of the Association or not, or by any organisation, or by any Committee of the Board, or by the Board itself.

7. It shall be the duty of the Professional Practices Committee promptly to investigate any complaint properly brought before them against a member firm.

8. The Committee will recommend to the Board sanctions on the member concerned where serious breaches of the Charter or Memorandum and Articles of Association have been proven. Such sanctions may extend to suspension or termination of membership coupled with a published censure.

The Committee is empowered to impose sanctions (short of suspension or termination) on the members concerned where minor breaches of the Charter or Memorandum and Articles of Association have been proven, including, but not necessarily limited to warnings, admonishments or reprimands which may be published.

9 Matters that are currently the subject of a legal action will not be covered by the Committee. The Committee should advise all parties concerned of this as soon as possible.

Definitions

10. "Board"—The duly elected Directors of the PRCA.

"Committee"—The Professional Practices Committee of the Public Relations Consultants Association Limited (PRCA).

"Complainant"—The person, firm, organisation, or Association Committee making the complaint.

"Defendant"—The member firm against whom the complaint is being made.

Procedure and Timings

11. On receipt of a formal complaint the Secretary of the Association shall if necessary correspond with the complainant in order to clarify any matters of uncertainty and to identify the specific clause or clauses of the Charter or the Memorandum and Articles of Association which relate to the complaint. The Secretary must inform the complainant in writing of the Committee's disciplinary procedure and in particular explain that the defendant will be notified of the complaint in order he may exercise the right to reply. The Secretary shall then send details of the complaint to the defendant and invite him to submit written observations within 14 days which will be placed before the Professional Practices Committee together with the original complaint.

12. Any complaint must be placed before the Committee in session as soon as possible but no longer than 8 weeks after the complaint was received except in exceptional circumstances. If the Committee consider that there is no prima facie case for invoking disciplinary procedure the respective parties should be notified accordingly.

13. Each party shall supply within 30 days to the Committee, and to the other party, a written summary of their case, with copies of any relevant documents. If both parties agree to the procedure, and sign their respective summaries and documents as fairly representing the facts, then the Committee may proceed to give their decision upon the evidence contained in the documents. Otherwise the Committee shall fix a time and place for the hearing of both parties and of any witness each party may consider necessary.

14. In the event of a hearing both parties shall be entitled to make oral submissions to the Committee either personally or through a representative. The Committee may invite further representations from either or both parties. Any such representations shall be made within 14 days of the Committee meeting.

15. Any party may by notice in writing at any time not later than 9 days before the day fixed for the hearing call upon any other party to admit any document and if such other party desires to challenge the authenticity of the document, he shall within 6 days after service of such notice, give notice that he does not admit the document and requires that it be proved at the hearing.

16. The proceedings of the Committee shall be held in private unless otherwise agreed by all parties.

17. After consideration of the case, the Committee shall decide whether there has been a breach of the Charter of Memorandum and Articles of Association and, if so, what sanctions should be applied against the defendant. Such decisions shall be made by a majority vote at the Committee Meeting where the matter is considered. The Committee's decision except in the case of a resolution of suspension or termination shall be final and binding on all concerned (subject to the member's right of appeal). The Committee shall give their decision in writing.

18. If the Committee decide that the correct sanction is one of suspension or termination then it shall recommend this decision to the Board who shall consider the report and recommendations of the Committee and shall confirm, amend or overrule the recommendation of the Committee and shall give its judgement in writing.

19. Where suspension or termination of membership is the outcome, then following appeal the terms of censure will always be published. If the decision is to warn, admonish or reprimand then an additional vote must be taken as to whether or not following appeal the terms of the censure will be published.

20. Any appeal by a member against a disciplinary decision must be lodged in writing to the Board through the Secretary at the Association's registered office within 2 weeks of the Committee's or Board's decision being notified to the defendant. Such appeal shall be considered by the Board together with the report of the Professional Practices Committee and the Board shall confirm, amend or overrule the decision which was the subject of the appeal.

21. In the unlikely event that the Committee are unable to settle a grievance or there is a conflict of interest within the Committee, the Chairman shall nominate a Subcommittee of three who are not associated with the parties concerned, and who shall have the power to hear both parties and decide between them.

22. The Committee may appoint legally qualified assessors and in appropriate cases instruct one or more to sit and act as non-voting members of the Committee to ensure that the proceedings are conducted in accordance with the principles of natural justice and the law. The Committee shall be bound by the legal rules of evidence.

Arbitration

23. By mutual written consent of both parties a Subcommittee of the Professional Practices Committee may arbitrate and determine settlement of disputes either between fellow members or between non-members and members of the PRCA. The above rules of procedure apply equally to the handling of complaints and to requests for arbitration.

September 2007

Memorandum from the Advisory Committee on Business Appointments (ACoBA)

I promised to write to the Select Committee following up the evidence Lord Mayhew, Lord Maclennan and I gave to you on 21 February, to provide details of the criteria used to determine when business appointment applications should be made by special advisers and which of these need to be referred by Departments to the independent Advisory Committee on Business Appointments.

The criteria are set out in the Government's *Rules on the Acceptance of Outside Appointments by Crown Servants*, which are reproduced in our annual reports and on our website. I enclose three extracts from these rules: paragraph 7 specifies the circumstances in which applications need to be made by civil servants, including special advisers; paragraph 12 explains the position of special advisers under the rules; and paragraphs 25–29 detail how their applications should be handled, including which can be dealt with by the employing department.

Under these arrangements applications from those special advisers of equivalent standing to the most senior civil servants are referred by departments to the independent Advisory Committee who advise the permanent Head of the Department on the terms on which an application can be approved. All other applications from special advisers are dealt with by their employing departments, seeking advice from the Cabinet Office secretariat of the Advisory Committee if required to do so under the rules.

In addition, the rules allow for any application to be referred by a Department to the Advisory Committee's secretariat should they decide that external advice is needed, and any application may also be referred to the Advisory Committee if the Head of the Home Civil Service and the departmental Minister agree that independent advice is required. All advice offered by the Advisory Committee is published, on our website and in our annual report, once the appointment has been taken up or announced.

The Select Committee also raised some questions about the Advisory Committee's handling of an application made by Sir Robert Walmsley, the former Chief of Defence Procurement at the Ministry of Defence, who sought permission under the rules to accept an appointment with General Dynamics. Although I believe I provided an accurate account of the case from memory at the time, I enclose for information an extract from the Advisory Committee's 2002–2004 annual report about the case and the reasons for their recommendation on it.

Finally, Lord Mayhew has asked me to let you know of a change in the Advisory Committee's practice in giving advice to former Ministers. Since it must ultimately be for the individual concerned to uphold the highest standards expected of those in public life, the Committee no longer advise a former Minister (if, of course, they see no objection to a proposed appointment under the Government's Guidelines) that "it would be proper" for him or her to take it up. Subject to the view they reach on considering the information made available to them about an appointment, they now feel it more appropriate to advise the individual in terms of whether or not they see any reason why it should not be taken up. Their advice accordingly continues to include any conditions or restrictions which they believe should be observed in order to avoid any grounds for suspicion of impropriety.

Annex

Extracts from the "Rules on The Acceptance of Outside Appointments by Crown Servants"

[When applications need to be made]

7. Applications for approval must be made by civil servants:

- if they are in the Senior Civil Service in salary band 4 or above and in a post attracting a minimum JESP score of 13; or if they are specialists or Special Advisers of equivalent standing; or
- if they have had any official dealings with their prospective employer during the last two years of Crown employment; or
- if they have had official dealings of a continued or repeated nature with their prospective employer at any time during their period of Crown employment; or
- if they have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties; or
- if their official duties during the last two years of Crown employment have involved advice or decisions benefitting their prospective employer, for which the offer of employment could be interpreted as reward, or have involved developing policy, knowledge of which might be of benefit to the prospective employer; or
- if they are to be employed on a consultancy basis (either for a firm of consultants or as an independent or self-employed consultant) and they have had any dealings of a commercial nature with outside bodies or organisations in their last two years of Crown employment.

[Confirmation that special advisers are subject to the rules]

12. Special Advisers are subject to the rules in the same way as other civil servants unless they are offered a post by the same employer which they left on being appointed as advisers and remain there for two years. The rules do not apply to Special Advisers appointed before 1 April 1996 on terms exempting them from the rules, unless they have volunteered to be subject to them.

[How applications should be handled]

25. *All Permanent Secretary posts; other posts in departments which satisfy all of the following criteria: have a JESP score of 18 or more, have a pay range within the top three pay bands, and where the post reports direct to a Permanent Secretary or is itself the Head of a Department or Agency; and specialists and Special Advisers of equivalent standing.*

Applications are normally approved by the Prime Minister on the advice of the Advisory Committee on Business Appointments (apart from those from Special Advisers). All cases must be referred to the Cabinet Office which will refer them to the Advisory Committee unless the Head of the Home Civil Service agrees that such reference would be inappropriate, for example where the appointment is to a non-commercial body, such as a university. Applications from Special Advisers of equivalent standing will be approved by the Head of the Home Civil Service on the advice of the Advisory Committee.

26. *Other Heads of Department; other postholders in the Senior Civil Service in salary band 4 and above and in a post attracting a minimum JESP score of 13; and specialists and Special Advisers of equivalent standing.*

All applications must be referred to the Cabinet Office which will consult the Head of the Home Civil Service.

27. *Other members of the Senior Civil Service; and specialists and Special Advisers of equivalent standing.*

Departments and agencies must consult the Cabinet Office unless:

— the applicant has had no official dealings with the prospective employer at any time during his or her period of Crown Service and there appears to be no risk of criticism; or

— the employment is with a non-commercial organisation.

28. *Staff outside the Senior Civil Service.*

Departments and agencies do not need to consult the Cabinet Office where:

— the applicant has had no official dealings with the prospective employer in the previous two years, or at most dealings of a casual nature; and

— there appears to be no risk of the disclosure of commercially sensitive information; or

— the appointment is with a non-commercial organisation.

29. Departments and agencies may refer any application to the Cabinet Office for advice. Any application may be referred to the Advisory Committee if the Head of the Home Civil Service and the Departmental Minister so agree.

EXTRACT FROM 'THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS SIXTH REPORT 2002–2004' (PAGES 13–14)

42. Sir Robert Walmsley met us to discuss an appointment he had been offered by General Dynamics in the USA. He had been the Chief of Defence Procurement in the MOD from May 1996 until April 2003, when he retired. After his retirement, he had been approached by the Chairman and Chief Executive Officer of General Dynamics, and invited to meet the Board's nomination committee in the USA. The company were, inter alia, trying to fill a gap in their Board's expertise on Communications and Information Systems as this was to be the focus of a planned expansion of their business in the USA. The meeting had taken place in August 2003, and he had been invited to become one of what were then the ten members of the Board.

43. The prime contractor for the Bowman radio project is General Dynamics UK. Contracts on that programme, valued at some £2 billion, were awarded to the company during the last two years of Sir Robert's time as the Chief of Defence Procurement. We were therefore concerned that the appointment could be perceived as a reward.

44. Sir Robert explained to us that he had reorganised the defence procurement organisation and process in the late 1990s. He had created a flat structure of integrated project teams, each of which were responsible for managing their respective projects without his involvement until the final decision-making stage. This had improved accountability, and had also served to ensure that external influence could not be brought to bear on the conduct of competitions through any approaches to the Chief of Defence Procurement in the many contacts he had with defence companies. Although he understood how this appointment could be perceived by those unfamiliar with the procedures now followed by the MOD, his personal role in this contract had been limited.

45. He had held a conference in September 1999 to assure the quality of bids for the project, and, apart from ensuring adherence to the subsequent timetable, had then stood aside from the evaluation process until the final ministerial decision was required in the following year. The integrated project team had dealt direct with the Minister.

46. We questioned Sir Robert in some depth about his role as Chief of Defence Procurement and the scope for misinterpretation of the appointment he had been offered. We did not doubt his personal integrity, but we believed that a long waiting period would be required to allay potential public concern about his accepting a post with General Dynamics. We concluded, with the dissent of one member who considered the appointment to be inappropriate, that he should wait for one year after he retired from the MOD before he took it up. The Prime Minister accepted this recommendation.

March 2008

Letter from the Secretary of ACOBA to Mr Gordon Prentice MP, Member of the Committee

The Chancellor of the Duchy of Lancaster has asked me to write to you in reply to the following questions, which you put to him in the House.

To ask the Chancellor of the Duchy of Lancaster, what definition of lobbying is used by the Committee on Business Appointments; and if he will make a statement.

The Advisory Committee on Business Appointments, while not recognising any fully comprehensive definition of lobbying, 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.

To ask the Chancellor of the Duchy of Lancaster, on how many occasions the Advisory Committee on Business Appointments has interviewed an ex-Minister on the nature of an appointment he or she proposes to take up while still serving as an hon. Member in the last five years; and if he will make a statement.

The Committee normally arranges to meet to interview an applicant, whether a former Minister or a Crown servant, only when the individual wishes to challenge its advice about an appointment. It has not interviewed any former Minister in the last five years.

To ask the Chancellor of the Duchy of Lancaster, whether the Advisory Committee on Business Appointments requires former Ministers who are still hon. Members to submit a detailed description of their responsibilities and duties in proposed outside employment before considering whether or not to impose any conditions on them before they take-up such employment.

The Committee requires to be provided with sufficient information about a former Minister's proposed role with a new employer to enable it to apply the Government's Guidelines to the application. Most such applicants, whether or not they remain members of either House, use a form provided by the Committee's secretariat for this purpose when seeking the Committee's advice. I enclose a copy.[5]

February 2008

Memorandum from The Association of the British Pharmaceutical Industry (ABPI)

I would like to thank you for inviting me to give evidence to the Public Administration Select Committee as part of your inquiry into lobbying. Following my appearance in front of the Committee on 15 May, I undertook to investigate the reference made to an ABPI "Battleplan" from the year 2000.

Having spoken to colleagues both inside and outside the ABPI, I can assure you that no such document exists.

In 2000, the then Director General of the ABPI, Dr Trevor Jones, hosted a meeting which was reported in Pharmaceutical Marketing. I believe that Trevor, while talking about the difficulties patients have in accessing the most appropriate medicines, said that patients were "foot-soldiers" in the campaign to improve medicines' access. The point being made was that the patients are the strongest advocates for improving their own healthcare.

When that meeting was reported in Pharmaceutical Marketing, the journalist used his own words to describe a traditional stakeholder contact programme. The ABPI did not say that there would be "high level precision strikes on specific regulatory enclaves". I believe that the journalist simply got carried away with the military analogy.

A written paper outlining such a strategy did not and does not exist.

The Pharmaceutical Marketing article of May 2000, reappeared in a number of different publications including the New Scientist. It also featured on the Corporate Watch website, to which a footnote in the uncorrected evidence of the Committee hearing makes reference as the source for what the Committee may have got the incorrect impression was an ABPI document. It also appeared as part of Social Audit's submission to a European Commission consultation, perpetuating the myth that the ABPI had a "Battleplan".

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[5] Not printed.

It is unfortunate that in an inquiry that has looked at the transparency of industry in lobbying Parliament, this report may have inadvertently been misrepresented.
For the sake of clarity I am copying this letter to the Clerk to the Committee and those Members in attendance on the day.

Please do not hesitate to be in touch if I can assist on any other points of clarification.

May 2008

Memorandum from Bell Pottinger Public Affairs

Introduction

Bell Pottinger Public Affairs (BPPA) is pleased to respond to the Public Administration Select Committee's inquiry into the lobbying industry. As one of the leading public affairs consultancies, BPPA believes that the Committee's inquiry is a timely opportunity to inform all interested parties about the role and scope of public affairs practice, the standards by which public affairs practitioners operate, and how lobbying activity works to assist government and the political decision making process in a democratic society.

Lobbying is a legal and legitimate activity, and is a force for good. Lobbying is an important part of the democratic process: it leads to better informed Government and therefore better decision making. Lobbying is undertaken by a number of people and organisations, as well as public affairs agencies, including law firms, management consultants, financial advisers, trade unions, think tanks, foreign embassies, consulting firms, inhouse communications teams, and members of the public. It would be wrong to single out public affairs agencies alone for regulation.

Bell Pottinger does not act in an unlawful, immoral or unethical way. We never have; we never will. Our clients simply would not employ us if we did. All staff at BPPA are members of the Chartered Institute of Public Relations (CIPR), which has a strict code of conduct governing integrity, compliance and maintaining professional standards.

BPPA advocates a system of self regulation that is not biased in favour of one particular organisation and does not create a closed shop.

1.0 *What does it mean for an organisation to lobby government or Parliament?*

1.1 The definition of "lobbying" in the Oxford Concise Dictionary of Politics (2003) is as follows:

> "Lobbying refers to attempts to exert influence on the formation or implementation of public policy. Lobbying is an activity carried out by a variety of actors ranging from interest groups through the large firms to foreign embassies. Those lobbyists functioning as professional intermediaries, such as political consulting firms or lawyers specialising in offering political advice, are sometimes referred to as contract lobbyists as distinct from "in house" lobbyists employed by firms or interest groups."[6]

This lobbying takes a wide variety of forms: it can be responding to a formal consultation; encouraging the public or members of an organisation to sign a petition or rally Parliamentarians; the facilitation of policy debates and seminars; working with think tanks and academia to produce reports; attending the Party Conferences; or developing media relations campaigns. This list is by no means exhaustive.

1.2 The function of political consultants is to advise clients on how best to inform and persuade political decision makers and opinion formers.

1.3 While noting the distinction that the Oxford Dictionary draws, BPPA as "contract lobbyists" often work hand in hand with "in house" lobbyists on a particular campaign or issue. We also assist companies and organisations who do not have specialist "in house" resources to lobby government, Parliament, regulators and other public bodies. In the context of being persuasive, we do not, however, act as advocates, putting clients' points of view directly to decision makers or legislators—that is the role of the "in house" lobbyist. Rather, we advise our clients on the most effective and persuasive means of communicating with political stakeholders. We recognise that decision makers and opinion formers prefer to meet our clients directly rather than deal with intermediaries. Where appropriate, however, we may accompany our clients to meetings.

1.4 Our role is not to duplicate what our clients can do for themselves but to add value through our external, informed perspective on political and regulatory events and knowledge of political procedure and process. Many of our staff have experience of working directly in Government, Parliament and local government as well as working extensively on particular issues. We draw on this insight and understanding to advise our clients on how best to engage with decision makers and opinion formers.

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[6] Oxford Dictionary of Politics (OUP 2003) p 314.

1.5 In BPPA's opinion, we believe that the added value we provide to clients through well argued, well targeted and well timed public affairs advice facilitates informed policy making. It is through our understanding of how the political machine works and the ability to execute an effective campaign which stands up to scrutiny and counter argument that contributes to informed policy making. In contrast to what some believe, effective lobbying is not about "smoke and mirrors" and "decisions behind closed doors"; rather it is a measurable and transparent campaign programme which delivers a policy result through a well prosecuted case.

2.0 *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

2.1 Public affairs activity of the sort described here is a legitimate pursuit undertaken by a wide range of organisations and professionals as part of the decision making process. Those engaging in such activity have a professional duty to maintain legal and ethical standards. Clearly, any practice that is unlawful, such as blackmailing or bribing elected politicians or government officials, is unacceptable.

2.2 Some practices that are not subject to a statutory offence are unacceptable to BPPA, such as lack of transparency, abuse of relationships, or subterfuge of any kind.

2.3 BPPA supports the rules governing the Register of Members' Interests, the guidance for civil servants and lobbyists, and the Business Appointment Rules—the rules on allowing Crown servants to move into jobs outside Government. We advise our clients to do likewise.

3.0 *What evidence is there of the effect of lobbying on the policy and decision making processes?*

3.1 On most issues, there will be a number of actors lobbying at any given time. A policy can change for any number of reasons or combination of reasons. Without understanding the basis on which a policy decision has been made it is impossible to quantify the impact of a particular lobbying campaign or activity. Where the process of communicating with MPs involves providing information that was not previously known or understood, lobbying will clearly have influence.

3.2 As public affairs consultants, we seek to advise clients on the factors that drive political decisions that have implications for our clients' interests and business. We also advise our clients on the best way of presenting their argument. Sometimes a badly presented argument can have a boomerang effect.

3.3 Why do our clients engage us if we sometimes cannot guarantee a specific outcome? Ultimately, the answer lies in a question we ask them to answer—by not undertaking a lobbying campaign have they done everything they could to promote and defend the interests of their members, shareholders, staff, customers and other stakeholders on a specific policy or regulation that would directly affect them?

3.4 In addition to specific work, we advise clients on their general relationships with Government, based on the principle that regular and transparent contact breeds trust and understanding which, in turn, can lead to greater influence.

4.0 *Do some organisations have more influence over Parliament and Government than others?*

4.1 This depends on the means of communication, the issue concerned, and how well informed the Government is. The Hansard Society publication "*Friend or Foe? Lobbying in British Democracy"* noted that sixty two percent of MPs claimed they were more persuaded by arguments put forward by charities than business.[7] There is a perception that there is suspicion of business amongst some Parliamentarians, but very little suspicion of charities, and that may be why charities are said to be more effective.

4.2 Other possible drivers include the degree to which decision makers and opinion formers believe the company or organisation speaks with authority; it's previous track record of engaging in the policy debate; and its capacity to help or prevent the Government from realising its objectives.

4.3 Do professional "contract" lobbying firms like BPPA have more influence over Parliament and Government than other types of lobbyist? If we do, it is only because we are more skilful as political strategists and advisers on advocacy. If the question means "undue" influence, in our experience that is not the case, and nor is it something that we seek.

4.4 Access to our services is not the exclusive preserve of one group of companies or one sector of the economy. The Hansard report also noted that, according to the APPC, 20 separate trade unions used registered lobbying firms between 2000 and 2005[8] and in a study of APPC members between 2001 and 2005 government institutions were second only to private companies as the most frequent user of commercial lobbyists.[9] Like most large commercial lobbying firms, BPPA works with a wide variety of organisations, from national charities to blue chip companies to trade associations. It is reasonable to assume that such organisations would not employ an external consultancy if they did not perceive it would add value to their lobbying work in some way.

[7] "Friend or Foe? Lobbying in British Democracy" Hansard Society 2007 p 24.
[8] Ibid. p 15.
[9] Ibid. p 19.

5.0 *Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?*

5.1 If the way in which an organisation makes its case to Government and Parliament (as long as it is legal and ethical) or indeed the type of organization that is permitted to lobby those institutions was to be restricted, there is a strong risk that the working of the democratic decision making process would be impeded. Preventing certain groups of people or a particular type of organisation from talking to Government would be absurd, an offence to the democratic process and a restriction on freedom of speech. It would also mean that Government and MPs would have less access to the information they need to make informed decisions.

5.2 If the Committee is considering ways in which certain standards and codes of practice must be adhered to when undertaking lobbying then there is common agreement within the lobbying industry that such standards are essential to the maintenance and development of best practice. However, this is only true if all aspects of lobbying are covered. Otherwise, it would be anti-competitive.

6.0 *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

6.1 BPPA is not a member of either organisation for the specific reason outlined in 6.3. BPPA requires all staff to be members of the Chartered Institute of Public Relations (CIPR), which has its own strict code of conduct governing integrity, compliance and maintaining professional standards. The CIPR is a chartered institute. It has been, for many years, the authoritative and well recognised institute of our whole industry. It is equivalent to the Institute of Practitioners in Advertising (IPA), the Chartered Institute of Marketing (CIM), and the Chartered Management Institute (CMI). The CIPR undertakes training schemes, knowledge dissemination, and a complaints procedure, and operates an open shop policy.

6.2 As part of Chime Communications Plc, BPPA also adheres to its own code of conduct on honesty, fairness and respect. In addition, we act according to the rules of the Stock Exchange and the various codes of corporate governance on which we report annually as part of a publicly quoted company.

6.3 The APPC, which is only a few years old, represents just part of the commercial public affairs industry—not all of it—and does not operate a compliance procedure. As it happens, BPPA complies with all aspects of the APPC's codes except the requirement to publicly list our clients, which we cannot do as we have confidentiality clauses with some clients and others are covered by national and personal security obligations. The APPC has no method to ensure accuracy of client lists but we see no point in signing up to a code and deliberately breaching it. Furthermore, providing a list of clients on a quarterly or six monthly basis in a register is no guarantee in itself of transparent behaviour.

6.4 BPPA understands that transparency is a key concern for Parliamentarians and believes that the activities of all types of lobbyists described here should be transparent, accountable and ethical. In our dealings with Government and Parliament, BPPA always makes it clear who we are and on whose behalf we are acting.

6.5 The APPC does not cover many other organisations involved in lobbying activities, such as law firms, management consultants, financial advisors, trade unions, think tanks, consulting firms, and significantly inhouse consultants, many of whom are members of the CIPR. Any regulatory system for public affairs practitioners should cover all those engaging in public affairs.

6.6 What is not acceptable is making standards and codes of practice the preserve of one membership organisation. This confers on such an organisation the status of a closed shop by limiting, on an anti-competitive basis, the ability of "public sector" firms or firms in receipt of public sector monies to procure consultancy services from member only consultancies. It also results in a situation where one organisation is responsible for the development, implementation, monitoring and prosecution of the codes in question.

7.0 *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

7.1 We think that it would be an unnecessary burden for Parliament to be a regulator of our industry, and that it would be an unnecessary burden on the public purse for there to be an external authority. We believe that membership of an approved code—be it the APPC, CIPR or PRCA—is sufficient.

7.2 There are very few examples of malpractice in the public domain in the UK. Anything other than self regulation would be akin to using a giant hammer to crack a very small nut.

8.0 *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

8.1 BPPA considers this a matter for the relevant authorities.

9.0 *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

9.1 The Hansard Society report notes that government organisations are prolific users of commercial lobbyists. Central and local government organisations are lobbying both themselves and others all the time to agree spending programmes and then secure delivery partners to implement them.

9.2 BPPA believes that it is appropriate for them to use multi-client public affairs consultancies if it can be demonstrated that those consultancies have no conflicts of interests, they have the necessary experience and expertise to implement a programme that will achieve the desired goal, and they can demonstrate value for money and deliverables. Such organisations are accountable to the NAO and the Public Accounts Committee for their spending and have to submit to strict protocols as part of the procurement process.

10.0 *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

10.1 It is always worth looking at what others do in the pursuit of best practice. For example, on 3rd May 2007 the European Commission adopted the Green Paper on a European Transparency Initiative (ETI), put forward by Anti-Fraud Commissioner, Siim Kallas. This paper was described as supporting a level playing field between "contract" lobbyists and "in house" lobbyists. Its key measures included:

- — the need for a more structured framework for the activities of lobbyists;
- — feedback on the Commission's minimum standards for consultation; and
- — mandatory disclosure of information about the beneficiaries of EU funds under shared management.

However, the Commission's proposal discriminates against consultancies compared with other lobbyists. NGOs, for example, must disclose only their overall budget and their "main source of funding" unlike consultancies, which will be expected to provide a detailed breakdown of lobbying-related turnover.

10.2 In addition, we do not believe that commercial confidentiality should be confused with transparency issues. The ETI calls for financial disclosure, which is irrelevant to the promotion of good practice in lobbying and an unnecessary intrusion into the commercial relationship between supplier and customer.

10.3 It is important to encourage an inclusive approach to setting core principles for a common code of conduct among industry organisations that can form the basis for a minimum standard for self regulatory practice. For example, in April 2007, EPACA, SEAP and IPRA (International Public Relations Association—of which CIPR is a member) agreed a set of ten common principles, which they submitted to Commissioner Kallas. The principles covered the "dos" and "don'ts" of good conduct and are designed to complement each organisation's existing ethical code. These core principles are contained in an appendix to this document. BPPA supports the translation of these core principles, as they currently stand in Appendix Two, to a UK context on a self regulatory basis.

11.0 *Summary of Evidence*

11.1 Lobbying is an important part of the democratic process, leading to better informed Government and better decision making. Lobbying is undertaken by a number of people and organisations, as well as public affairs agencies, including law firms, management consultants, financial advisers, trade unions, think tanks, consulting firms, inhouse consultants, and members of the public. It would be wrong to single out public affairs agencies alone for regulation.

11.2 Bell Pottinger does not act in an unlawful, immoral or unethical way. All staff at BPPA are members of the CIPR, which has a strict code of conduct governing integrity, compliance and maintaining professional standards.

11.3 BPPA advocates a system of self regulation that is not biased in favour of one particular organisation and does not create a closed shop. We believe that membership of an approved code—be it the APPC, CIPR or PRCA—is sufficient. Anything other than self regulation would be akin to using a giant hammer to crack a very small nut.

APPENDIX ONE

OVERVIEW OF BELL POTTINGER PUBLIC AFFAIRS

Based in London, but with representation in the UK regions and global reach through representative offices and associates, Bell Pottinger Public Affairs (BPPA) is one of the leading consultancies specialising in political, government and public affairs advice. BPPA was formed in 1994. Previously it was called Lowe Bell Political, which was started in 1989.

Our services include government relations, strategic advice, message development, policy research and analysis, drafting position papers and formal submissions, political intelligence and advance warning of policy developments, assistance with legislation, contact and networking programmes, reputation management, Select Committee training and political monitoring.

Our approach to public affairs and client servicing is very straightforward. We deliver real and quantifiable added value by providing high quality political intelligence and advice, and an informed understanding of policy and processes on those issues important to our clients' bottom line and corporate reputation. Our work is geared to assisting our clients to develop a competitive advantage over their peers in the public affairs arena.

One of the key strengths of BPPA is a wide ranging, in-depth understanding of government and the political world developed over many years. Our team of senior consultants is experienced in issue and policy analysis, political intelligence gathering, scenario planning and delivering candid advice to clients.

BPPA has a team of senior public affairs specialists with first hand experience of government, the media and business. Our consultants have extensive experience of advising leading multinational companies, trade bodies, local authorities and non-governmental organisations.

APPENDIX TWO

EPACA / SEAP / IPRA CORE PRINCIPLES FOR A COMMON CODE OF CONDUCT

In April 2007, EPACA, SEAP and IPRA (International Public Relations Association) agreed a set of ten common principles, which they submitted to Commissioner Kallas.

Public affairs professionals are a vital part of the democratic process, acting as a link between the world of business, civil society, and policymakers. These professionals must therefore undertake to observe the highest professional and ethical standards. The signatories to this code are all committed to abide by it, acting in an honest, responsible and courteous manner at all times and seeking to observe the highest professional standards.

In their dealings with EU institutions these professionals shall:

(a) recognise the rights of all parties involved to state their case and express their views;

(b) identify themselves by name and organisation and the interest they represent;

(c) not intentionally or otherwise disseminate false or misleading information, and correct any such act promptly;

(d) not obtain information from EU institutions by dishonest means;

(e) neither intentionally misrepresent their status nor the nature of their inquiries to EU institutions nor create any false impression in relation thereto;

(f) honour confidential information given to them;

(g) not sell for profit to third parties copies of documents obtained from public institutions;

(h) not offer any financial or other inducement which would constitute improper influence on EU institutions;

(i) only employ personnel from EU institutions subject to the rules and confidentiality requirements of those institutions;

(j) avoid any professional conflicts of interest; disclose such conflicts when they occur; and take swift action in order to resolve any conflict which arises.

All signatories agree to adhere to this Code and to cooperate fully with the codeholders body charged with oversight of its implementation.

September 2007

Supplementary memorandum from Bell Pottinger Public Affairs

PASC COMMITTEE HEARING 6 MARCH—SUPPLEMENTARY INFORMATION FROM BPPA

Further to your email sent on the 12th March I am responding, as requested, on points of information raised by the Committee.

On the matter of whether tighter lobbying rules in the United States restricting business opportunities could cause problems for clients in the United States, I can confirm that Bell Pottinger Public Affairs has no clients based in the United States. Tighter lobbying rules in the United States would only be an issue for BPPA if we were directly involved in lobbying US political institutions. That is not our area of expertise.

I can also confirm that the following members of my current staff are former senior civil servants, politicians or special advisers:

Employee	*Title*	*Background*
Jonathan Caine	Director (joined March 2007)	Special Adviser to Peter Brooke and Sir Patrick Mayhew as Secretary of State for Northern Ireland (1991–95); Assistant Director, Conservative Research Department (1998–2007)
Neil Stockley	Director (joined January 2002)	Director of Policy Liberal Democrats 1995–97
Chris Parr	Account Director (joined January 2006) *	Private Secretary to the Deputy Prime Minister, ODPM (2002–05)
Clark Vasey	Account Director (joined August 2006)	Adviser to Gerald Howarth MP, Shadow Minister for Defence Procurement (2003–06)

* Chris Parr sought and received formal permission from the Business Appointments Committee in advance of accepting his position with BPPA.

As I mentioned in my oral testimony information relating to what our staff did before joining BPPA is available on our website www.bppa.co.uk for all to see at any time.

In terms of corrections and clarifications, can I point out to the Committee that there is a footnote appended to my answer to Q447 which incorrectly says that I used to work for Global Pharma Consulting (GPC).[10]

GPC in fact stands for Government Policy Consultants which is a commercial lobby firm. It merged with another firm Fleishman Hillard in 2001. For the record, I worked for GPC between 1998 and 2000. GPC was at that time a member of the Association of Professional Political Consultants (APPC).

I hope this information is of value to the Committee and I wish it all the best with the rest of its inquiry.

March 2008

Memorandum from Bircham Dyson Bell LLP

Bircham Dyson Bell LLP is a London-based firm of solicitors and parliamentary agents. In addition to our broad-based legal practice and traditional role as parliamentary agents, the firm provides a range of public affairs services including legislative drafting and advice on parliamentary procedure and the machinery of government.

Lobbying

Lobbying is a legitimate and essential part of the democratic process. People, businesses and other organisations have a right to engage with the political process and put their views to decision-makers. It is the modern equivalent of the right of citizens to petition government for the redress of grievances.[11]

Public disquiet about lobbying is easy to understand. Modern governments deal with an array of complex economic and political issues and the ordinary citizen often feels excluded from that process. Against that background it is important that lobbying takes place in an ethical and transparent manner and is not seen as the preserve of an elite.

In establishing any system for the regulation of lobbying, it is important to identify the principles which regulation seeks to achieve and, just as importantly, those it does not seek to achieve or to create inadvertently. The fundamental goal of any system of lobbying regulation should be transparency. However, care must be taken to avoid regulation which, rather than dispelling myths, bolsters the view that lobbying is the preserve of an elite or leads people to believe that they must use a "registered lobbyist" in order to be heard. Such an outcome would be detrimental to democracy itself.

Lobbying is a two-way process; a dialogue between the governed and those who govern. Any proposals for regulation must take account of the mechanisms for regulating the activities of public office holders[12] and the ways in which the public can engage with the policy process (for example, access to government information and more effective and accessible public consultation).

[10] Evidence has been corrected accordingly.

[11] The right to petition for the redress of grievances is a longstanding principle enshrined in both Magna Carta and the Bill of Rights 1689.

[12] such as the work of the Committee on Standards in Public Life and the Parliamentary Commissioner for Standards, controls on political donations, the registration of Members' interests and the codes of conduct for MPs and civil servants

The activities of lobbyists are largely dictated by the political environment in which they operate and, therefore, that environment must also be taken into account in determining what, if any system of regulation is appropriate.

The Need for Regulation

As the Committee itself recognised in its issues and questions paper, previous inquiries into lobbying, both in the UK and other jurisdictions, have largely followed political scandals. Against that background, it is positive to note that an issue of that kind did not prompt the present inquiry. However, as the Committee also notes, lobbying is still viewed with suspicion in some quarters.

Current debate has been focussed upon the disclosure of client lists and, in particular, the Code of Conduct of the Association of Professional Political Consultants (APPC) which requires members to disclose "the names of all their clients… in the APPC Register".[13] Bircham Dyson Bell LLP is not a member of the APPC and, as a law firm, questions the value of published client lists as a regulatory tool in the UK. In our view, far greater emphasis should be placed upon the requirement for lobbyists to disclose who they are acting for in a particular situation.

In other jurisdictions, such as the United States, the range of clients that a lobbyist represents may be of importance. US politics is an expensive business[14] 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"[15] or to "soft money"[16] 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.

The publication of client lists is not a panacea and we would urge the Committee to avoid focussing on that issue but, instead, to examine the purpose and value of lobbying; consider what, if anything, is required to ensure that lobbyists perform their role transparently and free from the taint or suspicion of impropriety or, even worse, corruption; and then propose a regulatory mechanism by which that can be secured.

Q1. *What does it mean for an organisation to lobby government or Parliament?*

Suspicion of lobbying is to a large extent a self-inflicted wound, in the sense that some lobbyists have sought to create a mysterious "smoke and mirrors" image of lobbying and to suggest it is all about contacts and insider knowledge. This has created a misconception on the part of the public; the image of lobbying as underhand deals amongst a political elite in the corridors of Westminster and Whitehall.

In practice, most lobbyists spend their time doing rather more mundane tasks; reading debates, analysing policy documents, writing briefings, drafting legislative amendments and identifying appropriate decision-makers based upon their biographies or participation in debates. It is often work which clients could do for themselves if they had the resources and time to devote to the task. In particular, many lobbyists do not actually lobby—in the sense of acting as advocate for their client— as they realise that, in most cases, the client will often be their own best advocate.

The 'behind the scenes' nature of much lobbying activity makes it difficult to define exactly what does and does not constitute lobbying. For example, no one would suggest that seeking advice from a lawyer on the meaning of proposed legislation constitutes lobbying, but does it become lobbying if the lawyer then recommends how the law should be amended; if the lawyer recommends tactics for securing that change or only if the lawyer speaks to decision-makers on behalf of the client?

Q2. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

The simple answer must be those ways which are ethical and would be regarded as such by anyone with a proper understanding of the facts. The Government's encouragement of wider engagement in the policy process inevitably means that some people who regularly contribute to that process will get better at doing so. This can lead to the appearance of an 'inside track' where none exists. It is important to distinguish between lobbying which is improper and that which is simply better and more effective.

[13] Paragraph 18, APPC Code of Conduct, March 2007

[14] The Congressional Research Service estimates that in the 2004 US elections, winning candidates spent an average of $1 million per House seat and $7 million per Senate seat (Campaign Finance: an overview, CRS, March 2007)

[15] Bundling is the pooling of permissible contributions from individuals in the same business or profession to maximise the political influence of the "bundler".

[16] Soft money contributions are not regulated by federal election laws and are intended to benefit the political parties in general and not specific candidates but can be used, for example, to support candidates in non-election years, to fund voter registration and get out the vote drives and for generic campaigning which does not name the candidate.

Q3. *What evidence is there of the effect of lobbying on the policy and decision making processes?*

There is little empirical evidence on this issue, not least because many lobbying campaigns are deliberately low key and the successes which are secured are often not widely disseminated. Equally, there are high profile campaigns which the organisers will claim secured change when in fact the campaign may not have been responsible for the change. Sometimes the change secured will be a small, incremental, change in the political climate but without an immediately apparent and tangible result.

Anecdotal evidence suggests that lobbying does work, but in low key ways, for example highlighting unintended consequences of policy and proposing viable alternatives which still accord with the Government's overarching policy aims. That is only to be expected. A process which is better informed will produce better decisions.

Q4. *Do some organisations have more influence over Parliament and Government than others?*

Undoubtedly yes, but that should not be seen as a negative. Regular engagement with the policy process will inevitably improve the lobbying performance of some organisations but effective lobbying should not be mistaken for improper influence.

Q5. *Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?*

In short, no. Any limitation on proper and legitimate communication with public office holders is bound to have the unintended consequence of constraining free speech and participation in the democratic process. The focus of any controls or regulatory mechanisms must be on any improper behaviour associated with lobbying.

Q6. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

We are not members of either body, in the case of the APPC, primarily because of their policy on the publication of client lists and, in the case of the PRCA, because we are not a public relations consultancy.

There will often be circumstances in which it would be inappropriate to disclose details of the firm's clients, for example, where doing so would disclose price-sensitive information or unfairly prejudice an individual's right to obtain confidential legal advice.[17] Further and as noted above, we question the value of disclosing such lists, especially as without a corresponding requirement to disclose activity or expenditure levels it may be misleading. For example, listing a major corporation for which a lobbyist has only done £500 of work is, quite frankly, little more than a marketing tool.

We support the laudable attempts by both bodies to improve the public image of lobbying via self-regulation. However, the inevitable weakness is that lobbyists do not have to join either body and, even if they do, can sidestep their rules by, for example, setting up a separate business to represent "difficult" clients.

Most importantly, many professional firms—notably solicitors and accountants—engage in some public affairs activity but only as part of a wider service offering to clients and are already subject to far more stringent statutory regulation.

Q7. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

Regulating lobbying carries the risk of inadvertently conferring "approved lobbyist" status on those involved and encouraging the view that there is a system of privileged access to policy makers.

In the UK, calls for regulation have invariably followed media coverage about a specific lobbying activity but usually the activity in question could be more effectively prevented or controlled by targeted action. For example, in relation to recent concerns about the activities of some All-Party Groups, a better solution would be stricter and more transparent requirements in respect of such groups rather than the regulation of all lobbyists irrespective of whether or not they are involved in running APGs.

If the Committee concludes that regulation is required then we believe that it should be by Parliament itself, on the basis of a fair and effective process which recognises the diverse range of organisations involved in lobbying activity and which requires everyone involved in political advocacy-related activities to be held to the same standard.

[17] Even in jurisdictions which do have detailed disclosure requirements, such as the United States, activities such as advising clients on giving evidence before a Congressional committee or commenting on proposed rulemaking are exempt from disclosure.

It is sometimes suggested that the multi-client consultancies are somehow different from in-house lobbyists. However, if only consultancies were regulated, it would mean that financially powerful NGOs, charities and campaigning groups which have the financial resources to employ full time in-house public affairs teams would be subject to less stringent control than smaller organisations which use consultants, often intermittently, because they cannot afford dedicated in-house public affairs resources.

Any system of regulation should focus upon transparency and ethical conduct and a useful starting point would be the introduction of a code of conduct similar to the Lobbyists' Code of Conduct adopted by the Canadian Federal Parliament in 1997 (reproduced at Annex A).[18]

Q8. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

In respect of conduct in office, yes but some consideration should be given to a prohibition on public office holders being involved in lobbying or doing so immediately after leaving office.[19]

Q9. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

In the ideal world, perhaps not, but there is often a point in the policy process where operational public bodies which are at "arm's length" from government may disagree with the political stance of ministers and, provided it is within that public body's legal powers (vires) to do so, then it should be free to lobby if it believes that it is in the public interest.

If public bodies are to be constrained from lobbying then any prohibition should be imposed on a clear and certain basis. For example, in the United States the "Byrd Amendment"[20] prohibits recipients of federal funds from using those funds to lobby to obtain, extend, or modify federal financing awards.

If a public body may lawfully lobby then it should not matter whether the lobbying is undertaken by that body itself or by a consultancy. Any regulation of lobbying activity should apply consistently to all those engaged in public policy advocacy, not merely to those who happen to be paid in a particular manner.

Q10. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

International comparisons are always of some value in developing public policy but proper consideration must be give to any differences between the political cultures and systems of law and government of the countries in question. In relation to regulatory regimes, particular care must be taken to understand exactly why regulation was needed in that jurisdiction and why the chosen model was adopted.

In relation to lobbying regulation, there are in fact only a limited number of international comparators available. For example, among the EU Member States there are no formal systems for registering or regulating lobbyists other than a few, very limited, controls such as the requirement for lobbyists to register before giving evidence to committees of the German Bundestag.

At the European Community level only the European Parliament has adopted a formal mechanism for regulating lobbyists, based upon a Code of Conduct (reproduced in Annex B) which sets out a number of high principles to which all lobbyists should be able to adhere. However, that system is linked to the granting of passes to lobbyists and this does have the inadvertent effect of creating a body of "Accredited Lobbyists".

In jurisdictions where lobbying is regulated, three factors appear to influence the mechanisms chosen, none of which is surprising:

— the volume and pattern of lobbying activity—long-standing and complex regulatory arrangements tend to apply in jurisdictions where there is a significant number of commercial lobbyists;

— the extent to which there are 'revolving door' arrangements—prohibitions and 'cooling off' periods tend to be applied more strictly where government officials are drawn from the private sector and may return there after being in office;

— the prevailing financial regime—the complexity of regulation tends to mirror the extent to which decision makers can control public funds, influence the grant of government contracts or receive campaign contributions.

[18] That code complements the registration scheme operated in Canada but with minor amendments could be used as a freestanding document

[19] For example, in Canada, ministers and senior officials ("Designated Public Office Holders") are prohibited from lobbying the Government of Canada for five years after leaving office.

[20] 31 USC 1352

All three factors—a developed commercial lobbying industry, frequent movements between government and the private sector and influence over large sums of money[21] are most evident at the federal levels in the United States and, to a lesser extent, Canada. It is therefore unsurprising that both jurisdictions have complex and legalistic regulatory regimes in the form of the Lobbying Disclosure Act 1985[22] and Lobbying Act[23] respectively.

The legislation in both countries is similar in that it requires regular and detailed disclosure of defined lobbying activities.[24] However, 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.[25] 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[26]. Few political commentators would regard the US political system as being free from the taint of corruption[27] and, in looking at regulatory regimes 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.

Annex A

CANADIAN FEDERAL LOBBYISTS' CODE OF CONDUCT

Preamble

The Lobbyists' Code of Conduct is founded on four concepts stated in the Lobbyists Registration Act:

- Free and open access to government is an important matter of public interest;
- Lobbying public office holders is a legitimate activity;
- It is desirable that public office holders and the public be able to know who is attempting to influence government; and,
- A system for the registration of paid lobbyists should not impede free and open access to government.

The Lobbyists' Code of Conduct is an important initiative for promoting public trust in the integrity of government decision-making. The trust that Canadians place in public office holders to make decisions in the public interest is vital to a free and democratic society.

To this end, public office holders, when they deal with the public and with lobbyists, are required to honour the standards set out for them in their own codes of conduct. For their part, lobbyists communicating with public office holders must also abide by standards of conduct, which are set out below.

Together, these codes play an important role in safeguarding the public interest in the integrity of government decision-making.

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[21] The US Congress has appropriating power which has led to local or special interest "pork barrel" spending outside of the established budgetary procedures estimated at $100 billion since 1991 (*source*: Citizens Against Government Waste)

[22] 2 USC 1601

[23] In Canada, the Federal Accountability Act 2006 recently changed the title of the Lobbyists Registration Act 1988 to the Lobbying Act but it stills tends to be referred to as the "LRA".

[24] The Act requires semi-annual reporting of lobbying activities including, to the maximum extent practicable, a list of the Bill numbers and specific executive branch actions concerned; the Houses of Congress and Federal agencies contacted and a good faith estimate of income or expenses incurred in connection with lobbying activities during the filing period (rounded to the nearest $20,000 where it exceeds $10,000)

[25] This is not a new phenomenon. Prior to the enactment of the Lobbying Disclosure Act, a study by the U.S. Government General Accounting Office showed that 10,000 of the 13,500 individuals and organisations listed as 'Capitol Hill players' in the *Directory of Washington Representatives* were not registered as lobbyists under the previous laws.

[26] concerning the work performed of Jack Abramoff and others on behalf of Indian casino gaming interests, which involved illegal gifts and campaign donations to members of Congress and an estimated $85 million in fees. Abramoff is also alleged to have lobbied against his own clients in order to push up his fees.

[27] earlier this month in the US the *Honest Leadership and Open Government Act 2007* was enacted, requiring members of Congress to disclose bundled donations from lobbyists over $15,000 and removing their pension rights if found guilty of bribery or perjury.

Principles

Integrity and Honesty

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

Openness

Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

Professionalism

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the Lobbyists' Code of Conduct as well as all the relevant laws, including the Lobbyists Registration Act and its regulations.

Rules

Transparency

1. Identity and purpose

Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

2. Accurate information

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

3. Disclosure of obligations

Lobbyists shall indicate to their client, employer or organization their obligations under the Lobbyists Registration Act, and their obligation to adhere to the Lobbyists' Code of Conduct.

Confidentiality

4. Confidential information

Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

5. Insider information

Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

Conflict of interest

6. Competing interests

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.

Annex B

EUROPEAN PARLIAMENT LOBBYISTS' CODE

ANNEX IX (TO THE EP RULES OF PROCEDURE)

PROVISIONS GOVERNING THE APPLICATION OF RULE 9(4)—LOBBYING IN PARLIAMENT

Article 1 Passes

1. The pass shall consist of a plastic card, bearing a photograph of the holder, indicating the holder's surname and forenames and the name of the firm, organisation or person for whom the holder works.

Pass-holders shall at all times wear their pass visibly on all Parliament premises. Failure to do so may lead to its withdrawal.

Passes shall be distinguished by their shape and colour from the passes issued to occasional visitors.

2. Passes shall only be renewed if the holders have fulfilled the obligations referred to in Rule 9(4).

Any dispute by a Member as to the activity of a representative or lobby shall be referred to the Quaestors, who shall look into the matter and may decide whether to maintain or withdraw the pass concerned.

3. Passes shall not, under any circumstances, entitle holders to attend meetings of Parliament or its bodies other than those declared open to the public and shall not, in this case, entitle the holder to derogations from access rules applicable to all other Union citizens.

Article 2 Assistants

1. At the beginning of each parliamentary term the Quaestors shall determine the maximum number of assistants who may be registered by each Member.

Upon taking up their duties, registered assistants shall make a written declaration of their professional activities and any other remunerated functions or activities.

2. They shall have access to Parliament under the same conditions as staff of the Secretariat or the political groups.

3. All other persons, including those working directly with Members, shall only have access to Parliament under the conditions laid down in Rule 9(4).

Article 3 Code of conduct

1. In the context of their relations with Parliament, the persons whose names appear in the register provided for in Rule 9(4) shall:

(a) comply with the provisions of Rule 9 and this Annex;

(b) state the interest or interests they represent in contacts with Members of Parliament, their staff or officials of Parliament;

(c) refrain from any action designed to obtain information dishonestly;

(d) not claim any formal relationship with Parliament in any dealings with third parties;

(e) not circulate for a profit to third parties copies of documents obtained from Parliament;

(f) comply strictly with the provisions of Annex I, Article 2, second paragraph;

(g) satisfy themselves that any assistance provided in accordance with the provisions of Annex I, Article 2 is declared in the appropriate register;

(h) comply, when recruiting former officials of the institutions, with the provisions of the Staff Regulations;

(i) observe any rules laid down by Parliament on the rights and responsibilities of former Members;

(j) in order to avoid possible conflicts of interest, obtain the prior consent of the Member or Members concerned as regards any contractual relationship with or employment of a Member's assistant, and subsequently satisfy themselves that this is declared in the register provided for in Rule 9(4).

2. Any breach of this Code of Conduct may lead to the withdrawal of the pass issued to the persons concerned and, if appropriate, their firms.

September 2007

Memorandum from Breakthrough Breast Cancer

1. Introduction

1.1 Breakthrough Breast Cancer welcomes the Public Administration Committee's inquiry into lobbying. Our memorandum highlights the ways in which lobbying can contribute to improvements in public healthcare and the delivery of breast cancer services, treatment and care on the NHS.

2. Executive Summary (Recommendations for Actions)

2.1 Lobbying parliamentarians and decision makers is an important aspect of the work of charities and the wider voluntary sector. The process of lobbying has benefits that accrue to all parties involved, from those that lobby to those that are the target of influence. Any inquiry into the lobbying process must consider the perspective of charities and the voluntary sector as a whole and recognise the contribution that they make.

2.2 Breakthrough's programme of influencing and campaigning has a clear purpose which is to inform parliamentarians, raise awareness and make the case for improvements in breast cancer research, services, treatment, care and the patient experience for those affected by the disease. As such, any limits placed on lobbying should safeguard the positive outcomes and benefits of the lobbying process for all those involved, including parliamentarians, interest groups, organisations and local advocates and campaigners.

2.3 Lobbying can add real value to the democratic process by giving a voice to the public and keeping parliamentarians engaged with their constituents' concerns and views. This should be protected against any regulations.

3. About Breakthrough Breast Cancer

3.1 Breakthrough Breast Cancer is the UK's leading breast cancer charity and is committed to fighting breast cancer through research, campaigning and education. Breakthrough has established the UK's first dedicated breast cancer research centre, in order to realise our vision: *a future free from the fear of breast cancer*. Breakthrough campaigns for policies that support breast cancer research and improved services, as well as promoting breast cancer education and awareness amongst the general public, policy makers, health professionals and the media.

3.2 Breakthrough and members of our Campaigns & Advocacy Network (Breakthrough CAN)—made up of over 1,000 individuals and organisations, many of whom have been affected by breast cancer—work closely with a range of stakeholders including parliamentarians, healthcare professionals and other key decisions makers in order to improve breast cancer research, services, treatment and care for breast cancer patients and their families.

4. What Does it Mean for an Organisation to Lobby Government or Parliament?

4.1 Lobbying refers to activities undertaken by individuals and organisations seeking to influence the opinion of parliamentarians and decision makers. The intended outcomes of lobbying are to influence the policy process, passage of legislation or encourage parliamentarians and public officials to take a desired action. Good lobbying supports the democratic process by giving a voice to people[28] and opportunities to shape policy on the issues that affect them. Lobbying seeks to educate and inform, raise awareness[29] and keep parliamentarians and decision makers in touch with the concerns and needs of the wider public.

4.2 There is a range of people with a variety of interests that take part in lobbying including:

- individual members of the public
- groups of constituents
- business groups
- organised campaigning and advocacy groups
- voluntary and public sector organisations
- commercial organisations.

[28] Lobbying politicians and policy makers an introduction to influencing, Voluntary Arts Network briefing, Vol No 99, Sept 2006.

[29] Lobbying politicians and policy makers an introduction to influencing, Voluntary Arts Network briefing, Vol No 99, Sept 2006.

4.3 The methods employed by lobbyists vary from writing a letter to their key target, to holding meetings, providing briefing material and organising events and rallies.

4.4 Breakthrough works in partnership with breast cancer advocates, healthcare professionals and other health related charities and organisations to lobby government and Parliament. The various approaches and activities Breakthrough adopts ensures that breast cancer is kept high on the political agenda. By engaging parliamentarians and decision makers Breakthrough gives a voice to people affected by breast cancer and puts their concerns and needs at the centre of delivering improvements in breast cancer services, treatment, care and research.

5. Which Ways of Seeking to Influence Policy and Decision Makers are Acceptable?

5.1 Breakthrough lobbies in a transparent and open manner that is accountable to our stakeholders, both those we advocate on behalf of and those we are seeking to influence and negotiate with.

5.2 As part of Breakthrough's influencing work, we seek out opportunities to involve our stakeholders and supporters. This ensures that the voices of people affected by breast cancer are heard by parliamentarians and decision makers. Breakthrough also keeps stakeholders and supporters, including parliamentarians, informed of any progress or successes achieved.

5.3 One way in which Breakthrough engages with parliamentarians is through providing credible and reliable information that is relevant to their constituency. For example, in July 2006, Breakthrough contacted a number of MPs whose constituencies fell under areas where the Primary Care Trust was failing to meet the Government's minimum standard of a 70% take up rate for breast screening invitations and/or a minimum standard of 70% of women attending a screening appointment within three year intervals. In response to this Justine Greening MP stated *"I get absolutely masses of post and your stats really caught my attention because they gave me a very practical action—to follow up with my PCT. The issues you have raised are ones that I want to follow up directly with my PCT".*

5.4. In addition, Breakthrough offers support, and advises and encourages people affected by breast cancer to work closely with their relevant elected MPs, AMs, MSPs and local councillors. We know one of the most effective ways of influencing parliamentarians is through inter-action with constituents, for example at face to face meetings or through well organised lobbying events. Parliamentarians also value the opportunity to engage directly with their constituents on the issues that matter to them. Breakthrough's advocates and supporters actively seek to build relationships with their MPs and work in close partnership to bring about positive change at the local and national level. These aspects of the lobbying process support and help to create a healthy environment for interaction between civil society and Parliament.

5.5 In order to ensure Breakthrough maintains an effective, constructive and productive relationship with MPs and Peers, Breakthrough regularly monitors and evaluates its lobbying work through the nfpSynergy Charity Parliamentary Monitor[30]. The Charity Monitor regularly surveys MPs and Peers on inter-action with leading charities.

6. What Evidence is there of the Effect of Lobbying on the Policy and Decision Making Processes?

6.1 Lobbying, as part of a wider influencing and campaigning work plan plays a pivotal role in many charities and for Breakthrough this has led to a number of key successes, resulting in positive and tangible improvements for people affected by breast cancer. Below are some of Breakthrough's key campaign successes achieved in part by effective lobbying and public affairs work of its staff and supporters:

6.2 *Left in the Dark*[31]*:* Since 2003, Breakthrough has campaigned extensively to ensure that everyone with breast problems should be seen by a specialist within two weeks following a GP referral.

- In 2005, then Prime Minister, Tony Blair, announced a maximum two week wait for everyone referred with breast problems by their GP by 2008, and publicly credited Breakthrough with persuading them to make that change.
- In 2007, the new Prime Minister Gordon Brown, reiterated this commitment to the two week wait target. The Cancer Reform Strategy published in December 2007 confirms that this commitment will be made a reality for all by December 2009.
- Without the continual work of Breakthrough and its supporters on this issue it is doubtful that this proposed improvement would have come about.

[30] nfpSynergy is a specialist research agency which carries out tailored projects for individual clients and syndicated stakeholder monitors for not for profit organisations. Further information can be found at www.nfpsynergy.net.

[31] The aim of the campaign is to reduce waiting times for breast cancer diagnosis. Women have told Breakthrough that waiting for diagnosis is a very anxious and distressing time, both for themselves and their friends and family, regardless of the final outcome. The campaign name came from this feeling of being "left in the dark". Since April 1999 all women referred urgently by their GP to a breast specialist has been guaranteed an appointment within two weeks of the referral. However, concern remained for many women who are given a routine referral and could be left waiting up to 17 weeks for an appointment with a specialist, before being diagnosed with breast cancer.

6.3 *Screening Saves Lives*[32]*:* Breakthrough's *Screening Saves Lives* campaign was launched in May 2006 and has since achieved a number of successes through lobbying Government and other key decision makers:

— In September 2007, during Labour Party conference Prime Minister Gordon Brown, announced that the age range for automatic invites to the NHS Breast Screening Programme (NHSBSP) is to be extended to all women aged 47–73 by 2012. This was also confirmed in the 2007 Cancer Reform Strategy. Breakthrough welcomed this announcement having campaigned for the upper age limit to be reviewed.

— Furthermore, due to the extension, and an ageing "baby boomer" generation becoming eligible for breast screening, screening invitations are expected to increase by more than 400,000 a year. Breakthrough successfully campaigned to ensure that the NHSBSP is adequately resourced in order to continue to effectively deliver its life saving service in the face of a rising number of women becoming eligible for automatic breast screening appointments. In 2007, Andy Burnham MP, then Chief Secretary to the Treasury, confirmed that the Department of Health's settlement in the 2007 Comprehensive Spending Review included additional resources to go to the NHSBSP and for further demand pressures placed upon health services.

6.4 Breakthrough encourages and supports Breakthrough CAN members to work with their MP on issues that matter to them. The following are just a few examples of Breakthrough CAN members' local campaigns that have made a big difference to breast cancer services, and people affected by breast cancer in their local area.

— Anna Burton and Margaret Forbes worked closely with their MP Julia Goldsworthy to lobby the Chief Executive of the Royal Cornwall Hospital Trust. As a result of their campaign they successfully secured a family history clinic at the Royal Cornwall Hospital in Truro and the reinstatement of breast services at St Michael's Hospital in Hayle. Commenting on their local campaign, Julia Goldsworthy MP said that, *"Breakthrough Breast Cancer is an effective campaigning charity and much of that success can be attributed to the hard work of their inspirational Campaigns & Advocacy Network…As a direct result of campaigning together, we achieved real improvements to our local breast cancer services in Cornwall."*

— Members of Newark Breast Cancer Support Group successfully campaigned with their local MP, Patrick Mercer, for an information leaflet to be created and given out at their local hospital, which contains signposts to local information and support services.

— Ursula Van Mann campaigned to have Blackpool Primary Care Trust (PCT) set up a familial breast cancer service. She worked closely with her MP Michael Jack and lead GP on her local cancer network to lobby her local PCT. The new service has now been set up and is a major development in terms of local breast cancer services[33].

6.5 All of these campaigners have attended Breakthrough lobbying and campaigning events, such as the *Westminster Fly-In*, which has boosted their confidence and ability to develop good working relations with parliamentarians and the right methods of lobbying that help to make a difference in their local area.

7. Do Some Organisations have More Influence over Parliament and Government than Others?

7.1 Over many years Breakthrough has established a reputation as an effective campaigning force through providing parliamentarians and decision makers with credible and reliable information, as well as a platform to engage with their constituents. While resources can play a role in determining the level of influence an organisation has within the political sphere, in our experience, having a strong reputation and ability to identify solution-based positive changes offers opportunities to influence government and Parliament in a way that derives positive benefits for people affected by breast cancer.

7.2 It is sometimes suggested that breast cancer issues receive too much attention. However, far from being a "done" issue, breast cancer remains the most commonly diagnosed forms of cancer in the UK with one of the highest incidence rates in Europe, which continues to rise. Breakthrough's influencing and campaigning work aims to keep breast cancer high on the political agenda and to represent the concerns and needs of the large number of people affected by the disease. By leading the way in promoting and supporting politicians and policy makers to deliver improvements in breast cancer services, treatment, care and research, Breakthrough plays an important role in ensuring these improvements become a reality

[32] The NHS Breast Screening Programme (NHSBSP) provides screening for women aged 50 and over every three years and estimates that it saves 1,400 lives a year in England. The *Screening Saves Lives* campaign aims to support the life saving work of the NHSBSP whilst highlighting some of the challenges it faces and areas of improvement.

[33] Prior to the new familial breast cancer clinic being set up in Blackpool area, women had to travel as far as Manchester to access these vital services.

for all. For example, in 2007, Andy Burnham MP (then Chief Secretary to the Treasury) confirmed that the 2007 Comprehensive Spending Review allocated additional resources to the NHSBSP to prepare for further demand pressures placed upon health services. Breakthrough learned that this commitment was due in part to our successful campaigning and influence on the issue when Mr. Burnham wrote to supportive MPs outlining the decision, he said: *"Please pass on my thanks to Breakthrough Breast Cancer for taking the trouble to make us aware of these concerns".*

8. Is it Possible to Limit Lobbying and Yet to Ensure that Government and Parliament are Properly Informed?

8.1 A key outcome of lobbying is to educate and inform, raise awareness and keep parliamentarians in touch with local advocates, campaigners and the wider public. This function of lobbying provides a link between parliamentarians and the public, and enables them to effectively represent their constituents. Any limits or regulation placed on lobbying should safeguard these positive outcomes of the lobbying process.

9. Recommendations

9.1 The debate about lobbying should recognise the range of people that take part in lobbying government and Parliament, rather than focusing primarily on multi client consultancies. Understanding the nature of lobbying from the perspective of the charity sector and the wider voluntary and community sector is important in drawing the bigger picture about the dynamics, outcomes and benefits of the process of lobbying.

9.2 Any regulations or limits on lobbying should consider ways to safeguard the positive outcomes of the lobbying process which, for a charity such as Breakthrough include the aim to educate, inform and raise awareness amongst politicians and government of the real issues that concern local advocates, campaigners and the wider public.

9.3 Lobbying, when it is open and transparent, can deliver real benefits and improvements in the lives of people, as highlighted through Breakthrough's campaign successes and we urge the Committee to ensure these opportunities remain. Lobbying can add value to the democratic process by ensuring the voices of local campaigners and the wider public are heard by parliamentarians and decision makers. In the other direction, parliamentarians and decision makers are kept informed of the concerns and needs of their constituents. Through building effective relationships with their constituents parliamentarians can represent their views and raise their concerns, to make a real difference on the issues that matter to people both locally and nationally.

March 2008

Memorandum from the Committee on Standards in Public Life

Introduction

1. The Committee on Standards in Public Life ("The Committee") notes the Public Administration Select Committee ("PASC") Issues and Questions paper on Lobbyists, Access and Influence published on 21 June. The Committee's response to that paper follows. In responding, the Committee has concentrated on those questions where it has a special interest, particularly those which relate to the standards of public officials and other "lobbyees" rather than to the behaviour of lobbying organisations.

Background

2. The Issues and Questions paper rightly notes that a lobbying scandal—the "cash for questions" affair—played a major role in defining questions of ethical standards in public life in the 1990s. Lobbying—initially by multi-client Parliamentary consultancies was one of the key areas of concern for the Committee, and its First Report (May 1995) contained a number of recommendations intended to ensure that MPs could not enter into inappropriate arrangements with such companies. These recommendations were accepted and implemented by Parliament.

3. The Committee returned to the issue of lobbying in its Sixth Report (Reinforcing Standards—Review of the First Report—January 2000). This noted the shift in focus, since 1995, from paid advocacy by MPs, to the lobbying of those who decide or influence policy, in particular Ministers, Special Advisers and civil servants. The Sixth Report concentrated on creating safeguards around the response of these groups of public servants, rather than on regulating the behaviour of the lobbyists themselves. The Report recommended against a statutory or compulsory system for the regulation of lobbyists, but welcomed "the current strengthening of self-regulation by lobbyists".

4. The Report recommended supplementing and/or strengthening the guidance available to Ministers and to civil servants including special advisers. It also recommended greater transparency for the Register of All-Party Parliamentary and Associate Parliamentary Groups. Again, these recommendations were largely accepted by the Government and by Parliament as appropriate; the Committee's Review of Progress of the First Seven Reports (September 2001) set out the recommendations on access issues—lobbying and sponsorship; the response; and action taken since the relevant Report (Annex A)

Current Position

5. The Sixth Report included, as one of its arguments against compulsory regulation of lobbyists, that the definition of a "lobbyist" is becoming increasingly problematic and wide-ranging, given the large numbers and types of bodies and individuals now involved in this work. The continuation of this trend is borne out by the informative Hansard Society paper— Friend or Foe? Lobbying in British Democracy referred to in the PASC paper.[34] For this and other reasons, the Committee remains of the view that attempts to treat lobbying interests as a single "industry" subject to a single regulatory regime (especially where this itself might involve privileged access through eg accreditation) are likely to be unsatisfactory and counter-productive. As with the recommendations from the Committee's First and Sixth Reports, we feel the focus for action should continue to remain on politicians and public servants who are the target of lobbying.

6. Notwithstanding this, there are of course actions that lobbying interests can take to improve self-regulation, though in the circumstances this may be more a matter of trying to find a degree of common ground across this disparate range of players—if only on a "lowest common denominator" basis—rather than attempting to impose a more ambitious and structured regulatory programme. In this context, the Committee welcomes the current initiative by leading members of the public affairs industry[35] to consult on Guiding Principles of Conduct (Openness, Accuracy, Honesty, Integrity and Propriety), which these bodies hope will be adopted, with supporting codes of practice, by most organisations seeking to influence government policy. The Committee does not underestimate the scale of this task—not least given the failure so far of some major lobbying consultancies to sign up to the existing code of practice. Nevertheless, this attempt to introduce a degree of common standard in the conduct of most or all organisations seeking to influence government could answer the Hansard Society's fundamental concern that "it is important to focus more directly on the issues raised in debates between NGOs, charities, interest groups, think tanks, trade associations, and businesses, and whether the organisations the public increasingly look to in order to represent their views in the political process are transparent and accountable and bound by common standards of good practice and ethical conduct."

Current Issues

7. The Committee notes the reports of lobbying issues mentioned in the PASC paper. The Committee is aware of more recent reports such as the House of Lords "access passes for lobbyists" Times story of 17 July 2007, and the September 2007 reports (again, mainly in The Times) concerning lobbying of DWP by the Edelman Group, as well as PASC concerns—in the context of the Business Appointment Rules about former government officials exercising "insidious influence" over policy decisions. The Committee does not detect any common link running through these stories that suggests systemic current weakness in public standards. However, given the manifest connections of this area with the award of Government contracts, and the tendency of privileged access arrangements to mutate into new forms over time, the Committee welcomes the PASC interest in this area and would be interested to see any recommendations for changes to existing systems which might result from the inquiry.

Response to Specific PASC Questions

8. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

See paragraph 6 above. The Committee welcomes continued attempts at self-regulation by the APPC, PRCA and others. However, while the response to the second question here is primarily for the public affairs industry and others involved in lobbying, the Committee's view is that, to be properly effective, cross-industry self-regulation standards—whether through existing codes or the Guiding Principles—need to apply to all main players.

[34] "The policy-making process is therefore more fragmented than it used to be. Policy proposals come from a diverse range of sources, including think tanks. NGQs, interest groups, academic departments, professional bodies, quangos, non-departmental 1 public bodies (NDPBs) and charities. The arenas in which policies are debated are diffuse and multiplying: both within the parliamentary process and external to it in the many policy forums, consultative exercises, conferences, and seminars held in Westminster and elsewhere". Hansard Society Paper p7.

[35] In particular, the Association of Professional Political Consultants, the Public Relations Consultants Association and the Chartered Institute of Public Relations Government Affairs Group.

9. *Should lobbyists be regulated by an outside body? If so, what should the focus of such regulation be? Who would enforce the regulation?*

See paragraph 5 above. In line with the Committee's Sixth Report, particularly recommendation 26[36] the Committee would continue to oppose external regulation.

10. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

The Committee's recommendations in its Sixth and Seventh reports (2000–01) set out a range of transparency requirements in respect of contact between lobbyists and Ministers, civil servants and Members of both Houses. Nearly all these recommendations were accepted. However, implementation of them was, inevitably, through a series of different mechanisms (HoC Resolutions, HoL Code of Conduct, the Ministerial Code, guidance for civil cervants etc) which are subject to changes over time—eg, the 2007 principles-based Ministerial Code, welcomed in general terms by the Committee, no longer contains the specific requirement to record meetings between Ministers and outside interest groups. The Committee will want to ensure that the key requirements ensuring an appropriate relationship between lobbyists and Ministers, Members and civil servants remain clear and accessible. In that respect, the Committee would be particularly interested in the submissions to PASC on this question.

11. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

There may be some confusion over this issue. For example, the Hansard Society paper (pp 19–20) includes "Government" in its chapter "Who are the lobbyists?". The paper makes clear however that its focus is public bodies using multi-client public affairs consultancies as PR organisations for publicity purposes, not to seek to influence policy change elsewhere in government. In so far as the UK Government may seek to lobby opinion formers (eg professional and representative bodies) or overseas governments, this is not an issue within the Committee's remit.

October 2007

Memorandum from Consolidated Communications

I am writing to you following the Committee's recent announcement of its new inquiry *Lobbyists, access and influence.* Consolidated Public and Corporate Affairs welcomes the Committee's interest in this subject and are pleased to contribute to the inquiry.

Consolidated Communications is a 90-strong, multi-discipline, fully integrated independent public relations and public affairs agency, founded in 1990. We are members of, and abide by, the code of conduct set by the Public Relations Consultants Association (PRCA) and the Public Affairs Committee of the PRCA. I personally represent the company on the PRCA Public Affairs Committee. We are also members of the Association of Professional Political Consultants (APPC) and abide by its code of conduct. Additionally, we are members of the European Sponsorship Consultants Association.

Our public relations team is six strong and represents clients from a broad range of sectors, all of whom are named on the APPC's register.

Broadly, Consolidated agrees with the submission of the APPC. We firmly believe that, if transparent, honest and free of any financial relationship between influencer and those being influenced, lobbying is inherently a force for good in our democracy. Policy makers must be open to influence, systematically seek it and be well-equipped to manage and assess it. We believe this ensures better informed public policy development and policy-making.

We strongly support the APPC in calling for in-house public affairs professionals to be subject to the principles of a code such as those of the APPC and the PRCA. We believe this need is self-evident as most lobbying is not undertaken by consultants but by trade associations, in-house teams of organisations of all sizes, leaders of small companies and senior figures in the public and voluntary sectors.

Furthermore, we welcome the point at which all those engaged in public affairs for all organisations are readily able to sign up to a voluntary code as rigorous as that of the APPC. We cannot see any reason why organisations such as the CBI, NCVO, TUC, LGA, FSB etc, cannot develop codes that could apply to the majority of in-house practitioners (with advice and support from the APPC).

Consolidated agrees with the APPC that non-members can and do undertake public affairs activity to at least as high standards as its members. However, we would encourage that every route be explored to ensure that non-APPC members have ample opportunity to sign-up to a similarly rigorous code. We would not want

[36] "There should be no statutory or compulsory system for the regulation of lobbyists. The current strengthening of self-regulation by lobbyists is to be welcomed".

a proliferation of codes and principles, as this could potentially undermine the self-regulatory model that has worked effectively to date. We would encourage the APPC to pursue a leadership role among potential partners as listed above including the Law Society to encompass law firms that also provide public affairs consultancy.

In addition to the specific answers provided by the APPC we would add the following in relation to the numbered questions in the consultation paper:

1) Consolidated agrees with the APPC that "lobbying" is vital to informed policy making and believes strongly that companies and organisations have the right to make representations to the legislature and executive of the United Kingdom. We also believe that it is thoroughly sensible for such a company to employ suitably qualified consultants or advisors to help them make their case as eloquently and efficiently as possible.

2) Acceptable ways of seeking to influence policy and decision makers are those which adhere to the principles and spirit of the APPC Code. Unacceptable ways of seeking influence are those which do not fall within the spirit or principles of the Code.

4) While we do agree with the APPC that in essence no one type of organisation enjoys more influence than another, and all organisations have the right and ability to make representations to politicians and officials, it is clear that some will have greater resources available to support their "lobbying" activity and some may benefit from existing or historic relationships with key individuals or institutions. It is therefore incumbent upon policy-makers to seek wide-ranging views, to take obviously independent expert advice on issues as required alongside well-resourced highly professional campaigns.

We believe it is incumbent on the "lobbied" in Parliament or government to ensure they do not only listen to organisations or companies with the loudest voices, longest standing relationships or most expertise in public affairs, but take in as wide a range of views as possible. Similarly, these organisations should not be expected to temper their activity just because they are effective policy campaigners. It is worth stating that some of the most influential lobbyists and policy campaigners are very small, very focused, expert organisations with relatively few resources, best typified by NGOs, the voluntary sector and leaders of small companies.

Consolidated also believes that any parliamentarian or official in a position in which they may encounter "lobbying" should familiarise themselves with the work of the APPC, should enquire whether the organisation they are being approached by is a member or at least abides by the principles of the APPC's code and make a judgement about whether to meet them, attend their function or consider their representation accordingly.

We feel that it would be beneficial to all new members of either the House of Commons or House of Lords to be given some form of training on how to deal with being lobbied, by an individual, an in-house team, organisation or consultancy. The training should make clear to the parliamentarian what it means for the representative to be a member of the APPC and what standards they should expect from them therefore. Crucially, parliamentarians should be comfortable and equipped to enquire if any organisation or individual is a member of APPC or signatory to a similar code and as part of this they should be aware of to whom they should complain if an APPC member or other fails to adhere to the APPC or similar code.

8) In support of the above point, Consolidated feels that as much as it is the responsibility of the professional political consultant to be aware of the codes of conduct under which public officials, Ministers and Members operate, it is also the responsibility of those persons to be aware of the codes which apply to professional lobbyists. If an individual enters a policy making position where part of their job is therefore to receive information and opinion from outside organisations or individuals, it seems sensible that they obtain for themselves the relevant information about how that relationship should operate.

9) We are pleased to note the comments of the APPCs regarding the lobbying activity of public sector bodies. We agree that public sector bodies should be able to retain public affairs consultancies and lobby where appropriate as long as it is undertaken in a fair and transparent manner and does not represent a conflict of interest on their part. In our experience of working with public sector organisations they are scrupulous about ensuring that their consultants do not directly manage relationships with policy-makers, that all activity is even-handed between political parties and are extremely mindful of their remit and use of taxpayer's money and invariably undertake public affairs to inform, educate and inject expertise into relevant policy debates.

[37] also members of the ALTER EU coalition, see http://alter-eu.org/en.

If any of our evidence above is of particular interest to the Committee, we would be very happy to send further information or to provide oral evidence.

September 2007

Memorandum from Dr William Dinan and Professor David Miller

Dr. William Dinan and Professor David Miller, Department of Geography & Sociology, University of Strathclyde, Glasgow.[38]

Introduction

We have been engaged in a programme of research into the public relations and lobbying industry in the UK and Europe since 1996.[39] We have been encouraged by the Public Administration Select Committee's recognition of the need to review practices and procedures surrounding lobbying and we very much welcome the opportunity to respond to the consultation paper.

We have interviewed and observed a wide range of lobbyists and public relations professionals from across the commercial (consultancy and in-house) and voluntary sectors. As part of our research activity we became members of a lobbyists association in Scotland and our research at the UK and European levels has also brought us into contact with commercial and voluntary sector lobbyists who work in other jurisdictions. We have been closely involved with the Alliance for Lobbying Transparency and Ethics Regulation in Europe (ALTER EU). We recently convened an expert round table on lobbying[40] to discuss principles and practices, the outcome of which we will try to reflect in this submission. All this activity has broadened our perspective on the issues relating to lobbying.

Background

This inquiry into lobbying takes place against a backdrop of increasing mistrust about the conduct of democratic politics. The report of the *Power Inquiry* in February 2006 registered not simply public cynicism about governance in the UK, but contempt for formal politics. The findings of that commission point to a very worrying disjuncture between the expectations of ordinary citizens and routine practices and governance relationships at Westminster. "Principle and ideas seem to have been replaced with managerialism and public relations".[41]

One of the most striking findings of the *Power Inquiry* was the evidence of a profound disconnect between political elites and the public: "the difference between the public response and the 'insider' response was palpable".[42] We believe it is important that the PASC recognises this in its deliberations on lobbying. A notable feature of the reviews of relations with outside interests undertaken by the Committee on Standards in Public Life[43] is the rather narrow range of Westminster and Whitehall insiders consulted.[44] There is a significant public interest at stake in this issue. The *Power Inquiry* reported that "business is widely cited by the public as having greater influence over government than citizens".[45] One very important way of making such relationships between outside interests and ministers, elected representatives and officials more accountable and transparent is the introduction of a mandatory register of lobbyists. This would allow meaningful information on the contacts between lobbyists and decision-makers to be put in the public domain in a timely fashion, and thereby subject this form of policy making and influence to much needed scrutiny.

There are sound democratic reasons for introducing a statutory register of lobbyists. Without transparency and openness there can be little accountability. A mandatory lobbying disclosure system could help address some of the loss of faith in policy-making by introducing a real measure of transparency. Crucially, for such a system to attract confidence it must be independent of lobbyists. There is "increasing

[38] also members of the ALTER EU coalition, see http://alter-eu.org/en.

[39] "Political Communication and Democracy" Economic and Social Research Council (ESRC), Award No L 126 30 100228, (1996–1998); "Political Communication and the Scottish Parliament", ESRC, Award No L 327 25 3003 (1999–2000); "Corporate Public Relations in British and Multinational Corporations", ESRC, Award No R000 23 8993 (2000–2003)

[40] Lobbying Roundtable at the international *Communication & Conflict* conference, University of Strathclyde, 7–9 September 2007. Participating speakers and delegates from throughout the UK, Europe, North America and Australia.

[41] The Power Inquiry (2006) *Power to the People—the report of Power: An Independent Inquiry into Britain's Democracy*, p 9. http://www.powerinquiry.org

[42] ibid, p 11.

[43] Nolan Committee (1995) *Standards in Public Life*, vol I, Cm 2850–I, and vol II (transcripts of oral evidence) Cm 2850–II, London: HMSO; Neill Committee (2000) *Reinforcing Standards: Review of the First report of the Committee on Standards in Public Life*, vol I Cm 4557–I, and vol II (Evidence), Cm 4557–II, London: The Stationary Office.

[44] Schlesinger, P, Miller, D and Dinan, W (2001) *Open Scotland? Journalists, Spin Doctors and Lobbyists*, Edinburgh: Polygon, p 274.

[45] The Power Inquiry (2006) p 126.

popular concern about the impact that powerful businesses, in close-to-monopolistic situations, can have on the environmental, economic and social life of communities. Yet it often seems to people in those communities that this power is beyond challenge. This is not to say that the impact of such businesses is automatically to be condemned, but their actions should surely be the subject of open debate, scrutiny and, if necessary, control—a process which the market alone does not provide".[46] We believe that a mandatory register of lobbyists offers one concrete way of beginning to address these widespread concerns.

All the available evidence suggests that lobbying is much more pervasive than is publicly recognised. Commercial lobbying is a growing industry, and the numbers of lobbyists working in-house for corporations, trade and professional associations, and in charities and the voluntary sector appears to be increasing. It should be noted that corporate interests continue to make most use of commercial lobbying consultants, often in tandem with their own in-house public affairs capacity.[47] Much of the work of professional lobbyists goes unreported and unnoticed. "On the whole the [lobbying] industry likes to keep quiet about who works for whom. In part this is seen as discretion on behalf of clients, but it is also through an unwillingness to draw attention to the fact that influence is being exerted in a way that fits uneasily with the picture book version of our democracy".[48] Anecdotal evidence suggests that even political insiders—elected representatives, officials and professional lobbyists—do not always have a clear picture of when, where and how influence is exerted. A mandatory lobbyists register would help to clarify this situation, not just for those involved in the policy process, but crucially, for the media and general public too. A statutory register would provide a public record of the resources devoted by outside interests to shaping public policy.

Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?

Any lobbying that involves misrepresentation or deception is unacceptable. There are documented cases of the creation of front-groups, fake public ("astro-turf") lobbying campaigns, and non-independent third-party endorsements to influence the perception of decision makers and influentials. We also believe that lobbying by former officials and ministers soon after leaving public office is inherently problematic, and undermines trust in policy making and public procurement. The current rules governing the revolving door between government and private sector lobbying need to be tightened up.

What evidence is there of the effect of lobbying on the policy and decision making processes?

The most telling evidence of the effect of lobbying on decision-making is the increasing investment in lobbying capacity by corporations and charity / voluntary sector organisations in recent years. One estimate suggests that the lobbying industry has doubled in size since the early 1990s and that there are an estimated 3000 full time lobbyists (consultants and in-house) in the UK.[49]

Do some organisations have more influence over Parliament and Government than others?

Those organisations with the greatest resources to devote to lobbying have a structural advantage in terms of influencing the policy process. Any cursory review of the voluminous literature on collective political action and organised interest group politics indicates the centrality of business, particularly large corporations, as privileged participants in public policy debate.[50]

Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?

We agree with the Neill committee view that "The democratic right to make representations to government—to have access to the policy making process—is fundamental to the proper conduct of public life and the development of sound policy. The committee is opposed to anything which fetters that right without the very strongest reasons".[51] However, we don't believe that a lobbyist's register would present a

[46] ibid, p 169.
[47] John, S (2002) *The Persuaders: When Lobbyists Matter*, Basingstoke: Palgrave MacMillan, pp 12–14
[48] Jordan, G (ed) (1991) *The Commercial Lobbyists: Politics for Profit in Britain*, Aberdeen: Aberdeen University Press, p 28.
[49] Thompson, S and John, S. (2002) Public Affairs in practice: a practical guide to lobbying, pp 4–5.
[50] See for example the original empirical findings and literatures cited by, among others, Lindblom (1977) *Politics and Markets: The World's Political Economic Systems*; Domhoff (1970) *The Higher Circles*, (1974) "State and Ruling Class in Corporate America", *Insurgent Sociologist*, Vol 4, No 3: 3 –16, (1979) *The Powers That Be* (1983) *Who Rules America Now?* (1990) *The Power Elite and the State: How Policy is Made is America*; Ryan et al (1987); Mitchell (1987) *The Generous Corporation*, (1997) *The Conspicuous Corporation*; Mizruchi (1992) *The Structure of Corporate Political Action*; Useem (1984) *The Inner Circle: Large corporations and the rise of business political activity in the United States and UK*; Marsh (1983) *Pressure Politics: Interest Groups in Britain*
[51] Neill Committee (2000) *Reinforcing Standards: Review of the First report of the Committee on Standards in Public Life*, vol I, Cm 4557–I, p 86.

barrier to participation, even for the smallest and most resource poor groups. Research we undertook among those responsible for operating lobbyist registers in North America suggests there are important benefits associated with a lobbyists register:

> I have talked to non-profit organisations who voiced a real concern that such disclosure laws would have a chilling effect [on participation]. I have not seen any evidence to support that view. (Terry L Draver, US General Accounting Office, Washington)
>
> I know that when we tightened our lobbyist regulations, many of the same concerns you mentioned were also expressed here. When we actually began to work with the regulations, however, we found that they did not reduce the numbers of people who wished to and did contact members of our legislature.
>
> My response to the citizens, and having been a citizen activist a good part of my life, is that lobby disclosure will give them a great deal of information to promote or at least understand the opposition to the issues that concern them.
>
> Lobbying laws when carefully crafted can be an excellent means for promoting citizen trust in government. (Fred Herrmann Executive Director New Jersey Election Law Enforcement Commission).

Our recommendation is that all those who seek to shape public policy should be regulated. If everyone is registered then the argument about creating an elite is redundant. There must however be a recognition that there already exists a lobbying elite—professional lobbyists and other consultants offering policy advice to clients, in-house lobbyists in corporations, trade associations, charities and the voluntary sector. (ie all those people with the motivation, know-how, time, resources and experience to make effective interventions in the policy process). Again, any system of registration or regulation must capture and make publicly available, data on the different resources deployed to shape policy.

Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?

We believe that the self-regulatory systems operated by professional lobbyists are not fit-for-purpose and cannot deliver adequate transparency in relation to lobbying. For example, information about the fees, resources and tactics deployed to influence the policy process are not made public under these forms of self-regulation. We would argue that such information should properly be in the public domain. A critical problem is that these organisations simply represent their members. The pressing question of what to do about those lobbyists ineligible or unwilling to join such organisations simply cannot be addressed by voluntary mechanisms. These lobbying trade associations exist largely in order to defend the sectional interests of their industries. The dedicated lobbying trade organisations in the UK[52] have come into existence in the wake of journalistic exposure of alleged lobbying malpractice. The self-regulatory systems have singularly failed to uncover any improper conduct in relation to lobbying. One of the main aims of lobbying self-regulation in practice is to resist proper democratic scrutiny of their activities. In essence the trade associations (including those PR associations with an interest in public affairs, the CIPR and PRCA) are self-interested actors in this debate.

Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?

Yes. Ideally an outside, or independent, body could oversee a mandatory lobbying disclosure system. The focus of such regulation should be upon monitoring and enforcement of compliance with lobbying disclosure and lobbying conduct rules. It is very important that debate on lobbyist registration does not become fixated on the role of commercial lobbyists. In-house lobbyists working in the private and voluntary sectors must also be included in any proposed register.

Much of the work of commercial political consultants is no longer based on direct communication with legislators. Such advocacy is usually done by the client concerned, not least because their message is considered more credible if they deliver it themselves. However that message may well have been researched and prepared by commercial lobbyists. To make the processes that shape policy debate open and transparent such behind-the-scenes efforts by professional lobbyists must be taken into account. Some, but by no means all, of the regulatory / registration schemes in North America do make provision to capture and register such lobbying activity. Significant numbers of the multi-national companies and global public affairs consultancies lobbying in the UK already have knowledge and experience of disclosing information, on which they can draw should regulation be adopted.

Under some of the models we have examined lobbyists principals (clients or in-house lobbyists) and agents (commercial lobbying consultants) are required to declare:

- the source and amount of any government funding received ;
- the subject matter of the lobbying;

[52] The Association (APPC) and the Association for Scottish Public Affairs (ASPA)

— whether payment is contingent on the success of the lobbying;

— the name of any ministry, agency, board or commission that will be lobbied;

— whether members and/or their staff are to be lobbied;

communication techniques used, including grass-roots lobbying,

Whether a lobbying register is overseen by an independent commissioner or by an officer of the Parliament it would be important to ensure that the regulator has adequate power to compel registration, timely and full disclosure. In other systems of regulation there are civil and criminal penalties to ensure compliance. These include financial penalties and custodial sentences. We would be happy to supply further evidence on this.

We believe that a new system should avoid the problems associated with the role of the Parliamentary Commissioner for Standards, given its dependence on the Select Committee on Standards and Privileges.[53] An independent regulator must be given full powers to execute its duties so that the public can have confidence in the system.

Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?

We believe that these rules are necessary, but insufficient. The debate on the regulation of lobbying in the UK in the last decade has taken an "unexpected" turn with its focus on legislators rather than the lobbyists themselves.[54] We believe extending the logic of the members code to include lobbyists (very broadly understood) properly balances the rights and responsibilities of those parties engaged in promoting and deciding on legislation. A mandatory register of lobbyists would mean that all those parties involved in proposing, opposing, drafting and scrutinising legislation would be required to make their role in the policy making process open to external scrutiny. By requiring openness and transparency of lobbyists—as well as of elected representatives, ministers and officials—the political process is more likely to be accountable and responsive to critical publicity. Given public mistrust of the relations between vested interests of all kinds and elected representatives, it is surely consistent to extend the same principle of vigilance to the lobbying industry as a whole, whatever form it may take.

Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?

Yes. However, we believe that government organisations should be capable of making their own representations to decision-makers without having to rely on multi-client lobbing firms. The use of such companies represents a further marketisation of public services and is, we think, inherently problematic as it creates the potential for conflicts of interest.

Is there anything that the UK can learn from attempts to regulate lobbying in other countries?

We believe that the Committee should look very carefully at various systems of lobbying regulation currently working successfully. These systems show that many of the main objections to the creation of a lobbying register are spurious. The North American lobbying registers demonstrate that it is possible to develop working definitions of lobbying and systems to ensure information about lobbying is placed in the public domain. We would also point to two further examples. A few years ago the Standards Committee at Holyrood held an inquiry into lobbying and concluded that a register of lobbyists should be created. The current debate in Brussels, inspired by the Commission's European Transparency Initiative, is also instructive. In both cases the lobbying industry vigorously opposed the introduction of a lobbyists register. European Commissioner Siim Kallas recently raised his concerns about the commitment of the lobbying industry to transparency and accountability. [55]

This suggests that it is imperative that the Public Administration Select Committee consider broader democratic principles and sample opinion and evidence from a much wider range of sources rather than the usual insiders and vested interests who have previously participated in similar inquiries. We believe that the evidence from other jurisdictions shows that it is possible to create an effective and transparent lobbyists

[53] See Woodhouse, D (1998) "The Parliamentary Commissioner for Standards, Lessons from the 'Cash for Questions' Inquiry", *Parliamentary Affairs*, 51(1), pp 53–55.

[54] Jordan, G (1998) "Towards Regulation in the UK, From "General Good Sense" to 'Formalised Rules'", *Parliamentary Affairs*, Vol 51 No 4, pp 524.

[55] Kallas, S (2007) "*Lobbying: What Europe can learn from the US"*, address by Vice-President of the European Commission responsible for Administrative Affairs, Audit and Anti-Fraud to the American Chamber of Commerce EU Plenary meeting, Brussels, 18 September, SPEECH/07/544.

register that affords transparency, increases scrutiny and enables participation. Creating such a system could help restore confidence in democratic decision making by addressing the kinds of concerns we have outlined above. We are more than happy to provide more evidence on these matters as your inquiry develops.

September 2007

Memorandum from the European Commission

"Let me be very clear: It is good that we do not take decisions blindly. Indeed, the Commission explicitly recognises that lobbying is both necessary and legitimate.

This being said

— We wish to know who we're really talking to;

— We also wish to be able to reject accusations that we are subject to any particular bias; and

— We wish to keep our doors open for interaction with such stakeholders.

I believe we agree on the need to preserve the possibility of working closely together with the world of business and civil society."—(Siim Kallas, Vice-President of the European Commission, 16 July 2007).

THE COMMISSION'S THINKING ON TRANSPARENCY

Committed to delivering effective policies in the general European interest, the Commission aims to reconnect Europe with its citizens and close both the physical and mental gap that makes it difficult for people to understand what Europe does and why it matters. It is against this background, that Vice-President Siim Kallas introduced the idea of a European Transparency Initiative in a speech held in Nottingham in response to calls from both public and private bodies from various fields of expertise. The aim is simple: to look at how we can make Europe to speak for itself through greater openness and more effective tools.

Improved transparency cannot bridge the divide on its own. But if, through our actions the Commission can show to European leaders, businesses, civil society and citizens that it is making policies in an open and inclusive way, that their institutions are better managed and that they can see where their taxes are going, the EU will be moving in the right direction.

The College held an orientation debate on 18th May 2005, and decided to set up an inter-service programming group to carry out preparatory work of the European Transparency Initiative (ETI). ETI was adopted by the Commission (on 9th November 2005), and a Green Paper was published in May 2006 to launch a debate with all the stakeholders on how to improve transparency on the Community Funds, consultation with civil society and the role of the lobbies and NGOs in the European institutions' decision-making process.

A PUBLIC REGISTER OF "LOBBYISTS"

On 21 March 2007, the Commission decided to set up a public register for all interest representatives working to influence decisions taken in EU institutions. Any citizen can access this register. While registration will be voluntary, there are clear rules on what information registrants would have to supply. It is foreseen that the register will open in spring 2008.

The lobbying profession is encouraged to see this register as an opportunity, rather than a threat. The Commission needs and appreciates the input it gets from interest representatives, but we ask in return their collaboration in showing to the general public that the relationship respect the rules of democracy.

This decision follows up the Green Paper on a European Transparency Initiative[56] launched 3rd May 2006, in which the Commission invited the general and professional public to discuss proposed action in lobbying and disclosure of EU beneficiary data, and to provide feedback on the consultation mechanisms in place. The open public consultations started on the same day as a discussion on the introduction of legal obligations for Member States to publish the information about the beneficiaries of funds under shared management, as well as on the Commission's consultation practices. The consultation period ended on 31st August 2006.[57]

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[56] Green Paper on a European Transparency Initiative (http://ec.europa.eu/transparency/eti/docs/gp_en.pdf)

[57] Consultation and reactions on the European Transparency Initiative (http://ec.europa.eu/transparency/eti/index_en.htm) and EP Working document on the European Transparency Initative (http://ec.europa.eu/commission_barroso/kallas/doc/ep_eti_en.pdf)

Background: What the Green Paper on the ETI says on "Lobbying"

The Green Paper on the European Transparency Initiative (ETI) devotes an entire chapter to the question of "lobbying". In this, "lobbying" means all activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions.

Accordingly, "lobbyists" are defined as persons carrying out such activities, working in a variety of organisations such as public affairs consultancies, law firms, NGOs, think-tanks, corporate lobby units ("in-house representatives") or trade associations.

For a meaningful discussion on how to frame lobbying at EU level, the Commission considers it necessary to define the basic framework on which the relationship between the EU institutions and lobbyists should be built. The following components are regarded as essential:

1. Lobbying is a legitimate part of the democratic system, regardless of whether it is carried out by individual citizens or companies, civil society organisations and other interest groups or firms working on behalf of third parties (public affairs professionals, think-tanks and lawyers).

2. Lobbyists can help bring important issues to the attention of the European institutions. In some cases, the Community offers financial support in order to ensure that views of certain interest groups are effectively voiced at European level (eg consumer interests, disabled citizens, environmental interests etc.).

3. At the same time, undue influence should not be exerted on the European institutions through improper lobbying.

4. When lobby groups seek to contribute to EU policy development, it must be clear to the general public which input they provide to the European institutions. It must also be clear who they represent, what their mission is and how they are funded.

5. Inherent in the European institutions' obligation to identify and safeguard the "general interest of the Community" is their right to hold internal deliberations without interference from outside interests.

6. Measures in the field of transparency must be effective and proportionate.

Potential Problem Areas

Concerns have been voiced by the media, academics and interest representatives about lobbying practices which are considered to go beyond legitimate representation of interests.

This applies not only to practices which are clearly unlawful (fraud and corruption) but also to other improper lobbying methods which abuse the EU institutions' policy of openness or are plainly misleading.

Examples often quoted in this context are:

- Distorted information is provided to the EU institutions about the possible economic, social or environmental impact of draft legislative proposals.
- Modern communication technologies (internet and e-mail) make it easy to organise mass campaigns for or against a given cause, without the EU institutions being able to verify to what extent these campaigns reflect the genuine concerns of EU citizens.
- The legitimacy of interest representation by European NGOs is sometimes questioned because some NGOs seem to rely on financial support from the EU budget as well as on political and financial support from their members.
- By contrast, according to many NGOs, there is no level playing field in lobbying because the corporate sector is able to invest more financial resources in lobbying.
- In general terms, there is criticism about the lack of information about the lobbyists active at EU level, including the financial resources which they have at their disposal.

Existing Measures and Options

(a) *The General principles*

As regards participation in public consultation processes by interest representatives, the Commission already has a well-established policy on transparency, which is laid down in the "General principles and minimum standards for the consultation of interested parties".[58]

The minimum standards require that participants' contributions to public consultations be published on the internet. The consultation standards also contain requirements with regard to transparency about the nature of interest groups.

[58] See http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0704en01.pdf

From the General principles and minimum standards for consultation:

> "Openness and accountability are important principles for the conduct of organisations when they are seeking to contribute to EU policy development. It must be apparent:
>
> — which interests they represent
>
> — how inclusive that representation is.

Interested parties that wish to submit comments on a policy proposal by the Commission must therefore be ready to provide the Commission and the public at large with the information described above. This information should be made available either through the CONECCS[59] database (where organisations are eligible for this database and wish to be included on a voluntary basis) or through other measures, eg special information sheets. If this information is not provided, submissions will be considered as individual contributions".

(b) *Improved information*

Emphasis should be placed on consistent application of the existing rules in the field of open public consultations. This means that the Commission will ensure that in this type of consultation interest groups are systematically asked to provide information about their objectives, sources of funding and the interests represented.

Application of these existing transparency requirements could be improved by developing an electronic tool (questionnaire), which would allow the Commission to gather more information on participants in web-based open public consultations.

Such a ready-made tool would be used by all Commission departments for their internet consultations.

NEXT STEPS

Lobbying: The question of lobbying has become one of the key components of the ETI and the Green Paper contained a set of proposals and questions on that. At the moment the Commission is elaborating on concrete steps based on the results of the consultations, but the replies already show a strong support for efforts to achieve greater transparency in lobbying.

The Commission has decided:

— first, to create and launch a new voluntary register for interest representatives (see above);

— second, to reinforce the application of the Commission's consultation standards using a standard website for internet consultations, linked to the register;

— third, to draft a code of conduct for relations between interest representatives and the EU institutions. The code will be a requirement for inclusion in the register and will be monitored by the Commission.

Ethics: Vice-President Siim Kallas wants to strengthen the work on professional ethics in the European institutions. Discussions will be started at inter-institutional level to promote the EU's framework on professional ethics.

In its 9 November 2005 communication, the Commission announced—as an action "to be proposed for discussions with the other EU institutions"—that it would launch a debate on rules and standards on professional ethics of public office holders in the European Institutions. The Commission's Bureau of European Policy Advisers (BEPA) is taking the lead in implementing this ethical aspect of ETI.

In July 2006 the Commission launched a study on the rules and standards of the professional ethics of public office-holders. This study should be available by the end of July 2007.

Also, the Commission has launched a call for tender for an "Individual comparative study on standards and regulations in professional codes of ethics for elected or appointed high-ranking government officials".[60]

September 2007

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[59] Cosultation, the European Commission and Civil Society (http://europa.eu/comm/civil_society/coneccs/index_en.htm)
[60] See http://ec.europa.eu/commission_barroso/kallas/doc/comparative_study_en.pdf

Memorandum from Foresight Communications

A. Introduction

Foresight Communications is small, independent public affairs and lobbying company founded in 2001.

Foresight Communications fully endorses the evidence submitted by the APPC to the Public Administration Select Committee's inquiry in to lobbying and adds this submission as a supplement to provide specific accounts of the role a public affairs firm plays in their lobbying activity and the public policy environment.

Foresight follows rigorous ethical standards and is a member of the Association of Professional Political Consultants (APPC). Foresight's Managing Director, Mark Adams, is a member of the APPC Management Committee.

Foresight strongly supports the APPC Code of Conduct and rigorously applies it in our work. We believe that all those seeking to influence political institutions should be bound by similar Codes.

Foresight has striven to follow the highest standards in its professional approach. We are very conscious that others involved in influencing political institutions have not necessarily followed the same high standards. We believe that it is very important for standards to apply to all those seeking to influence policy, not just those working as political consultants.

We wholeheartedly endorse the guiding principles for those seeking to lobby institutions of government that have been developed by the APPC and others and would encourage the Committee in giving broad support to these principles.

B. How we Work

Lobbying by Foresight staff on behalf of our clients represents a very small part of the work we do. Generally, our role is in advising clients on how they can most effectively seek to make their case to government. We obviously believe our service is of value to our clients, but we also believe it enhances the democratic process, by improving the quality of information presented to government.

The APPC code and much of the public attention to the lobbying industry focuses on a few areas of activity, notably the contacts between political consultants and the machinery of Government and Parliament. This is entirely understandable as this is the area of public concern, but it creates a very distorted impression of the work that political consultants carry out on behalf of their clients.

There is no mystery about what political consultants do, nor should there be. Our clients can do the same things themselves if they wish, and the decision whether to do this through their in-house staff or to seek advice from consultants is entirely a management judgement, not dissimilar to the judgements they make about other forms of professional advice.

In practice, the role that political consultants play in any particular area of activity is much more straightforward:

- The role of political consultants in arranging meeting is generally limited to making the practical arrangements, following up requests made by our clients
- Where we do assist clients with contacts is in advising them who they should meet, and then assisting them to draft letters that will touch on the points of interest to the target audience
- When meetings do take place, we will usually advise our clients on the people they are meeting: where they fit into the decision-making process, what their thinking on the issue is likely to be, what approach would be suitable
- It is actually very unusual for political consultants to make representations to Government, though it is of course legitimate for us to do so. Instead we advise our clients on how they should make their representations.
- Political consultants spend most of their time talking to their clients, not to MPs or Government

The value that consultants can bring is not their contacts but their experience of how the political system will respond to a proposition.

C. Our Clients

Foresight represents clients of all sizes, and includes trade associations and charities as well as businesses. Often our work is with clients without the resources to employ dedicated in-house policy experts, so our advice is crucial in allowing them to represent their case effectively.

As a member of the APPC, Foresight publishes all it clients in to the public domain.

September 2007

Memorandum from the Forum of Private Business (FPB)

What is the FPB?

The Forum of Private Business (FPB) was formed in 1977 and is a pressure group fighting on behalf of private businesses. The FPB represents approximately 25,000 UK-based businesses, which employ in excess of 600,000 people. The FPB is active in Brussels, and is supported by an all-party group of MEPs.

The FPB provides a range of business services aimed at increasing member efficiency and profitability.

Business Opinion

All of the FPB's campaigns are based on the views of our members. We talk to our members in various ways. Via surveys, by telephone and face-to-face contact. We also collect data electronically, which enables us to source opinions from hundreds of businesses within a matter of hours.

The FPB works to bring businesses together with their own elected representatives. Members vote in a quarterly Referendum, adding comments for us to send to their MPs, MEPs, MSPs and AMs. Referendum is a tool that business owners have been using since 1977 to make their voices heard.

The FPB has more than 20 years' worth of experience of accredited research into the small business community. We have been using the Quarterly Survey since 1980 to track business growth, and the rise and fall of key issues, working in partnership with the Small Business Research Trust.

The Forum of Private Business (FPB) welcomes the Public Administration Select Committee's (PASC's) inquiry into the lobbying industry and the opportunity to discuss the issues of transparency, access and influence of the lobbying sector.

The FPB represents more than 25,000 smaller firms in the UK. Smaller enterprises represent a significant proportion of the UK's economy, accounting for 48% of employment and 37% of turnover[61] in the private sector. The introduction of legislation disproportionately affects smaller firms as they have fewer resources to allocate to complying with new regulations. Profit margins of smaller firms are generally tighter and the impact of new regulations will push up costs, thereby giving larger firms (250 or more employees) a competitive advantage.

Larger businesses have human resource departments, and health and safety representatives, who are responsible for compliance with government regulations. Larger firms can also absorb the substantive policy effects of regulation more easily through economies of scale, fixed-cost sharing between units and diversification. The effects of new legislation on larger firms can, therefore, be absorbed with less impact than that which is felt by smaller businesses.

This comparison has a parallel logic when it comes to influencing the legislative process. Larger firms simply have many more, and more effective, avenues through which to pursue their agendas. A typical large business will have its own public affairs department to lobby directly, it will be a member of an influential sectoral trade body, for example the British Retail Consortium (BRC), and it will be a member of the Confederation of British Industry (CBI).

In contrast, owner-managers of smaller firms are occupied with the task of running their businesses. If they are members of lobbying organisations, they will usually be represented by just one organisation, such as the FPB, Federation of Small Business (FSB), British Chambers of Commerce and so on, or, at most, by a small, sectoral trade body plus one of the above—the trade body may even be a member of one of the above. They do not invest time in attempting to influence the legislative process; they effectively contract this out to organisations such as the FPB.

This, in itself, has knock-on consequences on the ability of organisations representing businesses of different sizes to obtain input from members and evidence that is likely to influence a political process. To take the CBI as an example, if it wishes to canvass the views of its members, it can contact its members' public affairs departments. The FPB's members have no such departments. If the CBI wants to bring a member to a consultation meeting, it can contact the member's public affairs department, and they can send a representative, within whose job description lies the responsibility to attend such meetings. For a member of the FPB, it would be the owner-manager who would be invited to attend such a meeting, and that person would have to take a day off work to do so. None of this is to criticise organisations like the CBI but to illustrate the specific differences.

We believe that any inquiry into lobbying must not treat lobbying organisations as a homogenous whole. Having illustrated some key differences, we will now go on to answer the specific questions set by the inquiry.

[61] 0–49 Employees—Department of Business, Enterprise and Regulatory Reform (DBERR) statistics, 2006 http://stats.berr.gov.uk/ed/sme/

1. *What does it mean for an organisation to lobby government or Parliament?*

An organisation lobbies the Government and Parliament in order to represent its interests. Organisations may respond to government consultations, attend department meetings at which they express their views and meet civil servants separately to discuss positions on policy developments. Organisations may also communicate with MPs to ensure their views are represented in Parliament.

2. *Which ways of seeking to influence policy- and decision-makers are acceptable, and which are unacceptable?*

Acceptable and unacceptable forms of lobbying are already addressed in the "House of Commons code of conduct and guide to the rules relating to the conduct of Members". To take an example of one of the principles of the code: "Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest, and resolve any conflict between the two, at once, and in favour of the public interest". The code of conduct ensures only acceptable ways of seeking to influence are permitted.

3. *What evidence is there of the effect of lobbying on the policy- and decision-making processes?*

There is extensive evidence that demonstrates the effects of lobbying on the decision-making process. The FPB campaigned for 15 years for an effective redress against late-payers, which led to the Government introducing a statutory right to interest (SRI), with the Late Payment of Commercial Debts (Interest) Act 1998. Lobbying is essential in the decision-making process. As few as one in five MPs has a business background, which has hardly changed in 30 years, according to the Industry and Parliament Trust (IPT)[62]. The representation of the views of smaller businesses is, therefore, imperative if decision-makers are to understand how the policies they are developing will affect smaller firms.

4. *Do some organisations have more influence over Parliament and Government than others?*

As stated in the introduction to this paper, some organisations have increased opportunities to influence due to the various avenues for influencing available to them. Larger firms have the financial means to join various trade organisations, as well as the resources to represent themselves as individual entities. Parliament and the Government also have a greater ability to obtain evidence and opinions from some organisations over others.

5. *Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?*

People and organisations have the right to represent their interests. Government and Parliament need to be informed of the impact of their actions upon specific groups, such as smaller businesses. Any action to limit lobbying would, we fear, have more of a detrimental effect (withdrawing an evidence base) than a positive one.

There should be no cause for additional regulation to limit lobbying activities, as the House of Commons code of conduct, guide to the rules relating to the conduct of Members and the Ministerial Code[63] ensures that unacceptable forms of lobbying are not permitted. The industry is self-regulated, thanks to the application of these codes, and the fact that lobbying is just as much a market as any other: firms that provide bad products, that is to say they mislead decision-makers, will tarnish their reputations.

6. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

The codes of conduct of the Association of Professional Political Consultants (APPC) and the Public Relations Consultatants Association (PRCA) codes mirror the government codes relating to ethics involved in lobbying. To take an example from the APPC's code of conduct, "Political consultants must not: Make any award or payment in money or in kind (including equity in a member firm) to any MP, MEP, sitting Peer or to any member of the Scottish Parliament or the National Assembly of Wales or the Northern Ireland Assembly or the Greater London Assembly, or to connected persons or persons acting on their account directly or through third parties". Such codes are appropriate for a self-regulatory system. Lobbyist firms that are not members of such associations should have their own internal measures for ensuring appropriate conduct.

[62] The Times Focus Report "Business and Parliament", 23.07.2007
[63] Cabinet Office Ministerial Code: http://www.cabinetoffice.gov.uk/propriety_and_ethics/ministers/ministerial_code/

7. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

Such a body would only be necessary if it addressed an unmet need to control the behaviour of lobbyists to ensure that they do not "abuse" their positions, which means corrupt behaviour. In reality, such safeguards already exist. We cannot find any potential need for a regulator that is not already addressed. The lobbying industry is already self-regulated by the House of Commons and Ministerial codes. In addition, an organisation acting inappropriately will damage its reputation and, subsequently, will be unable to lobby effectively.

8. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

Not applicable.

9. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

"Lobby" is possibly the wrong choice of word. They should advise and provide vital information. For example, it may be within the scope of a review by one department to suggest budgetary changes to a particular programme they are delivering: in which case, the Treasury would need to be involved to advise on the feasibility. One example we have encountered was the review of Statutory Sick Pay (SSP), where the review group included a representative of Her Majesty's Revenue & Customs (HMRC) to advise on the fiscal administration elements of SSP. This is simply good practice. However, "lobby" implies the attempt to persuade another department towards a certain course of action, rather than simply to provide information for joined-up government.

Lobbying should only happen when such activity is specifically within the remit of the public sector body doing the lobbying. For example, the Better Regulation Executive, or Enterprise Directorate (formerly Small Business Service) of the Department for Business, Enterprise & Regulatory Reform (DBERR).

10. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

Not applicable.

September 2007

Memorandum from Global Government Relations, DLA Piper UK LLP

Overview

Global Government Relations (GGR) is the specialist government relations and strategic communications group of DLA Piper, the second largest legal services organisation in the world.

We welcome the inquiry by the Public Administration Select Committee. In our view the public affairs industry has radically changed from the old days of "cash for questions" and marginal behaviour. Nevertheless, it appears that as a profession it is defensive and embarrassed rather than one that is prepared to explain proactively its role in a modern democracy and promote itself in a constructive fashion. We hope that a greater understanding of this role will be engendered as a result of the Committee's deliberations.

GGR is not a member of the Association of Professional Political Consultants (APPC). The department, and individual members of the team, are however subject to stringent statutory requirements under the auspices of the Solicitors' Regulatory Authority (SRA). Similarly, we are active members of the Chartered Institute of Public Relations (CIPR).

1. *What does it mean for an organisation to lobby government or Parliament?*

Broadly, we would define this as being any activity undertaken with a view to influencing: government or party policy; the outcome of a decision in which a politician is the final arbiter or upon which they may have an influence; and alterations and interpretations of legislation or regulations.

Such activity may involve activities as diverse as organising meetings, marches and rallies, to the drafting of a proposed amendment to the Finance Bill, from the placing of an advert in the national media to door to door canvassing for support for a new development.

2. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

It is easier to define what is not acceptable than what is acceptable.

Broadly speaking, any direct financial inducement is unacceptable and we are aware of no evidence of any recent examples of this. We also believe that any effort to deliberately mislead policy makers and decision makers in any way whatsoever with a view to inducing them to support one policy perspective over another is unacceptable.

3. *What evidence is there of the effect of lobbying on the policy and decision making processes?*

We believe that evidence is widespread but hard to quantify. Recent "direct" examples might include the successful attempt by Greenpeace to disrupt the Government's consultation on nuclear power, albeit through the use of a legal intervention. Similarly, the legislative consensus in the Lords against the extension of gambling.

Most evidence would be less obvious. There is no doubt, however, that companies and organisations that engage directly with politicians and in the public policy debate are successful in having their voice heard. The outcome of this may vary. Minor amendments to legislation can invariably be secured in order to correct unintended consequences of original drafting; an organisation may succeed in its attempts to shape the way in which an EU Directive is transposed; another may succeed in its more basic wish to ensure that its voice is heard; and there will be those, of course, whose efforts fail.

4. *Do some organisations have more influence over Parliament and Government than others?*

It probably depends how one defines "influence". There will inevitably be some organisations with whom Parliament and Government have more sympathy and who could, perhaps, be argued to have more "influence" as a result.

It is an easier "sell", for example, to argue the case for a ban on fox hunting than to argue in defence of animal testing which received wisdom and a glance at the opinion polls would suggest is a less palatable message.

What is clear is that if an organisation or interest group does not engage with Parliament and Government, it risks not having its voice and interests considered. If others with a different view are engaging heavily, this would be tantamount to negligence.

But to engage does not mean an organisation necessarily has influence. At the end of the day, politicians and others will weigh up different opinions and form a view. It is only by engaging that an organisation can ensure that its view is at least heard and considered, even if it is ultimately rejected.

5. *Is it possible to limit lobbying and yet to ensure that Government and Parliament are properly informed?*

No. It is not clear that it would be desirable to "limit lobbying" in any case. Depending upon definition, people's efforts to lobby range from a constituent going to his or her MP's surgery on Saturday morning to ask for help right through to the Chief Executive of a major PLC seeking a meeting with a Secretary of State or other Minister, and much more besides.

Parliament should be accessible to all interest groups. If access is denied to one type of organisation, or one that is deemed to be "lobbying" in a particular way, it would inevitably result in *bona fide* voices no longer being able to have their view considered and would likely result in the making of more "bad", or at least ill-informed laws. The impact of legislation on a particular interest group cannot be understood if they are denied the right to present it.

The Modernisation Committee has recently considered proposals, such as the seeking of evidence from interest groups at Public Bill Committee stage, which would suggest that the need for greater engagement, whether or not one characterises it as "lobbying", is desirable.

6. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these associations?*

No, they are not appropriate. The provisions in the APPC's code in particular are anachronistic and do not take account of what is a rapidly evolving and dynamic industry. The also only take account of multi-client consultancies, and not companies and others that lobby for their own interests.

The main provisions of the code are defensive and embarrassed. One sees elsewhere in regulatory circles a move away from rules-based regulation towards principles-based regulation.

The APPC, meanwhile, in its recent campaign to ban non-members of the Association from undertaking government contracts, is seeking to turn the regulatory clock back thirty years and impose additional rules. The Chartered Institute of Public Relations (CIPR) has pointed out that the APPC has effectively called for a return to the closed shop.

The case for such rules has not been made and, in a number of cases, those rules are not in line with those of the House itself.

GGR can only speak for itself as a non-member of the APPC, although anecdotal evidence suggests that many members, as well as non-members, have viewed the campaign undertaken by the Association in recent years with deep concern.

We are not members of the APPC primarily because we have always viewed our obligations under the Solicitors' Regulatory Authority (formerly the Law Society) to be more stringent than those of the APPC.

There has also been a question as to whether our obligations under the SRA in relation to client confidentiality cut across the demand of the APPC that all clients should be disclosed on a public register. This is a matter on which we have sought the advice of the SRA. However, we should stress that as a matter of practice when engaging with parliamentarians, officials, opinion formers and the media, we are always transparent about who our client is. Public disclosure is, however, a different matter.

We would stress that, whilst many members of the GGR team are not solicitors, we are collectively bound by the SRA code, as are all employees of DLA Piper in the UK. Indeed, it forms a part of all employees' contract of employment.

These obligations cover many areas over and above those of the APPC, including strict adherence to the rules governing money laundering and conflicts of interest. They are also rigidly enforced to ensure compliance and the penalties for non-compliance are severe.

This is not the case with the APPC code. Compliance with the code is not verified and the disciplinary process lacks credibility.

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.

In light of recent developments, GGR and DLA Piper generally also perceive a large degree of risk associated with APPC membership.

In a letter to all Members of the House of Commons dated 7th June, the APPC argued that "all those, including government agencies, that contract public affairs or lobbying services should make APPC membership an absolute requirement."

DLA Piper was asked independently to review this position to assess its legality under Competition Law, and a complaint has been made to the Office of Fair Trading (OFT). Copies of both the original letter and the OFT complaint, which has been supported by the Law Society, are attached as an appendix to our evidence.

It is clearly unacceptable for the Association to write to MPs in a way that misrepresents the principles of its code in a number of regards and calls for a ban on non-members being allowed to operate. The APPC has told the media that this is not their position. However, it remains on the record with Members of Parliament as being their official position.

The risk for non-members considering membership is the reputational damage associated with the way the Association conducts itself. If the OFT complaint is upheld, there might also be financial penalties, given the remedies available to the OFT if illegal anti-competitive activity is proved.

7. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

Our favoured solution would be for a statutory register of lobbyists and their clients to be maintained by the House of Commons in much the same way as the register of All-Party Groups currently is. This would ensure that *all* companies operating in this arena would be required to comply on the basis of a level playing field. It would also have the distinct advantage of ensuring that organisations such as NGOs, charities and corporations, among others, list their in-house professionals as part of the initiative.

8. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

Yes. We believe that these are proportionate and mitigate against potential conflicts of interest.

9. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

Yes, and on the basis that they should be able to do so, we do not see a need to limit their ability to go to the open market and select their advisers of choice in this way. All such organisations should and do have strict procurement rules, and imposing a blanket ban on consultancies of a certain sort would severely restrict competition.

10. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

Inevitably there will be lessons that can be learnt from attempts to regulate lobbying in other countries and in particular the current and recent efforts in Brussels and Edinburgh.

What these attempts point to is the difficulty of imposing rules on an activity that is, in itself, hard to define.

Our DLA Piper colleagues in Washington DC clearly comply with the rules and regulations that are in place there, as we would in the UK, were Parliament to impose such regulations. We would contend that the public interest for imposing such interventionist measures in the UK has not been demonstrated. It is also inevitable that some of the more recent proposals, such as outlawing the buying of meals and gifts, would inevitably impede some activities that are currently useful in engaging with Parliamentarians and which are adequately covered by existing rules relating to Members' conduct.

Memorandum from Global Government Relations, DLA Piper UK LLP and The Whitehouse Consultancy

Please accept our apologies for writing to you mid-inquiry, but there is something that we wanted to bring to your attention and which has occurred since we have been able to give evidence to you.

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.

The Whitehouse Consultancy is a member of the APPC (Association of Professional Political consultants) and has been invited to register its interest in tendering for this account, but GGR (Global Government Relations) DLA Piper is not an APPC member and is therefore debarred from tendering. However, GGR is regulated by the statutory body, the Solicitors' Regulation Authority, the inheritor of the regulatory role previously performed by the Law Society.

We understand fully the Met Office's concern to ensure that it only considers tenders from organisations committed to adherence to high ethical standards.

But we consider, as we have indicated to you previously, that such behaviour, as encouraged by the APPC, is anti-competitive.

Having taken legal advice we are strongly of the opinion that this contravenes not only Government procurement guidelines but also EU directives, particularly as contained in, inter alia, the Treaty of Rome, Directive 2004/18/EC and The Public Contracts Regulations (2006) and as such is unlawful.

We also note the Early Day Motion (No 1643) put down by Austin Mitchell MP, making similar points (below) and would commend its text to you as a clear indication of just why a policy of restricting government contracts to APPC members is a flawed and potentially counter-productive, if well-intentioned, approach.

Thank you for your attention and please do not hesitate to contact either of us should you, your clerk or the Committee as a whole require further information.

APPENDIX

1643 *Ethics in the Lobbying Profession* **22:5:08**

Mr Austin Mitchell

That this House notes with concern the letter to all hon. And right hon. Members signed by the former Chair of the Association of Professional Political Consultants (APPC), Gill Morris, Director of Connect Public Affairs, arguing that government agencies that contract public affairs or lobbying services should make APPC membership an absolute requirement; notes the election on 12th May of Robbie McDuff as the new chair of the Association and urges him to work to restore its reputation and its commitment to ethical practice by focussing efforts on maintaining the register of members' clients and policing compliance with its code of practice; notes with interest the work of the Public Administration Select Committee investigating political lobbying; and hopes that the Committee will reject Ms Morris's assertion that public sector contracts should go only to APPC member companies since this would make it impossible in practice

for a member company of the APPC to resign in protest at unethical practice by its members or officers, would create an unregulated and unaccountable monopoly for the APPC and would do a disservice to the promotion of ethical standards in the lobbying profession as a whole.

June 2008

Memorandum from Grayling Political Strategy

Executive Summary

- Lobbying is an essential part of the democratic process.
- Political communications is a two-way street. The Government, political parties, policy makers, regulators and other related organisations directly benefit from the lobbying activities of public affairs consultancies, charities, businesses and NGOs through the development of partnerships which aid the development of the policy process.
- The principles of the Association of Professional Political Consultants' code stipulate transparency, openness, accuracy and honesty. One of these principles—firmly adhered to—is that it is not appropriate for a political consultant, in the employ of a consultancy, to be an elected legislator.
- It is not necessary for the public affairs industry to be regulated by an outside body, and indeed it would be difficult to envisage how a regulatory mechanism could operate effectively given the breadth of lobbying that is practised in the UK. Self-regulation is working well and should be supported.
- Parliamentary conduct continues to be overseen in an effective manner by the Parliamentary Commissioner for Standards; the 1997 Ministerial Code of Conduct includes guidance on how Ministers should interact with outside interest groups including lobbyists.
- Many executive agencies, non-departmental public bodies and other arms length bodies require external advice in order to manage their stakeholder relations, including charities, NGOs and consumer bodies.

Introduction

Grayling Political Strategy is pleased to respond to the Public Administration Select Committee's inquiry into the transparency of the lobbying industry.

Grayling Political Strategy has offices in London, Brussels, Edinburgh and Cardiff. It is part of Grayling, an integrated communications consultancy offering public affairs, public relations and event management. Grayling has 130 staff across its 10 offices which also include Bristol, Birmingham, Dublin, Singapore, Hong Kong and Bangkok. It has been part of Huntsworth plc since April 2004.

Grayling's public affairs services go back to 1986 with the foundation of Westminster Strategy in London. Westminster Strategy was a founder member of the Association of Professional Political Consultants (APPC). We apply the APPC code and its principles to all aspects of our work and we support the APPC's submission to the inquiry. Grayling is also an active member of the PRCA.

What does it mean for an organisation to lobby government or Parliament?

The APPC defines the practice of lobbying as "any action designed to influence the actions of the institutions of government". This definition is purposefully wide to ensure that the APPC's code of conduct is applicable to every aspect of the work undertaken by its members. It is our belief that lobbying is an essential part of the democratic process and our clients seek our services to engage in the parliamentary and decision-making process more effectively.

A differentiation should be made between lobbying in its most direct form and the practice of political communications. As a political communications consultancy, we give our clients the confidence to engage in the political process, not by offering them access to our personal contacts, but by offering knowledge of the political environment, expertise in tailoring messages and the capacity to assist them with their communications to government and parliamentarians.

According to research published by the House of Commons Library on the social background of Members elected in the 2005 General Election, only 29% of MPs have any previous experience of working in business before entering parliament. That is not to say that MPs are not qualified to legislate on areas where they have no direct experience. However, effective political communications can provide a bridge in

the democratic process so that parliamentarians, ministers, civil servants and regulators are aware of issues that are necessary for them to make decisions and enact policy having taken due consideration of the views of all those involved.[64]

Lobbying or more accurately the practice of political communications is a two-way street. Government, political parties, policy makers, regulators and other related organisations directly benefit from the lobbying activities of public affairs consultancies, charities, businesses and NGOs through the development of partnerships which aid the development of the policy process.

The development and widening of the policy process to encompass wider stakeholders by the Government since 1997 has been extensive. The structure of the policy making process in the UK has become increasingly fragmented largely as a consequence of devolution as well as a growth in the number of executive agencies, independent regulators and non-departmental public bodies. Hundreds of consultations are published by Whitehall departments each year and the Government has also increased pre-legislative scrutiny in order to consult the public, business and other stakeholders before Bills are published. This is symptomatic of modern government in the United Kingdom and requires substantial effort and input from all stakeholders so that they can meaningfully take part in the policy making process and ensure a positive impact.

Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?

It is perfectly acceptable to advise organisations on how political and regulatory change might affect them and devise appropriate plans to change, shape and influence developments to support that organisation. This might mean advising organisations to meet with relevant parliamentarians, ministers and officials in order to try to achieve their objectives. The principles of the APPC code stipulate transparency, openness, accuracy and honesty. 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.

A successful political communications campaign will always rest on the credibility of an organisation's cause and the effectiveness of their message. Our clients do not buy our consultants' address books, but our skills and expertise to distil their messages for public affairs audiences so that *they* can resonate and influence the policy making process. Our clients also buy our knowledge and expertise in order to identify their stakeholders and how they should engage with them. With the proliferation of politically active institutions, organisations and individuals involved in the public policy arena, not least as a result of devolution and the growing impact of the EU, our clients use our expertise in order to take part in this process more effectively.

It is our view that it is not appropriate for a political consultant, in the employ of a consultancy, to be an elected legislator. The APPC code of conduct forbids the paid employment of an MP or peer by it members. We pride ourselves on the integrity of our approach and would never offer any financial inducement to anyone in public office in order to influence the decision making process. As stated, our consultants rely on their knowledge of the political system and their communications skills to advise their clients.

The Committee should also note that organisations do not hire us in order to gain instant access to Parliament. A public affairs strategy is devised to meet a required brief and will not rest on the ability to reach a single influential individual or necessitate direct access to them. It should be noted that the APPC code forbids its members from having a parliamentary pass. A principle we support. The same level of transparency does not apply to other sectors of the lobbying industry—the parliamentary officers of some voluntary organisations are sometimes issued with parliamentary passes for example.

What evidence is there of the effect of lobbying on the policy and decision making process?

It is plausible to argue that every policy and decision taken by government or a political party is influenced by lobbying of some kind. This could originate from a political consultancy working on behalf of a client, an in-house team, charity or an individual constituent. Although it is difficult to quantify the success or effectiveness of any political communications campaign or public affairs strategy, its overarching objective will be to influence the legislative or policy process and ensure that a client's opinion is heard and accounted for by policy and decision makers.

Do some organisations have more influence over Parliament and Government than others?

A recent discussion paper by the Hansard Society asked MPs if they were more persuaded by the arguments put forward by charities than by business. 62% of MPs said that they were more persuaded by the messages of charities and had greater wariness of the intentions of business than other organisations.[65]

An effective political communications campaign or public affairs strategy will ensure that the right stakeholders are reached with the right message. Many organisations will seek to influence the policy process without engaging parliamentarians, depending on the issue at stake. Although MPs on the whole might be

[64] P Parvin, Friend or Foe? Lobbying in British Democracy, *A discussion paper*, Hansard Society, 2007.
[65] Ibid.

more persuaded by the campaigns organised by charities, business, if advised correctly, can reach specific parliamentarians with an interest in a particular issue. A blanket approach to parliamentarians rarely proves to be either appropriate or an effective use of time and resources.

Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?

13. It is difficult to see how or indeed why such a limit could be applied within our constitutional system—by limiting lobbying from business, charities, or public affairs consultancies you would be effectively removing sectors of society from the democratic process. The essential requirement is an effective self-regulatory code to ensure the proper behaviour of those who lobby Parliament.

Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?

The provisions with the APPC code are appropriate for a self-regulatory system. The APPC has acted as a self-regulatory body since it was established 13 years ago. As a founder member of the APPC and as a member of the PRCA, GPS and our consultants take a very strict view of the code and the ethical conduct of our business, as well as the conduct of our clients.

We accept that it is not always appropriate or possible for other public affairs practioners not to belong to the APPC or PRCA, if for example they work within a law firm or work in-house. However, it is our strong view that all those practising public affairs should abide by codes of conduct which match the demands placed on those who sign up to the APPC and PRCA codes of conduct.

Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?

It is not necessary for the public affairs industry to be regulated by an outside body. As mentioned above, the APPC code has proved to be an effective self-regulatory system since it was established 13 years ago. The recent incidents reported in the media—on the relationship between external organisations and All-Party Groups—have not featured an APPC member which is testament to strength of the code and the collective enforcement of it by its members.

Furthermore, it would be difficult to envisage how a regulatory mechanism could operate effectively given the breadth of lobbying that is practised in the UK. Many organisations, such as law firms, charities, trade associations, trade unions and individuals would not define themselves as "lobbyists". Such a regulatory system would also have to cover in-house public affairs teams. This would essentially mean regulating and monitoring every interaction undertaken by an organisation with the institutions of government which would be impractical and not in the interests of good regulation.

Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?

It is our view that the requirements in place are appropriate. The Government has strengthened the requirements placed on the behaviour of public officials, Ministers and MPs in recent years. Parliamentary conduct continues to be overseen in an effective manner by the Parliamentary Commissioner for Standards. The PASC should also note that the Ministerial Code of Conduct in 1997 includes guidance on how Ministers should interact with outside interest groups including lobbyists.

Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?

It is perfectly reasonable to ask if tax-payers' money should be spent on consultants giving political advice to government-funded bodies. However, the fragmented nature of government, following devolution and the outsourcing of the public service functions to growing numbers of NDPBs etc, has meant the communication between public bodies has become increasingly difficult. For this reason, public bodies are becoming increasingly aware that they need help better to understand the environment in which they are operating.

It should also be noted that government organisations do not necessarily engage public affairs agencies to lobby parliament or the Government directly. Many executive agencies, non-departmental public bodies and other arms length bodies require external advice in order to manage their stakeholder relations, including charities, NGOs and consumer bodies.

Is there anything that the UK can learn from attempts to regulate lobbying in other countries?

In the US, lobbying firms are required to list the names of their clients and details of their fees to the Secretary of the Senate twice a year. However, it is the case that many firms in the US hire registered lobbyists (in many cases to advise them on party political issues) and hire a separate "public affairs" firm to handle wider issues associated to their campaigns. As recent examples in the US show, this regulatory mechanism has not been wholly successful in preventing incidences of malpractice from lobbyists.

In Brussels, the European Public Affairs Consultancies' Association (EPACA) conforms to a similar code of conduct which is enforced by its Professional Practice Panel. The European Commission recently launched the European Transparency Initiative which is demanding that public affairs consultancies disclose commercially sensitive financial information. EPACA and its members are opposed to such a measure as the ETI will not apply to other organisations which lobby in Brussels, including lawyers, in-house practitioners and NGOs. We support EPACA's view that such a system would be discriminatory to public affairs consultancies and would effectively reduce transparency as many companies may instead work with unregistered companies.

September 2007

Memorandum from Hanover

Reading the transcript of last week's PASC hearing, I noticed that Paul Flynn has some concerns about my company so I thought it might be helpful to send an explanatory note.

Mr Flynn raised two issues, those concerning membership of the APPC and those in relation to press comments.

I should like to take each of these in turn:

MEMBERSHIP OF THE PRCA AND RESIGNATION FROM THE APPC

1. We resigned, entirely legally, from the APPC back in 2005. This was over an interpretation of rules that had consequences for our then Advisory Board. This board includes distinguished business figures and a member of the House of Lords, none of whom lobbied on behalf of our clients.

2. We reviewed our position as a Corporate Public Relations and Public Affairs consultancy and made a decision that membership of the PRCA better suited our needs. As your committee heard last week, the PRCA maintains an ethical code virtually identical to that of the APPC. As such, we continue to publish all our clients on our website and train our staff in the workings of the code which forms an integral part of our company handbook.

3. Since our resignation from the APPC we have grown commercially from strength to strength. We do so now, as a member of the PRCA, without an Advisory Board (however transparent we had been as to its composition), and we do not renumerate any legislator.

4. An advantage of the PRCA over the APPC is that it asks all new members to pass a tough set of management standards before becoming a member. We believe management standards are as important in raising industry standards as any code of ethics.

PRESS COVERAGE IN 2007

5. Mr Flynn separately referred to what we assume were newspaper articles erroneously claiming that we were somehow offering access to Gordon Brown in exchange for "cash". These stories were the subject of legal action and resulted in the publication of follow up explanatory letters. You will recall that these stories were investigated by the Cabinet Secretary who concluded that there was no impropriety involved. The stories were the result of a leaked pitch document which we passed to the Cabinet Office Propriety and Ethics team for review as part of its inquiry.

6. The same pitch document was separately examined by Mr Rod Cartwright, the Chair of Public Affairs at PRCA who also concluded that there had been no breach of the code.

If you have any further questions, please do not hesitate to contact me. I have not had a separate opportunity to discuss these matters with Mr Flynn, but have copied this letter to him as well and to the Clerk of the Committee and to Mr Francis Ingham, Chief executive of the PRCA.

February 2008

Memorandum from the Hansard Society

1. Introduction

The Hansard Society is an independent, non-partisan education and research charity, which exists to promote effective parliamentary democracy. We welcome the opportunity to contribute to this inquiry. This evidence is drawn from the Society's research and reports, including: *Friend or Foe? Lobbying in British Democracy; Law in the Making: A discussion paper; A Year in the Life: from member of public to Member of Parliament* and our annual *Audit of Political Engagement.*

2. A Changing Political Environment

In recent years there has been widespread concern about public disengagement from the political process. Falling turnouts at elections and the decline in membership of political parties has encouraged debate about how to reignite interest in, and participation with, our democratic processes. This has correlated with a focus on who, outside of elected politicians and political parties, represents the interests of the public. The Hansard Society's most recent *Audit of Political Engagement* found that 38% of the public had given money to a charity or campaigning organisation over the past two or three years, whereas only 5% had given money to a political party.[66] It is clear that despite a reticence in offering financial support to political parties, the British electorate invest both time and money in a wide range of charities and campaigning organisations.

The issue of trust has also hit the headlines in recent times, with politicians frequently cited as amongst the least trusted of the professions. There appears to be much cynicism about politicians, our political system and political parties, with the Audit showing that 71% of the public trusted politicians either "not very much" or "not at all".[67] These concerns have had an impact on lobbying organisations and the influence they have, or are perceived to have, by the public and those within the political system. As their power is believed to have increased, so have questions about their accountability and legitimacy in a system where representation has extended beyond traditional political institutions and its elected representatives.[68]

3. The Extent of Lobbying

The recent Hansard Society report, *Friend or Foe?*, found that lobbying is now widespread and is carried out through a variety of methods and by a significant number of organisations. Notably, the organisations that lobby parliament include many charities and non-governmental organisations (NGOs) and not just private sector organisations or multi-firm lobbying companies. A large proportion of lobbyists consulted in the survey for the report, "point not only to the steady expansion of the sector in terms of size and numbers, but its increased "maturity" and 'professionalism'."[69]

Lobbying is not confined to one particular industry or sector. The perception of lobbyists as only working for multi-firm lobbying companies that promote the interests of the private sector is inaccurate. The growth of the voluntary sector over past decades has meant that a greater number of charities and NGOs are involved in professional lobbying, signaling a move away from their more traditional sphere of grassroots activism. Consequently, many of those political journalists and lobbyists surveyed by the Hansard Society agreed that single issue groups are "more important than they were 20 years ago".[70] Other newcomers to the practice of lobbying include government departments. It is not uncommon for departments to hire commercial lobbying firms to engage in public affairs on their behalf. Indeed, Karl Milner found that between 1999 and 2005, "eleven separate Government departments have used lobbyists".[71]

The methods and practices used by the various organisations involved in public affairs have broadened, and now include a wide range of techniques to influence policy. These include, but are not limited to, government relations, stakeholder management, partnership building, reputation management and strategic planning.[72] However, while seeking to exert influence via government and parliamentary consultations and the lobbying of individual MPs can be worthwhile, protests in the media can also create a sizeable force for change and frequently happen alongside other techniques.

Friend or Foe? found that many MPs receive over 100 approaches by different organisations each week. Interest groups and charities approached MPs most frequently, followed by business, public sector organisations and trade associations. It may appear, therefore, that interest groups and charities believe influencing individual MPs is more effective for their aims than business and trade associations and perhaps

[66] *An Audit of Political Engagement 4* (Hansard Society and The Electoral Commission, 2007), fig 12, p 32.
[67] Ibid. p 42, fig 17.
[68] In this paper we include all groups and organisations which lobby government and seek to influence policy within the terms "lobbyists" and "the lobbying industry".
[69] Parvin, P *Friend or Foe? Lobbying in British Democracy: a discussion paper* (Hansard Society, 2007) p 11.
[70] Ibid. p 26.
[71] Milner, K. *Why the Public Sector Needs to Hire Lobbyists,* paper presented at the PR Week and Bournemouth Governance and Communications Conference, 2006, p 11 in Parvin, P. *Friend or Foe?* (Hansard Society, 2007) p 19.
[72] Parvin, P. *Friend or Foe?* (Hansard Society, 2007) p 9.

that such organisations are more likely to be received favourably.[73] However, it is worth noting that charities are less likely than business to operate under powerful umbrella organisations with wide-ranging membership. Consequently, the number of individual representations cannot themselves provide the full picture.

The lobbying of individual MPs was also highlighted in the Hansard Society report *A Year in the Life: from member of public to Member of Parliament*. The report interviewed members of the 2005 general election intake, several of whom "expressed their surprise at the level of lobbying activity that takes place within the House of Commons".[74]

4. Perceptions of the Industry

Friend or Foe? looked at perceptions of lobbyists and at their effectiveness and impact, using the findings from surveys with MPs, political journalists and lobbyists.

It found that 62% of MPs surveyed claimed that they were more persuaded by arguments put forward by charities than by business. This correlated with comments by some members of the 2005 intake[75] and complaints by lobbyists of an apparent bias against business interests.[76] *A Year in the Life* found that MPs were critical of the quality of lobbying and that postcard lobbying was very unpopular.[77] However, this does seem to be somewhat at odds with MPs' greater support for charity lobbying, as postcard campaigns are almost exclusively used by charities and interest groups, and not by businesses. Not surprisingly, constituents' interests were prioritised over those of interest groups,[78] although MPs *were* very concerned about business interests that had an impact on their constituency. The wariness about this sector seemed, therefore, to be limited to "big business" in an abstract sense.[79]

When asked which factors were most important to them when dealing with lobbying organisations, "the impact of the issue on the MP's constituents" was ranked first (95%), with "the transparency of the organisation, ie. to whom it is accountable", ranked second (93%).[80] This suggests that individual MPs are more conscious of lobbying organisations' motives than they are perhaps given credit for. The greater willingness of MPs to listen to groups which are transparent and accountable suggests that the effectiveness of a campaign and the legitimacy of the organisation involved are closely related.

Both the private sector and the charity/public sector make claims that the other has the upper hand in the policy process. Private lobbying firms may have more financial ability to lobby parliament, but the charity sector has a better reputation with MPs. However, the basis on which MPs decide on the transparency and legitimacy of lobbying organisations is more difficult to judge.

5. The Lobbying Industry's Influence

MPs surveyed for *A Year in the Life*, were much more likely to be influenced by the advice of the party leadership, personal opinion and constituency opinion than by interest groups when deciding how to act and vote in Parliament. One member of the 2005 intake explained that he chose "relationships with [the] pressure groups that I want to, and pretty much ignore the rest".[81]

The increased use of consultation in the policy and legislative process provides greater opportunities for lobbyists to promote their interests and to influence the policy agenda. However, opinion is divided over how much influence individuals and groups actually exert when participating in policy consultations. While critics of the process see consultation as a media relations exercise which has little impact on policy, Hansard Society research has found that the effectiveness of consultations can differ widely. Our recent discussion paper, *Law in the Making,* found that external actors had a significant influence on the Equality Act 2006, with the government taking "measures to secure the support of each of the existing equality commissions and their accompanying stakeholders".[82] However, not all bills are influenced to such an extent by external actors; the final report in the Hansard Society's *Law in the Making* project, to be published in spring 2008, will explore this in further detail.

[73] This is supported by evidence in section 3 of *Friend or Foe?* about MPs' perceptions of lobbying organisations.
[74] Rosenblatt, G. *A Year in the Life: from member of public to Member of Parliament,* (Hansard Society, 2006) p 40.
[75] Rosenblatt, G. A Year in the Life (Hansard Society, 2006)
[76] Parvin, P. *Friend or Foe?* (Hansard Society, 2007) p 24.
[77] Rosenblatt, G. *A Year in the Life,* (Hansard Society, 2006) p 40.
[78] Ibid. p 40.
[79] Parvin, P. *Friend or Foe?,* (Hansard Society, 2007) p 25.
[80] Ibid. p 28.
[81] Rosenblatt, G. *A Year in the Life,* (Hansard Society, 2006) p 40.
[82] Brazier, A., Kalitowski, S., and Rosenblatt, G. *Law in the Making: A discussion paper,* (Hansard Society, 2007), p 27.

6. Conclusion

Lobbying organisations and pressure groups have become a notable feature of the political and policy-making process. Both the private and not-for-profit sectors devote significant resources to public affairs and lobbying, presumably in the belief that such investment represents a good return for the money spent.

As lobbying groups have increased their involvement in shaping and delivering policy, it is crucial that they are as accountable and transparent as possible. Lobbying can be beneficial to parliamentary democracy but it is important that all organisations that lobby parliament and government sign up to common codes of practice, transparency and ethical conduct.

The Hansard Society welcomes this investigation into the lobbying industry and is happy to assist the committee's investigation wherever possible.

September 2007

Memorandum from the Law Society

1. *What does it mean for an organisation to lobby government or Parliament?*

The Law Society believes the act of an organisation lobbying government or Parliament is the process of that organisation seeking to influence the political, policy, legislative and regulatory agendas. This is a process that can range from broad objectives (such as raising the awareness and understanding of certain issues) to very specific ones (such as seeking to change the wording of a particular clause in a particular Bill).

Lobbying is a common and widespread activity, even carried out by individual members of the public (eg constituents approaching MPs and local councillors to act on their behalf). However, in respect of organisations seeking to influence the political institutions, it is a process which has given rise over recent years to an industry specialising in the provision of assistance to such organisations in how best to exert that influence.

The industry in the UK now comprises a significant number of political/public affairs companies providing support to organisations on a commercial consultancy basis. A growing number of law firms are now also engaged in the provision of lobbying services. Based upon their expert knowledge of law and the legislative process, where relevant, such firms are able to offer crucial public affairs counsel where sought by clients, in addition to standard legal advice. It is also the case that a range of organisations who lobby now employ their own political/public affairs teams "in-house". The Law Society is one such organisation, possessing a Parliamentary Unit, based within its Communications Directorate.

The Society notes that it is now commonplace for this industry to be described as the "lobbying" industry, and for its employees—including "in-house" teams—to be described as "lobbyists". As the APPC's definition infers, what lobbyists offer to organisations seeking to lobby government or Parliament is information, guidance and strategic advice on how best they can exert the influence or change they are seeking to deliver. In many instances of lobbying, however, a substantial degree of the advocacy work—ie the actual process of making representations to politicians and decision makers—is carried out by the consultants' clients themselves, or in the case of organisations with "in-house" teams, by other staff members within those organisations with a more specialist knowledge or subject expertise.

At the Law Society, for example, the Parliamentary Unit exists to provide strategic parliamentary lobbying advice in relation to the organisation's representative function, based on its staff members' experience and expertise in Parliamentary affairs and the Westminster political process. Among its responsibilities are building and maintaining relationships with key MPs and Peers, monitoring political and parliamentary developments, tracking legislative and policy change, and developing lobbying plans and campaigns. Though the Unit oversees the Society's written communications to MPs, the substance of the written material and the expression of our views and concerns orally to MPs and Peers are, more often than not, presented by other colleagues. In most cases this includes policy advisers, office holders and the senior management team. This is appropriate and in the interests of the organisation because of their professional experience and technical expertise in the issues concerned.

We believe this common framework makes it difficult to draw the boundaries of lobbying—in particular, deciding who we ought to include within the category of lobbyists. Should it be strictly those delivering the advice on how best to exert influence, or should it also include anyone involved in the delivery of representations? In some cases these will be one and the same people, but in many they will differ, and where they do this poses significant difficulties for addressing subsequent questions about transparency and regulation (this point is dealt with further in our response to Question 7).

We also wish to highlight the growing trend towards more informal lobbying processes and networks between Whitehall and outside bodies, very often driven or encouraged by Government, as departments and executive agencies actively seek the views of specialists and interest groups in order to develop more robust policy making processes. This shift towards greater consultation between Whitehall and external

organisations has naturally led to the development of stronger dialogue and relationships between many external organisations and key decision makers, perhaps helping to strengthen the former's ability to influence the latter.

2. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

The Law Society believes lobbying is a vital part of the democratic process, helping to inform politicians and decision-makers of key issues and concerns and the potential outcomes of policies, actions and legislation. This is aided largely by the experience and expert knowledge possessed by many organisations seeking to influence the political process, including representative bodies, trade unions, businesses and interest groups. Their input equally helps to ensure that policy and legislation is made which is representative of the views of those who it may impact upon.

The Society therefore supports an open and inclusive approach towards lobbying, with adequate opportunity for individuals and organisations to have input into the decision-making and scrutiny processes. We welcome recent developments, including the expansion of pre-legislative scrutiny and the new Public Bill Committee system, which have helped to enhance these opportunities.

We believe that organisations should be able, if desired, to seek support and advice from commercial consultancies or in-house teams on how best to influence the political process. As stated in our response to Question 1, we are aware that much of the assistance given to organisations from the public affairs industry is information, guidance and strategic advice on influencing and developing relationships with politicians. There is little within this provision that we feel could be considered unacceptable. Where we would express concern is if the personal relationships between public affairs practitioners and politicians/decision-makers are exploited for commercial gain, for example, through the explicit sale of "access". In addition, we would strongly object to money being exchanged between clients or practitioners and politicians in return for sought action or influence.

3. *What evidence is there of the effect of lobbying on the policy and decision making processes?*

The Law Society believes there is a vast array of evidence of the effect that lobbying has had on the policy and decision making processes. That the Select Committee inquiry system has developed on the basis of evidence from outside bodies, and Standing Committees on Bills are currently evolving to provide for the submission of written and oral evidence, is indicative of the extent to which Parliament itself values the input and views of external organisations.

The Law Society lobbies in its representational capacity, but also more broadly in the public interest, to help improve the quality and effect of public policy and legislation. Below we provide two recent examples of how our own lobbying has had a specific effect upon the legislative process.

— The Companies Act 2006:

The Law Society made extensive representations on the Companies Act 2006 during its passage through both Houses of Parliament. This included the drafting of over 270 amendments with supporting briefings for members of the House of Lords—all of which were tabled and debated, and many of which were adopted at Committee, Report and Third Reading stages. We also maintained a constructive consultative dialogue with the then Department of Trade and Industry on its own amendments and draft clauses for the Bill.

The following quotes provide a useful overview of how our lobbying was perceived to have helped the process:

> "The DTI finds the contributions that it receives from the Law Society's Company Law Committee on companies legislation invaluable. It is always astute and supported by the practical experience of lawyers who work with company law. Without doubt it ensures that better legislation is produced, to the benefit of business, its advisers and the wider community "—Anne Willcocks, Director, Modern Company Law, Department of Trade & Industry
>
> "I would like to thank you for the excellent work you did ahead of the debate on Company Law Reform in the Lords this week…The Law Society briefing on the Bill proved an excellent source of advice and was well used by myself and by many others in the Chamber. "—Baroness Bottomley of Nettlestone.

— The Fraud (Trials without a Jury) Bill:

The Law Society lobbied extensive on the Fraud (Trials without a Jury) Bill which proposed to remove the right to trial by jury in serious and complex fraud trials. Our membership was greatly concerned that this measure was being proposed without any firm evidential basis, and could lead to the dismantling of trial by jury across other areas of law, with potentially dangerous consequences for our justice system..

Representations were made in writing and orally to members of both Houses of Parliament, including the organisation of a joint briefing session for members of the Lords with JUSTICE and the Bar Council, involving expert speakers in criminal law. We are confident that our representations helped to inform the views of Peers, before they took the rare step of voting down the Bill at Second Reading.

4. *Do some organisations have more influence over Parliament and Government than others?*

We believe that it will frequently be the case that some organisations are in a position to provide more substantial and expert opinion on certain issues than others. For example, the Law Society possesses a number of specialist committees, made up of experienced and senior practitioners across various different areas of law. This means that we are able to offer authoritative, considered views on the practical implications of policies and legislation in many areas, such as housing, civil and family justice, criminal justice, immigration, companies and regulation.

It may therefore be the case that where such expert opinion is available to politicians and decision-makers it will receive stronger attention. We do, however, support the view that where a range of views are communicated on a particular issue, all should be given equal consideration.

5. *Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?*

The Law Society would question why efforts might be made to limit lobbying in an open and democratic society. We remain of the view that the policy and decision making process operates best when informed by the views and concerns of outside bodies and individuals. This helps to maximise representative democracy.

Though the development of a professional "lobbying" industry may raise concerns about increases in the volume of lobbying taking place, the Law Society believes that the industry does in fact help to control the level of communications by ensuring that representations are focussed and targeted towards the right people, at the right time. If this support was not available to organisations, a more disorderly approach to lobbying may ensue.

6. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system? Why are some multi-client lobbyist firms not members of these Associations?*

The Law Society fully supports the requirement that lobbyists should not be dishonest or misleading in their dealings with politicians or clients, and believes the provisions in the APPC's and PRCA's Codes of Conduct are, in general, reasonable and logical in this respect. We do, however, raise three key concerns.

First, by focussing on relationships with and on behalf of clients, both codes are aimed clearly at lobbyists working within the consultancy sector, but hold less relevance for the work of in-house practitioners who, we feel, should also have the option of declaring their respect for and adherence to professional principles. We would therefore support a revised code for the industry which, in some form, can accommodate both consultant and in-house professionals.

Second, though we acknowledge the intent and benefits of requirements within the codes for consultants to disclose their clients' identities, we wish to highlight the specific difficulty this presents for law firms who are increasingly engaged in providing public affairs counsel—in addition to legal advice—to their clients. Contrary to the APPC's and PRCA's codes, solicitors are bound within Rule 4 of their own professional Code of Conduct to protect the confidentiality of the affairs of clients. The Solicitors Regulation Authority (SRA) has advised the Law Society that simply disclosing the name of a client would constitute a breach of the Code under this rule. Disclosure of clients' affairs is only permitted where required or permitted by law, or with the authorisation of the client.

We believe that, where possible, law firms undertaking lobbying/public affairs counsel should seek authorisation from their clients to disclose their name in order to assist the drive toward greater transparency. However, regard must be had to the professional rules imposed on lawyers which may actually mean that they are not able to disclose this information without breaching their own professional obligations.[83]

Thirdly—and with this last point in mind—we have been concerned to learn about certain recent conduct of the APPC which we consider to be unlawful. This conduct is the subject of a complaint to the OFT by DLA Piper UK LLP, backed by the Law Society.

Correspondence has been issued by the Association to all Members of Parliament stating that "all those, including government agencies, that contract public affairs or lobbying services should make APPC membership an absolute requirement." 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, as outlined above. Where lawyers do undertake lobbying work—which

[83] An example demonstrating the practical difficulties of client confidentiality is where Company A wishes to merge with Company B. A corporate team is advising on the merger; and the competition team is looking at the market share implications. Company A wishes to understand what, if any, political response there might be. For their plans to leak would be price sensitive and, indeed, for them to jeopardise confidentiality would have severe implications for any law firm. In those circumstances, could and should they make disclosure a condition of engagement?

is often an integral part of the service offered to a client—they continue to operate under their own rigorous professional Code of Conduct, which is upheld by the independent SRA. The Code states, among other things, principles on upholding the rule of law and proper administration of justice; acting with integrity and independence; and that a practitioner must not behave in a way that is likely to diminish the trust the public places in him/her and the profession.

The system of regulation for solicitors is set to develop further still via the Legal Service Bill, which proposes the establishment of an over-arching Legal Services Board to oversee the work of frontline regulators. The Law Society therefore considers that the conduct and regulatory regime for solicitors more than satisfies the requirements for maintaining honesty and integrity within the field of public affairs consultancy too.

7. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

We draw the Committee's attention to the point made in our response to Question 1, regarding the difficulty in drawing a boundary around those who we might suitably include within the category of lobbyists. Until the margins of that boundary are commonly identified and agreed, we believe it is difficult to consider external regulation as a workable option.

If public affairs advisers only were to be the intended subjects of regulation, voluntary codes appear to be a sensible way forward for protecting the conduct of the profession, providing that they are not promoted in an exclusive manner and in breach of competition law. As indicated in our response to Question 6, we would also support the creation of a voluntary code to accommodate in-house advisers.

If, on the other hand, those who undertake the representation and advocacy of views to politicians and decision makers were to be included as intended subjects of regulation, the situation becomes much more complex. As indicated in our response to question 1, in some cases those undertaking this work might indeed be the public affairs advisers, but in many it will be the clients themselves, or, in the case of in-house teams, other colleagues across the organisations concerned. In this circumstance, the number of potential subjects involved becomes so large, and their identification less clear, as to render the realisation of effective regulation extremely difficult.

For example, would all of the Law Society's policy advisers—each of whom engage in representing the organisations' views to decision makers on different occasions and issues—be subject to regulation, along with the senior management team and office holders? Would an organisation's events team, which engaged in contact with politicians and/or their offices in relation to planned receptions and seminars—perhaps encouraging them to attend—also be considered to be working on a level of activity that warranted regulation?

In our response to Question 1, we also highlighted the growth of informal lobbying networks between Whitehall and outside bodies. As these relationships are both instigated by the departments themselves, and may often be with policy-focussed personnel rather than an organisation's lobbying advisers, this raises further difficulties in relation to questions of regulation, and whether those involved in such dialogue might be considered within the boundaries of who might be regulated.

8. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

The Law Society welcomes the requirements, which have increased substantially in recent years, for public officials, ministers and Members to declare their interests, sources of income and gifts of value.

We are pleased that serious financial corruption does not seem to be a major problem within the British political scene, and note that where instances have occurred in the past, they have been comparatively small by international standards.

9. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

We have no comment to make on this issue.

10. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

We have no comment to make on this issue.

September 2007

Memorandum from Luther Pendragon

Introduction

This memorandum is in three parts. The first gives general background and addresses the Committee's Questions 6 and 7, which are of great concern to us. The second part provides our comments on some of the other questions. The third part is our Code of Professional Practice.

Part 1

Luther Pendragon is a multi-role agency with 40 staff, based in the City of London. Our clients include public and private sector organisations from across the UK, from elsewhere in Europe and from the United States.

Our practice stretches from public affairs work, including helping clients reach decision-makers in Parliament and government, to crisis management and community relations. We also have a Parliamentary client, the House of Commons Commission. In the vast majority of cases, we provide an integrated service. This means that for each client we focus on the whole range of communication disciplines that best befit the objective we seek.

Integrity and high professional standards are key to our reputation, together with our wide experience and multi-faceted approach. We know that our clients, staff and those whom we contact in the course of business wish to be clear about our standards and practice.

We therefore agree with Parliamentarians and others who believe that open standards and accountability are required from those whose business is to help clients inform and influence public policy. We believe any system should be voluntary, based on the most widely adopted and tested set of standards in the public relations sector, and focussed primarily on the responsibilities of individuals, with some necessary references to organisational behaviour.

That is why we have not signed up to one of the APPC or PRCA codes, and instead drawn up the Luther Pendragon Code of Professional Practice.

The Luther Code provides specific assurances that Parliamentarians and public officials will not be misled or subject to secret influence by any lobbying which we carry out. It is built around the Chartered Institute of Public Relations (CIPR) Code of Professional Conduct, which was approved by the Privy Council as part of the recent award of the institute's Royal Charter. Luther encourages all its public relations practitioners to join the CIPR, and funds the membership of everyone except Partners, who fund themselves.

Our detailed reasons for taking this course of action are these.

First, we believe strongly that the best regulation in this area is based on the professional responsibility of the individual practitioner, a principle demonstrated by the legal and medical professions. All professional lobbying is carried through by individuals—whether they are freelance, from a consultancy, or from in-house teams. Indeed, as practitioners they move between such roles. In contrast, a code which binds only corporate members of a trade association is restricted in its reach and application, especially if the company vanishes or the people move on.

Secondly, the APPC and PRCA codes contain a provision which is inappropriate for multi-role companies. They ask companies to reveal details of all their clients. However some clients of a multi-role consultancy want their relationship kept from view for good, legitimate reasons such as commercial sensitivity or to protect legitimate commercial advantage. As you will see, the Luther Code specifically addresses the issues that would arise if such a client wanted us to lobby on their behalf.

Thirdly and nevertheless, our code still addresses the issues of integrity raised in the trade association codes. In particular, we stress that nothing must be done that damages, or could be seen to damage, the integrity of public officials or Parliamentarians. Our training of staff will cover all the specific examples which are mentioned by the trade associations, but we have kept our Code open and therefore capable of being used to judge circumstances as thinking, perceptions and circumstances develop.

Part 2: Responses to Specific Questions from the Committee

Question 1: *What does it mean for an organisation to lobby government or Parliament?*

For experienced organisations with good contacts and experience, lobbying is not difficult or mysterious. But for organisations or individuals who have never engaged in the public policy process, it can be daunting. They need advice on the roles and concerns of the various institutions and individuals concerned, and on how to reach them effectively, in timely fashion, and within any relevant rules of conduct or procedure. Their inability to do this may not only prejudice their interests, it may deprive policy and decision-makers of relevant and valuable information. That is where consultancies can perform a valuable interest.

Question 2. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

We believe that the most effective and acceptable way to influence Parliamentarians and government is with information that is relevant, truthful, comprehensive, evidence based, and timely. It should always be clear from whom it has come and their interest in the matter. Influence should only be applied in a way that encourages well-informed decision making which has the public interest uppermost in mind.

It is clearly unacceptable to exert influence by using inaccurate or misleading information or information from a source whose identity and motives are obscured, or which is accompanied by inducements or pressure or disproportionate hospitality or gifts.

Question 8. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

Arrangements for transparency in government and Parliament should be regularly reviewed to ensure that they remain effective and credible to the public.

Question 9. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

We do not believe that it is acceptable for government organisations with significant internal resources or Ministerial leadership to use outside consultancies for lobbying other government organisations. However, we believe it is acceptable for smaller non-Ministerial organisations with limited specialist resources to employ a consultancy to help them influence other parts of government to meet legitimate policy goals. It is a matter of proportionality, need, and the justification of clear public policy objectives.

Part 3

Luther Pendragon Ltd: Code of Professional Practice

Part 1: *Introduction, principles, review and training*

Introduction

Luther Pendragon is proud of its reputation and of the reputation of its individual members of staff. Our Code of Professional Practice states openly and clearly the professional standards which we as a company and as individuals apply to our work. By making ourselves accountable, we seek to reinforce and sustain the confidence that our clients and contacts should expect to have in our service.

Our standards for company practice and public affairs work can be found in section 2 below. Together with this section and the Code of Professional Conduct of the Chartered Institute of Public Relations at section 3, they form the Luther Pendragon Code of Professional Practice (the Luther Code).

An omission from the Luther Code is not license to suspend commonsense or good judgement. In any case of doubt, staff must consult the sponsoring Partner for the account in question, or their mentor, or another Partner.

In interpreting the Luther Code, the laws of the land shall apply.

The Principles

The overarching principles of the Luther Code are integrity and professional standards. As a company and as individuals, we will apply the highest professional standards in the service of all our clients. Our sole instruments of persuasion are truthful information and arguments. We will do nothing that damages or could be considered to damage the integrity of clients, ourselves, or those whom we seek to inform and persuade. We will take particular care in the case of democratic institutions and elected representatives.

The foundation of the Luther Code is the Code of Professional Conduct of the Chartered Institute of Public Relations (CIPR). CIPR is the professional body for public relations practitioners in the United Kingdom. The award of the Royal Charter reflects the fact that the Institute has been through the most rigorous investigation of the influence for good it has on the professional practice of public relations.

As a leading communications agency, Luther Pendragon supports CIPR membership for its consultants at every level. They are required to abide by the principles of the CIPR Code, whether they are members or not.

The CIPR Code emphasises that these are the vital components of robust professional practice: honest and proper regard for the public interest; reliable and accurate information; and never misleading clients, employers and other professionals about the nature of representation or what can be competently delivered or achieved. Every member of CIPR is accountable for their conduct under the CIPR Code and can be called to account by the Chartered Institute's professional practices committee.

Independent Review

The Luther Code deals with issues arising in an ever-changing world. Regular review is essential to assure its continuing relevance, effectiveness and credibility.

An annual review of the operation of the code will be conducted by an Independent Adviser who will report his/her findings to the Board. The Independent Adviser will be appointed by the Board, who will seek the advice of the CIPR on the appointment. To perform his/her task, the Independent Adviser will have access to all records, and be free to interview any member of staff or other person in complete confidence.

Staff Training and Advice

It is essential that all staff understand the Luther Code and its implications. It is also important that they have ready access to advice and feel free to raise concerns.

All staff will be provided with a copy of the Luther Code on joining Luther Pendragon. It will be drawn to their attention and they will be expected to read it during their induction period. Regular training sessions will be provided, and a new member of staff will attend the first available session.

For immediate advice on the Luther Code, staff should approach the sponsoring Partner for the account concerned or their mentor. If they feel unable to do this, they may approach the Independent Adviser in complete confidence.

Part 2: *Company practice and public affairs*

Purpose of this Section

This section deals with the company's general practice and its relationship with clients and those we seek to influence. It covers the key issues affecting integrity, confidentiality, truth, and conflicts of interest. It complements the standards for professional behaviour of individuals set out by the CIPR Code in Section 3.

Democratic Institutions and Elected Representatives

Where democratic institutions govern the activities of members and staff in relation to external influence, or the activities of public affairs practitioners, we must follow their rules and the spirit of their rules at all times.

For clarity "democratic institutions" and "elected representatives" in the Luther Code refers to:

the UK Parliament, MPs, departments of state, statutory bodies and their respective staff;

the Scottish, Welsh and Northern Irish Parliaments/assemblies; MPs/assembly members; administrative bodies; and their respective staff;

regional and local councillors and authorities throughout the UK and their respective staff;

and the European Commission, Council, Parliament, MEPs, and their respective staff.

Hospitality and Gifts

It is acceptable to facilitate meetings and networking with reasonable hospitality, or to offer minor seasonal gifts. However, even these could be seen as inappropriate in certain circumstances. We must offer nothing that could be seen reasonably as an inducement or in other ways inappropriate, particularly in the case of democratic institutions and elected members. In all cases of doubt, the relevant Partner must be consulted. He or she may also choose to consult the Independent Adviser.

Client Confidentiality

Many clients are concerned about the confidentiality of their business. They wish to be assured that knowledge of their business gained by Luther Pendragon will remain confidential and under the client's control. Luther Pendragon will not reveal such knowledge to any third party, except as may be required by law, or exploit it without the client's permission.

Telling the Truth

For decision-makers to form valid judgements on the merits of an argument, they must be aware of its full context. Where decisions concern public policy, and the decision-makers are democratic institutions and elected representatives, it is essential to the democratic process that they are accurately informed.

Therefore, where Luther Pendragon is directly involved in representing a client's case to democratic institutions and elected representatives, we will always state clearly for whom we are acting, and the purpose of our work.

We will take all reasonable care to ensure that the information, arguments and propositions that we provide are factual and accurate. We will not lie or knowingly misrepresent the facts. Our standard contract terms state clearly that there is an obligation on clients to tell us the truth.

Secret Clients

Some clients require Luther Pendragon to keep our relationship secret. There are many good reasons for this, such as the protection of commercially sensitive information or the ability to gain a legitimate competitive advantage.

There are no general ethical or legal objections to secret clients, who can be found in many professional spheres. However, ethical questions do arise if the secrecy could or does lead to a breach of the standards expressed elsewhere in the Luther Code. This is a particularly sensitive issue where democratic institutions or elected representatives could be misled.

The motives behind a campaign and the source of its arguments are plainly relevant to public policy decisions. Therefore it is unacceptable to allow the absence of client information to manifestly mislead the people whom we are seeking to influence; or to allow a conflict of interest to remain hidden and unresolved.

If such an issue arises in respect of an approach to democratic institutions or elected representatives, Luther Pendragon will seek the client's permission to reveal their identity, or to make plain the nature of their business and their interests in the issue. Ultimately, the sponsoring Partner must not allow Luther Pendragon to act in a way which is, or which could be seen to be, manifestly misleading.

Conflicts of Interest

Conflicts of interests between clients, or between clients and potential clients must be avoided.

It is the responsibility of a team seeking new business to ensure that it will not conflict with existing business. If there appears to be a potential conflict, the existing client's prior agreement must be sought.

Where the existence of a client is known only to certain staff, there is a duty on the sponsoring Partner to prevent a conflict arising by continually reviewing new business activity.

Part 3: *Personal practice—the CIPR Code of Conduct*

NB: This is the CIPR Code of Conduct current on 20 September 2007. If and when it is modified by the Chartered Institute, then that version shall become Section 3 of the Luther Code.

CIPR Principles

1. Members of the Chartered Institute of Public Relations agree to:
    1. Maintain the highest standards of professional endeavour, integrity, confidentiality, financial propriety and personal conduct.
    2. Deal honestly and fairly in business with employers, employees, clients, fellow professionals, other professions and the public.
    3. Respect the customs, practices and codes of clients, employers, colleagues, fellow professionals and other professions in all countries where they practise.
    4. Take all reasonable care to ensure employment best practice including giving no cause for complaint of unfair discrimination on any grounds.
    5. Work within the legal and regulatory frameworks affecting the practice of public relations in all countries where they practise.
    6. Encourage professional training and development among members of the profession.
    7. Respect and abide by this Code and related Notes of Guidance issued by the Institute of Public Relations and encourage others to do the same.

Principles of Good Practice

2. Fundamental to good public relations practice are:

Integrity

— Honest and responsible regard for the public interest.
— Checking the reliability and accuracy of information before dissemination.
— Never knowingly misleading clients, employers, employees, colleagues and fellow professionals about the nature of representation or what can be competently delivered and achieved.
— Supporting the CIPR Principles by bringing to the attention of the CIPR examples of malpractice and unprofessional conduct.

Competence

— Being aware of the limitations of professional competence: without limiting realistic scope for development, being willing to accept or delegate only that work for which practitioners are suitably skilled and experienced.
— Where appropriate, collaborating on projects to ensure the necessary skill base.
— Transparency and conflicts of interest.
— Disclosing to employers, clients or potential clients any financial interest in a supplier being recommended or engaged.
— Declaring conflicts of interest (or circumstances which may give rise to them) in writing to clients, potential clients and employers as soon as they arise.
— Ensuring that services provided are costed and accounted for in a manner that conforms to accepted business practice and ethic.

Confidentiality

— Safeguarding the confidences of present and former clients and employers.
— Being careful to avoid using confidential and "insider" information to the disadvantage or prejudice of clients and employers, or to self-advantage of any kind.
— Not disclosing confidential information unless specific permission has been granted or the public interest is at stake or if required by law.

Maintaining Professional Standards

3. CIPR members are encouraged to spread awareness and pride in the public relations profession where practicable by, for example:

— Identifying and closing professional skills gaps through the Institute's Continuous Professional Development programme.
— Offering work experience to students interested in pursuing a career in public relations.
— Participating in the work of the Institute through the committee structure, special interest and vocational groups, training and networking events.
— Encouraging employees and colleagues to join and support the CIPR.
— Displaying the CIPR designatory letters on business stationery.
— Specifying a preference for CIPR applicants for staff positions advertised.
— Evaluating the practice of public relations through use of the CIPR Research & Evaluation Toolkit and other quality management and quality assurance systems (eg ISO standards); and constantly striving to improve the quality of business performance.
— Sharing information on good practice with members and, equally, referring perceived examples of poor practice to the Institute.

Interpreting the Code

4. In the interpretation of this code, the Laws of the Land shall apply.

September 2007

Memorandum from the National Union of Journalists

1. The NUJ welcomes the decision of the PASC to establish an inquiry into the transparency of the lobbying industry and the effectiveness of recent attempts by Parliament and government to regulate these.

2. Our comments are issued in a spirit of critical help, which we will seek to develop in both more detailed oral and written submissions to the PASC.

3. These issues are of critical interest to our members, particularly those who work in the public relations industry, because the unscrupulous activity of some organisations have brought both professional journalists working as PRs and organisations engaged in
supplying information to the media into disrepute.

4. Our starting point is that the PASC should broaden its remit. The European Union has a huge impact on the making of domestic legislation and the role of lobbying groups in Brussels and elsewhere can have a decisive effect on domestic law. Similar considerations apply to the big lobbying powers in the UN and major national states.

5. Further, any proposals the PASC suggests to apply to all nations and regions in England, Ireland, Scotland and Wales. The NUJ believes that if this does not occur it will flaw any proposals from the PASC as backdoor lobbyists will do exactly that—find a backdoor.

As a starting point we would like to make the following suggestion to the PASC:

1. All lobbying organisations and groups should be required to register on both a Commons and Lords register. This should include a mandatory system of electronic registration, including monies spent in lobbying campaigns. This should be available on a fully searchable online database, as many requests for information under the Freedom of Information Act have been denied on the grounds of commercial confidentiality.

2. The above should include itemised details of expenditure on secondary and third parties. Where lobbyists employ secondary agencies or individuals to provide information on behalf of their clients, be they academics, research bodies, corporations, non-governmental organisations, trades unions or any other relevant body these should be publicly disclosed.

3. Any payment to or received from any of the above should also be disclosed.

4. Lobbying organisations should also be required to submit a public record of all their submissions to parliamentary and local authority bodies, secondary and tertiary tier authorities, government agencies and advisory bodies. This is increasingly relevant given the growing use of non-elected agencies in these areas.

5. The PASC should also consider enforceable ethical rules for lobbyists. It is not acceptable that lobbyists can employ officials or their relatives or close business associates. Clear conflicts of interest arise. Similarly, formal and informal meetings and correspondence between elected Members, officials and lobbyists should be recorded on online database.

6. An end should be put to the "revolving door" whereby Ministers, elected Members, councillors officers and senior officers across the public sector—including those working for "arms-length" management organisations can start working for lobby groups or consultancies. At a minimum this should be one year with strict checks kept on back pocket payments.

Finally, the NUJ would urge the PASC to give careful consideration to these suggestions. As the Audit Commission and other bodies have said for several years, it is the lack of openness, transparency and public accountability in the political process and the management of public services that has led to the decline of popular participation in the democratic process. Although there are many factors which may have contributed to this the undue influence of lobbyists is a critical one and it is vital that the PASC thoroughly investigates this.

September 2007

Memorandum from PPS Ltd

Thanks for your letter of 5 March. As you suggested, I am writing to explain PPS Group's position with regard to the comments made to the Public Administration Select Committee by Professor David Miller, Dr William Dinan and Mr Peter Facey on 24 January.

In Q131 of the transcript of that session, Paul Rowen MP asked a question about various activities that took place in his constituency and in his reply, Professor Paul Miller stated that PPS Group was involved in these activities. In fact, we were not.

The situation is as follows: PPS worked for Countryside on the former Turner & Newell factory site in Rochdale for seven months (Jan to July 2005). Our role was to give countryside strategic advice through regular meetings with them and with the local authority. The only external activity we undertook was organising one meeting with the local protest group. All the other day-to-day delivery of activity on the project was the responsibility of Countryside and their two retained PR companies, Meredith Thomas PR and Harrison Cowley.

At no time did PPS:

— Have any involvement in the creation of a website for Countryside.

— Draft any written material, leaflets, brochures and the like.

— Engage in any lobbying on behalf of, or alongside, Countryside.

— Write, or cause to have written, any letters of support. Indeed, we checked Rochdale Council's case file on 4 February 2007 (App. File D44710) and until that time not one letter of support had been received on this project. So how we, or anyone else, can stand accused of forging supportive letters is beyond me.

The allegations of any wrong-doing by PPS are completely without foundation and we refute them utterly.

I am also aware that Spinwatch circulated a private brief to Members giving details of what they felt were instances of wrong-doing by public affairs companies. I understand that PPS was mentioned in that brief but, as I have not seen it, I am at something of a disadvantage in terms of trying to respond.

Should the Committee be minded to make the brief public and it contains other than those referred to in this letter, I would again welcome the opportunity to write and set the record straight.

April 2008

Memorandum from SpinWatch

The inquiry by the Public Administration Select Committee (PASC) into lobbying represents a long overdue review of the relations between Westminster and outside interests. The undersigned organisations are concerned about the growing influence of lobbying on decision-making in the UK and believe only increased transparency can begin to restore trust in policy making and make Ministers, elected representatives and officials more accountable to the public.

At present there are very few ethics and transparency rules governing lobbyists. Lobbying continues to be shrouded in mystery. The register of member's interests and codes of conduct for Members of Parliament, Ministers and officials and advisers are necessary but insufficient to make lobbying transparent and accountable, since they do not require any disclosure by lobbyists themselves.

The current approach of the lobbying industry is to rely on self-regulation. This has demonstrably failed to ensure transparency, does not cover all of the industry and suffers from a lack of effective oversight.

In addition, the rules governing the conduct of Ministers, civil servants, MPs, Lords and their staff are in need of re-examination. Recent issues about the use of parliamentary passes, the role of All Party groups, the "revolving door" and the outside interests of parliamentarians have revealed some lack of transparency and shortcomings in the ethical regulation of the conduct of the Houses of Parliament.

Gordon Brown has indicated a desire to listen to the views of the public and encourage a more participatory democracy. A system that allows disclosure of all lobbyists' activities is a significant first step in promoting confidence in policy making, improving transparency and boosting participation.

Parliament should take determined action to improve transparency around lobbying and the ethical conduct of Ministers, civil servants, MPs, Lords and their staff. The aim must be to ensure that lobby groups are not granted privileged access and undue influence on policy-making and that public servants are not put in the position of real and apparent conflicts of interest.

The undersigned organisations recommend the PASC call for the enactment of Lobbying disclosure legislation that must include:

— A mandatory system of electronic registration and reporting for all lobbyists with a significant annual lobbying budget. This must include disclosure of resources expended in lobbying campaigns, which itemises expenditure by outside interests (clients and their agents) on each piece of legislation they have lobbied on. Reports must be made available in a fully searchable, sortable and downloadable online database.

— Enforceable ethics rules for lobbyists (for instance prohibiting employment of officials or their relatives for lobbying purposes).

— Enhanced ethical rules on members interests, on the role of All Party groups, and stricter regulation of outside interests.

— Recording of formal and informal meetings between elected Members, officials and lobbyists and logging of correspondence (to be made available in a fully searchable online database).

— An extended "cooling off" period—one year—before Ministers, elected Members and senior officials across the public sector can start working for lobby groups or lobbying consultancies.

Action Aid	Campaign Against Arms Trade
Campaign for Press and Broadcasting Freedom	The Corner House
Corporate Watch	Food Ethics Council
Friends of the Earth	nef (the new economics foundation)
PLATFORM	SPEAK Network
Spinwatch	Unlock Democracy (Charter 88)
War on Want	World Development Movement

September 2007

Supplementary memorandum from SpinWatch

Introduction[84]

This submission has been put together in response to the Committee's request for more evidence regarding the scope, scale and nature of the problems associated with secretive and deceptive lobbying and public affairs activity. Some of the evidence below is taken from second-hand sources, particularly media reporting. However, other parts of the evidence have been gathered and synthesised by SpinWatch, which is a small, public interest, non-governmental organisation.[85]

Gathering and Uncovering Evidence on Lobbying

It should be acknowledged that researching, documenting and exposing deceptive lobbying and misleading public relations is inherently difficult. Those involved would doubtless prefer such activity does not attract public attention and scrutiny, even if no laws are broken. As such the evidence we are submitting, while clearly demonstrating there is a problem, is necessarily indicative rather than conclusive. Although this is a rather obvious point we think it is worth restating, given some of the assumptions, expectations and lines of questioning taken by some members of the Committee during the hearings on lobbying.

Nevertheless, we believe there is a compelling case for a mandatory lobbying register—supported by the evidence here. A key reason why we believe that a mandatory lobbying register is necessary is that in our view accountability is premised on transparency and openness. Elected representatives and public servants cannot be accountable to the people if their activities are not widely known and understood. Without relevant and reliable information in the public domain voters may struggle to understand policy-making and decision-making processes. Having an official record of relations between government, elected representatives, public servants and outside interests would also go some way towards mitigating misinformed and sensationalist media reporting of "scandal" and "sleaze".

In this paper we want to lay out a number of examples of problematic links between decision-makers and outside interests. These examples are intended to illustrate how a lobbying register would make a real impact in opening up such contacts and channels of influence. Much of the data on the nuclear lobby in Britain has been compiled through the NuclearSpin project. This research suggests the role of lobbyists and public affairs specialists in securing a key policy change by government is significant. We believe this is but one instance of a wider trend in British public life, which requires greater scrutiny and critical publicity.

In our view the evidence of the problem of lobbying to which regulation is at least part of a solutions is as follows:

1. The public think there is a problem
2. Evidence of increased power and influence of big business
3. Evidence of lack of transparency and deceptive tactics in lobbying
4. Evidence of privileged access for lobbyists
5. Evidence of conflicts of interest particularly in relation to outside interests and "revolving doors".

Before turning to the evidence, we suggest that the debate on lobbying can learn from the US case.

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[84] This briefing has been compiled by Professor David Miller, Dr William Dinan, Andy Rowell and Tamasin Cave of SpinWatch.

[85] We have received project specific funding for some of our work, in particular the NuclearSpin project, which was funded by Greenpeace and the JMG Foundation.

LESSONS FROM THE US

The experience of the United States is instructive here as it would appear that the media use the information made available through the provisions of the Lobbying Disclosure Act (LDA) to scrutinise decision-making, rather than launching personalised "witch-hunts". Of course it should not be suggested that the US provides direct lessons in terms of the precise kind of regulation which is appropriate. It is clearly the case that lobbying regulation needs to be fashioned in the context of specific national and political variations in the UK. Nevertheless, there are some general lessons we can learn from the US experience. In the US, data on lobbying activities and expenditures are readily available. In 2007 $2.79 billion was spent to lobby US decision-makers.[86] Data submitted by lobbyists under the LDA allows informed analysis of spending by different interest groups, and enables interested parties to discern trends and patterns of interest representation. This information is easily accessible to decision-makers, interested citizens and the media. Quite clearly this is not "voyeurism" but a relevant and reliable tool that enables proper scrutiny of the role of lobbying and thus helps to improve the quality of democratic decision-making.

However, it is important to recognise that the LDA has led to some critical media reporting. The infamous Abramoff lobbying scandal in the US offers a salutary lesson in how financial transparency can help to identify and address problematic cases of lobbying. Under the provisions of the US LDA, Abramoff was obliged to disclose his clients and the related lobbying budgets. This publicly available information made it possible to identify Abramoff's extraordinary revenues and the fact that he represented clients with competing interests on the same policy issues. Without this publicly available information Abramoff might not have been brought to book for his corrupt lobbying. While we are not alleging that scandals on a similar scale are taking place in Britain today, we would point out that currently it is impossible to absolutely vouchsafe the integrity and probity of all of British public life. A lobbying register that made it possible to check what clients a lobbyist represents and how much they receive for so doing would help eliminate unhealthy and unfounded suspicion of British public life.

In our view an official, mandatory register of lobbyists would make a telling contribution to openness and transparency in British public life. We firmly believe that Parliament, or any independent body set up to monitor and enforce a lobbyist register (the model of the Information Commissioner clearly recommends itself in this context) should be pro-active in ensuring compliance, offering clear and consistent advice and guidance to those covered by such a register, and to those interested in learning more about the register. It is important that a mandatory register commands the respect and confidence of the political community. If this can be established then a lobbyist register can make a tangible contribution to restoring trust in our system of governance.

1. *The public view*

It is clear from a wealth of opinion poll evidence that there has been a decline in trust in the political process (affecting not just Ministers or government, but also Parliament and politicians generally). It can certainly be argued that some of this change in the public mood might be driven by media reporting and not be a straightforward index of mounting corruption. Nevertheless, it is difficult to lay all the blame for this at the door of the media. In any case, the issue of lobbyists' apparent special relationships with and privileged access to decision-makers is not going to go away. Even if it were only a matter of perception this would still need to be addressed. As we noted in our first submission to the Committee the evidence from the Power Inquiry does show that the public believe that lobbyists are able to gain privileged access to Ministers and other decision-makers.[87] The popular view is that this is unfair and that it ought to be tackled. It is our contention that transparency and enhanced ethics regulation is the most obvious and most effective way to address these concerns.

2. *The increased power of business*

The context of such public concerns relates to changes in governance over the last two decades. Almost all writers on corporate power or interest groups now agree that corporations have increased their power over political decision-making in the past twenty years. For example, the leading political scientist Wyn Grant noted in 1995 that "business interests have tended to strengthen their privileged position in the 1980s and 1990s". One reason for this, he notes, was a government which "sought to promote business interests".[88] Since then relations with business have only been enhanced by recent administrations, of which Grant notes "consultation is close, frequent and intense. Concessions are often given, if less frequently publicised". Grant notes and does not demur from the judgement that the Blair Government "was the most pro-business government Britain had ever had".[89] Other writers from across the spectrum of political science go further. Colin Leys refers to "market driven politics", Philip Bobbitt, a former US

[86] Opensecrets Lobbying database, Centre for Responsive Politics. www.opensecrets.org/lobbyists/index.asp
[87] Power Commission (2006) *Power to the People* March, London: The Power Inquiry.
[88] Grant, W (1995) *Pressure Groups, Politics and Democracy in Britain*, 2nd Edition, Hemel Hempstead, Hertfordshire: Harvester Wheatsheaf. p 161.
[89] Grant, W (2000) "Globalisation, Big business and the Blair Government", *CSGR Working Paper* No. 58/00, August.

presidential advisor, describes British governance as an example of the "market-state", while Colin Crouch refers to the contemporary period as the era of "post-democracy"[90]. Each description acknowledges the increase in the power of business.

The academic literature on lobbying is extensive. Much of it situates itself in the context of studies of the "group theory of politics" as an early US account put it.[91] UK studies have tended to focus on interest and pressure groups.[92] There are surprisingly few book length or even extended empirical studies of lobbying in the UK. Those that do exist include the classic early account by Samuel Finer, Anonymous Empire (published in 1958) and an edited collection in response to the emergence of "sleaze" as a political issue in the 1980s.[93] Other accounts have either been written by lobbyists themselves, with a tendency to paint a rosy picture,[94] or by journalists, who tend to highlight cases of apparent misbehaviour.[95] One reason for this apparent gap in the literature in the UK—compared with the US for example—is that lobbying has been less of a problem in the UK in the past. All observers agree that lobbying has hugely expanded in the UK in the past two decades.[96] This has been as a direct result of the business-friendly policies pursued by successive governments. It is the enhanced role of business in government more than anything which has made the issues of transparency and conflict of interest more prevalent and pressing.

Some political scientists have recognised the importance of lobbying. Jordan, for example, states that a proper understanding of contemporary British politics is impossible without examining lobbying.[97] Austin Mitchell MP remarked in the early 1990s that "in reality, lobbying has increased, is increasing, and is not going to be diminished . . . our vaunted constitution is really a framework of lobbying; for the constitution is, essentially, whatever governments can get away with. Lobbying, persuasion and opinion manipulation are the tugs at the sleeve of power".[98] Since then the lobbying industry has indeed grown significantly, but there has been little in the way of book length academic studies on it.

The British lobbying industry is estimated to have doubled in size since the early 1990s and there are said to be 3000 full time lobbyists (consultants and in-house) in the UK.[99] This may be something of a conservative estimate. A survey published by the Chartered Institute of Public Relations (CIPR) in 2005[100] indicated some 47,800 people employed in public relations in the UK. Just over 80% of these were identified as working "in-house" (ie working directly for corporations, charities and public bodies) with an even split between those employed in the public and private sectors. If we accept there is something of a blurring between lobbying and PR, and if we include lobbyists working in-house, rather than in consultancies, then the number of professional communicators engaged in lobbying and related activities is quite significant. That there is no reliable register of what these people are doing in public affairs is properly a matter of public concern.

3. *Transparency and deceptive lobbying*

There are two main issues here. The first is that lobbyists do not routinely disclose all their clients and those lobbyists who do disclose (either through the APPC or on their websites) do not always disclose all their clients. The second issue is that lobbying is often deceptive in that lobbyists will try and disguise their clients or will engage in misinformation. In one of the Committee's hearing Tony Wright noted that—"Most people assent to the proposition that lobbying is integral to an effective democracy… We could not do our job unless we were being lobbied all the time by every outside interest group who know more about these issues directly than we do." We agree that lobbying is both integral and necessary. But some lobbying may also be less than open and honest. The best way to protect against that is through a register and enhanced ethics rules for lobbyists.

A key question that must be addressed if the principle of a lobbyists register is accepted is the definition of lobbying for registration purposes. The Committee has heard evidence recently that there is something of a blurring between lobbying, public affairs, government relations and public relations. In some respects

[90] Leys, C (2003) *Market Driven Politics*, London: Verso; Bobbitt, P (2003) "Marketing the Future of the State", New Statesman, 17 January; Crouch, C (2004) *Post-Democracy*, Cambridge: Polity.
[91] Milbraith, L (1963) *The Washington Lobbyists*, Chicago: Rand McNally and Co. p 13.
[92] For example, Grant, W (1995) *Pressure Groups, Politics and Democracy in Britain*, 2nd Edition, Hemel Hempstead, Hertfordshire: Harvester Wheatsheaf.
[93] Finer, S (1958) *Anonymous Empire*, London: The Pall Mall Press.; Jordan, G (ed) (1991) *The Commercial Lobbyists: Politics for Profit in Britain*, Aberdeen: Aberdeen University Press. Moloney, K. (1996), *Lobbyists for Hire* Dartmouth Press: Aldershot.
[94] For example Miller, C (1990) *Lobbying: Understanding and Influencing the corridors of Power*, 2nd Ed. London: Blackwell; Greer, I. (1997) *One Man's World, The untold story of the cash-for-questions affair*, London: Andre Deutsch.; John, S (2002) *The Persuaders: When Lobbyists Matter*, Basingstoke: Palgrave MacMillan.
[95] For example, Hollingsworth, M (1991) *MP's for Hire*, London: Bloomsbury; Leigh, D and Vulliamy, E (1997) *Sleaze: The Corruption of Parliament*, London: Fourth Estate.
[96] Parvin, P (2007) *Friend or Foe: Lobbying in British democracy* (Jan) ISBN 978 0 900423 63 7 London: The Hansard Society. http://www.hansard-society.org.uk/files/folders/357/download.aspx
[97] Jordan, G (ed) (1991) *The Commercial Lobbyists: Politics for Profit in Britain*, Aberdeen: Aberdeen University Press, p vii, viii.
[98] Cited in Jordan (1991), p 3.
[99] Thompson, S and John, S. (2002) Public Affairs in practice: a practical guide to lobbying, pp 4–5.
[100] Chartered Institute of Public Relations, *Reaching New Heights*, Annual Review 2005, p 6, based on research conducted by the Centre for Economics and Business Research (CEBR).

this is reflected in the evidence we draw upon below. While the precise details of a lobbyist register are matters for further deliberation, it is important to note at this point that the traditional notion of the lobbyist as political fixer, go-between and mediator of relationships between outside interests and the political class needs to be updated. The distinction between public relations and lobbying activity can be difficult to discern. Some political campaigns may require a degree of publicity to build support and political pressure. Others are strategically premised on secrecy and discretion. The former may require conventional media-relations and PR capacity, whereas the latter suggests a low profile, but perhaps high-powered approach.

Many of the largest lobbying firms in the UK offer a range of communications services to clients. Indeed, the recent controversy over the lobbying activities of well-known PR firms such as Burson Marsteller and Edelman point to a clear regulatory gap in the current system of lobbyist self-regulation. In the case of Burson Marsteller, the Association of Professional Political Consultants (APPC) accepted that the interest in question (Microsoft, and their efforts to shape politicians, regulators and media sentiment[101]) had not been a public affairs client when Burson filed its self-declaration for the APPC's register. For many observers the effort to imagine such communications activities as unrelated to lobbying requires a certain suspension of disbelief. In the case of Edelman, it was again media reporting rather than industry vigilance that exposed the problems associated with the lack of full transparency in public affairs.[102] Arguably, two newspaper articles on the same Sunday in September 2007 have done more recently to publicise and scrutinise the role of lobbyists in British public affairs than the much-vaunted self-policing system the industry expects us to rely on to secure the probity of public life.

In evidence to the Committee Mike Granatt stated: "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." Eben Black of DLA Piper echoed this observation, claiming: "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." Such evidence establishes that the self-regulatory model does not work and that transparency will not be possible without binding regulation. We should note in particular that any register would have to define lobbying and that this is the mechanism to catch all lobbying activity as opposed to activity labeled "lobbying" by the industry.

Transparency and ethics in lobbying are both raised in the case study of the policy debate on nuclear energy which follows.

The Pro-Nuclear Push

When the three industry representative bodies (APPC, CIPR, and PRCA) gave evidence to the Committee they were asked about the role of lobbyists in shifting government opinion on nuclear power since 2003. "Has the lobbying industry made a difference in the change of position in the development of civil nuclear power?"

Evidence of lobbying and PR activity from the nuclear lobby suggests yes. In October 2004, Nirex, the government agency established in 1980 to oversee the storage of radioactive waste, which was then charged with finding a long-term repository for the waste, wrote a public relations and media strategy document.

Both "Government" and "Parliament" were listed as "target groups".

The strategy for Parliament and government was to "divide and rule" MPs. The strategy stated that it was necessary to "Bolster and if possible enlist those MPs who support our policy", "Convince those MPs who are indifferent or soft against" and "Isolate or convince those MPs who are against."[103]

Nirex proposed that third parties—or "indirect methods"—should be used to put forward the nuclear industry case. "'We must first establish what are the best lines of action to be followed particularly whether 'direct' or 'indirect' methods would be better'". Indirect methods included using "local and regional media to progress arguments, not necessarily by Nirex".

The internal strategy document went on to note "We have to be sure that 'opinion leaders are carefully recruited and groomed'." The document also talked about "recruiting" people and then to "provide them with a programme of appropriate communications messages and platforms." This is classic third party technique—apparently much used by the nuclear industry as part of their public affairs campaigning.

[101] Mathiason, N (2007) "Microsoft in row over lobby tactics", *The Observer*, 23 September.
[102] Newell, C and Watt, H (2007) "John Hutton faces calls for inquiry over Whitehall lobbying by wife's firm", *The Sunday Times*, 23 September.
[103] Nirex Report, October 2004. www.nuclearspin.org/images/f/fb/Nirex.pdf

It has been admitted as much by BNFL. Philip Dewhurst was BNFL's Group Corporate Affairs Director from April 2001 until December 2006. He was also the Chairman of the Nuclear Industry Association. In 2006, he told PR Week that BNFL was spreading its pro-nuclear messages "via third-party opinion because the public would be suspicious if we started ramming pro-nuclear messages down their throats."[104]

One of the ways that BNFL has done this is through its employees. BNFL has been paying the wages and travel expenses of the workers organisation, Nuklear 21, which has been lobbying for new nuclear new build. "We have tended to lobby party conferences and fringe meetings and get ourselves down to Westminster, talking to MPs," according to Howard Rooms, a trade unionist from BNFL's plant at Sellafield in Cumbria, and coordinator of Nuklear 21.
Working closely with Nuklear 21 have been John Robertson, chairman of the All-Party Group on Nuclear Energy, and Jamie Reed, MP for Copeland and former BNFL spokesman. BNFL's strategy has been extremely clever. Instead of the sinister nuclear lobby, you had workers and MPs fighting for jobs.[105]

The industry has also been trying to get others to promote its cause too. In the summer of 2005, the Nuclear Industry Association and BNFL approached key academics and independent researchers to attend a media training workshop, along with staff from BNFL and NIA, to be run by lobbying firm Weber Shandwick. One of the recipients of an email announcing the training said: "If, as we expect, the energy review is announced before Parliamentary recess in July we need to be well prepared to hit the airwaves confidently then".[106]

Documents uncovered by SpinWatch's project, NuclearSpin, show that the issue of climate change has been used by the industry to try and persuade the Government to change its mind on nuclear energy. For example, climate change features in a series of "race-cards" that the PR company, Strategic Awareness, developed for BNFL. The cards were key messages for senior BNFL staff to use to push for nuclear in public. They argue for the need to make the debate "personal" and "real", using "simple, straightforward language", while "emphasising how nuclear protects values." On the link with climate change they said: "CO_2 emissions = climate change = irreversible damage to our environment."[107] The PR company Weber Shandwick also worked on a "Nuclear New Build" strategy for BNFL. Part of the strategy related to the question of climate change: "Nuclear power is essential in combating CO_2 emissions", argued Weber Shandwick. [108] This link now appears to be accepted as fact in the minds of many.

Much of the information on the lobbying and public affairs work of the nuclear industry in the last few years has been obtained from government using the provisions of Freedom of Information legislation. Downing Street took ten months to reveal the details of how Geoffrey Norris held secret meetings with nuclear bosses at the crucial time when the Government was formulating its policy on nuclear power. Norris, now energy adviser to Gordon Brown, held at least nine meetings at Downing Street with the bosses of nuclear energy companies. The meetings were held with EDF and BNFL (attended three meetings each); British Energy (two meetings); EON (one meeting); and the World Nuclear Association (one meeting).[109]

Because there are no official records of the meetings this adds to the concern that certain advisers can operate outside the rules of government accountability and transparency.[110] This also leads to serious concerns about privileged access to decision-makers for wealthy and well-resourced special interests.

4. *Privileged Access*

Lack of transparency in lobbying is compounded by the apparent phenomena of privileged access. This means that some interests and some lobbyists are given preferential treatment and are able to access Ministers, civil servants and in some cases MPs more easily than their competitors in policy disputes, and certainly more easily than citizen interests. We give two examples of this below which support this view that certain interests are given privileged access to Number 10 and government Ministers

Multinational Chairmen's Group

The example of the obscure and generally secretive Multinational Chairmen's Group illustrates this. The Guardian recently reported how a small lobbying group of businessmen, including Lord Browne, then of BP, Arun Sarin of Vodafone, Sir John Bond, then of HSBC, and Sir Christopher Hogg, then of GlaxoSmithKline, were able to use their privileged access to then Prime Minister, Tony Blair "to

[104] Rowell, A (2006) "Plugging the gap", *The Guardian*, 3 May.
[105] Rowell, A (2006) "Power struggles", *The Guardian*, 15 July.
[106] Rowell, A (2006) "Plugging the gap", *The Guardian*, 3 May.
[107] "Nuclear Energy Racecards", developed by Strategic Awareness for BNFL. www.spinprofiles.org/images/0/06/Bnfl15.PDF
[108] "The Case for Nuclear Energy", December 2004, by Weber Shandwick for BNFL. www.spinprofiles.org/images/8/8d/BNFL0002.PDF
[109] Rowell, A and Cookson, R (2008) "Secret nuclear talks held at No 10", *The Independent,* 13 January.
[110] Rowell, A and Cookson, R (2008) "Secret nuclear talks held at No 10", *The Independent,* 13 January.

protect the pensions of the ultra-rich."[111] The group "meets informally three times a year and has an annual meeting with the Prime Minister".[112] "This discreet club takes pride in its privacy", reports the Sunday Times.[113] "Outside the small circle of its members, it is little known even within the upper echelons of the Confederation of British Industry, under whose auspices it meets."[114] Details about the MCG meetings only came to light after a long struggle by the Guardian to get hold of documents under Freedom of Information legislation went all the way to the Information Commissioner. The Group—of less than ten—includes the heads of some of the biggest firms in the UK including BP, Diageo, Unilever, HSBC, Shell, Vodafone, GlaxoSmithKline, Rio Tinto and British American Tobacco (BAT). Its tactics include threatening "exit" from the UK if the Government does not do what it wants. To ensure the Government got the message the press were briefed and reported as follows: "Business leaders are warning they're not bluffing. The very real scenario he is facing is of an industrial and corporate Britain without many of the huge multinational players. The spectre of Britain being an outpost…is haunting Blair."[115]

Documents show that BAT "was able to put private pressure on Tony Blair and a Cabinet Minister who wanted to hold an inquiry into allegations that the firm was colluding with criminals". After behind-the-scenes lobbying, via the MCG, plans for an inquiry, "which could have published a highly damaging report", were "dropped." "Instead", the Guardian reported, "MPs were told that a watered-down inquiry would be conducted in secret. Its activities were 'buried' for almost four years, after which it emerged that no action was to be taken. BAT was so pleased with the eventual form the inquiry took that their lobbyists described it, in a private note, as "not a problem"."[116]
The group also "outmanoeuvred Gordon Brown, then chancellor, to shield 'fat cat' pensions from his proposals to tax them more heavily":

> The lobbying, allied with protests from other business groups, forced Brown to rethink. Within a few months, he had loosened the proposed cap on their pension pots so that more of their money would escape the tax net. The extra tax will only be payable on pension savings over £1.8 million, not the originally proposed £1.4 million, and will not come in until 2010. He delayed the start date of the new regime to give the rich more time to re-arrange their finances. He also reduced the tax rate from 60% to 55%. The super-rich can thus shelter an extra £400,000 from the taxman—at Brown's original proposed 60% tax, that sum would have incurred a £240,000 tax bill.[117]

The Guardian states that Downing Street only released the heavily censored documents after Richard Thomas, the Information Commissioner, ruled that the public had a right to know how lobbyists influenced Ministers.[118]

In his ruling he said: "In relation to policy discussions with external stakeholders the Commissioner takes the general view that the likelihood of those parties being deterred from freely expressing their views is diminished when they are in effect being given an opportunity to lobby the policy-makers, as in this case."

He continued: "Furthermore, the Commissioner notes that there is a strong public interest in informing public debate … In addition, he considers that there is a public interest in facilitating understanding of how government formulates policy, and also in increasing public confidence that decisions are properly made." [119]

It is our belief that a register of lobbying can only help facilitate a proper understanding of how government works, and thereby increase public confidence that decisions are being made properly and in the public interest. In a climate of skepticism and suspicion (which is not simply attributable to the media or watchdog groups) transparency offers the best means of restoring trust and confidence in public affairs.

Aviation

The case of the aviation industry also exhibits similar features. A request under the Freedom of Information Act for details of any Department for Transport Ministerial meetings—held between January 2006 and June 2007—with British Airways, British Airports Authority, environmental NGOs and development NGOs revealed a huge disparity in access to senior decision-makers.

[111] Cookson, R, Evans R and Levene, T (2008) "Ultra-rich lobbying group with influence at No 10", *The Guardian*, 12 February.
[112] Gribben, R (2003) "Business heads chew the fat and the croissants with PM" *Daily Telegraph*, 3 September, p 31
[113] Lorenz, A. (2000) "The bosses' revolt" *Sunday Times*, 4 June, Business Section.
[114] Ibid.
[115] Porter, A (2003) "Big guns turn on Blair" *Sunday Times* 31 August, Business Section, p 5.
[116] Evans, R, Leigh, D and Maguire, K (2004) "Tobacco firm gained secret access to Blair" *The Guardian* 27 October.
[117] Cookson, R, Evans, R, Levene, T (2008) "Ultra-rich lobby group with influence at No 10" *The Guardian*, 12 February.
[118] Cookson, R, Evans, R, Levene, T (2008) "Ultra-rich lobby group with influence at No 10" *The Guardian*, 12 February.
[119] FOI Act Decision Notice, Information Commissioner's Office, 30 July 2007. (Reference: FS50086299).

The two companies had many more meetings with the Secretary of State or Under Secretary of State compared to environmental NGOs. With BAA securing 12 Ministerial meetings and BA 6, and the various environmental NGOs managing just 7 between them, the figures themselves suggest that a level playing field does not exist.

		Environmental NGOs
02/03/06	Transport 2000 (T2000)	Secretary of State
02/03/06	T2000, RSPB, Greenpeace, Friends of the Earth, WWF, National Trust, Green Alliance	Secretary of State
15/06/06	T2000	Secretary of State
28/06/06	Greenpeace	Secretary of State
17/07/06	Friends of the Earth	Secretary of State
16/10/06	T2000, Sustrans, Slower Speeds Initiative, Car Plus	Secretary of State
20/11/06	Sustainable Development Group	Secretary of State

Date	*Organisation*	*Minister Attending*
08/02/06	BAA	Parliamentary Under Secretary of State
07/03/06	BAA	Secretary of State
22/03/06	BA	Secretary of State
25/04/06	BAA	Secretary of State
23/05/06	BAA	Secretary of State
19/06/06	BA	Secretary of State
19/07/06	BAA	Secretary of State & Parliamentary Under Secretary
10/08/06	BAA	Secretary of State
12/08/06	BA	Secretary of State
23/08/06	BAA	Secretary of State
13/09/06	BAA	Secretary of State
18/10/06	BAA	Secretary of State
29/01/07	BA	Secretary of State
30/01/07	BAA	Secretary of State
21/02/07	BA	Parliamentary Under Secretary of State
07/03/07	BAA	Secretary of State
13/03/07	BA	Secretary of State
16/05/07	BAA	Secretary of State

The lobbying efforts of BAA and BA, and their access to Ministers has not escaped the notice of Parliamentarians. In a debate in the House of Commons on the Planning Bill last year (10 December 2007), John McDonnell, Labour MP for Hayes & Harlington also drew attention to BAA's lobbying efforts after the inquiry into terminal 5 at Heathrow.[120] He said that decision-making at Ministerial level had been "unduly influenced by the aviation industry".

According to McDonnell, "the aviation White Paper was drafted and dominated by the aviation industry lobbying the former Chancellor. The consultation paper that will be out for the next few months was drafted and virtually dictated by BAA, with the evidence modeled by BAA—that is the information that we have received under the FOI Act 2000." For a detailed map of the relationships between BAA, their retained lobbyists and PR consultants, and government, please see appendix 1.

The links outlined in this appendix were established using a number of sources of information and methods. It took ten months, using FOI and other means, to assemble this information. Under a mandatory lobbying register, with online reporting and updated every 6 months, this information would have been easily available in the public domain.

With the information on a register—out in the open—it would also mean there was less public and media suspicion and speculation. The current strength of opposition to Heathrow expansion, for example, has been fueled in part by the secrecy and accusations of undue influence by the aviation industry. Had the information been in the public domain, via a lobbying register, media reporting could not have proceeded without some recourse to official, reliable information.

[120] John McDonnell MP, House of Commons debate on the Planning Bill, 10 December 2007.

Privileged Access: Parliamentary Passes

The concern about whether having a parliamentary pass gave someone "extra power" or particular advantage has been raised during evidence to the Committee. Perhaps this question can be answered by two recent cases that highlight how passes can be abused.

In July 2007, it was revealed that some peers were allegedly handing out exclusive access to the Houses of Parliament to lobbyists and pressure groups, for which they received thousands of pounds a year.

Parliamentary passes intended for researchers and secretaries were being given out to representatives of the defence, transport, freight and legal industries. For example, an investigation by the Times newspaper found that Lord Howie of Troon, gave a pass to Doug Smith, a Westminster lobbyist who is chairman of Westminster Advisers, whose clients include French multinationals Sodexho and Accor. Lord Berkeley gave a pass to Neil Stevens, from the Rail Freight Group, whose clients include Maersk, the container shipping line.

Gill Morris, head of the APPC told the paper: "Having a pass to the Palace of Westminster and its facilities has clear advantages."[121]
Three months later, in October 2007, it was also alleged that a Labour peer, Lord Hoyle, had taken money to introduce an arms company lobbyist to the government Minister in charge of weapons purchases.[122] The lobbyist is said to have paid cash for an introduction to Lord Drayson, the Defence Minister in charge of billions of pounds of military procurement.

The lobbyist, Michael Wood, had access to the Palace of Westminster because he has a security pass as a research assistant to another MP. While "cash for introductions" is forbidden by lobbyists' trade body the APPC, Wood is not a member,[123] showing that self-regulation does not work.

5. *Conflicts of interest: the Revolving Door*

The increasing involvement of business in politics gives added potential for conflicts of interest. There is now a wealth of evidence showing that there is a problem with the so-called "revolving door". This refers to the interchange in jobs between lobbyists, corporate staff and Ministers, special advisers and senior civil servants. The potential for conflict of interest arises especially when public servants take up posts in the industry they were previously responsible for. However, the opposite can also be the case where lobbyists or corporate staff are seconded into government departments or even appointed as Ministers. Given the increasing trend of such movements, it makes sense to consider how such conflicts can be handled. As evidence of the trend we note some recent examples from the nuclear industry.

Ex-Ministers and MPs taking Jobs in the Nuclear Industry

Recently two senior ex-government Ministers have moved into lucrative jobs within the nuclear industry. This has happened at the same time as the Government has been undertaking a public consultation on the issue and has recently given the go-ahead to proceed with a new generation of nuclear power plants.

Ian McCartney, the former chairman of the Labour Party and former Trade Minister, is now paid up to £115,000 to act as a senior adviser to the Fluor Corporation. Although the Advisory Committee on Business Appointments gave McCartney permission to take the appointment it was on condition that he did not lobby the Government for a year.[124]

One part of lobbying is gaining privileged access to MPs. In November 2007, the press reported how McCartney was spotted in the Commons "entertaining an executive from a controversial US nuclear company". The person concerned was Flour's UK boss, Ian Thomas, who said that he was there on a "social visit".[125]

But this is surely part of what lobbying involves—access and influence. Flour is on a shortlist of four seeking to win an £18 billion contract for decommissioning the Sellafield nuclear power site and is expected to be heavily involved in any future nuclear revival.

Richard Caborn, the former Sports Minister and former chairman of the Trade and Industry Select Committee is another ex-Minister with nuclear interests. In November 2007, the Financial Times reported how Caborn had "joined the growing band of former Ministers and Labour MPs who have taken lucrative jobs in the nuclear industry."[126]

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[121] Coates, S (2007), "Labour peers named in Parliament access row", *The Times*, 17 July.
[122] This case is reportedly subject to a House of Lords inquiry. Leigh, D and Evans, R (2008). "Crisis Lords meetings over sleaze allegations", *The Guardian*, 31 March.
[123] Leigh, D and Evans, R (2007). "Peer was paid to introduce lobbyist to Minister", *The Guardian*, 26 October.
[124] Employment declared on the Register of Members' Interests, session 2007–08.
[125] Oliver, J (2007) "Cash-For-Access Row Over Ian McCartney And Nuclear Boss", *Mail on Sunday*, 11 November, p 50.
[126] Eaglesham, J (2007). "Caborn takes nuclear job", *Financial Times*, 16 November.

Mr Caborn, was appointed as an adviser to "Amec, the British engineering services group that is part of a consortium bidding for a £5 billion contract to run Sellafield, the UK's biggest nuclear site." According to the Register of Member's Interests, Caborn is paid up to £75,000.[127]

Even if these positions are cleared by the Advisory Committee on Business Appointments, it seems difficult to reconcile MP's commercial interests with the spirit of Rule 10 of the Code of Conduct for Members of Parliament: "No Member shall act as a paid advocate in any proceeding of the House."[128]

These two are not the only MPs and Lords who have taken lucrative positions within the nuclear industry:

Ex-Ministers who are no longer MPs

Brian Wilson is a former Labour MP and Energy Minister, who left Parliament in April 2005. On 26 October 2005, he was appointed non-executive director of AMEC Nuclear Holdings Ltd, the nuclear services arm of AMEC plc. The announcement boasted that the firm is the UK's largest private nuclear services business. "It is vital to have a British company of AMEC Nuclear's standing involved in every aspect of the industry," Wilson said. "There is a huge amount of essential work to be done at both home and abroad, including clean-up and decommissioning, and I want to see the maximum level of participation from the UK in that process."[129]

Ex-MPs

Lord O'Neill of Clackmannan (Martin O'Neill) was a Labour MP for 26 years, until he stood down at the 2005 general election. He is now chair of the Nuclear Industry Association.[130]

Lord Cunningham of Felling is one of the Honoury Legislative Chairs of the Transatlantic Nuclear Energy Forum (TANEF) that "aims to address key industry concerns and foster on-going strong relationships amongst nuclear energy companies and between the nuclear energy industry and governments, legislators and regulators based in the European Union and North America."[131]

The PR and lobbying company Sovereign Strategy, which has strong ties to the Labour Party, not only lists TANEF as a client, it acts as TANEF's secretariat and registered its website.[132] Cunningham was a non-executive director of Sovereign Strategy from 2002-2005, whilst still an MP. Cunningham is now a partner in the political consultancies Brinkburn Associates and Anderson MacGraw, whose clients remain unknown. [133]

Sovereign and TANEF were also caught up in a "sleaze row" in 2006 with the revelations that Sovereign Strategy boss—Alan Donnelly—had helped to pay for the refurbishment of then Environment Secretary David Miliband's constituency party headquarters in Newcastle. Sovereign Strategy also represents the US multinational Fluor, which Ian McCartney now works for.[134]

The Guardian also reported recently that Lord Cunningham is paid £36,000 a year by the City of London Corporation to give political advice.[135] According to the report this includes: advising the Corporation on how to present its case at meetings with Ministers and the Government, the best time to speak to politicians, and general political advice. It also involves calling Ministers to arrange meetings with the authority when it is having difficulty securing access.

Documents obtained by the Guardian under the Freedom of Information Act also show that Cunningham has given the corporation confidential advice about two bills going through Parliament which affected the authority. The newspaper reports that Cunningham was hired by the corporation in September 2006. In the first year, the corporation paid £48,000 for this work to him and the lobbying firm, Sovereign Strategy, of which he was a director. In the Lords register, Cunningham declared his financial ties with Sovereign Strategy and Brinkburn, but makes no mention of the City of London Corporation, meaning that anyone reading the register would be unaware that he is currently working for it.

A lobbying register would help address these gaps in reporting and transparency. Under the obligations of becoming an MP, Members are required to sign the Register of Interests. According to the Office of Parliamentary Standards, every MP since Enoch Powell has filled in the Declaration. Although the Office itself does not proactively police the Register, if a complaint is made against an MP with sufficient evidence, then the Parliamentary Commissioner for Standards can conduct an investigation.

[127] Register of Members' Interests, session 2007–08
[128] Code of Conduct for Members of Parliament
[129] Press release from AMEC, "Rt Hon Brian Wilson and Neville Chamberlain CBE appointed non-executive directors of AMEC Nuclear", 26 October 2005
[130] NIA website, "Our People" (accessed April 2008)
[131] TANEF website (accessed April 2008)
[132] Sovereign Strategy website, "Our Clients (accessed April 2008); Robert Winnet, "Revealed: Minister's Links To Nuclear Lobby", *Sunday Times*, 14 May 2006, p 1.
[133] Register of Lords' Interests (as at 15 April 2008)
[134] Winnet, R (2006) "Revealed: Minister's Links To Nuclear Lobby", *Sunday Times*, 14 May.
[135] Evans, R and Henke D (2008). "Ex-minister is paid to secure meetings with government", *The Guardian*, 13 February.

If an MP is found to be in breach of their obligations, penalties include an apology to the House of Commons; the withholding of a Member's salary for a specified period; and suspension of the Member from the House, which includes loss of pay.[136] The Register of Members Interests offers a useful model which a Lobbying Register might follow, especially in regard to the regular updating of this information. The online Register is now updated twice a month.

Conflicts of Interest: Rules on Commercial Activities of MPs

We believe there needs to be a tightening of rules governing the business activities and outside interests of MPs. Two years ago SpinWatch uncovered evidence that Ken Clarke MP was using House of Commons facilities to undertake his business role as Deputy Chair of British American Tobacco.[137]

According to Sir Philip Mawer "modest" use of a PA, as well as the House of Commons facilities such as faxes and phones for MP's commercial interests is allowed. However, as Sir Philip says "drawing the line between what is Parliamentary and what is non-Parliamentary is not always easy".

The rules currently seem—at best—opaque, as does the process by which Sir Philip conducts his own investigations as his meetings are not minuted and cannot be scrutinized by the public.[138]

Conclusion

The evidence taken by the Committee to date suggests there are significant and worrying gaps in the oversight of lobbying by the self-regulatory bodies such as the APPC. There is also the obvious issue of those lobbyists who choose not to join trade and professional associations that promote codes of conduct. There is simply no way to assure that such lobbyists behave ethically or transparently. There is also the problem of oversight and compliance by those companies notionally covered by a code of conduct. The Committee has heard evidence that it is likely that the code is often breached. This raises serious questions about the reliability and credibility of the self-regulatory model.

A related concern is the question of transparency and accountability. With the accuracy of the self-regulatory register under question, elected members, public servants and the wider public are entitled to query if the information currently in the public domain is a true reflection of lobbying activity: is the information available complete, accurate, or sufficient to secure transparency and accountability around lobbying? We believe it is not possible to answer affirmatively to any of these questions at present. Currently there is a dearth of information in the public domain regarding how lobbying interests seek to shape policy and legislation. A mandatory lobbying register is the only viable means to secure compliance, transparency and public trust. It appears to us that the status quo is an unattractive option. Given the secrecy that surrounds lobbying it is likely that there will continue to be suspicion around attempts by outside interests to shape policy. This suspicion is damaging for the entire political class, and undermines confidence in public affairs and elected representatives. The gravity of this erosion of trust requires serious remedial action, of which a lobbying register is an important element.

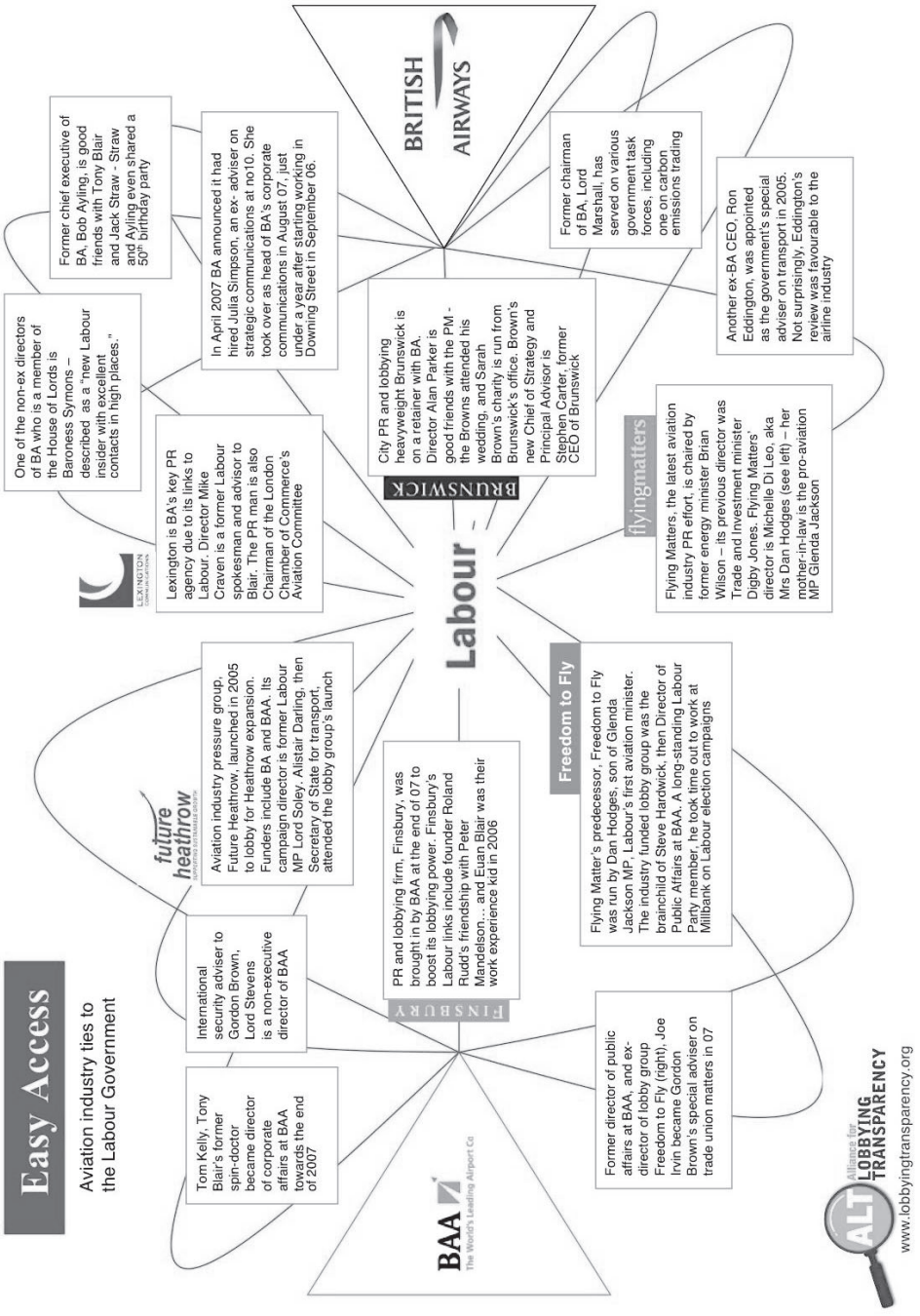
A common objection raised against a mandatory register of lobbyists is that it would be too costly and cumbersome to manage. We think these concerns are overplayed. The lessons from the introduction of Freedom of Information are perhaps instructive here. One of the main issues that has to date been pursued through FOI requests has been the question of relations between ministers, officials and outside interests. If all such information was made available routinely through a lobbyist register then it is very likely that FOI applications for such information would be unnecessary, thereby saving the public purse and public officials time and effort.

Another criticism of a lobbying register is that it involves disproportionate record keeping on the part of outside interests. We would note that for the global professional lobbying and public relations firms there appears to be little problem complying with the register under the lobbying Disclosure Act in the US. In fact the LDA shows that all sorts of outside interests, from multinational corporations to non-governmental organisations, can easily meet the disclosure requirements. In addition, it would appear that some lobbying organisations already privately maintain databases with information about contacts with elected representatives. The APPC in Scotland keep an internal register of contacts between members and MSPs at cross party group meetings, and a record of the capacity in which member lobbyists attend such meetings: this information is apparently circulated to officials in Scottish government but not published or made public.[139] This example illustrates that detailed record keeping is already taking place and could be made public.

[136] House of Commons Guide, Office of the Parliamentary Commissioner for Standards
[137] Rowell, A (2005). "SpinWatch Uncovers Evidence to Suggest Ken Clarke Has Abused the Privileges of the House of Commons", *SpinWatch*, 5 October.
[138] Sir Philip Mawer, Rt Hon Kenneth Clarke MP, Letter to Andy Rowell, December 1, 2005; Sir Philip Mawer, Rt Hon Kenneth Clarke MP, Letter to Andy Rowell, 21 December 2005.
[139] Jo Nove, Greenhaus Consulting and APPC Scotland, Lobbying Roundtable, Communication & Conflict conference, University of Strathclyde, Glasgow, 7 September 2007.

A mandatory register of lobbying can only help facilitate the understanding of how government works and increase public confidence in the political process. The House of Commons already has the Commissioner for Standards. It appears to us logical to extend such vigilance to outside interests. The creation of an independent body to oversee a lobbyists register is both timely and necessary.
The long term damage to the political system of a drip-drip feed of lobbying scandals should not be underestimated. A mandatory lobbyists register is not a sledge-hammer to crack a nut: rather it is potentially an essential tool for restoring trust in politics.

April 2008



Memorandum from the Solicitors Regulation Authority

Thank you for inviting the SRA to provide a written submission to the Public Administration Select Committee's inquiry into lobbying. Please accept this letter as our submission.

We are confining our comments to the issue of client confidentiality as set out in our letter to John Grogan MP of 30 July 2007 (see annex), since that is our principal interest in this matter as a regulator.

The lawyer's duty of confidentiality is critical to his or her relationship with the client, and we could not support anything which undermined that. However, we do not think that that duty of confidentiality presents an automatic bar to a solicitor being included in a transparency initiative when undertaking political lobbying. Rule 4 of the Solicitors' Code of Conduct 2007 requires a solicitor to keep the affairs of clients confidential except where disclosure is required or permitted by law or by the client. Thus, provided a solicitor has the client's consent to disclosure, we do not see that there are professional conduct difficulties.

However, difficulties might arise if "political lobbying" were interpreted broadly so as to be capable of including normal legal transactions carried out by solicitors on behalf of clients.

We do not consider that the reforms to be brought in under the Legal Services Act are likely to affect the position regarding solicitors' firms: broadly speaking the SRA's conduct requirements will continue to apply to all members of solicitors' firms whether or not they are lawyers.

February 2008

Annex

Letter to John Grogan MP, dated 30 July 2007

SOLICITOR LOBBYISTS

Your letter was passed to me since it raises regulatory issues which the Solicitors Regulation Authority, rather than the Law Society, now deals with.

I agree that transparency in political lobbying is in the public interest. The European Commission recently consulted on an initiative for transparency in lobbying European institutions.

We do not think a lawyer's duty of confidentiality presents an automatic bar to lawyers being included in the initiative. However, a solicitor must keep the affairs of clients confidential except where disclosure is required or permitted by law or by the client. The duty of confidentiality extends to all confidential information about a client's affairs, continues after the solicitor has ceased to act for the client, and includes information about the client's identity. The obligation is set out in rule 4 of the Solicitors' Code of Conduct 2007, but it is not unique to solicitors. It is a general principle that a lawyer is the confidential agent of his or her client across the legal professions of the world.

However, provided that membership imposes no requirement which conflicts with a solicitor's professional duties (such as, for example, a retrospective obligation to publish clients' names) there is nothing to prevent a solicitors' firm becoming a member of the APPC or a similar organisation. The member firm could meet the disclosure requirements of that Association, and therefore the requirements of transparency, by making the client's consent to the disclosure a pre-condition for acting.

Memorandum from Jeremy Sweeney

BACKGROUND

I was Managing Director of Ian Greer Associates UK at the time of the cash for questions scandal and the creation of the APPC. Thereafter I co-founded the public and corporate affairs company AS Biss & Co http://www.asbiss.com/ with Adele Biss in 1996; leaving when I sold my shares and left the business in 2001. I now develop professional performance for individuals and organisations www.jmsresources.com

These are my reflections to the questions posed by this inquiry.

1. *What does it mean for an organisation to lobby government or Parliament?*

To do something with the intention of influencing policy, regulation or legislation in your or your organisations or your clients favour. Lobbying increasingly involves directly or indirectly mobilising others to lobby on your or your organisations or clients behalf.

2. *Which ways of seeking to influence policy and decision makers are acceptable, and which are unacceptable?*

So long as the methods used are lawful, then the next relevant criteria is that they are transparent ie if they were observed by others, would they stand up to the seven principles of public life and the public were aware of them, would the reasonable majority feel that they were appropriate in our democracy or not.

The aim of appropriate lobbying, for those responsible for determining policy etc, might be to ensure that those involved in or effected by any given policy, regulation or legislation have had an equivalent opportunity to present their case to those who will make or influence the decisions.

Much of the concern over the role of lobbyists revolves around the apparent or real inequality of access to these people. In this matter, it is for the politicians, officials, advisers and influencers themselves to ensure that no unfair or privileged access is granted to any one group over another. If this is achieved then there can be less cause for concern.

3. *What evidence is there of the effect of lobbying on the policy and decision making processes?*

I find it hard to think of any area where there is no evidence of lobbying on the decision making process. Wherever there are two or more people holding different views about the solution to a given issue, lobbying will take place by those involved in order to give themselves the best chance of getting what they want. That is human nature. The degree to which that lobbying uses professional in house or consultancy support, or uses friendships or other relationships to gain access to and influence over the process depends usually on what is involved, who will be effected and what value is placed on the changes being considered.

4. *Do some organisations have more influence over Parliament and Government than others?*

Yes—self evidently.

5. *Is it possible to limit lobbying and yet to ensure that government and Parliament are properly informed?*

Lobbying would need no limit, as long as it stayed within the laws of the land, so long as those they try to influence were able to abide by the letter and spirit of the 7 principles of public life. Access or influence is only as good as that which is granted by those in authority or influence.

6. *Are the provisions in the APPC's and PRCA Codes of Conduct appropriate for a self-regulatory system?*

No. It doesn't currently recognise or cover the issue of multiple roles. Multiple roles in this instance arise where someone in authority or influence also has a friendship with someone who wants to lobby them.

The use, or abuse, of a multiple role can lie at the heart of concerns over lobbying—it is also an area that is almost impossible to regulate or legislate against. However, you can educate people about it so that they become less susceptible to abuse by it.

7. *Why are some multi-client lobbyist firms not members of these Associations?*

I do not know.

8. *Should lobbyists be regulated by an outside body? If so, what would the focus of such regulation be? Who would enforce the regulation?*

In principle I have no problem with external regulation; because of the fact that lobbying touches the credibility and integrity of our government and democracy. When a lobbying scandal arises, it is not just the lobbyists that suffer—almost invariably the integrity of Parliament/the Civil Service and of our method of governance suffer also; thereby turning people even further away from something that they need to participate in if it is to function at its best.

In practice, the challenge of fairly and comprehensively defining what lobbying is, when it happens and how, make it hard to regulate effectively. The issue of multiple roles makes the point. You cannot regulate against friendships and relationships between lobbyists and those being lobbied. In fact, effective government is understood by some to depend on the ability of those in government to reach outside to trusted people in order to get a different perspective to the one they have or are being given.

9. *Are the current transparency requirements placed on the behaviour of public officials, ministers and Members appropriate?*

Though I am not an expert on them, I suspect that they are. The issue is the degree to which those concerned understand those requirements and are willing and able to abide by them.

10. *Should government organisations lobby? If so, is it appropriate for them to use multi-client public affairs consultancies?*

Of course. They have objectives to achieve and will rightly use the resources at their disposal to succeed on behalf of those they represent. Whether they use external consultants or in house specialists is not relevant.

11. *Is there anything that the UK can learn from attempts to regulate lobbying in other countries?*

I know very little about what other countries do.

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