



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 16 January 2014

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

1st Meeting 2014, Session 4

CONVENER

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Cameron Buchanan (Lothian) (Con)

*Cara Hilton (Dunfermline) (Lab)

*Richard Lyle (Central Scotland) (SNP)

*Margaret McDougall (West Scotland) (Lab)

*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tamasin Cave (Alliance for Lobbying Transparency)

Illiam Costain McCade (Association of Professional Political Consultants Scotland)

Dr William Dinan (Spinwatch/ALTER-EU)

Neil Findlay (Lothian) (Lab)

Alastair Ross (Association for Scottish Public Affairs)

Alexandra Runswick (Unlock Democracy)

Andrew Watson (Chartered Institute of Public Relations)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

Committee Room 6

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 16 January 2014

[The Convener *opened the meeting at 09:01*]

Interests

The Convener (Stewart Stevenson): I welcome members to the Standards, Procedures and Public Appointments Committee's first meeting in 2014. As usual, members, witnesses and all those in the gallery should ensure that mobile phones are turned off, not least because they can interfere with the sound system.

Under agenda item 1, I ask our new member, Cara Hilton, to declare any relevant interests.

Cara Hilton (Dunfermline) (Lab): I have nothing to declare.

The Convener: Cara Hilton replaces Helen Eadie, who sadly passed away last year.

Deputy Convener

09:02

The Convener: Helen Eadie was our deputy convener, so item 2 is the selection of a deputy convener. The Parliament has agreed that only members of the Scottish Labour Party are eligible for nomination as deputy convener of the committee. That being the case, I invite nominations for the position.

Fiona McLeod (Strathkelvin and Bearsden) (SNP): I nominate Margaret McDougall to be deputy convener.

The Convener: No seconder is required and there are no other nominations.

Margaret McDougall was chosen as deputy convener.

The Convener: I congratulate Margaret McDougall on her appointment.

Decision on Taking Business in Private

09:03

The Convener: Our next item of business is for the committee to decide whether to take in private at this meeting and future meetings its consideration of the evidence in its inquiry into lobbying. Do members agree to that?

Members *indicated agreement.*

Witness Expenses

09:03

The Convener: Under item 4, I invite the committee to delegate to me responsibility for arranging, under rule 12.4.3 of standing orders, for the Scottish Parliamentary Corporate Body to pay any expenses of witnesses in the lobbying inquiry. Members may wish to note that, when I am minded to reject a claim, it will be necessary for the committee to consider that claim at a meeting. Do members agree to delegate that responsibility to me?

Members *indicated agreement.*

Lobbying

09:03

The Convener: Item 5 is evidence in the committee's inquiry into lobbying. I welcome our first panel. I will put my glasses on so that I can see who is sitting where; do forgive me. On the left we have Alexandra Runswick, who is director of Unlock Democracy, and next to her is Neil Findlay MSP. We then have Dr William Dinan, who is director of Spinwatch, and is on the steering committee of the alliance for lobbying transparency and ethics regulation European Union—ALTER-EU. On my right we have Tamasin Cave, who is a campaigner for the alliance for lobbying transparency.

I do not intend to take opening remarks but, if time permits, at the end of the session I will give witnesses the opportunity to make any points that they believe have not been made. We run tight for time because we have to complete our business before Parliament starts at 11.40. I am looking to finish the session at approximately 10 o'clock, so if questions and answers can be concise and focused, we will cover as much ground as we reasonably can.

I will be quite careful in how I deal with any matters that committee members or witnesses raise that relate to the personal interests of anyone to whom they might refer. I invite everyone to be cautious in that regard. I do not expect any difficulties.

Cara Hilton will start the questions.

Cara Hilton: Good morning, panel. I will start by asking a general question of everyone. To what extent is reform required? There have been no major lobbying scandals at Holyrood, so does legislation need to be introduced at this time?

Neil Findlay (Lothian) (Lab): The thrust of the Government is—rightly—about preventative action. We hear terms such as “preventative spend” being used all the time, and the proposal fits comfortably into that.

Imagine that there was a scandal. What would happen afterwards? There would be a major party-political dogfight, and people would attempt to gain advantage through a scandal emerging. It is better to take action to prevent a scandal from happening in an atmosphere of relative calm, when there has been no major problem. The proposal is all part of the preventative action agenda that we are probably all signed up to.

We have to ask ourselves why no scandals have emerged up here. Is that because we are naturally much more honest, open and transparent people—I will leave others to judge and answer

that—or is it because we do not know what is going on? I will not comment on that; I throw that open as something that we might consider.

When there was no Scottish Parliament, little or no lobbying went on in Scotland. However, as powers have come to the Parliament, the amount of lobbying has increased. The Parliament is due to get further powers under the Scotland Act 2012 and, whatever happens with the constitutional situation, it looks as though yet more powers will come to the Parliament. The amount of lobbying that goes on in and around this place will consequently increase.

If we take action now rather than wait until we have a problem, we will put in place a system that will help to maintain the reputation, openness and transparency of this place.

Dr William Dinan (Spinwatch/ALTER-EU): It is worth seeing the proposals and the idea of lobbying transparency as good practice and good governance. The Organisation for Economic Co-operation and Development has been heavily promoting the adoption of lobbying transparency rules, registers and disclosure regimes as a means of promoting public trust in Governments and governance and of ensuring proper scrutiny of Parliaments, parliamentarians and what happens in Government. That is important.

No one really knows what the situation in Scotland is, because there is a definite deficit in transparency. We cannot tell. We can go on to the websites of various organisations that lobby, which might or might not reveal their approaches to the Government and the Parliament. That is an issue. Scotland also has a relative dearth of investigative media. Little investigative journalism goes on in Scotland. There are pockets of it in the BBC and one or two newspapers, but they are the exception. We should not be complacent and say that, because there have been no scandals and no revelations in the media, everything is fine in Scotland.

This is a really good time to consider the proposals. If we are to have good governance and a good look at such issues, it is best not to consider measures when we are in a crisis and have to react to something. We need to look across the field and ask what we can do to improve the Parliament's transparency and accountability. The principles are sound. Proposals about lobbying transparency are completely aligned with this institution's founding principles and would make a concrete contribution to advancing them.

Alexandra Runswick (Unlock Democracy): I agree entirely with Will Dinan about transparency. The first reason to adopt the proposals is that transparency in governance is a good thing. The

Parliament has the opportunity to take action before any major scandals. That is an important point.

As a newer Parliament, the Scottish Parliament has led the way on lots of democratic measures in the United Kingdom. I spend a fair bit of my time trying to convince Westminster parliamentarians to engage with what seem to be moderate proposals, such as a petitions committee, which the Scottish Parliament embraced from the start. The Scottish Parliament has another opportunity to set the tone in how things should be done and to show how an effective lobbying register can be achieved. That is a really important step for the Scottish Parliament to take, particularly as the Parliament's powers increase, because we know that lobbying will increase in line with those powers.

Tamasin Cave (Alliance for Lobbying Transparency): I will add something on whether the need is real or perceived—those are two separate things, but they are equally important. Having worked on the Westminster proposal since 2007, I know that a lot has been said about perceived need. Various polls have shown that public trust is an issue. People see that a fast track—an inside lane—is afforded to corporate lobbyists in particular, and people feel excluded from government.

I will talk briefly about what I see as the real need, which goes to the heart of what lobbying is about. I say with respect that you as MSPs see the tip of the iceberg of the lobbying activity on an issue. Without being rude about the other bit, I say that the contact programmes with you, ministers, civil servants and regulators are the professional face of the lobbying industry. Beneath that sits a vast industry that brings in a lot of public relations and other techniques.

Will the committee give me the time to talk about a particular example? We can take the example of the tobacco industry's recent lobbying on issues such as point-of-display bans and plain packaging and look at the activity that it invested in—the industry invested an awful lot of money in the campaign to fight off those threats to it. The industry had an extensive contact programme with MPs, but beneath that sat an enormous amount of third-party campaigning that involved retailers, think tanks and lobbying agencies. The industry invested in a huge level of consumer outreach, so that consumers would lobby their MPs.

An awful lot of activity goes on beneath what you as elected members see. I know how the industry works and I have been an industry watcher for a number of years. I think that there is a genuine problem that needs to be tackled.

The Convener: Thank you for those contributions, which as first answers were—

properly—reasonably full. Let us try to make answers concise from now on.

Cara Hilton: My question links into those responses. What is the evidence that greater openness will lead to increased confidence in the political process in Scotland?

Dr Dinan: I will comment briefly. The research evidence is pretty slight. Michael Rush published work on the Canadian system that showed that one of the first benefits of a lobbying transparency system was that elected members and their staff had a better sense of what was going on, so that is a level to consider. However, it is worth posing the opposite question: if we do not have that, what do we have? We have a counsel of despair whereby people decry the fact that vested interests have an advantage in the political system. Anything that we can do to rebut that and show how the system works is worth while.

Neil Findlay: That is absolutely true. There are double-glazing salesmen, bankers then politicians—members can take their pick as to who is at the bottom. The only way is up for us, and increased openness and transparency can only improve the standing of politics and eat into the view that we are all at it, which is an affront to the many people who are in this for the right reasons: to help people and to make the country a better place. Greater openness will assist in raising the standing of politicians and politics.

Tamasin Cave: There is a chance that countries can get left behind. Westminster is certainly well behind the curve on transparency. We have the third-largest lobbying industry in the world after those in Washington and Brussels, yet there is no disclosure of lobbying activity. The situation is different in Scotland, but an increasing number of countries have registers. They include Israel, France and Germany, which have voluntary registers, as well as Poland and Lithuania. A head of steam is behind this. If Scotland chose to join that camp or that crowd, that would be positive and send a certain signal.

The register would not contain information for information's sake. It would be very useful for starting public conversations about various issues.

The Convener: We will come to the register, which will probably form the main part of our questioning.

09:15

Alexandra Runswick: I add quickly that we can turn the question on its head and look at Westminster to see what happens when people do not act. A cycle goes on there—a scandal is followed by an outcry, which is followed by an investigation that results in nothing happening,

and then the cycle of scandal, outcry and investigation starts again. That leads to public trust in politics decreasing again and to public alienation from politics increasing.

Each time that a scandal occurs, the perception develops that there is a professional political class on one hand and the rest of us on the other. The Scottish Parliament has the opportunity to stop that. I urge you to learn from the Westminster model and act before there is a serious problem, rather than worry about being pre-emptive. That is a strong case to make.

The Convener: I hope that the panel members will work with each other, because we might not need four answers to every question.

Cara Hilton: I hope that the answers to my next question will be shorter. The “Code of Conduct for Members of the Scottish Parliament” places responsibilities on members in respect of dealings with lobbyists. Should the responsibility to declare interests lie with those who are being lobbied rather than the lobbyists?

Neil Findlay: I would have no problem with declaring anything, but it is the lobbyists who are attempting to have influence—they are spending the money and making the approaches and they are involved in all the activity—so there is a duty on them.

Tamasin Cave: There is a practical issue. The scope of lobbying targets the full range of civil servants, regulators and people in all the arms of the Government. Everybody knows not to talk to the minister but to talk to the special adviser and everybody knows that, for a particular problem, it is better to go to the regulator than to go to anyone else. Civil servants are heavily lobbied. It might be overly bureaucratic to require everyone to declare their contacts with lobbyists and more practical to require the person who does the lobbying to declare their activities.

Dr Dinan: It does not have to be either/or—why not both? That would give a double lock. All forms of transparency are to the good and increase public confidence that the political class and the political system have nothing to hide and are happy to make such things open to public scrutiny.

The Convener: We move to questions on the register.

George Adam (Paisley) (SNP): Will a register address any problems or perceived problems with lobbying?

Dr Dinan: The fact that a register makes public more information about lobbying addresses the perception that there is secrecy and that it is difficult to hold people to account. At that extremely basic level, of course having a register will address those problems.

However, what happens after that depends on what people are required to do to declare and disclose in the register. In its inquiry, the committee must consider what it would be appropriate and proportionate to require disclosure of. The obvious issue is finance and how much has been spent—the resources that have been devoted to influencing the political process. Most of the public will initially and easily understand that metric, and it should be the focus when the committee thinks through what would be a proportionate disclosure.

Neil Findlay: The register would not resolve every problem, but it would help.

George Adam: Neil Findlay’s consultation paper argues that, in 2002, the Standards Committee’s focus on commercial lobbyists was too narrow, as it ignored other groups, such as trade associations, charities and campaign groups. The definition that he proposes is of “professional lobbyists”. Is that an agreed working definition?

Neil Findlay: That was the best definition that we could come up with. We considered a number of definitions, and we felt that that was the best one.

Tamasin Cave: Given that the proposals that are going through Westminster are a sham—that is the best way of describing them—there is a consensus among transparency campaigners, democracy campaigners and the commercial industry that, when we talk about professionals, we mean people who are paid to lobby, regardless of whether they are in a charity, a trade organisation or a large corporation. There is no difference between what I do as a lobbyist—I am a lobbyist—and the activities that they engage in.

The Convener: Am I correct in understanding that the definition that is being used has come from and is used in the industry—and is not necessarily any the worse for that?

Tamasin Cave: It is my understanding that the industry bodies got together and came up with the legal definition. It is one definition. We have had another one. I do not have a legal opinion on the industry’s definition, but I have had a look at it and it looks fine.

The Convener: So we are not in a position of arguing much about the definition?

Tamasin Cave: No.

The Convener: That is helpful.

George Adam: How will the use of that definition affect groups such as small organisations that employ in-house lobbyists?

Dr Dinan: It is about whether people cross over a threshold to force or trigger disclosure. Again,

this is one of the decisions that the committee will have to weigh. However, I think that a small organisation that has the resource to hire lobbyists to do its work has to declare that. A lot of the small organisations that we are thinking about do not hire lobbyists, but someone in the organisation may do some public affairs work, lobbying work and contact work. If that is a small part of their activity—if it does not become a major part of their job and is not the key thing that they do—there is probably no need to disclose that.

The measures that we are talking about are aimed at the larger, professionalised, resourced lobbying that goes on around this institution—they are not about capturing the small charities, the small community groups or anyone who wants to interact with the Parliament. That is not their purpose. The evidence from other places is that the system does not have to work in that way, so the issue is really a red herring. I can understand why people are concerned but if you draft the legislation and define the thresholds carefully enough—related to whatever agreed definition of lobbying you have—it should not be a problem.

I think that resource is the easiest metric. Some of the evidence from the United States suggests that the threshold might be more than \$3,000 a quarter. That is just one suggestion—it might not be appropriate for Scotland. However, if you think about it, that level would exclude most of the small charities in Scotland, but, quite rightly, the larger organisations—the big national organisations—would register as a result. I looked at Oxfam's declarations to the Charity Commission recently, and I think that everything that Oxfam declares to the Charity Commission would be sufficient for a register. There would be no extra work involved, even for a big organisation such as Oxfam, and the smaller organisations would not have to declare at all.

I do not see that the proposal is a massive bureaucratic burden. I agree with what the Public Administration Select Committee came up with. A lobbying register only requires people to disclose information that they already have readily to hand.

Neil Findlay: On small organisations, let me give an analogy that I have been using to try to explain the issue. A youth organisation might go to George Adam's surgery and say, "We haven't got much money and we want to hire a hall from the council—can you help us to see whether the council will give us a free let for the hall?" That is normal business for a small organisation and would not need to be registered.

However, if that organisation is part of a bigger youth organisation that is lobbying for a contract or for a big grant that is available from the Government, whether it hires a public affairs company to lobby on that or does it in house, it

would have to register that. It is the same organisation but it would be affected differently in different situations.

Alexandra Runswick: Unlock Democracy produced a sample filing when Westminster consulted on the issue in, I think, 2012. The document that we produced had all the information that we would want to see: who was lobbying whom, what policy we were seeking to lobby on, and a good faith estimate of the amount of money that we were spending on it. That took us about 20 minutes to do. The process does not have to be overly bureaucratic.

The Convener: Would it be possible for the committee to have a copy of that document?

Alexandra Runswick: Absolutely. I will email a copy to you.

Neil Findlay: Convener, I believe that there is a link to the document in my consultation paper.

The Convener: Then that is fine.

Alexandra Runswick: It is on our website as well.

Tamasin Cave: I have one thing to add in the context of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill that is going through Westminster at the moment. I met a number of peers the other day and they are obviously being lobbied heavily because of part 2 of the bill—the gagging part. There is a coalition of a lot of non-governmental organisations—about 120 of them—and one peer said that she had not had one representation saying that the NGOs opposed being on a register, which is in part 1 of the bill. The NGOs all support making their lobbying open. Apart from anything else, it shows all their supporters what they are doing—for many of them, it is a form of marketing. The NGOs that we have spoken to have no particular fears about the register so I do not think that you need to go down that track.

George Adam: I have a final question. Among the founding principles of the Scottish Parliament are openness, accountability and the sharing of power. The Parliament is proud of those principles. How would all of this work with those ideals?

Neil Findlay: I think that it would enhance them tremendously. It would allow the public to see more of what goes on in Parliament, which can only be to the advantage of the institution.

Dr Dinan: The measure is perfectly aligned to the founding principles of the Parliament. You cannot have power sharing and accountability unless there is proper scrutiny and people have information and know what is going on. It is a

fundamental. This would be a concrete and simple measure that Parliament could take to enhance and embed those principles further.

Tamasin Cave: It would make your job as MSPs easier, in that you would have information that is not readily available at the moment. For example, you might meet an alcohol or tobacco lobbyist who was proposing something to you that they wanted you to support. If you had a register of lobbyists—particularly one that included financial disclosure—you could see that Philip Morris International or Diageo were spending £750,000 on that campaign and you might start to ask questions about other activities, the commercial impact and why they were lobbying you quite so hard. It would give you a much fuller idea of the activities that lobbyists engage in, of which you see the very tip of the iceberg.

The Convener: Let us move on to the detail of what might be on the register. What information should be on it? What should it be compulsory for lobbyists to put on the register?

Who wants to kick off?

Tamasin Cave: Internationally, people have pooled their knowledge and a template has been set out. There is the experience of Canada and of the States. The States has had a decent register since 1995, which includes information on who is lobbying, whom they represent, what issues they are lobbying for—regulation, legislation, contracts or policy changes—and how much money they are spending.

Will Dinan said a little bit about why financial disclosure matters. Financial disclosure shows you the scale of resources involved and the disparity between the resources of particular groups, including civil society groups and corporations. A standard formula has been developed.

The Convener: There has been some suggestion that the register should include details of meetings.

Tamasin Cave: The Canadian register includes that. Lobbyists there must make a monthly disclosure of any meetings that they have had with officials. If there is decent record keeping in the Parliament, that might not be necessary, but it is certainly not a major bureaucratic problem for commercial lobbyists to write down, “I’ve had a meeting with so-and-so.”

In Canada, you can see that Philip Morris International has met the Canadian Prime Minister’s special adviser and what they have discussed. Down in Westminster, we have to contend with the fact that the Prime Minister’s adviser works for Philip Morris and, we are told, has not lobbied him. We are a long way behind. The Canadian system is very good.

Neil Findlay: Anybody who fills in—I balk at saying this—an expenses form or something similar for their employer would usually have the information on a computer. It would run as a daily or weekly activity and they would just fill in the information. All the stuff would be pre-populated with the person’s name, address and company number—they would not have to put that in every time; they would just fill in the details about what they had done.

Tamasin Cave: The crucial thing is that the lobbying activity is captured. The register that is proposed in the Westminster bill is a list of names and clients. It does not show any information about their interaction with Government bodies. A register needs to include what people are lobbying on and whom in Government they are lobbying; otherwise, you just have a list of names. If you are going to have transparency in lobbying, you need to capture the lobbying activity, not just who is lobbying.

The Convener: You are clearly arguing for public information being available about meetings. Does that need to be on the register, or are there other ways in which that can be provided?

09:30

Alexandra Runswick: The most effective way is for the information to be on the register. I will give an example from our sample filing of what we think should be included. We included our lobbying on the introduction of a statutory register of lobbyists, House of Lords reform, individual electoral registration and party funding reform.

We do not expect a transcript of each meeting to be provided on the lobbying register, but it is important that the subject matter on which people are lobbying is included, because it is often not easy to find that out. For example, if you just know that a minister or an MSP is meeting a particular company or charity, you will not necessarily know what that company or charity is trying to influence.

Unlock Democracy has a very broad agenda, so I could be discussing a number of matters with the Government at any one time. If I simply admit that I have had a meeting, that does not tell you anything about the lobbying that is going on. Therefore, it is important to have policy information on the register. That information can be included in ministerial diaries as well, but you need to have both sides of it.

Dr Dinan: In Scotland, we want to avoid the Westminster practice whereby ministers disclose meetings under the heading of “shared interests”, for example, or “general catch-up”. That is completely useless for the public; indeed, it just increases public cynicism. The public will ask why ministers are not telling them what they are really

talking about and will wonder whether ministers have something to hide. Those are the questions that anyone would ask when they see such declarations.

On what should be declared, I strongly believe that financial disclosure is key. Not every system around the world has financial disclosure and the ways in which the issue is tackled can be quite different. In the US, very detailed and precise expenditures are reported. That is a maximalist approach but one that has maximum transparency. The European version, which has been trialled for the past couple of years, is a voluntary approach, and I think that it is awful. I am registered under the European transparency register. It takes me a couple of hours once a year to fill it out. We report in bands of around €50,000, and there is quite a difference between spending just a few thousand euros and spending €49,000 euros on lobbying. ALTER EU voluntarily declares in good faith an exact estimate of the costs of our lobbying. It does not take very long; in fact, the hardest part is to remember how we filled in the register the previous year. If that is done more routinely—if it is a routine part of administration and record keeping—it would be much easier. It is not a massive administrative burden.

I think that we can drill into a little of the detail. If you are really serious about lobbying transparency and you want to enhance public confidence, you need to tackle the question of financial disclosure. I am sure that you will hear later on from the commercial lobbyists that that would be a terrible thing and that it cannot possibly be done. I do not believe that for a moment. There are consultancy firms operating in Edinburgh—Grayling springs immediately to mind—that would probably agree with London firms. They will say that, because they are part of the Association of Professional Political Consultants, they declare their clients under the APPC's code. However, in the US, where people are forced to disclose expenditure and who is doing what on particular bits of legislation—lo and behold—they can do that.

Fiona McLeod: I will string all my questions together in order to save time.

I want to go beyond what information would be on the register. Once that has been decided, who would administer the register? I am interested in that. From the registers that you have looked at across the world, do you have any idea what the resource implications are? How would we monitor compliance with the register? Who would police that monitoring? How would we do that? Would we have sanctions?

Dr Dinan: Those are all really important questions that get into the detail of how a register would run. Having looked at the Scottish political scene, I think that the functions of the office of the

Scottish Information Commissioner give a model that might suit a lobbying transparency register. It has a compliance section; it also has a public education and outreach section that explains to those who have to register how to do so. If you remember how the Scottish Information Commissioner was set up after the introduction of freedom of information, you will recall that a lot of work was done with local authorities and the public bodies that were to be covered to explain to them how to comply properly, and with the public to explain to them how FOI would work. Such a function would be really important for any regulator or anyone overseeing a lobbying registration system. The office of the Scottish Information Commissioner has an investigatory team as well, so it has the capacity to check filings and to look into and adjudicate on complaints. That function is also quite important. Whether it is about educating people about how to comply, publishing information in an accessible format online—that would obviously be the way to go with a register—monitoring or, if required, investigating, that mix is needed.

On the resources that would be needed, I imagine that the lobbying industry in Scotland is much smaller than the entire public sector. The organisations to be covered by the register would be smaller, so I imagine that far fewer resources would be required for the register than those that are required for, say, the Scottish Information Commissioner.

However, I do not think that you can do this on the cheap. If you tried to introduce a cheap register that was not properly maintained and monitored, it would lose respect very quickly and undermine the whole purpose behind setting it up. If you are going to go down the route of having a register, you must make a commitment. The register should be funded from the public purse; it should not be funded by charges. That is the cost of democracy.

Tamasin Cave: The costs are not astronomical. Canada has a very good monitoring system and a sophisticated register. From memory, it costs 2 million—I cannot remember whether that is Canadian dollars or pounds, but I can come back to the committee with the figure. The European voluntary register, which involves a number of staff, costs significantly less. I also have figures for the US register, but not with me. I can send them to the committee.

Andrew Lansley in Westminster has come up with some quite silly figures—£4 million or £5 million. It depends on how much is spent on the information technology, but I cannot imagine how that much would be spent on a system, even if a good monitoring team was in place.

Alexandra Runswick: From the public perception point of view, it is important to bear in mind that the register needs to be independent of both Government and the industry, and fully searchable and accessible online. The Scottish Parliament is much better on that than Westminster, which has a really bad culture of just publishing things in obscure PDFs in the digital equivalent of the cupboard under the stairs. That does not encourage trust in politics.

The register needs to be independent and, as Will Dinan has said, the regulator needs to have the ability to investigate. I agree with him that the Scottish Information Commissioner's office would be one way of doing it. At a Westminster level, we have suggested that it could be done through the Electoral Commission, as it already has responsibility for regulating party funding databases. However, the Scottish Information Commissioner's office would also be a viable model.

Neil Findlay: If we look at how councillors have to operate with the Standards Commission for Scotland and how they register their interests, for example, we do not see people in raincoats with magnifying glasses peering round corners and checking what they are doing. Councillors register, and there is an issue only if there is a complaint. We need to get that culture.

This is about a culture change. People should register, but we should not have somebody checking every form that comes in, phoning people up or peering round corners. A lot of it is about people taking responsibility for their actions and declaring what is going on.

There should also be an opportunity for those who perhaps did not reach the threshold to register voluntarily. They could say, "Okay, I haven't reached the threshold, but given that I have done X, Y or Z, I think that I should register that." That would also be a good thing.

Fiona McLeod: I want to pick up on the point about the Scottish Information Commissioner. What about the Commissioner for Ethical Standards in Public Life in Scotland and this committee? Would it be relevant for us, as a committee of the Parliament, to deal with the issue?

The Electoral Commission was also mentioned. The committee will do work that used to be part of the Electoral Commission's work on overseeing the involvement of individual MSPs.

Why should there not be a fee? Why does the register have to be funded out of the public purse?

My final question is to Neil Findlay. If there is registration and an issue is looked at only if there is a problem, what would the sanctions be for not

having registered what should have been registered?

Neil Findlay: I am not particularly precious about who oversees, although they should certainly be independent of Parliament.

Fiona McLeod: Of Parliament?

Neil Findlay: Yes—well, independent of politicians and political influence. They have to be independent.

There should be a system of sanctions that increase in accordance with whatever had happened. There might be a slap on the wrist to begin with, right up to suspension or exclusion from the register, depending on the severity of the problem. A range of sanctions would be logical.

Tamasin Cave: I would like to answer the question about fees and why the register should not be funded by the industry. There is a principle at stake. Lobbying is a good thing. It is a democratic right, and there should be no barrier to anybody speaking openly to Government.

However, there is a practical issue. As a charity, we want to be on the register, and we want everybody who is a professional paid lobbyist to be on it. There should be no barrier to an organisation with one full-time lobbyist—we think that that should be the trigger for registration—registering. There should be no financial burden; it should be carried by the public purse. The larger agencies could swallow it, but if we are to get everybody on the register who we think should be on it, there should be no financial barrier.

Richard Lyle (Central Scotland) (SNP): My apologies for arriving late, convener.

Mr Findlay, I turn to the point that you made a minute ago and get back on my hobbyhorse about the Standards Commission for Scotland. You basically said that it would not be a problem for the commission to operate the register and that, most of the time, few complaints are made to it. Has a complaint ever been made to the Standards Commission about you?

Neil Findlay: Yes.

Richard Lyle: As you know, a lot of people go through a lot of pain; most of the time, it is politicians, rather than the public, reporting other politicians. The Standards Commission costs £750,000 a year to run. Is it able to take the register on board?

Neil Findlay: I am not precious about who would be best to run the register. There are a number of possibilities. It could be the Standards Commission or the Scottish Information Commissioner, and other organisations have been mentioned. I am not particularly precious about that.

Richard Lyle: Ms Cave, you made a comment a minute ago about it being democratic for lobbyists to lobby MSPs or MPs. Would some MPs or MSPs not say, "Well, if it is going to be flagged up, I'm not going to meet this lobbyist?"

Tamasin Cave: Yes, possibly. I imagine that that would happen.

A statutory register of lobbyists is incredibly straightforward—we are looking for a list—but it is not a comfortable measure for Government. Like freedom of information disclosure, it is good and it needs to be done in any healthy, modern democracy. That does not make it a comfortable measure, so there will be some people who will not want to disclose whom they are meeting.

Neil Findlay: I turn that question round: because we do not have registration, people might be frequenting with people with whom they should not.

The Convener: I will bring in Margaret McDougall, who will develop some of the points with which we are beginning to engage.

Margaret McDougall (West Scotland) (Lab): Good morning, panel. We have touched a little on the thresholds. What is your view on the thresholds for the money and time spent before an organisation should register?

Dr Dinan: I am not sure that we all have exactly the same view on that, but I will give you my view, if that will help.

I am slightly sceptical about time spent on lobbying being a good metric for triggering disclosure. Some of the evidence from the United States, where there is a 20 per cent threshold, shows that people work on particular issues for less than 20 per cent of their time and therefore do not have to disclose it, so we have a problem with that.

If we have a simple metric such as resource devoted to lobbying and an estimated cash equivalent, we have a good chance of having a metric that everybody understands readily and that is fairly easily calculated. Most organisations are conscious of bottom-line issues these days and have to measure such things anyhow, so disclosing what part of that is relevant to lobbying and putting it into the public domain would not be an issue.

Where we draw the threshold is an issue to which we need to be sensitive. What is the industry like in Scotland? What would be appropriate to capture the larger organisations that we think are significant? I have seen some work in the US that estimates some \$3,000 per quarter, which would be about \$1,000 a month, as a threshold. That is one potential figure. It might be

small change to some organisations but it is a very significant amount for others.

The committee will have to come to a judgment about what is proportionate, applicable and relevant to the Scottish context. Bear in mind the fact that everybody agrees that we do not want to capture small organisations that do very little lobbying as a one-off. We are trying to capture and disclose the more systemic and resource-heavy lobbying.

Tamasin Cave: Scotland has the advantage that a number of countries have been registering lobbyists for several years, so definitions have been tested out and reworked. There is a discussion at the moment about the time threshold—there is a time threshold and a financial threshold. The US has a 20 per cent threshold, and in Canada lobbying has to constitute a significant part of somebody's duties to trigger registration. That misses a lot. For example, a chief executive officer does not spend 20 per cent of their time lobbying but could have one meeting with the minister, which would be a lobbying meeting and probably quite significant.

09:45

As I understand it, there is now a move towards having not a time threshold but simply a financial threshold. If you were to do that here, you would do it in consultation with the charities sector and small businesses. You would obviously need a legal definition, but the one that we have used is the rule of thumb—that, if an organisation has a full-time public affairs person, that should trigger registration.

Neil Findlay: It is undoubtedly a difficult area—I recognise that. The proposals were based on observations of what was going on around the world, and one of the issues that the industry raised was financial registration. It would be difficult for us to put that in writing, but when companies go out for contracts, surely, they have to tell their clients how much time they are going to spend on X, Y or Z activity. That part of breaching the threshold should be easy for those in the industry to measure.

Dr Dinan: An issue that is often raised is commercial confidentiality and how much detail is actually needed. The solution has often been to disclose information according to various bands. The European system has bands of €50,000, which I think are too wide. You might want to narrow those bands, perhaps to bands of £5,000, as way of addressing concerns about commercial confidentiality.

Margaret McDougall: Do you think that there should be a distinction between consultant lobbyists and in-house lobbyists?

Alexandra Runswick: No.

Tamasin Cave: No.

Dr Dinan: We can keep the answer simple: no. The evidence from elsewhere suggests that, too. The lesson to be drawn immediately from the Austrian system, which was introduced just a year ago, is that such distinctions do not work and are unhelpful. The process should be conducted in a principled way. Everybody who lobbies should have to disclose—that is the price of engaging in public affairs. Whether someone comes from a consultancy background or whether they are a lawyer who does public affairs, a management consultant, an NGO, a charity or whatever, they should be forced to disclose.

Making those kinds of distinctions is deeply unhelpful. The European transparency register has those different demarcations, but it is really difficult to figure out who is doing what. The level of declaration is quite different for different categories. Lawyers have an exemption, and they are boycotting it anyway because they do not like it.

Margaret McDougall: You have raised an issue that I had intended to ask about in my next question. Which organisations should be exempt and what should be exempt from the register?

Neil Findlay: I would need to get the list.

Margaret McDougall: You have said that there are a lot of minutiae in the European register. What should be exempt, in your view?

Neil Findlay: Going about normal constituency business would be exempt. I am trying to recreate the list from memory, but it is in the consultation document. If you give me two seconds, I will find it. In the meantime, I shall let another witness answer.

Dr Dinan: Some things have been exempted. If a request comes from Government for information from an outside organisation, that can be exempt. Participating in inquiries such as this, for instance, is often considered exempt. There is a whole list of exemptions that you can draft.

In other countries, anything to do with the diplomatic service is exempt from that kind of disclosure. It is up to the polity in question to decide what is relevant to disclose or not to disclose. In principle, however, if you are trying to capture organised lobbying to influence policy making and the climate of public opinion, you will need to capture the activities that underpin that.

Tamasin Cave: Having followed the debate in Westminster for quite a while, I think that the key to dealing with exemptions is not to get led down certain roads. People will say, "But what about the vicar who goes to see his MP? Would he have to

register?" Clearly, he would not. We are talking about professional paid lobbyists, the majority of whom are doing it for commercial gain. There are a number of roads that you will probably be led down that are really dead ends.

Alexandra Runswick: As has been said, it is important that we focus on the lobbying activity. We are not saying that somebody who works for an agency is bad whereas someone who works for a charity is good. We want transparency in lobbying, which means recognising the breadth of lobbying activity in Scotland and in the UK more generally, and we want openness throughout the sector rather than in just one specific element, which would inevitably mean that most of the activity would be missed, particularly if you tried to differentiate between in-house and agency lobbyists.

Neil Findlay: Organisations such as the Scottish Council for Voluntary Organisations have argued that the voluntary sector exists only to perform public good, but that is a matter of opinion. One charity may deem its activities to be good and in the public interest whereas another organisation, which may also be a charity, might take completely the opposite view. When we get into the area of exemptions, that issue becomes difficult.

The summary of responses to the consultation on the bill lists the following exemptions:

"Lobbying by public officials acting in their official capacity";

organisations that are participating

"in Parliamentary business, for example, giving evidence to a Scottish Parliament Committee",

so the witnesses who are here today would not have to register that activity;

"Administrative requests ... by lobbyists, for example, on the status of a policy, where no attempt is made to influence";

"Communication by media workers in the course of their work";

and

"a speech, article, ... blog ... or social networking group that is made widely and publicly available."

The Convener: I will bring in Cameron Buchanan.

Cameron Buchanan (Lothian) (Con): Good morning—I am sorry that I was a bit late in coming to the meeting. Can any other measures be taken to require MSPs to publish details of their meetings?

Neil Findlay: Some people in the industry have suggested that we resolve that issue by publishing MSPs' diaries. I personally do not have a problem with that, but what would my diary for today tell

you? It would say that I am appearing before this committee, that I am meeting someone from a housing organisation later in the day and that it is my daughter's 18th birthday and I have to meet her in a restaurant later. It would not tell you what we spoke about or the policy area that we were on about. The information in an MSP's published diary would be very limited.

Dr Dinan: With respect, an MSP would not know what other activities the lobbyists were engaged with; they could declare only what they were conscious of. One benefit of a wider disclosure regime would be that we would have a much broader awareness of what was going on across the entire Parliament and where influence was being brought to bear.

Cameron Buchanan: So, we should not bother publishing members' diaries, as it would be counterproductive in this case.

Alexandra Runswick: It is worth doing, and it is a good transparency measure in and of itself. It is necessary but not sufficient. If you are trying to capture lobbying activity, the diary will not tell you the full story, but publishing it is a good thing to do. It will not give you the full picture of lobbying, however—for that, you need the diaries of both the lobbyist and the people who are being lobbied.

Dr Dinan: I will give a practical example of where such a measure would be useful. If 20 per cent is adopted as the threshold for the maximum amount of time that someone who is employed by a company can devote to lobbying, the CEO, for example, would not have to disclose a meeting with a minister. However, if the minister had to publish their diary, that activity would be captured in it. The meeting would not be captured under a 20 per cent rule for the register, but it would be captured through the publication of the ministerial diaries.

A mix of transparency measures is likely to give the public and whoever outside the institutions is interested in these things the best possible picture of what is going on.

Cameron Buchanan: We could put both the diary and the register together.

Dr Dinan: Yes.

Alexandra Runswick: Exactly.

Richard Lyle: I worked for a company in which, as area manager, I had to fill out a diary and then fill in a retro-diary because my situation changed from day to day. People used to say, "Be flexible and use the time". Do you not feel that we would be spending our lives filling in diaries?

Neil Findlay: No, I do not think that we would be doing that. I am not personally calling for MSPs' diaries to be published, but if it were

decided to put that in the legislation I would not have a problem with it. With a small piece of technology—a wee gizmo—members can, as I am sure many of us do, put all our latest speeches, questions and everything on our websites automatically. I am sure that a very small technical fix could have an MSP's diary running online if that was necessary.

Richard Lyle: Yes, but what if the diary needed to be updated because the situation had changed? That happened to me when I worked with a finance firm. I submitted my diary in advance, but I had to amend it the following week because many things happened during the week.

Neil Findlay: I do not think that that is a huge issue.

Richard Lyle: I will leave that on the table.

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill, which was introduced on 17 July, is going through the House of Commons. Can any lessons be learned from the passage of that bill? I am sure that I will be told that many lessons can be learned. Are any elements of the UK bill not covered by the proposed lobbying transparency member's bill that should be covered by legislation of the Scottish Parliament?

I have another question to come.

Neil Findlay: The lesson to learn is that we should not do what Westminster is doing.

Alexandra Runswick: Yes, the single most important lesson that can be taken from the Westminster bill is that the Scottish Parliament should not try to regulate in that way.

Tamasin Cave: Shall I put some flesh on that?

Neil Findlay: Please do.

The Convener: Speak through the chair, please.

Tamasin Cave: The bill that is going through the House of Commons has been described as a small net with massive holes in it. It has been dubbed the 1 per cent bill. We have tried to think of different ways to describe what is a fake, a sham or a pretend register. On many levels, it will not do what it was claimed that it would do, which is open up lobbying.

First, it lacks breadth. It homes in on consultant lobbyists—in other words, only those lobbyists who are for hire—and it deals with only a proportion of those. If a significant part of a company's business is not lobbying, it would escape. The wording of the bill has been changed slightly—I think that it has been tightened up—but we need to think about people such as the tax lobbying team in Ernst & Young. We must

remember that the accountancy firms, the management consultancies and the law firms all have lobbying teams that act on behalf of third-party clients, and there is a question mark over whether they would be covered. They represent a significant part of the industry and, although they are small, they are extremely effective at getting tax breaks for their clients, for example. That is one loophole.

In addition, someone will be required to register only if they meet a minister or a permanent secretary.

Alexandra Runswick: Or, now, a special adviser.

Tamasin Cave: No lobbyist will meet a permanent secretary and no one goes straight to the minister—that is not how the industry works. They will go to the special adviser. However, the bill excludes anyone who lobbies a junior or middle-ranking civil servant, as most lobbyists do. That would not trigger registration.

As well as an issue with breadth, there is an issue with depth—the amount of information that will be covered, which is only the bare minimum. The issue is not who someone is but who their clients are. If a third-party agency lobbyist meets the threshold because they have met a minister, they will need to register their clients, but the bill does not say that anyone who works as a lobbyist for that lobbying agency will be required to register—only a designated person will have to do that. I think that that covers directors, shadow directors and the secretary, which is a nonsense because that would miss the people who go through the revolving door. For example, there is a big health lobbying agency that hires Andrew Lansley's special adviser, who has been in and out of Government. He would not be required to register and we would have no idea of his activities. Therefore, the Westminster bill is an example of how not to write legislation.

Richard Lyle: Yes. I agree that we should not follow any examples from the House of Commons.

Are there any examples of good practice in other jurisdictions that the committee would find it helpful to consider? You mentioned Canada.

Tamasin Cave: The approach that we have taken is a mix of the ones that have been taken in Canada and the US, which have years of experience of dealing with the issue and equivalent lobbies. We have a very sizeable industry—the industry in London is international in its reach in terms of lobbying and public relations—and we have taken bits from Canada and the US. The US register is very good in that it has financial disclosure. The Canadian one does not, but it has the extra requirement that, on a monthly basis, lobbyists must register their

meetings with officials. It is worth looking at the systems that operate in both those countries. It would not be possible just to take one system from somewhere else and cut-and-paste it into the Scottish parliamentary system. Any system would need to be adapted.

Fortunately, the lessons have been learned and, as I said, there is head of steam on the issue. A great deal of advice is available and the production of a template on how to do this is being co-ordinated by organisations in the States. There is an advantage in not being the first country to tackle the issue. I suggest that you look at the Canadian system but not the Australian one, which is what the Westminster Government looked at.

10:00

The Convener: I thank the panel very much. I said that I hoped to provide some time for the panel members to raise any matters that you thought we had not covered but that we should hear about. Given the time that is left, I can allow each of you about 100 words to do that, starting with Mr Findlay.

Neil Findlay: I thank the committee for having us here this morning. I have just one observation to make. I smiled at the beginning of the meeting when I heard that the committee would hold its deliberations on the issue in private. Given that the subject matter is openness and transparency, the committee may want to reconsider its decision and hold its discussion on the issue in public.

The Convener: Are those your 100 words, Mr Findlay?

Neil Findlay: Yes.

The Convener: Thank you.

Alexandra Runswick: You asked what lessons could be learned from Westminster. One of the challenges for the committee is to look at what has happened with Westminster select committee inquiries into lobbying. There have been a number of such inquiries, which have tended to come up with very detailed and thoughtful conclusions that have been used to push the issue into the long grass. The challenge for this committee is, therefore, not just in the policy recommendations that you come up with, but in how they are used and what happens to them as a policy agenda.

Dr Dinan: To me, the issue seems to be unfinished business for the Scottish Parliament. I was researching the issue the last time that the Parliament inquired into lobbying, and it decided that keeping a register would be an appropriate thing to do. The industry has changed since then and has bedded down a bit, but I still think that it is appropriate to have a register, as that would

definitely aid the transparency of this institution. I think that a voluntary system would be a disaster, as such systems simply do not work and do not cover everyone. The people who want to avoid disclosure would avoid it by not joining a voluntary system. The one key lesson that I would take away is that if you are going to have a system it must be a mandatory one, and the key aspect of a mandatory system is financial disclosure.

Tamasin Cave: I reiterate Alexandra Runswick's point that lobbying transparency regulation was first called for at Westminster in 1969. Such a call tends to be triggered by a scandal, which is followed by an inquiry after which there is procrastination and delay. That has been the model in pretty much every decade since 1969. I would be very heartened and optimistic if the Scottish Parliament did not follow that pattern.

The Convener: Thank you very much for your attendance. Mr Findlay is, of course, welcome to stay for the remainder of this public session and, indeed, to attend the public sessions of future committee meetings, at which I would be prepared to call him to ask questions, if he has any, after the committee members have had their say.

I suspend the meeting for a brief interval in order to change witnesses.

10:03

Meeting suspended.

10:07

On resuming—

The Convener: I welcome our second panel. We have Alastair Ross, secretary for the Association for Scottish Public Affairs; Illiam Costain McCade, chair of the Association of Professional Political Consultants Scotland; and Andrew Watson, chair of the public affairs group, Chartered Institute of Public Relations. As with the previous panel, I will not invite opening remarks, but I will allow the opportunity for concluding ones if time permits. I will try to finish the session at around 11 or shortly after. We will go straight to questions.

Cara Hilton: I will start by asking to what extent you think reform is required. Obviously, there have been no major lobbying scandals in Holyrood, so is there really a need to introduce legislation on lobbying?

Illiam Costain McCade (Association of Professional Political Consultants Scotland): If there is to be regulation and a register, they need to be introduced with a clear understanding of what they are looking to achieve. I agree with the previous panel's view, because there have not

been many issues in Scotland with lobbying. However, I want to clarify the matter of the scandals and issues at Westminster that were referred to.

As well as the scandals that arise every now and again, there are also a number of on-going issues and concerns that are covered by the media. Having had a quick look—I am not saying that this is in any way comprehensive—I have identified that, in the past 20 years, there have been 33 issues relating to concerns about access and influence, which includes lobbying activity but is not just about that. Of those 33 issues, two incidents involved commercial lobbyists and a further four involved in-house lobbyists. So we need to understand that the majority of concerns and issues about access and influence are not actually to do with lobbying activity per se and that issues of openness and transparency go much wider than lobbying.

The Convener: In the interests of openness and transparency, would you be prepared to share your analysis with the committee?

Illiam Costain McCade: Yes.

Alastair Ross (Association for Scottish Public Affairs): Certain regulations are already in place in Scotland, including an MSPs' code of conduct, to which committee members will adhere; a ministerial code; and a code for civil servants. If any regulation is to be introduced, I would want to understand how it fits with the existing regulatory structure. Will it cut across it, will it be an additional layer of regulation or will it seek to address any gaps in the current structure? That is an important question for the committee to consider.

Andrew Watson (Chartered Institute of Public Relations): Over the past decade and more, the CIPR has pursued a joint approach of transparency and of signing up not only to the United Kingdom Public Affairs Council register, which obviously our members are required to do, but a voluntary code of conduct that we think sets a high bar for CIPR members' professional standards. In addition, the CIPR provides a suite of education and training to increase the professionalisation of the lobbying industry across the UK. Given that there have not really been any issues in Scotland over the past 14 or 15 years, we feel that the voluntary approach is working and sets a high standard that might not be met by any statutory register or code of conduct.

Cameron Buchanan: How do you monitor voluntary disclosures? Is that not the problem? If people do not want to make a declaration, they do not have to, because the system is voluntary. Surely by making the system mandatory the declaration will have to be made.

Andrew Watson: That is a good question. The thing about the voluntary approach is that it is, to an extent, self-selecting. People choose to join the CIPR, the APPC or the ASPA; indeed, they could join all three if they were so minded. Members of the CIPR and those other organisations are required to adhere to a code of conduct and to sign the voluntary UKPAC register. That shows that the industry takes transparency and ethical standards very seriously. Long before there was any discussion about a member's bill or Government legislation here or about the BBC "Panorama" stings that took place just before the summer of last year, the CIPR and other organisations such as the ASPA and the APPC were in the driving seat, trying to improve standards in public life. As the previous panel pointed out, the definition of lobbying has come from the industry itself. The industry came together and said, "This is how we feel lobbying should be defined to aid transparency and drive up standards."

Cameron Buchanan: I do not think that you have quite answered my question. What happens if someone does not want to belong to one of those organisations? After all, if it is voluntary, people do not have to join.

Andrew Watson: That is true. Obviously, not everyone in Scotland and the UK who lobbies the Westminster Government, MPs, MSPs or the Scottish Government is a member of a professional body. However, by becoming a member of the CIPR or another professional body, people are signing up to a set of high professional standards that they are required to meet. If they do not meet those standards, they can be very publicly expelled.

To answer your question directly, when someone lobbies you as an MSP on behalf of a client or in-house company, perhaps you should ask, "Who are you? Who are you lobbying on behalf of? Are you a member of a professional organisation and if not, why not?" If the person in question is a CIPR member, they have to comply with fairly rigorous codes of conduct, which drives up professionalisation. If they do not want to be a member of those organisations, there might be a reason for that and, as an MSP, you might want to get to the bottom of that.

Cameron Buchanan: I want to pursue that point. If someone is not a member of that organisation, what is to stop them lobbying? Nothing. Surely that is why a mandatory register is better than a voluntary one. I cannot see your point about a voluntary approach. If someone does not want to join one of those organisations but still wants to speak to members, will those members really ask them for a whole list of

credentials when they meet? Surely a mandatory system is better.

10:15

Andrew Watson: I come back to the point that, over the course of the Parliament since 1999, there have not really been any issues, and we feel that that is because organisations such as the CIPR and the ASPA have driven up lobbying standards. As for your point about the voluntary approach, a self-selecting bunch of people might not want to join those organisations, but the problem with introducing, say, a statutory register or code of conduct—which, I should say, we are not against, but it should be over and above what we have put in place and should not lower the bar—is that, instead of disclosure access in which people say that they are lobbying on behalf of a certain company or companies as a consultant lobbyist, there will be an access register and only people who are on that register will be able to lobby this place and MSPs. It would, in effect, be a licence to lobby.

Cameron Buchanan: But the problem is that it takes only one scandal to throw the whole thing up in the air.

Andrew Watson: The so-called scandals—that is what various people in their written evidence have called them—that happened last May or June did not involve lobbyists; they involved members of the House of Commons and journalists. With regard to the openness and transparency of and professional and ethical conduct in lobbying, the point is that you as MSPs are in effect the gatekeepers. To an extent, it is up to you to determine the appropriate level of conduct and whether you as MSPs are happy to go ahead with that. At Westminster, we had MPs who might have been prepared to take payments for doing work that they would otherwise have done in the course of their duties as an MP. No lobbyists were involved in that.

The Convener: The panel is clearly of one mind on this matter, but the written evidence shows that others in the industry are supportive of the introduction of a register. I cite in particular—if I have read it correctly—the written submission from Invicta Public Affairs. Is it fair to say that there is a diversity of opinion in the industry? I see that Iliam Costain McCade is dying to come in.

Iliam Costain McCade: You could say that there is a diversity of views on the matter and a difference of opinion within the small framework of what we are agreed on. I do not want to comment on any individual view on the matter, but I can say that there is a diverse range of views. APPC Scotland's view is that, if there is to be a register, it

needs to be a register of lobbying activity, not lobbyists.

With regard to the previous question, the register of lobbying activity suggested by the previous panel would be very different from the registers that our organisations currently have. For example, the APPC has a register of its members, their clients and who works for them. It is a register of members of the Association of Professional Political Consultants, but it will not tell you who is lobbying for whom. Not all the clients whom I register as an APPC member are clients for whom I lobby; lobbying represents just a very small proportion of what professional consultants do. That is another issue that I want to clarify. The previous panel talked about full-time lobbyists, but I am not too sure that there are any people who spend all their time lobbying. It is just a small part of a broader range of activity.

If you are talking about introducing a register of lobbying activity, that would be very different from the kinds of registers that we operate. At the same time, I would suggest that any kind of register, whether of lobbyists or lobbying activity, would not have helped to prevent any of the 33 issues, scandals or concerns that have been raised over the past 20 years at Westminster over access and influence.

The Convener: Let us move to crisp answers, to manage time.

Alastair Ross: I am happy to try to do that, convener. I have one very small point on how a register might be used, which we may come to later but which was not broached in the previous session. I would have concerns if we started to say that some people visiting the Scottish Parliament had to be registered for whatever purpose and others did not, because that would start to create different tiers of individuals, in terms of access to Parliament.

I would have grave concerns about a register that required people in the industry to pay a fee in order to become what some might call an approved and accredited lobbyist. Those people could then use that to distinguish themselves from others and say, "I have been approved by the Parliament and I am able to lobby it." That comes right back to one of the principles that the consultative steering group set for the Parliament—that of equality and fair access for all people.

The Convener: I ask George Adam to develop the issues of a register.

George Adam: The witnesses probably heard some of the questions that I asked the previous panel. Do you believe that a register will address problems or the perception of problems? We

heard from witnesses earlier, but what is your opinion?

Alastair Ross: It is important to make the distinction that we are talking about the Scottish Parliament, so I am not sure how useful it is to refer to examples from Westminster, which is different in its culture, operation and regulation, or from other jurisdictions, be they in the United States or anywhere else. The Scottish Parliament, partly because it is a new institution, is very open and transparent, and a good and robust legislature is in place.

The work of lobbyists and people who are involved in public affairs is generally not about influencing MSPs. That is an important distinction to make. Their work is about informing MSPs as they go about their business. When MSPs consider legislation, regulation and the other business that comes before them, it is important that they take a balanced and informed view.

As lobbyists, we do not think that we have undue influence over MSPs—I do not know of any lobbyist who would realistically claim to have that. We try to inform you and help you to do your job. We want the legislation that Holyrood passes to be based on the most sound evidence possible, and to be the most informed and of the highest calibre possible. That is what we are looking for and that is what the vast majority of people whom I work alongside are doing.

There may be other perceptions. It is interesting that Dr Dinan referred to the research base as slight, and certainly there is a lack of evidence that we can refer to. In my preparations for today, I looked back to the Standards Committee's 2002 report on lobbying, for which that committee did some research with MSPs. I do not know whether this committee has considered canvassing its peers to see what their thoughts and opinions are on whether there are real or perceived problems around lobbying, but I suggest that that is something to consider.

George Adam: I asked earlier about the definition of a lobbyist. In his consultation, Neil Findlay mentioned that the 2002 inquiry's focus was on commercial lobbyists only, which meant that many charities and campaigning groups were not included. Mr Findlay uses the definition "professional lobbyist". Would you recognise that as a description of individuals in your industry?

Alastair Ross: That is an area that needs some work, with which I am happy to help the committee, and I look forward to the committee's consideration of it. However, almost everybody has a different definition of lobbying. We heard earlier about the concept of chief executives as lobbyists, and Tamasin Cave highlighted problems of capturing that activity. A lot of people will do

some lobbying as part of their overall role, because they are a press officer, a communications manager or something like that, but they will have other responsibilities.

Lobbying fits within the wider communications industry and sits alongside internal communications, stakeholder management, media and press relations and all those other areas. It is important to get a definition of lobbying that works and the ASPA is open minded on what that could look like. We may be getting hung up on the distinction between consultant lobbyists and in-house lobbyists. A lobbyist is a lobbyist is a lobbyist. Again, from an ASPA point of view, we want a level playing field.

Illiam Costain McCade: I totally agree. One issue on which Mr Findlay's proposals were a good starting point was the proposal to define the scope of a register on the basis of lobbying activity. The activity would be the trigger rather than a job title or the fact that a proportion of a person's paid work is dedicated to doing something that might be considered lobbying. If you start from the point of view of the activity, rather than a job title, being the trigger to register, that is a good starting point.

George Adam: Alastair Ross touched on the issue of the founding principles of the Parliament, which are openness, transparency and accessibility. I have been involved in various committees and bodies where organisations have lobbied and managed to make a difference. Would any of the ideas about lobbying or a register present any difficulties for the founding principles of the Parliament? Would it continue to be as open and accessible?

Alastair Ross: There is a question in my mind about how one group of people—lobbyists, however we define and then register and categorise them—has to do something different from everybody else. One of the founding principles is equality.

No lobbyist that I know is looking for preferential treatment. There is no argument or case for that. At Westminster, lobbyists sometimes have passes, but there is no need for that. However, lobbyists should not be disadvantaged and obstacles or barriers should not be put in our way. We are trying to inform the Parliament and MSPs.

Fiona McLeod: You have twice mentioned that a register would perhaps take away the equality principle of access to the Parliament. However, is part of the reasoning behind having a register for lobbying activity that it is not an equal playing field for a professional lobbyist and a local organisation of mums who have come together to campaign for something? The latter does not have the professionalism and resources. You have said that

the register would impact on equality of access, but I think that one of the principles behind what Mr Findlay is trying to do is to ensure equality.

Alastair Ross: I would not want to give the committee the impression that I am saying that that would happen. I am saying that it is a possibility and that I would have concerns about it. We would look at whether that is addressed by the legislation that the committee, in association with the Government, will presumably come forward with at the end of this process. Our concern is that that might be an unintended consequence of the legislation.

One of Holyrood's greatest strengths is that it is incredibly open. It is an easy institution to get into in comparison with the process that you have to go through to get into the Houses of Parliament in London. This is a very accessible institution. As Alexandra Runswick referred to earlier, in contrast to some parts of the UK Parliament and Government, all the information here is displayed very openly and accessibly. It is very easy to go on to the Parliament website.

Since 2002, when the Scottish Parliament last looked at lobbying, there has been a transformation not only in the information that is available online but in access to online information. It is very straightforward and easy for any individual to find out what is going on in the Parliament and to identify what might apply to them.

In contrast with MPs, MSPs are incredibly good at responding when people get in touch, be that in letters, emails or telephone calls. MSPs are a lot more accessible. There have also been developments in social media and the way in which it can be used to gather people round a single cause, issue or campaign.

If you were to look at the parliamentary diary—the calendar of events—you would see that there is tremendous throughput of visitors to the Parliament, including school groups and community groups. I would hazard a guess that they would probably outnumber the number of professional lobbyists in the areas that we have been talking about in the past few minutes.

Neil Findlay: Fiona McLeod gave a good example of a group of mums campaigning on an issue. The idea that such a group has equal access with you and the people whom you represent is just absurd because you have the professional contacts, you know the system and how it works and you have access to people. Your clients make an investment in you and they expect some sort of return. They do not come into the Parliament to hold receptions and exhibitions and give people free glasses of wine and canapés for

fun. They expect some return on it, surely. That is why they do it.

10:30

Alastair Ross: I am fairly certain that there are strict rules about the types of exhibitions that are permitted within the Parliament and, certainly, they exclude any commercial organisations.

On access, the information is all there. Your contact information is available on your page and website, as are the committee's information and the contact details for the clerking team. It is all set out there. Yes, because lobbying is our job, we spend a lot of time learning the system and understanding it, but all the information is available and it is not a terribly big investment—to use your term—of time for people to go on to the internet, look at that, go to an MSP's surgery to ask questions and then progress their campaign.

Neil Findlay: You misunderstand what I am saying. If one of your members is engaged by a corporation to do a piece of work, for example, it does not do that just for fun; it expects some return on that investment. It expects something to happen as a result of that. Is it just a case of simply deciding to go and give MSPs information? Sometimes it may be but, in the main, they want something to happen as a return on that investment, surely.

Alastair Ross: Anybody who comes to the Parliament to give evidence and try to engage with MSPs and the Parliament as a whole expects something to happen. That applies as much to Fiona McLeod's mums visiting the Parliament as it does to anybody else.

I am sorry, but I perhaps did not quite understand your point.

Neil Findlay: It is okay.

Carry on, convener. We will come back to it.

Margaret McDougall: Mr Ross, will you clarify whether you are representing the members of the Association of Scottish Public Affairs or giving a personal view?

Alastair Ross: I am here in my capacity as the secretary of ASPA. We circulated a number of drafts of the submission to the committee around the organisation and took on board comments. That has led to my appearance here today.

Margaret McDougall: So what you say is the view of your organisation.

Alastair Ross: I am speaking in my capacity as ASPA secretary.

The Convener: What is the witnesses' view of the detail of what should be in any register? In particular, should it contain details of meetings?

You heard quite a bit about that in our discussion with the previous panel of witnesses. I would also like your views on getting the balance between providing useful information and the effort and bureaucracy involved.

Illiam Costain McCade: As you know from our submission, our starting point is that a register would not tackle the perceived issues that you think there may be with lobbying but it could increase openness and transparency. To that extent, we would certainly welcome a register. However, it would need to be conceived with that as its objective.

That being the case, we put our thoughts to what kind of information we could readily submit to such a register and what would increase openness and transparency about our members' activities in relation to contact with parliamentarians, ministers and civil servants. In brief, it was: the data contacts; the details of the registrant; if lobbying was being undertaken on behalf of a third party, who that third party was; who was contacted; the subject of the contact; and, if the person was lobbying on behalf of a third party, whether they were a member of a regulatory association with a code of conduct.

That is the kind of information that would be available quite readily and would not be overly onerous for our members, who are mostly sole operators or small businesses, to provide. However, there is perhaps a misperception about how readily available our revenue from lobbying activity would be. Certainly, in the work that we do for clients, there is no such thing as a lobbying contract. The contract is normally about a broad set of communications objectives that can incorporate communications with MSPs and Government but which also includes a broader range of activities, including media and stakeholder activities. It can focus on trying to influence a piece of legislation or policy idea that someone might want to get on to an agenda, but more broadly it can involve trying to communicate on a new range of services that their organisation is looking to introduce or an activity in a specific region or constituency. It is not always about lobbying.

Because the broad communications contracts operate in the way that they do, it would be onerous for me to have to work out on a quarterly or monthly basis how much money I have received from a particular contract, and how much time I have spent doing something that would be considered to be registrable as a lobbying activity. It would be onerous to regularly work out how much time I had time spent on things, divide that up, and come up with a figure with all the clients. That would also be unverifiable information. How

would anyone go about checking whether it was accurate?

For those two reasons, I would have difficulty, and I think that our members would, with any requirement for precise financial information on a register.

The Convener: Do the larger organisations that represent larger public affairs and lobbyist organisations have the same degree of reservation?

Andrew Watson: Our starting point on lobbying transparency and a register is the UK Public Affairs Council voluntary register. We believe that that register provides a useful degree of transparency for the public about which consultants are lobbying on behalf of particular companies and which companies in-house employees are working for, and for MSPs. If an MSP has a meeting with a consultant lobbyist, they will be able to know who is on their books at any given time, albeit that, if a consultant is looking to set up a meeting on behalf of a client or to attend a meeting, which they seldom do, it would be very unusual for them not to explain who they are, whom they are representing, and the purpose of the meeting. I would be very surprised if MSPs agreed to meetings without that information.

The UKPAC register is our reference point. Any register should be universal, so it should apply to consultants and in-house. It should apply to any professional lobbyist who is paid to do that work, and there should be no distinction on who pays that money.

Financial thresholds are not necessarily very instructive in understanding behaviour, because it really does not matter how much money is being spent. If a company or organisation is lobbying—Neil Findlay alluded to this—they are trying to achieve a certain outcome, and how much it has paid or is prepared to spend is really a matter for it and where it sees the value coming from.

We need to be very mindful of a myriad of unintended consequences with a register. Mr Findlay alluded to one of those earlier; it is about who is meeting whom. One of the problems may be that, if a register is going to be published, MSPs might not want to meet companies or organisations that they feel that their constituents, members of the public or members of the press might give them a hard time for meeting. That involves issues relating to understanding the implications of a particular policy change or change to legislation. It needs to be recognised that meetings often take place with other people who have a completely different view—for example, the health lobby—but are trying to inform the debate. MSPs may look for information from,

for example, a big energy company about energy policy, as there is not that policy resource in their staff team or the opposition team.

Fiona McLeod: You all have registers of members. You also referred to UKPAC. In your experience of such registers, if we set one up in Scotland, how would it be resourced? How do you monitor your registers, and do you have any sanctions you can use against your members?

I am thinking about your professional bodies. I am a member of a professional body as a librarian, and that body can sanction me if I do not do what I am supposed to do on the register. What are your thoughts? Perhaps you could give us your outline thoughts and then provide us with greater detail later.

Alastair Ross: ASPA publishes a list of members on its website. Those are organisations, and individuals, that are affiliated to us; they have paid a membership fee and have joined. We have a code of conduct that is also published on the website.

We have a range of sanctions in our constitution that mean that, if a complaint is raised against a member, we can constitute a disciplinary committee to look at it. Obviously, the ultimate sanction is ejection from the organisation.

Illiam Costain McCade: The APPC's register includes information about the members, who their employees are, and who their clients are. Members are required to sign up to a code of conduct. If a member fails to update their register entry in time, they are given the opportunity to get in at an extended date, but if there continues to be a failure, they are ejected from the membership.

The code of conduct includes a complaints procedure. If a complaint is received about a member who is felt to have breached the code of conduct, an external independent adjudicator looks into it on our behalf.

Andrew Watson: The CIPR shares many of the same mechanisms. One of the important things about the UKPAC register is that it is searchable, so it is possible to type in a name or a company name and find any relevant data that relates to that individual person or company.

The CIPR's code of conduct, which I have in front of me, runs to 24 pages. Sanctions for failure to comply with the code of conduct go up to and include expulsion. If we were to exclude a member from the CIPR, we would do it publicly. From a reputational perspective, if someone is a professional lobbyist and they are excluded from the CIPR publicly, that might have a detrimental impact on their career.

Richard Lyle: As an MSP, I have tried to be open and transparent and to meet everyone who

has phoned my office. It is quite hard to fit them in every day. I had to refuse someone last week because I did not even have 20 minutes.

Do you feel that we are taking a sledgehammer to crack a nut? I return to Neil Findlay's point. We get invitations to go to functions to see what companies are doing. They might supply us with a canapé and a free glass of wine, but I am not there for the wine. I am there to see what these companies are doing. Will the number of people who are doing that reduce? I could attend functions in different parts of this building every night. If I am on the Health and Sport Committee, for example, a company could contact me four or five times in the course of a year to give me advice—it is not lobbying. As a humble back-bench MSP, I do not think that I can change the Government's view.

The Convener: A question, please, Richard.

Richard Lyle: Are we taking a sledgehammer to crack a nut?

Alastair Ross: It is important to ensure that, whatever the committee recommends, it is proportionate. As we have seen, most of the references to scandals and bad practice have come from outside Scotland and outside Holyrood. The solution needs to be proportionate; that is the key thing to bear in mind.

10:45

Illiam Costain McCade: As I said, a register must be conceived in the right framework. A register that is developed with a view to averting future scandals or anybody behaving unethically or inappropriately as regards their contact with politicians will not achieve that. The various codes of conduct that our organisations have do not prevent anybody from acting like that. If there is anyone out there who wants to behave in that way, they will do so regardless. A register will not prevent that from happening; instead, a register will increase openness and transparency. Those are laudable objectives, but a register must be developed in that context. You will not crack any nuts with a register; it will not prevent future scandals or issues or concerns about inappropriate access.

Neil Findlay: Mr Lyle's questions were perfectly legitimate. He raises the question about using a sledgehammer to crack a nut, but that is irrelevant, because the Government has agreed to legislate on the matter.

The witnesses mentioned their own registers and disciplinary procedures and all the rest of it. Have any of your members breached the code and been disciplined or suspended from your organisation?

Illiam Costain McCade: Not in Scotland.

Alastair Ross: ASPA was set up in 1998 and—the short answer is no.

Andrew Watson: I am not aware of any recent—by recent, I mean in the past couple of years—cases in Scotland.

Neil Findlay: That is terrific; that gives us a lot of confidence. It leads me to assume that none of your members, should they be asked to be on the new register, would fall foul of it. Indeed, I fail to see why anyone should have any fear of being on any new register that is developed.

The Convener: Okay. We have got the point, and we need to make progress. Fiona McLeod wants to come back in.

Fiona McLeod: Yes. You all have registers—you have described them to us—but when we asked you about the resource implications for a public register, none of you was able to suggest a cost for that. You must apply costs to your registers. Will you supply us with those costs to help us work out how a lobbying register should be funded?

I also want to give you a wee chance to answer who should maintain a register, if we have one. We have heard that the Scottish Information Commissioner, the Commissioner for Ethical Standards in Public Life in Scotland and the Scottish Parliament, possibly through this committee, could do it. Do you have any thoughts?

Neil Findlay: Perhaps they do not want to disclose financial information.

The Convener: Mr Findlay.

Andrew Watson: I will start. As we said in our written submission, the cost of maintaining a register will depend on what is proposed. It will depend on what the register does, how often it is updated—

Fiona McLeod: Sorry to interrupt—I do so because we are short of time—but I was asking about the registers of your members that you maintain. You must put a cost against that. Instead of telling me now, perhaps you could send that information to us.

Andrew Watson: Will do.

Margaret McDougall: We have touched a little on thresholds. What should the monetary and time value be on the thresholds? I know that you said that providing that information would be difficult, but surely every organisation can break down their employees' time.

Illiam Costain McCade: Personally, I would not want to see any thresholds. The Unlock Democracy submission proposed that

“Organisations which have fewer than one full-time equivalent employee working on lobbying, or which spend <£6,000 per quarter on lobbying should be exempted from disclosure.”

That would be me, but I would not want to be exempt from a register.

To clarify, if the register is about openness and transparency and making clear who is providing information to and communicating with politicians, which is part of the decision-making process around legislation, policy and regulations, but you then start introducing thresholds and saying, “Well, we are going to make sure that these people register and that the public can know that these people are talking to politicians, but these people over here don’t need to register,” you could create a situation in which there is a meeting with two sides of an argument both presenting their views to a politician but one would have to register and one would not. If that were the case, the register would give a false impression about what had taken place. That would not be good for openness and transparency; rather, it would be misleading. Therefore, there should be no thresholds.

Margaret McDougall: Does anyone else have a view on that?

Alastair Ross: With regard to time, it would depend on what is included and excluded. One would presumably include the time that is spent in meeting the MSP, minister or Government official, but would the time spent in preparation be included? A very efficient worker would take less time over that, whereas going into a certain level of depth would involve more preparation time. I am not sure how useful a metric time would be.

With regard to financial information, I have certain reservations, even in relation to Mr Findlay’s proposal for banding rather than specific rates. That would not take a number of factors into account; two such factors are market forces and demand. If, for argument’s sake, someone asked any of us to do a piece of work and the deadline was imminent, there might be a premium to ensure that the work was done on time and to the required standard, and the person might be prepared to pay more than the job was actually worth.

Similarly, a few of the witnesses and Mr Findlay touched on the issue of large corporations. Any proposal involving finance would also mean overlooking market forces. Some organisations may well use their purchasing power to get a much fairer deal for the amount of money that they are spending. Would that be taken into account even within the financial bands that Mr Findlay proposes?

Margaret McDougall: Given what you said earlier, do you think that there should be a

distinction between professional consultant lobbyists and in-house lobbyists?

Illiam Costain McCade: No.

Margaret McDougall: I see that you all agree on that, as you are all nodding.

We heard from Mr McCade on the subject of exemptions. Would the other witnesses like to give their views on whether there should be exemptions from the register?

Illiam Costain McCade: There should be exemptions, but not thresholds. As was proposed previously, there could be an exemption for constituency members who are speaking to MSPs about constituency business, so those meetings would not be registrable.

Alastair Ross: It would depend on the case that was being made for a particular class of exemption; we would need to consider exemptions case by case. As I said before, lobbying is lobbying, whether it is being carried out by one of the people here in front of you, one of the people on the previous panel or any other individual.

The Convener: Right. There are a few final questions.

Margaret McDougall: Your organisations each have registers of their own. Would it be better, in the interests of public equality, openness and access, if we had one register? I am sure that the layperson out there does not know that they can go in and find out who is on your registers.

Illiam Costain McCade: Those registers perform a different function. We are talking today about a register of lobbying activity; what we have in our organisation is a register of members of the Association of Professional Political Consultants. Political consultancy is not the same as lobbying: lobbying forms a part of what we do, but it is not everything that we do. That is certainly one of the points that I would like the committee to take away from today’s session.

The term “consultant lobbyist” is often used to refer to people who provide public affairs or political communications consultancy, but they are not the same. We provide a much broader range of services to clients, which do not constitute lobbying activity, and it is very misleading to conceive of those activities as being the same thing as lobbying. Our register performs quite a different function, and it would not be transferable in that way.

Alastair Ross: I would hope that the committee’s work would give other MSPs and the general public a better understanding of what lobbying is and is not. On the suggestion of a single code, I am sure that we could work together on that.

The Convener: I thank the panel members for their input, and I offer them the opportunity that I offered the previous panel to say about 100 words to finish. It is not necessary to say anything if you do not feel that you need to add anything.

Alastair Ross: Thank you, convener. As I said earlier, there is an important distinction to be made between informing and influencing, and I do not necessarily agree that the latter happens. MSPs tend to be educated, intelligent individuals with very strong minds of their own, and our responsibility is to inform them so that they can make decisions on the best possible basis.

As I said, I hope that the committee's recommendations will be proportionate. Legislation could be a blunt instrument in this case, although I would not go as far as saying that it would be a sledgehammer. We have existing codes and a regulatory structure, which I know that the committee will take into account.

Illiam Costain McCade: I certainly echo that. APPC Scotland—and the APPC—maintains very high standards through the code of conduct for our members. We recognise that there is a problem, in that not every practitioner signs up to a code of conduct, but I do not think that the proposed register would necessarily resolve the issue.

Andrew Watson: In brief, a voluntary register and code of conduct would set a very high bar, and such an approach has been proven to work. The committee must be mindful of the next steps in the course of the inquiry, and of which recommendations it puts to the Scottish Government before the Government starts to draft a bill.

I echo the point that was made by Alastair Ross and Illiam Costain McCade. Any company or organisation that seeks to engage with individual MSPs, the Scottish Parliament or the Scottish Government, or which is simply looking for a fair hearing for its views, knows that MSPs can make up their own minds about the best way for them to proceed. It would be regrettable if barriers were put up that would have a detrimental impact on the way in which Parliament and Government works.

The Convener: Thank you—that brings our evidence session to a conclusion. I thank you all for attending. We now move into private session.

10:56

Meeting continued in private until 11:16.

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