

STANDARDS COMMITTEE

Wednesday 28 February 2001
(*Morning*)

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STANDARDS COMMITTEE

3rd Meeting 2001, Session 1

CONVENER

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

DEPUTY CONVENER

*Tricia Marwick (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

Lord James Douglas-Hamilton (Lothians) (Con)
Patricia Ferguson (Glasgow Maryhill) (Lab)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
*Mr Kenneth Macintosh (Eastwood) (Lab)
*Kay Ullrich (West of Scotland) (SNP)

*attended

WITNESSES

Graham Blount (Third Sector Policy Officers Network)
Philippa Bonella (Scottish Council for Voluntary Organisations)
Adrian Colwell (Convention of Scottish Local Authorities)
William Dinan (Stirling Media Research Institute)
Jillian Flye (Scottish Council for Voluntary Organisations)
Councillor Corrie McChord (Convention of Scottish Local Authorities)
Professor Philip Schlesinger (Stirling Media Research Institute)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

The Chamber

Scottish Parliament

Standards Committee

Wednesday 28 February 2001

(Morning)

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the third meeting this year of the Standards Committee. I have received apologies from Lord James Douglas-Hamilton.

Our first agenda item is to decide how we will conduct item 4. As that item relates to possible lines of questioning for our next evidence-taking session, I propose that we take it in private. Is that agreed?

Members *indicated agreement.*

Lobbying

The Convener: Our main item of business today is the first oral evidence-taking session in our inquiry into lobbying. I welcome our first witnesses, who are Professor Philip Schlesinger and William Dinan of the Stirling media research institute. I invite them to make a short opening statement, after which we will move to questions from the committee.

Professor Philip Schlesinger (Stirling Media Research Institute): The Stirling media research institute has been engaged in a programme of research into the public relations and lobbying industry in Scotland, the UK and Europe since 1996. Our research on Scottish lobbying was funded by the Economic and Social Research Council and by the Stirling media research institute itself. We have no financial or other interest in lobbying.

We submitted evidence to the committee based on our research in the hope that it would contribute to public debate. In our research, we have taken seriously the consultative steering group's principles of openness and transparency. We have also taken seriously the possibility that the new political system in Scotland could develop novel and innovative practices. The principles of the CSG could be married with the development of new practices to produce Scottish solutions to Scottish problems in the matter of registering lobbyists. We believe that a register of lobbyists would be an important contribution to securing the openness and transparency of the Scottish Parliament and might inspire much-needed reform elsewhere in the United Kingdom. Such a register could allay some of the widespread and persistent concerns about the relations between business and politics and about probity in public life in general.

We appreciate the committee's interest in our evidence. We intend to stick to our guns and say what we think, despite the attempt by one lobbying trade organisation to lobby us in advance of this hearing—perhaps a classic instance of lobbying gone wrong. If the committee so wishes, we would be pleased to deposit as evidence the letter that we received from the chairman of the Public Relations Consultants Association's public affairs committee.

Our evidence supports in essence the Parliament's excellent code of conduct for members. We believe that our position extends the code's logic and fills it out by addressing how lobbyists—as that term is broadly understood—may be regulated in the same spirit as MSPs and their staff are regulated. Our work, like the Parliament's code, takes the CSG's principles

seriously. The code carefully puts the onus of proof of honest dealing on MSPs. Why should lobbyists not have the same onus of proof imposed on them? It is obvious that Parliament does not think that being an honourable member is sufficient in itself. If it did, it would not have a Standards Committee or be thinking of creating a commissioner.

Given the 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. In fact, Parliament has already established a broad definition of lobbying, which can be found in paragraph 7.1.3 of the code of conduct for members. In our view, the ideal position would be to move toward statutory regulation of lobbyists. However, failing that, we think that statutory registration would make an enormous difference to the transparency of lobbying in Scotland. There is no reason relating to the Parliament's code why there should not be a mix of statutory and voluntary principles.

Section 7.3.4 of the code of conduct for members includes the guideline that members should satisfy themselves of the motives of those lobbying them. Registration would make resources, connections and the relations between principals and agents much clearer. In short, registration would greatly help Parliament and the Standards Committee in the proper scrutiny of the lobbying process, and is completely consistent with the Parliament's code.

Tricia Marwick (Mid Scotland and Fife) (SNP): Do you think that there is any difference between regulation and registration? The two words are bandied around, but I am not sure whether most folk understand the difference.

William Dinan (Stirling Media Research Institute): Registration and regulation are often used interchangeably. In fact, in practice they are often quite similar. As we understand it, registration requires that information is gathered and put in the public domain in an easy, accessible and user-friendly way, whereas regulation is laying down rules that will govern the behaviour of lobbyists. That is the distinction, but in practice registration will involve a degree of regulation, as you will affect the behaviour of lobbyists by making them submit information twice a year. The principle is that we would like at least some form of registration, which would have an impact on what lobbyists do—they would have to keep records.

Tricia Marwick: Yours is one of the few organisations that made a submission in favour of registering and regulating lobbyists. The view of others has been that to do so will create an elite

band and give the impression that only those who are registered or regulated can engage with the Parliament. How do you respond to that?

Professor Schlesinger: We really do not understand that objection, which also derives from the evidence that the Neill committee took. We think that, if the Parliament declares that being registered does not confer any special privileges—as the Parliament in Canada does—that would take care of the issue. Registration and regulation ought to be dealt with on a wide basis. If there is a wide sweep, there is no way in which anyone could claim elite or special status. Registration would be regarded as a usual part of lobbying the Parliament. We do not see the force of the objection; it seems to relate to small groups of lobbyists who have set up associations conferring special status on themselves.

Tricia Marwick: Those organisations that have set themselves up in that way have adopted what is known as a voluntary code of conduct. What are your views on the effectiveness of voluntary codes of conduct?

Professor Schlesinger: Voluntary codes of conduct are open to suspicion. Voluntary associations are like clubs; they do not necessarily have a public interest in the way that they regulate themselves and there are questions about how they impose sanctions on their members. We are not impressed by the voluntary principle in this area; it has not served the UK well at Westminster. In order to have the right conditions in Scotland, it is essential to move beyond that principle.

William Dinan: In the UK, there are no examples of self-regulation exposing corrupt practice or addressing questions of the probity of lobbyists. That has always been done by investigative journalism and the media. That is because it is not in the interests of the industry to expose bad practice, as that makes them all look bad—we saw that with lobbygate. There are serious problems with the way in which self-regulation works. Derek Draper—who was at the centre of the recent cash-for-access scandal at Westminster—admitted in his evidence to the Neill committee that he did not have a clue about how self-regulation worked. No one had told him about it, even though he was nominally a member of the Association of Professional Political Consultants.

We must remember that the associations meet only occasionally. Their members are busy people who work as lobbyists, so they do not have the time and resources to devote to the association. There are serious problems with the way in which the associations are policed and monitored and with the way in which rules can be enforced.

Professor Schlesinger: Commercial lobbying, which has set up those voluntary codes, exists to

make money out of the lobbying process; it is not, in principle, eager to expose any wrongdoing by its members. It is questionable whether operating on the voluntary principle would work as satisfactorily as having statutory regulation.

Tricia Marwick: You say that you believe that lobbyists in Scotland predominantly lobby not MSPs, but the Executive and civil servants. You will also be aware that the Standards Committee remit does not extend to civil servants or ministers in the Executive. Will you comment on the need, or otherwise, for the Executive to be brought within the remit of the committee?

Professor Schlesinger: In a new political system, there is the chance to set up clear-cut rules that apply to everybody. We know that the Executive is seeking evidence about rules that should apply to members of public bodies and councillors. It would seem to be sensible to have a set of rules that applied across the board to MSPs, to those working in the Executive—whether as ministers or civil servants—councillors and members of non-departmental public bodies. At the start of a new system, it should be possible to implement a set of working rules that apply to everybody. Whether that should be within the remit of this committee is another matter; we know that that is a delicate political question.

10:15

Mr Kenneth Macintosh (Eastwood) (Lab): Thank you for the information that you have given us; it is very interesting. Do you accept that lobbying is an acceptable activity or do you think that there is something inherently wrong with it?

Professor Schlesinger: We accept that it is an acceptable activity. Unlike in many countries in Europe, which pretend that it does not exist, in this country we acknowledge that it exists—it is out in the open. Our point is not that it is not an acceptable activity, but that there must be clear rules about how it is conducted. We are arguing the case from a public interest point of view. We are dismayed by the lack of trust in the political system. Almost every week, there are, if not scandals, implications about how ministers and politicians conduct themselves. That lack of trust will increase unless the public are broadly convinced that there are clear-cut rules to which people adhere. There is no objection to the idea that people can freely organise themselves to try to influence public policy—that seems fundamental to democracy. The question is how they do it and what the public's understanding is of those relationships.

Mr Macintosh: Is there a difference between different kinds of lobbyists, such as commercial interests and the voluntary sector?

William Dinan: In principle, no. Anybody who wants to influence public policy should do so in an open and transparent way. It is for the committee to decide whether it wants to draw distinctions between commercial lobbyists, who operate for multiple clients, and lobbyists who work in-house, either in corporations or in the voluntary sector. Codes are available in north America—the US and Canada—that distinguish between consultant lobbyists and in-house lobbyists. That is a matter for the committee. Our position is that whoever is lobbying decision makers should do so in an open and transparent way. The resources that they devote to that lobbying should be publicly available.

Mr Macintosh: Would that extend to individuals?

William Dinan: Absolutely. One of the problems with voluntary codes is that individuals can opt out of them and can operate outwith any sanction.

Mr Macintosh: Any person or organisation who had a point of view and wished to make it known to their MSP would have to register the fact that they were doing so. Are you saying that the act of giving their opinion to the MSP, or group or MSPs, would have to be registered?

William Dinan: It is up to the Parliament to decide what threshold to set. We do not want to put up a barrier that prevents constituents from bringing complaints and grievances to their MSPs or raising concerns with MSPs. The point is that you may want to draw a distinction between the average citizen, or the average constituent, and someone who is actively engaged in lobbying. In north America, the threshold tends to be set at a few hundred dollars, which would distinguish between a constituent petitioning their MSP and someone who was campaigning on a cause.

Mr Macintosh: We are going to hear from the Scottish Council of Voluntary Organisations, which is a non-profit-making body. It has paid employees who might lobby on its behalf, but they are not doing it for profit. I am just asking for your views on where we should draw the line.

I can think of examples when someone may want to speak to an MSP about their point of view. They may or may not have anything to gain from it, but it is their view. The SCVO would say that it will make no financial gain from what it wants to talk about, but it is its view and it is employing someone to lobby on behalf of a group. Would you draw a distinction there?

Professor Schlesinger: It is not uncommon for someone to hire a person to pursue a case for them or to advise them on how to pursue a case. That is not the issue. Some people have commercial considerations and are there to make money; others belong to organisations that try to

affect the course of public policy. The real test is how people are trying to affect the course of public policy, not whether they are commercial.

Mr Macintosh: Where do you draw the line between a commercial organisation, a voluntary organisation and an individual, all of which have a legitimate right to lobby the Parliament?

Professor Schlesinger: We have suggested that the sort of commonsense cash-based threshold that applies in the US would indicate whether any lobbying or petitioning of an MSP was purely personal. As for drawing the line between commercial and voluntary organisations, we do not think that there is such a significant difference between them. Although there might be differences in resources, the question is whether people are trying to influence the course of public policy—how they do that and the kinds of resources that they bring to bear on it are matters of public interest.

Mr Macintosh: I want to pin down the issue of the cash-based threshold. If I were to be lobbied by a full-time paid employee of a trade union, would the fact that they were a paid employee mean that they had passed the cash threshold?

Professor Schlesinger: Yes.

Mr Macintosh: However, if I were lobbied on the Sutherland report by my local branch of Help the Aged, which is a voluntary organisation with no paid employees, or by a group of pensioners who had travelled through to Edinburgh, should that be registered? After all, no one is being paid.

William Dinan: The sort of information that we want in the public domain is whether an organisation employs parliamentary officers; the issue is the resources that are devoted to lobbying. As the committee's consultation so far has highlighted, one of the key problems is that advocacy—that is, lobbyists who represent clients—has more or less disappeared in Scotland. We now have direct representation from organisations. However, we are interested in having the resources that are used in preparing those representations out in the open. Although a group of pensioners who came to lobby you on Sutherland might not have to be registered, campaigning organisations that are interested in the issue would need to register.

Mr Macintosh: How about a group of pensioners who hired a bus for £250 to travel through to Edinburgh to lobby me? The issue is crucial. Those people are expending effort and money to ensure that we know what their opinions are. I am trying to work out where we draw the line.

Professor Schlesinger: Your example is an interesting debating point.

Mr Macintosh: It is more than that. You have suggested a commonsense threshold. Although I think that I have plenty of common sense, I am not entirely convinced that such a threshold would be applicable. Perhaps a cash threshold would be more appropriate, but I would like to hear how it would work. Most of your material is interesting, but it seems to apply more to professional lobbyists and large organisations than to individuals and small voluntary groups.

William Dinan: It can apply to individuals and small voluntary groups. As we have said, if they spend more than the threshold, they must register. It is as simple as that. It is up to the committee to decide where it wants to draw that line. We do not want to put any barriers between the average citizen and their MSPs but, as a simple basic principle of the Parliament's openness and transparency, if someone spends more resources than the average citizen to influence policy, they should have to declare that and put those expenditures in the public domain.

The Convener: When we started this investigation, we sent a questionnaire about lobbying to MSPs, who seemed to have little enthusiasm for statutory regulations for a variety of reasons. I want to press you on two themes that emerged from the responses that we received. The first centres on according special status to registered groups. Just a few minutes ago, you said that we could state that the register does not accord special status to any one; however, that would not affect an individual commercial organisation that could call itself a registered and approved organisation in its material. That could in turn intimidate many smaller voluntary organisations, which perhaps do not have the resources or do not wish to follow the registration route. Could statutory registration work against your intended aim of open access and accessibility for everyone to the Scottish Parliament?

Professor Schlesinger: There is no evidence that that has happened in the Canadian example. In many respects, this is a matter of broad public education. The Parliament is interested in maintaining that it is open and accessible. If journalists are properly briefed and the Parliament makes its views widely known on a regular basis, why should people have any other apprehension? The question is a bit of a red herring. If many organisations are registered, it is hard to see why people would be so dim as to think that registration gives special status. Scotland is a small country; people know people and there are all sorts of networks. As a result, it is difficult to see why the principle of registration should be perceived as exclusionary.

The Convener: In that case, why have most

organisations that have approached us taken the opposite view? The SCVO and the Convention of Scottish Local Authorities—both of which are giving evidence this morning—would prefer us not to go down that route.

Professor Schlesinger: That is up to them.

William Dinan: In the UK, we have a particular view about lobbying and how it should be regulated, with the entire focus on those who are lobbied. Elsewhere, particularly in Canada and the US, the focus is on the lobbyists. As we have said in our evidence, neither system is perfect; the optimum position would be a combination of both. When Canada introduced its register of lobbyists, commercial lobbyists objected on the ground that it would be used by organisations to spy on one another. That happened to begin with; commercial lobbying organisations were the heaviest users of the register. However, since 1997, the heaviest users have been public office holders wanting to know who has been lobbying and on which issues. That makes the whole system much more transparent. In Scotland, the excellent code of conduct for MSPs could be enhanced if there was the same focus on outside interests.

Professor Schlesinger: The code of conduct specifies that MSPs should satisfy themselves about the identity and motives of those who are lobbying them. We are simply suggesting a way to make that easier for you.

Mr Frank McAveety (Glasgow Shettleston) (Lab): You mentioned the American and Canadian examples. First, have those registers changed public perception of how politicians operate? Secondly, have they improved the effectiveness of policy development? Finally, if the CSG and the Neill committee did not want to recommend what you are recommending, were they lobbied before they reached their conclusions?

William Dinan: If we look at who gave evidence to the Neill committee, it is quite obvious that they were more or less vested interests. Although some witnesses made a public interest case, the weight—not the quality—of evidence was against them.

Mr McAveety: Although your north American examples have some validity, I am not convinced that the public will have a better perception of politicians. That may be the noble objective, but it might not turn out to be the conclusion.

Is the people's perception of elected members a new phenomenon? My good friends in the Liberal party will remind me of David Lloyd George's experience in issues of public office—when the Liberals held public office. I am interested in this new phenomenon. I know that there is more scrutiny and understanding, but I am concerned about where we draw the line with regard to local

interests and community groups and third sector or voluntary sector groups, from which we will hear later. From my experience here, I can say that there is a marked difference between how companies operate in the Westminster system and how they have so far operated with the Scottish Parliament. Lobbying has become a big issue by exception rather than as a rule.

10:30

Professor Schlesinger: Are you arguing that it does not really matter whether public perception can be affected by registration? We would argue that public perception could be affected. Whether that is true in the United States is perhaps another matter, but, in the Scottish context—that of a small country—where Parliament has had a bit of a pasting in the press and where the smallest connections between people are a matter of suspicion, surely having a set of transparent rules would substantially assist the perception of politics.

It is horses for courses. We would not want to predict an improvement in perception as an outcome, but the opposite of that would be a counsel of despair. We could just say that politics has a bad name anyway and not do anything about it.

Mr McAveety: I am arguing that it is important for the public to know about how information and policy are developed and about the roles that folk play in that. That is an important principle and you are right in what you say in that context.

As for the north American example, there is freedom of information in the States as well as a regulatory framework in some areas. Most analysts would indicate that the role of lobbyists is so dominant in that political culture that it dwarfs any regulatory framework. I know that we have a different context and size, but I am interested in whom we exclude. It strikes me that even if there is a regulatory framework, people with income and power will find ways to construct themselves around it. I am concerned that those who do not have income and power, but who want to shape and influence policy development, might find the regulatory framework too burdensome. Have you considered that in your overview of the issue?

William Dinan: In some systems in the United States, it is incumbent upon the legislature to help citizens. That is why we mentioned the New York example in our written evidence. A guide to citizens' lobbying was made available there and attempts were made to make quite transparent to citizens information about how, when and whom to lobby. I do not want to get into the details of the situation in the United States, because it is a different political culture for a start, and I do not

know enough of the precise detail to speculate and draw comparisons.

Anything that improves the transparency of the policy process should be welcomed and encouraged. A register would go a long way to securing the principles of openness and transparency in Scotland.

Kay Ullrich (West of Scotland) (SNP): Throughout your submission, you cast doubt on the effectiveness of voluntary codes and self-regulation. I refer you to paragraph 3.7, in which you cite an example:

"During our research, we were told of a case where professional lobbyists were offering preferential access to ministers. These self-same lobbyists were signatories to a code which explicitly prohibited such behaviour. That this event happened only a short while after the 'Lobbygate' affair serves to highlight the inadequacies of self-regulation on the part of lobbyists."

I find that of considerable concern. Will you expand on that? It was not included in your submission as a throwaway line.

William Dinan: As part of our research, which spanned about two years, we talked to a lot of lobbyists, including commercial lobbyists and people in the voluntary sector—anyone involved in the policy process in Scotland. The example illustrates the problems of self-regulation. It was mentioned to us in terms of, "Oh, by the way, this has happened. I don't want to mention the name of the client who told me such-and-such and I don't have the concrete proof." It was all innuendo.

One of the defences that the people who administer the codes have against statutory regulations is that they cannot act without proof, which is not available because the information tends to be presented as anecdotal or off-the-record innuendo, with no names being mentioned. The person who told us was signed up to one of the codes.

An air of mystery surrounds the relationship between clients, lobbyists, policymakers and office holders. We would like to bring as much of that as possible out into the open.

Kay Ullrich: Did you explore the matter further?

William Dinan: I pressed the person on it, but he would not tell me.

Kay Ullrich: You say that you were told of a case.

William Dinan: Yes. The case was outlined to me in general terms. The client's name was not mentioned, nor were the names of the lobbyists concerned. The person was telling me that that stuff goes on. We were talking about the problems of self-regulation and the person agreed with me in private about it.

Kay Ullrich: I was intrigued by the registration scheme in the state of New York. How long has that been in operation?

William Dinan: It is relatively recent. I think that the provision for it was enacted in 1999.

Kay Ullrich: Can you briefly explain how the system works?

William Dinan: Yes, briefly, although it is quite complicated because of the various different levels of government in New York and because of the volume of legislation that passes before the legislature.

The system works along the following lines. People who try to influence policy must declare the particular acts that they are lobbying on, on whose behalf they are lobbying and the resources that are devoted to that lobbying. It involves not only direct communication; there are systems under which behind-the-scenes advice must also be registered, as must expenditure by clients on lobbying.

Kay Ullrich: Is there any differential between voluntary groups, individuals and professional groups?

William Dinan: I am not 100 per cent sure about that, but I do not think so.

Mr Macintosh: I want to ask for further detail of how regulation would work in practice. I will refer to COSLA's submission—you will probably not have seen it.

William Dinan: No.

Mr Macintosh: We got it only at the weekend ourselves. COSLA describes the process as follows:

"Since the opening of the Parliament in July 1999 COSLA has been in almost constant contact with the Parliament, its Committees, MSPs and staff. The formality of such contact ranges from informal discussions to formal submissions of oral and written evidence ... Given COSLA's unique position, it is difficult to quantify the number of times contact may take place in relation to a particular issue. The two-way process tends to result in a dialogue between our two organisations and, again, the informality of some contacts makes it difficult to quantify the extent to which contact takes place. For instance, telephone conversations with Clerks may occur several times a day depending on the issue being discussed."

How do you think statutory regulation would affect an organisation such as COSLA? Would it register itself as a regular lobbyist of Parliament and list the subjects on which it lobbies, or should there be an individual, itemised list of each discussion?

Professor Schlesinger: It could do that—it could itemise its contacts.

Mr Macintosh: What would you suggest?

Professor Schlesinger: We would prefer

members to discuss the practicalities themselves. One issue in the lobbygate case was maintaining evidence on contacts. The Neill committee took that up when discussing the case. It is, in a sense, self-protection for members, ministers and civil servants to keep a list of contacts. There are more recent cases in which that has been an issue.

It may be onerous, but it is not impossible for any of us to keep a diary note of whom we speak to, when we speak to them and what it is about. Some things would escape, but the question is whether scrutiny of how influence is exerted is a matter of importance.

Mr Macintosh: I am trying to grasp how the statutory regulation would work. I agree in principle that it is important that people know that an organisation such as COSLA is in touch with parliamentarians. It is a two-way process: we may ask it for information. I do not know whether that would be classified as lobbying.

It is the detail that is important. We could just have a register of all the people who are in touch with Parliament. Would that satisfy you in terms of regulation? It would strike me as one extreme. It would mean that any organisation that had any dealings with Parliament and parliamentarians would have to—

Professor Schlesinger: That would be a useful start.

Mr Macintosh: Just a start? Would not that be sufficient?

Professor Schlesinger: That would be the minimal position, which does not exist now. It is difficult to see what objection there could be to that. Such a position would satisfy Parliament's own test, within its code, for the sort of people who contact members and what they contact them about. In our view, it is the logical outcome of Parliament's own code.

Mr Macintosh: If every single person who contacted Parliament were to be listed, it would be a huge list.

Professor Schlesinger: It is easy to turn that into an absurdity. It becomes an issue when there are concerns about undue influence. We do not wish to prescribe to the committee how it should deal with the practicalities. We would be perfectly happy to discuss them in due course, if that is what members want. We want to establish that the Parliament's own code implies an extension of its knowledge of the people who lobby Parliament, with a view to having a register of who is contacting it, for what purposes and when. That is implicit in what you have stipulated yourselves.

The Convener: I am conscious of the time—we have only two or three minutes left for this part of the meeting.

Tricia Marwick: I am interested in the question of contact. The witnesses correctly said that part of the lobbygate inquiry centred on contacts that were made. I have always made a distinction between organisations that lobby on behalf of clients and organisations such as COSLA, which clearly lobbies on behalf of local authorities and of itself. We know where COSLA is coming from, but we might not know where a commercial organisation was coming from, nor the clients for which it was working.

It is my experience—and I would like your views on this—that commercial organisations that work on behalf of clients in most cases keep a record of their contacts anyway, not least because, if they want clients to pay, they have to show how much work they have done on their behalf. Is that your experience from working with, viewing and monitoring organisations and how they work?

William Dinan: Yes, and I think that that kind of information should be made public. Our key point is that information on resources that are devoted to shaping public policy should be publicly available. People should know how the policy process is influenced. We believe that lobbyists' fees and billings to clients should be in the public domain.

Tricia Marwick: Do you agree that that is the kind of information that would be recorded in any case?

William Dinan: I am sure that it is.

Mr McAveety: Do you have an opinion on whether the registering of interests or, in the case of lobbying, capacity could inhibit policy development? When we are genuinely exploring options or policy ideas and need intellectual capital or to hear different viewpoints to assist us, we meet a number of people who have so-called direct interests in the potential outcomes. If we had to write a detailed note of everyone we met, could that inhibit the process?

I am conscious of the role that many local authorities play in development strategy and of the fact that a range of consultants will be interested in clients involved in commercial development and economic regeneration. When I was involved in local government, we identified the people we met and specified who was present at meetings with key officers of the council. That information was available for inspection if anyone requested it. Someone who was much more sceptical could use such information inappropriately, to claim that the individuals concerned had been lobbied extensively in favour of others. A balance must be struck in relation to how far we are able to push that. Could you put that into perspective, as it troubles me?

10:45

Professor Schlesinger: I can see the problem which is, I suppose, about the difference between people suspecting and people knowing that connections exist. There is no way round that problem. Either there will be revelations in the press about certain connections having taken place and—rightly or wrongly—certain implications will be drawn, or matters will be on public record. People might suspect that connections exist without necessarily knowing that they do.

People are not daft and there is a broad assumption that political life works because of the connections that exist—that is the essence of politics. The difficulty that arises is the implications that are drawn from those connections. The committee must consider whether it wants a culture in which those connections are hidden, or in which people connive to hide them, or a culture in which people can say, “I have nothing to hide. Okay—I met that person, but that did not constitute lobbying. Prove it.” Everyone assumes that various types of lobbying take place—our culture is one of suspicion.

Mr McAveety: Let me give an example of what I am trying to get at.

A Bloggs is a developer who is developing a site in a local authority area. Three major commercial interests are involved. Should the local authority leadership meet the individuals concerned and register those interests? How should such situations be handled? I prefer transparency to so-and-so knowing so-and-so and cutting a deal behind closed doors. However, one might stultify developments if people had to register their interests, because a register would identify people with a commercial interest in development opportunities.

Professor Schlesinger: Why would a register stultify developments? Surely people will act on their commercial interests, irrespective of whether or not there is a register. If someone has nothing to hide, why would a register inhibit them from pursuing their commercial interests?

Mr McAveety: I am not talking about people who wish to pursue their commercial interests—I am talking about the people who are being lobbied. It might be perceived that a register minimises the extent to which those who are being lobbied can properly pursue a development—they would be conscious of the fact that people outside might think, “Why is A Bloggs going to see that councillor when two other people have done the same thing in the past fortnight?”

Professor Schlesinger: I presume that there would be a good reason.

Mr McAveety: There should be.

Professor Schlesinger: You would hope so.

The Convener: I am conscious of the time. As there are no other burning issues that members want to raise, I thank the witnesses for helping us with our deliberations. They are more than welcome to stay to hear the evidence from the next witnesses.

We will have a short adjournment.

10:47

Meeting adjourned.

11:00

On resuming—

The Convener: I welcome Councillor Corrie McChord, the social inclusion spokesman for COSLA, and Adrian Colwell, the head of policy. Councillor McChord is not a stranger to the Standards Committee, as he gave evidence to us during our inquiry into models of investigation. I invite our COSLA representatives to make a brief opening statement.

Councillor Corrie McChord (Convention of Scottish Local Authorities): Thank you for inviting us here this morning. We have a limited view of the world of lobbying, in terms of commercial aspects, individual interests and non-governmental organisations. However, if there is a legitimate lobbying organisation in Scotland, it is probably COSLA. COSLA deals with interests relating to governance and government, so it has an integrity that other organisations in Scottish society do not have.

Sometimes, in the interests of accuracy, it is legitimate to lobby. I mention in passing the trunk roads maintenance contract, on which we felt that lobbying was necessary to get across our arguments. It was the first time since the previous Administration—that is, the first time since 1997—that I had seen co-operative lobbying on the part of Scottish local government.

COSLA was formed to further the interests of local government when small district and county councils were merged into regional councils and district councils in 1975. Since then, COSLA has acted with central Government and made representations to it in the interests of councils' populations and local government as a whole.

We will strive to have effective relationships with the Scottish Parliament, its committees, the Scottish Executive and individual MSPs. Government has come closer to local government and to the people of Scotland—that is good, but it has had resource implications for us. It means that there is a two-way flow of information, which it is difficult to describe as lobbying; it is, rather, co-

operation, with central and local government sharing information. I hope that that can develop. Adrian Colwell will say something about that later.

We are committed to continuous improvement. We currently represent 32 local authorities in Scotland. Rumours of COSLA's demise have been greatly exaggerated. We offer a service to local government with regard to our employees' wage negotiations and terms and conditions of service, and we will continue to do so.

That is the background to COSLA. We will now deal with questions.

The Convener: Thank you. Frank McAveety will lead the questioning.

Mr McAveety: Lord James Douglas-Hamilton was supposed to ask these questions, so in "Stars in their Eyes" fashion, this morning I will be Lord James Douglas-Hamilton. That is an achievement.

A previous submission concerned the role of lobbying and the regulation of all lobbying activity. You indicate in your paper that there are issues regarding the creation of a hierarchy of lobbyists. Can you explain COSLA's role in lobbying? Do you draw a distinction between how you lobby individual MSPs and how you lobby Executive ministers? That was one of the issues that were raised in the previous submission.

Councillor McChord: Individual MSPs often lobby us and ask for information, which is why I said that there is a two-way flow of information. I will let Adrian Colwell deal with that question.

Adrian Colwell (Convention of Scottish Local Authorities): The answer stems from our opening comments that COSLA's purpose is to present a unified national voice for local government in Scotland. We work on key issues that affect local government, and which cut across party-political divisions. Defending the position of local government as the tier of governance that is closest to the people of Scotland requires that we engage closely with, and seek to influence, the Scottish Executive and Scottish Parliament.

I will qualify what I am saying with examples, because that is the best way of drawing out the distinction that the question is looking for. Recent examples of engagement have included negotiations with the Executive on the McCrone report, and on-going work on the financial settlement for local government. As a result, there is a close direct relationship through the offices of Rosebery House, the co-ordination of submissions from across local government, and the agreement on the negotiating position that we are taking through the regular leaders meetings. It is also worth saying that COSLA is involved in a number of other aspects of lobbying, relating to the European Union, Westminster and Whitehall. We

view the relationships with the Scottish Parliament and the Scottish Executive as part of that overall effort of advancing our interests.

The Scottish Executive consults COSLA on the preparation of legislation that will impact on local government functions. As you will be aware, many of the powers that are devolved to the Parliament and much of the Executive's programme rely on delivery by local government. As Councillor McChord indicated, COSLA engages in the more dramatic forms of lobbying, such as mass lobbies, only when we take the view that the Scottish Executive has failed to acknowledge properly our role as a partner. The trunk roads contract is an example of where that relationship broke down.

Our view of our relationship with the Executive and the Parliament is that it is conducted in a fairly open and professional manner. We provide members of the Parliament with briefings on key policy and legislative issues that are of concern to Scottish local government, both on request and at our own behest. Recent examples are a briefing on the impact on local government of the proposed financial settlement, and a briefing for this afternoon's parliamentary debate on sustainable development.

We work with a range of committees, where they have a relationship with local government, and we are in close dialogue with the clerks. We provide written evidence and ensure that we give evidence when inquiries are being undertaken, such as the inquiries of the European Committee, the inquiry of the Enterprise and Lifelong Learning Committee into economic development activity, and the recent Rural Affairs Committee inquiry into the changing pattern of employment in rural Scotland. Dialogue is extensive and takes a number of forms.

We also work closely, as you may be aware, with the Local Government Committee, and submit evidence during the consideration of bills, two examples of which from the 1999-2000 cycle were the Bail, Judicial Appointments etc (Scotland) Bill and the Transport (Scotland) Bill. Two bills with which we are involved in the current legislative cycle are the Housing (Scotland) Bill and the Regulation of Care (Scotland) Bill.

Mr McAveety: That answer is important in establishing the kind of contact that COSLA has with the Parliament and its bodies, but why would you have anything to fear from regulation and registration, given that the process is transparent?

Councillor McChord: It would confuse our partnership with central Government in delivering services to the people of Scotland; COSLA at a focused, local level, and the Parliament at a strategic level.

It is interesting that you mentioned individual MSPs. The best work that we have done with

individual MSPs has been on concerns about national strategies, such as the long-term future of housing, the waste strategy—which is a big issue that we are discussing locally at the moment—and care in the community and how we deliver that in terms of demography in the years to come.

Relationships with individual MSPs have been positive. Such relationships, of course, have not involved only us; community planning means that we have to work in partnership with other organisations. The relationships have been helpful in ensuring a local focus on national issues.

Registration would confuse our relationship with central Government and Scottish Government if we were registered along with bodies with pecuniary or development interests. There is some confusion there. The nature of lobbying by local government is bona fide.

Adrian Colwell: We see the relationship primarily as being between tiers of governance. You may be aware that we have worked with the Local Government Committee on a draft covenant to set a framework for the sort of relationship that we would like with all aspects of the Parliament and to build on the work that has been done in the first years of the Parliament's life.

On the distinction between local government and professional lobbyists, it is our view that the suggested move to statutory regulation might undermine to some degree the general principle of open parliamentary access based on an inclusive relationship with Scottish civic society. We would be concerned if access to the parliament were restricted to professional lobbyists. We think that we are not professional lobbyists, as we represent very clear interests, as reflected in the devolution settlement. It is our general view that a voluntary code of conduct for lobbyists is a better option than statutory provision, if that is what your inquiry concludes.

Tricia Marwick: At the heart of your paper and your oral evidence, there seems to be confusion, which was perhaps caused by the consultation paper. The third last paragraph in your paper says, under "Regulation of Lobbyists and Code of Conduct":

"Statutory regulation does, however, as referred to in the consultation paper, give an impression that only registered lobbyists could access MSPs."

You are saying that COSLA would be concerned if that were the case. That was not the impression that the committee wanted to leave you with. You make a distinction between what COSLA does and what is done by the professional organisations that lobby on behalf of clients and take money to do so. We would all be surprised if we found that COSLA had not been engaged in discussions with MSPs and the Executive on matters such as

McCrone or the local government settlement. We expect you to do that, and do not suggest that you should not; nor do we seek to regulate COSLA out of existence. Do you agree that there is a distinction between organisations such as yours, which engage in discussion on behalf of a body or bodies—as in the case of local government—and organisations that lobby the Parliament and the Executive on behalf of a wide range of interests?

Councillor McChord: Yes, indeed. I believe that we are part of the fabric of governance and democracy in Scotland and that that is the distinction between COSLA and other organisations. As individual local authorities, we forward the interests of people in our communities and, when we get together as COSLA, we forward the interests of our communities across Scotland.

I agree with you: why do we consider that we should not be registered and included in other areas? I mentioned trunk roads as a rare area in which there may have been confusion. It may have seemed that we lobbied in the interests of our workers, but in fact the argument was much more complex. If the distinction is blurred between local authorities and geographical or developmental communities of interest, there could be confusion.

Adrian Colwell: The nature of the relationship and the activities in which COSLA and local government are involved are at the heart of our response to the questions that you pose.

The covenant that we have been working on with the Local Government Committee is intended to set a clear framework for a transparent relationship. It is based on the principles of the European Charter of Local Self-Government, which is about mutual respect and trust between tiers of government, recognising the value and legitimacy of the role that the Parliament and local government play in the governance of Scotland. That is slightly different from clear commercial interests. I am not suggesting for a minute that COSLA does not have interests; we have interests in substantial parts of the legislative programme. Ultimately, however, we are talking about governance as a fundamental principle and how that is delivered in Scotland, rather than just championing individual financial interests.

The draft code of conduct for councillors that COSLA has developed sets out a series of principles that will underpin how councillors pursue their duties. That is another area that sets us slightly apart from commercial interests. We are signing up to very clear statements of selflessness, integrity, objectivity, openness, honesty and leadership.

11:15

The Convener: Tricia Marwick quoted a sentence from your letter, which I had also flagged up for my own interest. A further sentence says:

"Given that the Scottish Parliament is intended to be more accessible than Westminster, it would be regrettable if such a regressive development were to occur."

Are you saying that you believe that the statutory regulation of lobbyists would be a regressive development?

Councillor McChord: We are asking for a definition of a professional lobbyist. Adrian Colwell has already said that we do not consider ourselves to be professional lobbyists as such.

Adrian Colwell: The language in the original submission from my colleague is perhaps a little harsh in its tone. However, as Councillor McChord has suggested, we were concerned about the interpretation of the word professional. COSLA would, of course, abide by the spirit and the letter of whatever rules of engagement are ultimately decided. We were concerned about the potential implications, rather than what the actual outcome might be. Does that clarify matters?

The Convener: I think that I understand what you are saying, but let me paraphrase it to see whether I have got it right. COSLA is against statutory regulation but, if it comes in, would prefer it to apply to so-called professional lobbyists rather than to anyone else. Is that what you are saying?

Adrian Colwell: Yes.

Councillor McChord: We are probably saying that, but we are reluctant to get into areas that we are not really involved in. The same is true of codes of conduct for public bodies; that is for other organisations to decide.

Tricia Marwick: Our previous witnesses, from the Stirling media research institute, suggested that we adopt the Canadian system, which defines consultant lobbyists, in-house lobbyists and non-profit organisations. There are a number of exemptions. For example, you do not need to register if you are lobbying in direct response to questions from a public official. A lot of the activities that COSLA is currently engaged in suggest that it has a unique relationship with central Government and should therefore not be treated in the same way as a professional organisation that is lobbying on behalf of a number of commercial interests and a number of clients. Do you agree that, in those circumstances, your objection to registration as a whole could be modified or withdrawn?

Councillor McChord: We are saying the same thing in different ways. Your description sounded like an opting-out process, in which registration would be for everyone but exemptions, opting out,

derogations or whatever would be allowed.

It is bona fide for Friends of the Earth to lobby commercial interests in relation to pollution of the environment and so on—money often talks in such circumstances and there can be a difference in the financial weight of lobbyists. That issue must be thought through, and we are coming at it from different directions.

Mr Macintosh: On that point, the witnesses from Stirling media research institute gave us a strong idea of their perception of the potential scale of the problem. What is your experience—not of your relationship with the Executive, which is fairly straightforward, but of your relationship with MSPs, which is what the committee is dealing with? Your submission talks about access to the Parliament and makes interesting points about stage 2 of the bill process, but do you find it difficult to gain access to MSPs? Do commercial organisations such as professional lobbyists have more favourable terms? Are they better at gaining access to MSPs? Is the present system insufficiently regulated and therefore in need of scrutiny, or are the rules sufficient to guard against current or potential problems?

Councillor McChord: I suppose that that is a political question.

I see no evidence of problems in Scotland, although there is evidence of problems in Westminster, where regulation of lobbying activities was certainly required before 1997 and something had to be done.

As I said earlier, we have good access to individual MSPs and to the Executive. It is a two-way flow, and I hope that they can gain access to us whenever we are needed.

We will have to keep a careful watch on the issue, particularly in relation to developers and planning at the local, rather than the macro, level. A close watch must be kept on the roles of individual councillors and of the authority and we must develop regulation in this area.

Adrian Colwell: Like Councillor McChord, I want to record that the secretariat at Rosebery House has had no problems with being able to gain access to any MSP from any of the political parties when we have sought such access, either for face-to-face dialogue or in order to submit materials. Likewise, we have had no problem with gaining access to the Parliament's support structure—for example, the committee clerks.

It is difficult to respond to the question on comparing our position with that of commercial lobbyists. In my experience and in that of my colleagues, we have witnessed no preferential treatment, but I can base that only on how COSLA's engagement has taken place and on

how we have been received. We are pleased with the relationship that we have with the Parliament.

As members will see from our submission and from this morning's debate, it is difficult to judge whether further regulation is necessary. However, given the debate on codes of conduct for councillors and the probity of local government processes, we entirely understand, and share an interest in, the moves that are being made to ensure that the rules are clear and transparent and that all parties understand them.

Mr Macintosh: That brings me perfectly to my next point. Mr McAveety told us about his experience of how local government works. If an organisation wants to lobby local government or councillors, what rules and regulations do you have in place to govern those circumstances?

Councillor McChord: It comes down to the organisation's relationship with the individual councillor rather than with the authority. That issue was covered in the debate about standards in public life and the code of conduct. Our dilemma was whether we should produce a short document that everyone could understand or a long, complex document that only a lawyer could understand. We hope that we have struck a balance and that we can get our views across to members of authorities. I believe that, ultimately, individual councillors, like MSPs, have a gut feeling when they cross the line, and that gut feeling should be their guide on most occasions.

Mr Macintosh: We have a code of conduct for MSPs but we are considering whether to produce a code of conduct for lobbyists. Do you have a code of conduct that covers the lobbyists' side of the relationship?

Councillor McChord: No—there is no such code at either the local government or the COSLA level.

Adrian Colwell: We do not have a code of conduct on lobbying and local government at either the local or national level, nor are we developing one. Having said that, it depends on the outcome of the committee's inquiry. We would revisit the issue at that time, because the draft code of conduct for councillors that is provided for in the Ethical Standards in Public Life etc (Scotland) Act 2000 mirrors the principles that are adopted by MSPs.

The draft code sets out clear parameters for councillors and I hope that it was written in a way that is capable of being followed both in spirit and to the letter, as Councillor McChord said. There is nothing in the code on lobbying and lobbying organisations, although there are certain provisions on how land and financial matters should be dealt with if an individual councillor has a direct interest.

Councillor McChord: As far as we are concerned, responsibility for integrity rests with the local member, not with the lobbying organisation.

Mr Macintosh: You are not considering changing that position unless we do something that spurs you into action.

Councillor McChord: No, not at the moment.

Kay Ullrich: You say that you would support the introduction of a voluntary code. Who should be responsible for developing such a code? What sanctions, if any, should be available for breaches of the code? Who should be responsible for policing it?

Councillor McChord: Professional lobbying organisations in Scotland would have to be consulted and be part of that process. COSLA enjoyed co-operating with the Parliament and the committees on our end of the business of standards in public life, as far as developing our code was concerned. It would be only fair and practicable to involve all relevant organisations, from NGOs and professional lobbyists to big business.

Kay Ullrich: What about the lobbyists who refuse to sign up to a voluntary code? Some might argue that that might be advantageous to them.

Councillor McChord: It strikes me that voluntary codes are strengthened by the views of the public. It does no harm to expose organisations by naming and shaming them, if they cannot keep to a voluntary code. If a voluntary code were unsustainable, we would have to think of something else.

Kay Ullrich: Are you saying that a voluntary code should apply to all organisations and individuals involved in lobbying?

Councillor McChord: Yes, but that depends on your definition of a professional lobbying organisation. The situation may need something further.

Kay Ullrich: When you say that it "may need something further", are you talking about what you call the professional lobbyist?

Councillor McChord: Yes.

Kay Ullrich: Something further than a code of conduct?

Councillor McChord: Yes—you might take the view that something further was required.

Kay Ullrich: Is that your view?

Councillor McChord: No—we are not engaged in the issue to that extent.

The Convener: As there are no further questions, I thank the witnesses for their helpful

contribution. They might find it useful to sit at the back of the chamber to listen to our next witnesses.

11:27

Meeting adjourned.

11:36

On resuming—

The Convener: Our final group of witnesses comes from the Scottish Council for Voluntary Organisations and the third sector policy officers network. I welcome Philippa Bonella and Jillian Flye from the SCVO and Graham Blount from the third sector policy officers network. I invite you to make a short opening statement.

Philippa Bonella (Scottish Council for Voluntary Organisations): Thank you for inviting us to speak today. I have to pass on apologies from Michele Savage from the Scottish Society for Autism—she is snowbound somewhere in Clackmannanshire. I am policy officer with the SCVO and Jill Flye is our information officer. Graham Blount comes from the Scottish Churches Parliamentary Office and is part of the third sector policy officers network.

The SCVO is the umbrella body for voluntary organisations in Scotland. We have more than 1,000 direct members and reach thousands more through our regional and issue-specific networks. Our role is to represent the interests of the third sector to decision makers and to provide services to help voluntary organisations to work more effectively.

The third sector is hugely enthusiastic about devolution. When we canvassed our members before the 1997 referendum to find out whether we should join the yes-yes campaign, the response was almost 100 per cent positive and so we joined up. We all realised that the Scottish voluntary sector would be much better able to work in partnership with an accessible, Scotland-based Parliament.

We have always believed that the best decision making is informed by the communities that those decisions will affect. Voluntary organisations are the way in which people band together to put forward issues that concern them. In 1999, the SCVO received funding from the National Lottery Charities Board to set up the third sector parliamentary information and advisory service—the project for which both Jillian and I currently work. The service works to encourage voluntary organisations to get involved in what we might call lobbying; we encourage voluntary organisations to take their concerns and ideas for change to the Parliament and we suggest ways in which they

might do that effectively.

We have learned that before devolution most Scottish voluntary organisations had little experience of lobbying. Often, there was an assumption that the policy makers could not be influenced or informed by Scottish voluntary organisations. We have been working for two years to change that assumption. We have been lucky in getting a positive response from MSPs, which has helped us in that work. We have produced a wide range of information and training material to ensure that small voluntary organisations know how to get involved and pass on their views to Parliament. We also do our best to keep MSPs informed of major issues of concern to the voluntary sector, such as the need for charity law reform and the concern about the ending of water rates relief for the sector.

Since the Scottish Parliament was established, the Scottish voluntary sector has become a great deal more aware of the demands placed on it by devolution. Some of the larger organisations have been able to respond to those demands by employing full-time parliamentary officers. However, such positions are hard to fund, particularly for service-providing organisations. We estimate that there are no more than 20 full-time voluntary sector lobbyists in Scotland. That means that, if the rest of the 44,000 Scottish voluntary organisations want to lobby, they must do so by fitting it into the work of current posts or by using volunteers. To help full-time and part-time voluntary sector lobbyists to share practice and to learn from one another's experience, the SCVO convenes the third sector policy officers network, which meets every few weeks, to ensure that isolated policy officers can come together, share good practice and learn about how the Parliament works.

Both the SCVO and the third sector policy officers network responded to the recent consultation on lobbying. We believe that there is no case for registering lobbyists in the Scottish Parliament. Our concern is that small community organisations will be hardest hit by any barriers to accessibility. If "lobbyist" is to be defined as broadly as some have suggested and all lobbyists have to be registered, that could create an elite class of registered groups that lobby frequently, making it even harder for smaller groups to access the decision-making process. Any increase in bureaucracy will deter organisations that have little experience in making their case to policy makers. We already know that the smaller groups, which often have the best relationship with those at the sharp end of public policy, already find it difficult to communicate their experience.

The SCVO and the third sector policy officers network believe that registration will be impossible

to implement without a strongly negative effect on the ability of communities to participate in the work of the Parliament.

The Convener: Thank you for that presentation. Ken Macintosh will lead off the questions.

Mr Macintosh: Thank you for your paper. I noted your comments on your experience of access to the Parliament, the workings of the Parliamentary Bureau and the increasing number of private committee meetings. I am sure that my colleagues have also noted those remarks. However, rather than go into those issues, I will ask about your experience of lobbying the Scottish Parliament. How does it compare with your perception of the experience of commercial organisations? Do you think that commercial organisations have more access than you do? Could you comment on the rules that govern your access to MSPs? Are they sufficient?

Philippa Bonella: We have had extremely positive experiences of lobbying the Scottish Parliament. Nearly all voluntary organisations have very small budgets when it comes to lobbying so we are unable to get involved in hospitality, for example. We have found that the CSG principles of openness and accessibility have helped us to get to talk to MSPs and explain our concerns. MSPs are open to the voluntary sector and are willing to speak to voluntary organisations. That access is to our benefit, because MSPs are quite willing to talk to us, perhaps more than they might be to private sector lobbyists.

Jillian Flye (Scottish Council for Voluntary Organisations): All along, MSPs have been willing to be involved and to draw on voluntary sector expertise. The feedback that we have received from smaller voluntary organisations also shows that MSPs are easy to contact and willing to become involved.

Mr Macintosh: I do not wish to be unfair to you, and my next question is one about perception. Your organisations have much experience of contacting MSPs and working in the parliamentary environs. How does the system work? Do you perceive undue influence being given to commercial organisations? Are individuals given insufficient influence? Do groups have too much influence? Does the process need to be governed with a heavier hand?

Philippa Bonella: We do not perceive a problem of commercial organisations having undue access. It is probably true that organisations find it easier than individuals do—particularly those from more deprived communities—to work their way into the Parliament. As part of a project, we go out and about to speak to small local groups and individuals and we invite the MSPs for the

constituencies that we visit to participate. That initiative has worked well in encouraging individuals and small groups to access the Parliament. Much of the problem could be attributed to cynicism and a lack of awareness about how open the Parliament can be.

11:45

Graham Blount (Third Sector Policy Officers Network): MSPs and ministers must make judgment calls about whom they do and do not give time to. That is inevitable and appropriate. I do not think that we have any experience that suggests a built-in prejudice against voluntary sector groups. The opposite may sometimes be true.

Like the SCVO, my office considers part of its role as helping individuals and smaller local groups to gain access. Those of us who access the Parliament often like to think that we have built up some professionalism or expertise. We know our way around and can find out information more quickly than others can. Part of our role involves helping a wider group of people to secure access. That is better than creating a professional aura that one needs to know someone to get access.

Mr Macintosh: As we heard, the Stirling media research institute favours statutory regulation. Currently, the onus is on MSPs to respect the rules and to ensure that the code of conduct is followed. In the interest of transparency, should more emphasis be placed on groups such as your network, on professional lobbyists and on individuals to declare what they are doing and to make their work more public? I do not suppose that you think that your organisation is private or shy. Should a mechanism be put in place to make the activities that you conduct on behalf of your group more transparent?

Graham Blount: Our practice is transparent. The problem with access relates not to who gets access but to who does not get it. If you try to regulate the lobbyists, you cannot regulate those who do not have access. If the problem relates to those who do not have access, MSPs must be regulated. We do not think that the case for regulation is strong enough to counteract the sense of creating an elite of registered lobbyists, which would diminish, rather than improve, access.

Mr Macintosh: If we constructed a method of registering that we felt was not a barrier to access, would the SCVO object to its activities being made more widely known?

Philippa Bonella: Not at all. However, I am unsure how we could make our activities more widely known. The SCVO's role is to act as a conduit for its members' concerns. They lead us.

We are regulated by charity law and a variety of other regulatory frameworks in the voluntary sector, so our funding is open for anyone to find out about. We produce reports about our work. We are open to telling people what we do. I think that the voluntary sector is as open as it can be.

Although it might be interesting to find out what the private sector lobbyists are doing, I remain worried that the creation any kind of framework through which one must go to make one's concerns known will make it particularly difficult for small organisations that do not often go through that process and do not know how it works.

Kay Ullrich: I am not clear what your position is on a voluntary code. Your response states that

"a voluntary code might in effect be a first step towards statutory regulation."

Why do you think that?

Philippa Bonella: Our main concern about statutory regulation is that it creates an elite group of recognised lobbyists. A voluntary code would be a step towards that. If an organisation can say that it signs up to such-and-such a code, it might sound more professional and so seem to be one that should be used. Smaller organisations that have not signed up to a voluntary code because they do not know that one exists or because they do not lobby often enough might feel that they are outside the direct channels to access that the voluntary code members are in. We would be happy to sign up to a code if one were produced.

Kay Ullrich: I was going to ask about that. Are you saying that you would support the introduction of a voluntary code for all organisations?

Philippa Bonella: Yes, if you could find one that would suit the smallest voluntary organisation, which might lobby once in a parliamentary session, as well as the private companies that lobby on behalf of other organisations.

Jillian Flye: It should be a simple statement of guidance rather than a detailed code. It should advise organisations to make it clear who they are and whose interests they represent—it is always in the interests of a voluntary sector organisation to do that in lobbying. To lobby effectively, even a voluntary organisation needs to be clear about who it is and whom it represents.

Kay Ullrich: What is the difference between guidance and a voluntary code?

Jillian Flye: The difference lies in the simplicity of a short statement that is accessible to everybody.

Philippa Bonella: I will describe the way in which we envisaged guidance working. As Graham Blount said, we feel that the onus should be on MSPs to decide whether the organisation

that approaches them has explained itself properly and to be sure that they understand what is happening. That is all covered in the code of conduct for members, on which any guidance that is available to lobbyists should be based. As Jillian Flye said, guidance for lobbyists should just advise them that they should ensure that the MSP knows who they are, what they want and, if necessary, how they are funded.

Graham Blount: We would welcome guidance to help us to develop good practice. We would be worried if it was a matter of signing up to a code, as that would lead to a two-tier system of those who are signed up to it and those who are not.

Kay Ullrich: You seem to be coming down on the side of the argument that says that any guidance should be to MSPs and their staff, for example on how to recognise improper lobbying.

Graham Blount: We would not be hostile to the idea of guidance to voluntary organisations. If MSPs are told that it is inappropriate for them to receive gifts above a certain value, it would be helpful for that to be publicised among those in the voluntary sector who approach MSPs.

Philippa Bonella: Obviously, we provide such information already, so we would be quite happy to produce guidance for the voluntary sector.

Kay Ullrich: You are in favour of guidance. What is your position on a voluntary code?

Philippa Bonella: We think that a voluntary code is unnecessary for the voluntary sector. However, if one is produced, we would be happy to publicise it.

Tricia Marwick: I declare an interest: given your concerns about the workings of the Parliamentary Bureau, I am, as SNP business manager, more than happy to talk to you about the workings of that body.

I am slightly confused by your submission. On the one hand, you do not want registration or regulation for professional, commercial lobbying organisations because you feel that that would create an elite. On the other hand, you do not want the voluntary sector to be registered or regulated along with those professional organisations because that would perhaps exclude some of your voluntary organisations. That is where I am confused. One is either opposed to the creation of an elite or one makes the same rules for everybody, yet neither of those options seems acceptable to you.

Philippa Bonella: In a way, the same argument applies in each case. If you create a register, you create a channel through which organisations must go in order to make their views known. We would like to avoid that in order to have an open and accessible Parliament. A tiny organisation,

which has never had any contact with Parliament, must be able to contact it by e-mail or letter as easily as an organisation such as ours can, which contacts Parliament frequently.

If organisations have to register—whether only private companies or all lobbyists—a channel is created through which they will go. Organisations could use that as a positive point for themselves by saying that they are registered. Moreover, a register could mean that organisations that do not know the system would be blocked—they would not know how to get on the register and so might be dissuaded from getting involved.

Tricia Marwick: You have said that your experience of the Parliament is that it is open and accessible; you said some nice things about MSPs. We are all committed to ensuring that individuals and organisations can find a way to lobby us, because that strips away some of the mystique of private companies. How can we do that better?

Jillian Flye: You can do so by not requiring organisations to register. As soon as there is a perceived elite—whether a small group of commercial lobbyists or one that included voluntary sector organisations—people will feel that they cannot access an MSP directly as and when they wish, so they will be more likely to use a commercial lobbyist or not to bother contacting the Parliament. We should keep the current system; Parliament is already open and accessible.

Tricia Marwick: I see a distinction between organisations that lobby for profit, which might have a number of clients who are buying their services, and the voluntary sector or individual organisations, whether they employ a parliamentary officer or are grass-roots bodies. Do you recognise that distinction between organisations such as the SCVO, Age Concern Scotland, Shelter or any of the other organisations that come to us and put their viewpoint across, and a commercial organisation, which might be lobbying for six, seven or 20 clients?

Philippa Bonella: We do not have any wish to defend the interests of private lobbying companies. We see a clear distinction between what they do and what we do. We are generally not lobbying for profit or private gain; we are lobbying on behalf of the interests of a large number of people. If you choose to create a register and a definition can be found that makes that distinction clear, we would be happy to support it.

The Convener: Do you think that organisations that can afford to use commercial lobbyists have an unfair advantage in gaining access to the Parliament, or is that irrelevant, as there is open

access?

Philippa Bonella: The main reason why the SCVO set up its service was so that voluntary organisations would not have to spend large amounts of money to use private companies, which perhaps do not understand the needs of voluntary organisations very well. We have a lot of users who get some advantage from using us, as they would from using a private company, through being given digests of information and advice about how things work. I am sure that it is slightly advantageous either to be a frequent lobbyist or to use a service in order to get that advice and be kept up to date without having to spend your entire life on the Scottish Parliament website, but I hope that any organisation would be able to find a way to do that by using new technology or links through their constituencies.

12:00

Graham Blount: The Scottish Churches Parliamentary Office was created so that larger groups, such as the Church of Scotland, did not have the advantage of being able to pay somebody full time to work on these matters while smaller churches were disadvantaged because they did not have the resources to do that. We are all committed to working in ways that ensure that smaller groups are not put at a disadvantage because they cannot afford to pay a lobbying company or a parliamentary officer.

Philippa Bonella: The policy officers network meets to share practice among its members. We have around 80 members, most of which are larger organisations that can afford to have someone working, at least part time, on policy. The major role for the SCVO is to match smaller groups with more experienced policy workers in the same field. We hope that we can cascade down experience and knowledge to the smaller organisations.

Mr McAveety: Earlier, we heard from the Stirling media research institute on the principle of reassuring the public that parliamentarians and public bodies are working in a transparent and open fashion. Its evidence was strong; it believed that everyone should be registered, largely to deal with larger institutions, in the interests of transparency and openness. If your activities are above board—which I know they are, given my experience of the SCVO and the voluntary sector—why should you be worried about registration or regulation, which should be light anyway?

Philippa Bonella: We would not be worried at all. As I said, most voluntary organisations are regulated by one regime or another and are already open and accessible. We have been out

and about all over Scotland and have talked to lots of small groups. We are concerned that they are already nervous about getting involved with Parliament. They are not sure how the system works. If they do not have a full-time member of staff or their committee members change every year, they find it extremely difficult to go through the processes—filling in forms, for example—to ensure that they are registered properly. That creates another barrier for small organisations.

Mr McAveety: In parallel with that dilemma, which I do not underestimate, is the wider public concern about those who lobby. The public perceive them as private concerns that engage in lobbying for profit. The SCVO has a good network and could share the responsibility of registration, so people could assume that registration was a simple case of recording that person A made an inquiry to a parliamentarian, a minister or a civil servant. Why would that be burdensome?

The real concern is those with wider interests—not necessarily the interest groups that you represent—who sometimes represent clients with opposing agendas. For example, a public relations company is perfectly capable of saying one thing at one meeting and something else at another, depending on its client. Registration would at least allow the public and the Parliament to track that activity. Why cannot we go for regulation with a very light touch? We could look at the role of the SCVO in minimising the burden on its smaller organisations.

Philippa Bonella: We would do our best to do that. To be honest, if we are looking for an open and accessible Parliament, it is MSPs who need to be open and accessible. Regulating the interests that try to talk to MSPs is difficult. The public and the voluntary sector want MSPs to be seen as above reproach rather than private sector lobbying firms to be seen as above reproach.

Mr McAveety: I understand that. However, I have always thought that it was important to have two gatekeepers. Although individual elected members should make a judgment call based on a broad code of conduct, which is being developed nationally and locally, it is helpful in the interests of consistency for other folk to be asked for their opinion. It is a bit much for the public to assume that individuals can always be acting rightly or wrongly; we are an easy target if we act wrongly, and we are not praised if we act rightly. As a result, it would be helpful to have regulation and registration across the board.

Graham Blount: We should remember that not all the small groups that might want to lobby the Parliament are part of the SCVO or are in touch with any other network. The worry is that registration might be a deterrent to them. Where do we draw the line? If a mother and toddler group

that meets in what used to be my church in Falkirk needs to promote a cause with Dennis Canavan, does it have to be registered in order to talk to him or the relevant Government minister?

Mr McAveety: That is what we are trying to explore.

Tricia Marwick: Do you see the argument that commercial lobbying companies should not be treated exactly the same as a mother and toddler group? Perhaps there is a need for regulation in one sector and not in another.

Jillian Flye: Although I see the logic of that, we are still setting up a group of people that could use their registration to sell their services to organisations that are not registered.

Tricia Marwick: The Scottish Parliament is a new organisation. When we were standing for the elections to the Parliament, the public said that they wanted it to be different from Westminster, because they had gone through an election in 1997 that was based on sleaze campaigns. It could be argued that not much has changed at Westminster. We have an opportunity to do things differently in Scotland, but you seem to be suggesting that we keep things exactly the same as they are at Westminster.

Graham Blount: We want to broaden access, not restrict it. We find it hard to envisage any system of registration or regulation of lobbying that would not restrict access.

The Convener: Thank you very much. I found your evidence particularly helpful, as I am sure the rest of the committee did.

That concludes today's evidence-taking session on lobbying. We will be hearing from the Scottish Trades Union Congress, the Scottish Civic Forum and representatives from commercial lobbying organisations at our next meeting, which will be held in the Hub on 14 March.

Cross-party Groups

The Convener: Our next agenda item is consideration of applications for recognition as a cross-party group. Members will note that the clerks have included a list of the groups that have been previously been accorded cross-party group status by the committee. I am advised that work is under way on an issues paper on how the cross-party groups operate at Westminster and elsewhere, as requested by the committee in January.

We have two applications to consider this morning, the first of which is a proposed group on the Scots language. I notice that both Tricia Marwick and Lord James Douglas-Hamilton are members of the group. Do members have any comments?

Mr McAveety: Only that the application was submitted in standard English.

Kay Ullrich: Your standard English, Frank.

The Convener: Are members happy to approve the application?

Members *indicated agreement.*

The Convener: The second application is for a cross-party group on mental health. Are members content to approve the application?

Members *indicated agreement.*

The Convener: Our final agenda item is a discussion on possible lines of questioning for our next evidence-taking session on lobbying. As agreed at the beginning of the meeting, we will now move into private session.

12:09

Meeting continued in private until 12:13.

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