



LIFTING THE LID ON LOBBYING

THE HIDDEN EXERCISE OF POWER
AND INFLUENCE IN THE UK

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EXECUTIVE SUMMARY

UK citizens currently have little opportunity to understand who is lobbying whom, how, for what purpose and with what funds.

Since the Rt Hon. David Cameron MP claimed that lobbying was “the next big scandal waiting to happen”, our research has identified at least 14 major lobbying scandals.¹ These have included MPs and Peers agreeing to lobby in exchange for payment; evidence for policy decisions being obscured or withheld; advisers to political parties acting simultaneously as paid lobbyists; officials taking jobs with companies that they made decisions about while in public office; and private sector secondments to public sector roles which oversee their private sector interests.

Whilst the majority of lobbying is very likely to be legitimate and making a valuable contribution to policy-making, lobbying abuses and lapses in public ethics appear to occur too frequently. Despite the damage that lobbying scandals cause to public trust in public institutions, a striking factor is that many lobbying distortions and abuses can occur within the rules. This report finds 39 examples of lobbying loopholes that exist across the UK, where the rules allow behaviour that can enable corrupt activity and lobbying abuses.

The research highlights that much of the problem is with rules governing politicians and officials. For instance, all elected legislators in the UK are allowed to receive personal payment in return for providing advice to lobbyists. In practice, law makers across the mainland UK are permitted to retain conflicts of interest so long as they are declared. At the extreme of using money for influence in the UK, major party donors can be offered positions in the legislature itself through appointment to the House of Lords.

This report recommends that transparency and integrity standards are raised and should be consistent across the UK.

At the very least, best practice of what already exists in London, Edinburgh, Cardiff or Belfast should be adopted across the UK. To help rebuild public trust and confidence in political and policy decision-making, we also make several recommendations to go further than existing good practice. The report recommends the adoption of more effective transparency on the part of lobbyists, restrictions on political financing, more effective regulation of the revolving door of employment between government and the private sector and mandatory training for politicians and public servants on their codes of conduct.

Lobbying is essential to democracy

Putting forward a point of view – whether it is understood as lobbying, participation, advocacy or engagement – is an essential part of the democratic process. Government and politicians require information from interested parties in order to understand the potential effect of their actions and to make well-informed decisions. However, lobbying can also become corrupt and distortive of the democratic process.

“The abuse of entrusted power for private gain”

Transparency International's definition of corruption

1. See table 1 for documented scandals and quotation reference here: <http://www.telegraph.co.uk/news/election-2010/7189466/David-Cameron-warns-lobbying-is-next-political-scandal.html> [accessed: 15 Dec 2014]

This report finds 39 examples of lobbying loopholes that exist across the UK

The fundamental problem is one of vested interests trying to distort the democratic process in their favour

A large proportion of lobbying exists to further a special interest or private gain, and political and civil service decisions often bestow private benefits. This is not necessarily corrupt. However, the lack of transparency – in both lobbying and the process behind public and political decision making – denies the public the opportunity to understand whether those decisions amount to an abuse of entrusted power or not.

Lobbying can create a situation of ‘capture’ in which a politician or public servant, who should be acting in the public interest, advances the commercial concerns of one interest group to the exclusion of others.

Corruption occurs more blatantly when a public official or politician benefits personally from supporting a lobbying position, or when they become lobbyists themselves, in breach of the trust bestowed through their role. Indeed, many of our recommendations concern how to strengthen transparency and integrity obligations on those being lobbied, rather than lobbyists.

How big is the problem?

The UK faces a widely-acknowledged crisis of trust in politics and political parties. While the causes of this are complex, there is no doubt that the lobbying environment in the UK and the frequency of lobbying scandals that occur in the UK, play a major role in damaging public faith in the political and policy-making process.

Research into corruption in any area typically finds that the scale of the activity is hard to quantify and the available data is of a poor quality. However, two areas can be more easily measured: perceptions of corruption (how bad people think the problem is), and the robustness of the defences against corruption (institutional integrity, including mechanisms for accountability and transparency).

Transparency International’s surveys have consistently highlighted public perceptions of corruption in the UK politics. According to our latest Global Corruption Barometer, 59 per cent of respondents believed that the UK government is ‘entirely’ or ‘to a large extent’ run by a few big entities acting in their own best interests; 67 per cent thought that political parties in the UK are ‘corrupt’ or ‘extremely corrupt’; and 55 per cent felt that the UK parliament is ‘corrupt’ or ‘extremely corrupt’.

How good are the current rules?

The current rules on lobbying do not address nor prevent a great deal of conduct that gives rise to corruption risks.

This is not simply a problem with lobbying. The fundamental problem is one of vested interests trying to distort the democratic process in their favour, and this also extends to political party funding and the so-called ‘revolving door’ of employment between the public and private sectors. Although our report focuses principally on lobbying, we believe that all these areas need to be addressed in parallel; otherwise the problem will merely migrate to the least well-regulated area.

Ten activities that carry a significant corruption risk, which are allowed under the rules:

1. All UK and devolved legislators and all but the most senior civil service officials may keep lobbying meetings concealed from the public, unless a specific Freedom of Information request is submitted.
2. In practice, legislators across the UK are permitted to retain conflicts of interest so long as they are declared.
3. Members of the Scottish Parliament may avoid registering gifts and hospitality received by their partners or spouses.
4. Members of the House of Commons & Scottish Parliament and the Welsh & Northern Irish Assembly are allowed to receive payment for providing advice to lobbyists.
5. All lobbyists in the UK may keep any information about whom they have lobbied and on what issues they have lobbied concealed from the public.
6. In-house lobbyists do not have to register any details, regardless of whom they lobby.
7. There is no requirement for lobbyists to report their expenditure on lobbying, including gifts and hospitality to public officials.
8. There is no obligation on lobbyists to publish how they have used secondments or advisers placed within government to influence policy.
9. Political parties can accept donations without any limit.
10. Major party donors can be offered positions in the legislature through appointment of donors to the House of Lords.

What is the nature of the problem?

The report identifies three key areas in which the corruption risks are particularly acute:

- 1. **Transparency gaps**
 - the ability of lobbyists to conceal their interests and activity
 - the role of ‘big money’ in political donations
- 2. **Integrity gaps**
 - misconduct by public officials and politicians
 - the revolving door of employment between the public and private sectors
- 3. **Access gaps**
 - the prevalence of unequal opportunity of access and influence in politics and decision making
 - the role of external and unaccountable ‘expertise’ brought in to inform government policy

Is it just the private sector?















Transparency International UK believes that lobbying risks are not simply an issue with the private sector. Lobbying and influence-seeking is also undertaken by or on behalf of individuals, the voluntary sector and even government agencies. For example, it is sometimes argued by critics of climate change policy that European regulation has been ‘captured’ by environmental groups. We believe that rules and regulations should equally apply to NGOs (Non-governmental Organisations) and others. However, many NGOs and all government agencies claim a remit to serve the public interest, which puts them in a different position to private companies.

How does Westminster compare to the devolved parliaments?

Before the existence of devolved parliaments, lobbying was an issue primarily linked to Westminster and, at times, at a local government level. With four legislatures in the UK, each with related Ministers and civil servants, it has become possible to compare the rules and practices among them.

This report does so for the first time, and the results are extremely revealing.

Ranking of UK nations’ lobbying transparency standards

Rank	Parliaments and Assemblies		Ministerial		Civil service
1	Northern Irish Assembly 	1	United Kingdom Ministers 	1	Northern Irish Civil Service 
=2	The House of Lords and the Welsh Assembly  	2	Scottish Ministers 	2=	The Civil Service regime for the UK, Scotland and Wales   
4	Scottish Parliament 	3	Welsh Ministers 		
5	The House of Commons  	4	Northern Irish Ministers 		

Lobbying and influence-seeking is also undertaken by or on behalf of individuals, the voluntary sector and even government agencies

A full description and explanation of the rankings can be found in the section 'Comparing transparency and integrity standards across the UK' and a methodology description can be found in Annex 5.

This ranking of UK nations' lobbying transparency standards is based on a range of procedural indicators. The indicators include gifts and hospitality regime, the register of interests, prohibitions and transparency on lobbying, oversight of the 'revolving door' of employment, oversight of Cross-Party Groups, and whether the information is published as open data. These indicators are applied to the different categories of public decision makers (parliamentarians, Ministers and civil servants) and to the different UK jurisdictions (Westminster and Whitehall; the Scottish Parliament and government; the Welsh Assembly and government; and the Northern Irish Assembly and government).

The indicators that we have used inform us about strengths and weaknesses in the rules and standards. However, there will inevitably be law-makers who do not meet these standards in practice. Indeed, this is even more likely because of a lack of a culture of ethics training in UK public service and limited sanctions for misconduct.

While the research identifies higher scoring regimes within the UK, the analysis finds that there is no clear champion jurisdiction across the UK for lobbying transparency and integrity standards overall. Good practice, and poor practice, is spread around the UK depending on which indicator is being considered. Transparency International UK believes that each of the legislatures and their Ministerial and civil service codes of conduct should adopt best practice for individual indicators where it exists across the UK. Such a UK best practice approach could result in a dramatic improvement in resilience against corruption risks and increase transparency and accountability in each part of the UK.

CONCLUSION

In a complex and open democratic system, we place great responsibility on individual politicians and policy-makers to uphold appropriate standards of conduct and resist efforts at improperly influencing their behaviour.

Measures for bringing transparency to lobbying and maintaining the integrity of institutions must be strong enough to guard against the threat of lobbying abuses, but also go far enough to rebuild confidence in politics and decision making.

Given the potential public harm caused by abuses of lobbying and inappropriate exercise of influence, it is the view of Transparency International UK that transparency over lobbying activity should be the norm. Secrecy or privacy about lobbying needs to be an exception and have a clear justification. Such a position is in line with the government's stated intent to make the UK public sector "the most open and transparent in the world".²

In the vast majority of cases, transparency rather than prohibition appears to be the proportionate response to the risk. This is not to say that transparency is the entire solution to addressing these risks, but it is a vital foundation for accountability.

Good practice, and poor practice, is spread around the UK depending on which indicator is being considered

2. <http://www.opengovpartnership.org/country/united-kingdom> [accessed: 15 Dec 2014]

RECOMMENDATIONS

This report provides a detailed look at the lobbying landscape in the UK and highlights key gaps and deficiencies in the approach to regulating lobbying, which are leaving society exposed to the risks of unclear and unfair decisions being taken by public officials and representatives in the name of citizens. Our aim is to bring attention to the issue and promote positive change. To this end, the report puts forward a set of key recommendations and solutions suggesting how the weaknesses identified should be tackled.

We make 15 recommendations in this report. The two headline recommendations are:

1. Each part of the UK should be expected to conform to the UK best practice in integrity reporting and transparency.
2. Regulation should go further than the current UK best practice to require:
 - More effective transparency on the part of lobbyists.
 - Restrictions on political financing.
 - More effective regulation of the revolving door.
 - Mandatory training in ethics and integrity.

Recommendations in detail

Meeting the best practice standard across the UK would mean:

Integrity standards

Recommendation 1.

Requiring Members' conflicts of interest to be resolved in favour of the public interest (as required in theory by the codes of conduct in the House of Commons, Welsh Assembly and Northern Irish Assembly).

Recommendation 2.

Explicitly prohibiting Members from providing paid advice to lobbyists (as in the House of Lords).

Recommendation 3.

Providing a robust framework to oversee civil servants' post-public employment corruption risks (as in Northern Ireland).

Transparency standards

Recommendation 4.

Advising legislators to keep a record of lobbying meetings (as in Scotland and Wales).

Recommendation 5.

Publishing registers of interest as open data (as in the House of Lords) and lobbying meeting information as open data (as for UK Ministers).

Sanctions

Recommendation 6.

Considering more effective sanctions for misconduct, including criminal offences for serious breaches of legislative codes of conduct (as in Scotland, Northern Ireland and Wales).

Each part of the UK should be expected to conform to the UK best practice in integrity reporting and transparency

Going further than the best practice approach would mean:

Transparency over lobbyists.

Recommendation 7.

The Lobbying Act should be replaced with legislation that is fit for purpose, including more comprehensive registration obligations for lobbyists. This should cover both in-house and consultant lobbyists.

Recommendation 8.

For lobbyists with a budget of over £10,000, comprehensive campaign spending and lobbying objectives should be publicly disclosed.

Political financing.

Recommendation 9.

There should be a cap on political donations of £10,000 per donor per year.

Recommendation 10.

Private companies donating to political parties should declare their ultimate owner and report in a standardised way both at the national and constituency level.

Recommendation 11.

If a cap is not placed on donations to political parties, a political party should be prohibited from nominating a person for honours where that person has provided financial or other support of more than a total value of £10,000 in any one year, to that party or to a person or organisation associated with that party.

Regulating the revolving door.

Recommendation 12.

The Advisory Committee on Business Appointments (ACoBA) should be replaced with a new statutory body with sufficient resources and powers to regulate the post-public employment of former Ministers and crown servants and sanction misconduct.

Recommendation 13.

Government bodies and political parties should be required to publish, on an annual basis, in an easily accessible format, the number of secondments in and out of their organisation and also publish any conflicts of interest risks that have been identified and the mitigating actions taken.

Recommendation 14.

Restrictions should be introduced for legislators on post-public employment in lobbying, in addition to Ministers.

Training.

Recommendation 15.

Given the complexity of the rules and the importance of high standards, training, induction and professional development in ethics standards should be made mandatory, rather than optional, for parliamentarians and Assembly Members.

A number of Standards Committee reviews are ongoing or under debate in the different legislatures across the UK. The aim of this report is to inform those reviews as well as broader public debate about transparency and

THE ROLE OF LOBBYING IN THE DEMOCRATIC PROCESS

accountability gaps and recommendations around lobbying across the UK.

There is no fixed definition of lobbying, and it can cover a number of different activities and actions. The definition of lobbying used in this research project is:

*Any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organised group.*³

Lobbying can be carried out by professional consultant lobbyists, in-house private sector representatives, public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics. It can also be undertaken by those who do not consider themselves to be lobbyists, but are effectively acting in that capacity on behalf of an issue or organisation – such as the chief executive of a company who might meet a Cabinet Minister.⁴

Lobbying is an essential part of an open and consultative policy-making process which, when conducted in an appropriate and transparent manner, empowers citizens to participate in the democratic process. However, the lobbying process is also widely perceived to be vulnerable to abuse and lobbying scandals that represent abuses of the democratic process have occurred with remarkable frequency.

Table 1. Types of lobbying or public sector misconduct scandal and most recent occurrence

Type of scandal	Year of most recent revelation/ scandal
Private sector secondments regularly take place to public sector roles which oversee their private sector interests	2014
Money is regularly exchanged for access to politicians and party policy committees	2014
Government has been accused of providing preferential access to policy-making to certain groups	2014
Former civil servants have been accused of lobbying after public service employment, in breach of guidelines	2014
The evidence for policy decisions has been obscured or withheld	2014
Former Ministers have taken jobs, while still serving in Parliament, with companies seeking public sector contracts	2014
Major party donors are offered positions in the House of Lords	2014
Advisers to political parties and politicians have been simultaneously acting as paid lobbyists	2013
MPs and Peers agree on video to lobby in exchange for payment	2013
Local councillors have been acting as paid lobbyists	2013
Ministers have failed to declare lobbying meetings	2013
Peers have been acting as paid lobbyists	2012
Former military officials have been recorded offering access and influence for money	2012
Former government Ministers have attempted to sell access and influence to lobbyists	2010

3. This definitions draws heavily on the Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying (2014, forthcoming) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society

4. See Transparency International ‘Lobbying in the European Union: Levelling the Playing Field’, (2012) accessible online at http://www.transparency.de/fileadmin/pdfs/Themen/Politik/ENIS_Regional_Policy_Paper_Lobbying.pdf

The lobbying process is also widely perceived to be vulnerable to abuse

A feature of many recent lobbying scandals is that they have largely fallen within the rules

Lobbying scandals erode public confidence in the governance of the country. Moreover, a feature of many recent lobbying scandals is that they have largely fallen within the rules. This raises questions as to whether the regulatory regime is adequate, and whether public decision makers and the lobbyists behave in line with public expectations about standards of conduct.

When governments and legislatures make public policy, they benefit from input and consultation with those who stand to be affected by that policy. This is just as true in the UK political system as in any other (see Annex 3 for a description of the UK political system). Lobbying can be an important part of this process in a number of ways:

- It allows interest groups to organise and represent their views to decision makers who take those views into account in shaping policy.⁵
- Lobbying by interest groups or companies can inform policy makers about unforeseen consequences of proposed legislation, helping to avert undesired effects and highlighting the interests of minority groups whose preferences might not otherwise be considered in a majoritarian system.
- Lobbying can also help to demonstrate the breadth and intensity of opposition to, or support for, a measure – albeit imperfectly since different groups have varied resources and power.

A recent quote from Graham Allen MP, Chair of the Political and Constitutional Affairs Committee, illustrates the role of lobbying in the democratic process:

...one of the most wonderful parts of my life experience as a Member of Parliament is when we come towards a general election, and all those different bodies start to get hold of us, lobby us, knock on our doors, phone us and send letters – “come to our meeting. You will not get our vote unless we know exactly what you are doing on this.” Someone on the opposite side then says exactly the same thing: “What do you do? How do you think those issues through? Let’s understand those issues.” That is the lifeblood and rich diversity of our democracy, and we should be doing everything we can to improve and increase it, not to diminish and cast a shadow over it.⁶

The lobbying environment in the UK

It is not only policy and legislation that lobbyists seek to influence. The targets of lobbying extend to a wide range of activities carried out by the public sector, including:

- **Awarding public contracts** – companies may seek to influence the process to improve their chances of winning a contract. The extensive outsourcing of public services in recent years has increased the number of government contracts on offer and puts at an advantage those companies that understand – or can influence – trends in commissioning and policy.
- **Granting or transferring public funds** – organisations may seek to influence the way that grants are allocated or funds are transferred among different agencies.
- **Issuing licences and permits** – those seeking permits may try to influence the rules around permitting or decisions about granting permits, to the extent that such decisions are discretionary.
- **Making appointments to public bodies** – activity that might later make those public bodies more inclined to take decisions that favour certain interests.
- **Allocating budgetary resources** – where departments have discretion over how resources are allocated, they will be lobbied by potential recipients of those resources.
- **Shaping or implementing regulation** – companies have an interest in shaping the nature or implementation of regulation to reduce constraints on their business opportunities. Lobbying in this area raises a risk of ‘regulatory capture’, whereby the regulator acts to serve the interests of the companies it is supposed to regulate. This may be a particular risk where the personnel of regulatory bodies were once employed by the sector they regulate, or plan to seek work there in future.

There are few hard and fast rules to guide the policy-making process in the UK

There are few hard and fast rules to guide the policy-making process in the UK. While the legislative process itself is subject to well-defined procedures, policy making often begins far earlier with the introduction of a suggestion or some evidence onto the broad political agenda of media coverage and discussion. In theory, policy making involves public ‘consultations’, which set out a range of issues for discussion and invite the public to submit evidence, thus encouraging lobbying to inform policy making. This should allow anyone interested to express their views about how a policy will affect certain groups, and whether there are likely to be any unintended consequences. However, even when consultation is formalised in this way, it is possible

5. The seminal account of pluralism is provided by Robert Dahl in *Who Governs?*, 1961

6. HC Debates, 3 September 2013, Columns 205-06; [accessed 10 Jul 2014]

that lobbying by interest groups at a much earlier stage of the process may have shaped the consultation document so as to frame the debate in a particular way or exclude certain issues.⁷

Policy making can be a messy and somewhat chaotic interaction between different interest groups seeking to influence the discourse as well as to achieve concrete policy commitments. This inevitable complexity makes it all the more important to have maximum transparency about the process. Currently, the limited nature of transparency requirements on lobbyists (including those who commission or benefit from their services) and those being lobbied means that it is impossible in the UK to have access to a 'legislative footprint' – an indication of the lobbying influences that contributed to a policy or legislative development.

For lobbyists, different outcomes require different strategies for influence. Broadly speaking, companies and interest groups engaged in lobbying might opt for financial, informational or constituency-building strategies. Financial strategies rely on inducements, such as campaign contributions or the promise of future employment, to influence the positions of decision makers. Informational strategies seek to shape the agenda and debate by providing pertinent information or specific technical expertise. Constituency-building strategies aim to build support among many subsets of the broader public, in the hope that this will increase pressure on the government.⁸

The table below sets out different examples of lobbying techniques which may be typically employed for different outcomes and objectives.

Table 2. Targets and techniques of lobbying activity

Target outcome	Who to lobby	Lobbying techniques
Parliamentary question or debate	MPs	Meetings with MPs, submission of evidence about topic, e-petitions
Change in the law	MPs' staff	Meetings with Ministers, letters to Ministers, submission to public consultation, commissioning research to present evidence for a case, providing own data, framing an issue in the media, writing op-eds, building alliances with other interested groups, funding APPGs, grassroots campaigning, e-petitions
Award of public contract or grant	Ministers	Meetings with public officials or commissioning groups to gain information about upcoming tenders, influence terms, grassroots campaigns to shape public demands for – or opposition to – certain projects, for example infrastructure
Award of licence	Ministers' political staff, such as special advisers	Meetings with public officials or commissioning groups to gain information about upcoming tenders, seek to influence terms
Allocation of budget	MPs	Meetings with officials, framing media debate, putting forward alternative proposals for or cuts
Shaping of regulation	MPs' staff	Meetings, framing debate, media campaign
Appointment to a public body	Select Committees	Meetings, framing debate, media campaign
Coverage of an issue by the media	All Party (and Associate) Parliamentary Groups (APPGs)	Meetings, publishing press releases or reports (possibly through a think tank)
Inclusion of a policy commitment in an election manifesto	Civil servants drafting bill	Meetings with frontbench Ministers and special advisers, events at party conferences

Source: The author

7. In political theory, the ability to exclude items from the agenda is seen as a key dimension of power (see Lukes, S. (1974). *Power: A radical view*. Macmillan: London)

8. Hillman, A.J., and Hitt, M.A. 1999. 'Corporate political strategy formulation: a model of approach, participation and strategy decision', *Academy of Management Review*, 24/4: 825-42

For lobbyists, different outcomes require different strategies for influence

There are some 4,000 people working professionally in the UK's £2 billion lobbying industry, making it the third largest in the world

The scale of lobbying in the UK

Due to lack of reporting and data, there is no comprehensive information on the scale or nature of lobbying activity in the UK. The Alliance for Lobbying Transparency estimates that there are some 4,000 people working professionally in the UK's £2 billion lobbying industry, making it the third largest in the world.⁹

Some information on lobbying can be extracted from the data on ministerial meetings. The NGO whoslobbying.com, which ceased operating in 2012¹⁰, identified more than 6,700 ministerial meetings that were disclosed between May 2010 and June 2011 by UK government departments. Of these, fewer than 20 were with lobbying firms. This reported activity represents only a very small amount of lobbying activity, as it covers only lobbying that targets government Ministers, and then only if they declare it as part of their departmental business.

The breadth of lobbying makes its scale hard to define. Information about official meetings can only shed so much light on lobbying activity, which may occur through building long-term relationships or can be developed on an informal basis. There are many opportunities for informal lobbying in the UK.

Of particular note, political party conferences are an opportunity for informal lobbying.¹¹ Groups might host fringe meetings or receptions, again facilitating access for their members to MPs, Ministers or shadow Ministers, and potentially seeking to influence manifesto commitments. Election manifesto commitments can be a very effective way of influencing policy, since political parties often give the implementation of such pledges priority when coming to power. Yet they may not fully evaluate these commitments before including them in manifestos, perhaps particularly in the case of opposition parties, which lack access to a civil service to help elaborate the implications. One senior civil servant interviewed for this report commented:

I can think of a number of cases where the opposition had a particular view and then came into government and implemented it, but in fact if they had sat down and done an evaluation, they might have come up with a better or different answer.¹²

9. <http://www.lobbyingtransparency.org/opening-up-lobbying> [accessed: 15 Dec 2014]

10. Committee on Standards in Public Life, Strengthening Transparency Around Lobbying, November 2013

11. BBC News, 'Are lobbyists taking over party conferences?', 2 October 2013 [accessed: 15 Dec 2014]

12. Interview by telephone, 3 June 2014

PUBLIC PERCEPTIONS OF LOBBYING

As the Standards and Privileges Committee recently noted, “the reputational risk from allowing arrangements which do not command public support to continue should not be underestimated.”¹³

According to the 2013 Transparency International Global Corruption Barometer:

- 59 per cent of respondents think that the UK’s government is ‘entirely’ or ‘to a large extent’ run by a few big entities acting in their own best interests, while an additional 31 per cent think that this is ‘somewhat’ the case.
- 67 per cent think political parties in the UK are ‘corrupt’ or ‘extremely corrupt’.
- 55 per cent feel that the UK Parliament is ‘corrupt’ or ‘extremely corrupt’.¹⁴

Regarding specific types of lobbying activity, a survey of public perceptions of the most corrupt areas of British public life carried out for Transparency International UK in 2010 shed further light on the public’s ranking of potentially corrupt activities. A public official taking a ‘revolving door’ job with a company that s/he was previously responsible for regulating was rated as potentially corrupt by 80 per cent of respondents, a close second to the 86 per cent who rated a peerage for a businessman who has been a large political party donor as potentially corrupt. A survey conducted by YouGov in January 2012 found that 69 per cent of respondents agreed that it was ‘too easy for former Ministers to get jobs that allow them to make improper use of their time in government’.¹⁵

A 2011 YouGov survey on lobbying and party funding found that 54 per cent of respondents thought that lobbyists have too much influence in politics and 75 per cent would support a register of all meetings between lobbyists and Ministers. Respondents overwhelmingly (74 per cent) thought that party funding was not very open or honest.¹⁶

Surveys undertaken by the Committee on Standards in Public Life (CSPL) ask whether people think MPs take bribes. This was not a major concern in 2012: 60 per cent of respondents agreed that all or most MPs do not take bribes (although 15 per cent agreed with the more worrying claim that a few or half do not take bribes). On other indicators, the public is less trusting of MPs. For example, only 27 per cent thought that all or most MPs are dedicated to doing a good job for the public.¹⁷

Other CSPL survey questions asked the public how best to ensure good standards of conduct in public life. Only 1 in 4 respondents endorsed internal self-regulation or a culture of financial incentives for those doing a job. The respondents favoured senior managers in the public sector setting a good example (38 per cent), and training people in a code of conduct (63 per cent). Encouraging a culture where people are not afraid to report wrongdoing (66 per cent) was seen as particularly important for promoting good standards.¹⁸

69 per cent of respondents agreed that it was ‘too easy for former Ministers to get jobs that allow them to make improper use of their time in government’

13. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/772/77202.htm> [accessed: 15 Dec 2014]

14. TI Global Corruption Barometer 2013

15. The Sunday Times, 15 January 2012, [accessed: 15 Dec 2014]

16. <http://ukpollingreport.co.uk/blog/archives/4186> [accessed: 10 Nov 2014]

17. CSPL Survey of Public Attitudes Towards Conduct in Public Life 2012, published September 2013

18. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/337017/Public_Attitude_Survey_2012.pdf [accessed: 15 Dec 2014]

The public's perception of lobbying, and even the way it defines lobbying, is starkly out of kilter with the views of some of those who are lobbied

How do politicians and public officials view lobbying?

The public's perception of lobbying, and even the way it defines lobbying, is starkly out of kilter with the views of some of those who are lobbied. A 2013 survey on lobbying conducted by Burston-Marsteller provides data on how lobbying is viewed by MPs, MEPs, and senior officials from national governments and European institutions. The survey found that 93 per cent of respondents 'agreed' or 'strongly agreed' that ethical and transparent lobbying helps policy development, and they also viewed many groups as transparent or 'very transparent': 84 per cent thought this of trade associations, 83 per cent of companies, 80 per cent of trade unions and 76 per cent of NGOs. More than two-fifths (43 per cent) of respondents said that offering unethical inducements was the most frequently committed poor practice among private-sector companies and associations. However, the survey provides little data on how frequently respondents thought unethical practices occur.

There are also potential discrepancies between how the public and those who are lobbied define lobbying. In the Burston-Marsteller survey of public figures who are lobbied, 73 per cent of UK respondents considered NGOs to be lobbyists, while 77 per cent counted trade unions as lobbyists and 47 per cent embassies.¹⁹ Moreover, they rated trade associations and public affairs agencies as the most effective lobbyists, with 84 per cent and 77 per cent, respectively, regarding their efforts as 'effective' or 'very effective'. Professional organisations and NGOs were not far behind at 70 per cent. Yet only 40 per cent of respondents regarded companies as lobbyists. This contrasts with a widespread media representation of lobbying as an almost solely corporate activity designed to further private interests.

The Burston-Marsteller data suggest that those who are lobbied view lobbying in a more positive light. This wide difference between what politicians perceive lobbying to be and what the public perceptions indicate, raises a question as to what is shaping the public's much more negative view.

19. http://lobbyingsurvey.burson-marsteller.eu/wp-content/uploads/2013/05/european_lobbying_survey_2013.pdf [accessed: 15 Dec 2014] *Note that the sample size for individual countries is small, with only 600 respondents in total spread over 20 countries

WHAT GOES WRONG WITH LOBBYING IN THE UK?

Scandals relating to improper influence through lobbying and lapses in ethics of public servants arise relatively frequently in the UK media. These scandals demonstrate that wrongdoing is occurring and prompt suspicions that such behaviour is commonplace.

In a representative democracy, the public must trust the government to make policy in the public interest. Survey data explored in this report indicates that this is broadly not the case. Indeed, a striking factor of lobbying scandals of recent years is that they have largely fallen within the rules.

In addition to previously discussed polling data which suggests that the establishment and the public differ on views about the ethics of lobbying, individual case studies accentuate the point. In February 2014 Tim Yeo MP was deselected by local Conservative Party members, despite being cleared of wrongdoing by the Parliamentary Standards Committee. Mr Yeo had been the subject of allegations of conflicts of interest between his multiple environmental business interests and with his Chairmanship of the Commons Energy and Climate Committee.²⁰

Former Health Minister and Chairman of the House of Commons Health Select Committee, Stephen Dorrell MP was pressured by public petition to resign from one of his posts following conflict of interest revelations. Mr Dorrell had accepted a consultancy appointment to KPMG, which was bidding for National Health Service (NHS) contracts reportedly worth over £1 billion. In November 2014, Dorrell announced that he would stand down as an MP at the next General Election as the role would be “incompatible” with his role as an MP. However, his announcement effectively meant that he would maintain both positions simultaneously for six months. This triggered a public petition to force him to resign one of his posts immediately.²¹

While a large proportion of lobbying exists to further a private or sectional gain, and political decisions often award a benefit to private interests, this is not, in itself, necessarily corrupt. However, the lack of transparency – in both private-interest lobbying and the process behind public and political decision making – denies the public the opportunity to understand whether those decisions constitute an abuse of entrusted power to act in the public interest, and whether they are corrupt.

Corruption occurs more blatantly when a public official or politician benefits personally from supporting a lobbying position or when they become lobbyists themselves, in breach of the trust bestowed through their role.

Where there is a lack of transparency and a lack of accountability in the decision-making process, this can create the conditions for corruption risk in lobbying – or at least the perception of wrongdoing.

The following section sets out case study examples that demonstrate circumstances where transparency and accountability gaps are particularly acute across key risk areas:

Transparency gaps

- The ability of lobbyists to conceal their interests and activity
- The role of ‘big money’ in political donations

Integrity gaps

- Misconduct and conflicts of interest by public officials and politicians
- The ‘revolving door’ of employment between the public and private sectors

Access gaps

- The prevalence of unequal opportunity of access and influence in politics and decision making
- The role of external and unaccountable ‘expertise’ brought in to inform government policy

20. <http://www.bbc.co.uk/news/uk-politics-26015369> [accessed: 15 Dec 2014]

21. <https://you.38degrees.org.uk/petitions/we-call-for-stephen-dorrell-mp-to-be-removed-from-office-immediately> [accessed: 20 Dec 2014]

In a representative democracy, the public must trust the government to make policy in the public interest

CASE STUDIES – TRANSPARENCY

Behind closed doors

The vast majority of lobbying in the UK occurs behind closed doors and is not disclosed. Disclosure of lobbying meetings is only required in the UK for official ministerial meetings and those with Permanent Secretaries. Yet a great deal of policy-making and lobbying takes place elsewhere, as our interviews with both policy-makers and lobbyists confirmed.

Lobbying of parliamentarians, all but the most senior civil servants, local government officials and elected members, and the vast number of public agencies can take place with no public record of the lobbying meetings, the issues that have been lobbied on, or the amount of money that has been spent on lobbying. Indeed, the same is true of lobbying targeted at Ministers, which occurs outside Departmental meetings. As a result, transparency that would enable citizens to understand the influence that lobby groups have exerted on policy decisions is lacking.

Lobbying scandals demonstrate how a lack of transparency about lobbying can raise suspicions that conduct has been improper. However, Ministers and officials sometimes argue that transparency rules invade their privacy. The issue is complicated where Ministers and officials have personal relationships with lobbyists, and hence meet them at social occasions which they argue are not official business. Yet such informal links do appear to provide potential for improper influence, and are of great concern to the public.

informal links do appear to provide potential for improper influence

Case study: Minister does not declare dinner with lobbyists

In late 2011, it emerged that UK Local Government Minister, Eric Pickles MP, had attended a dinner with lobbyists and business chiefs at a five-star hotel in London but had not declared it. The Bureau of Investigative Journalism reported that the dinner had been attended by Pickles and hosted by the lobbying firm Bell Pottinger. It emerged that the dinner was also attended by Brandon O'Reilly, Chief Executive Officer, TAG Farnborough Airport, who at the time of the dinner was awaiting a decision by Pickles' Department for Communities and Local Government (DCLG) and the Department for Transport (DfT) on his application to almost double the capacity of the airport.

Bell Pottinger Public Affairs had been appointed by the airport to advise on its airport expansion plan. Although the plan was rejected by Rushmoor borough council, it was referred to central government after an appeal and planning inquiry. The DCLG and DfT jointly approved the airport expansion plans on 10 February 2011, nine days after the Savoy dinner.

Pickles denies that he was lobbied during the dinner or that he spoke about the airport with O'Reilly or Bell Pottinger. According to the Bureau report, Lord Bell, who heads Bell Pottinger, also said "no specific commercial issue about Farnborough or anything else was discussed".

Although the Ministerial Code obliges Ministers to declare all hospitality accepted in a "ministerial capacity" and all meetings with external organisations, a spokesman for Pickles said he was not required to register the dinner because he had attended in a "private" and not a "ministerial" capacity. Pickles denied that he was lobbied during the dinner.

The Bureau of Investigative Journalism points out that guidance from the DCLG states that planning Ministers are 'strongly advised' to decline requests for meetings from interested parties during a planning appeal. Pickles' attendance at the dinner in the Savoy's Gondoliers Room was only revealed because a senior lobbyist wrote about the high-profile dinner guests in his blog.²²

22. <http://www.thebureauinvestigates.com/2011/10/22/gaping-hole-in-rules-lets-eric-pickles-keep-business-dinner-private/> [accessed: 10 Jun 2014]

Case study: Lobbied over lunch?

In 2011, Theresa Villiers, then a DfT Minister, failed to declare a lunch with Simon Hoare, a university friend who was also the principal lobbyist for developers Helioslough. Hoare's lobbying group had been campaigning since 2006 to build a £400m international rail freight exchange on 300 acres of green belt land near St Albans in Hertfordshire. The Minister described the event as a private engagement, not needing to be disclosed, despite acknowledging that the development was discussed over lunch and that emails followed the meeting from Mr Hoare asking the Minister to lobby colleagues in government.²³

Corporate lobbying often takes place through trade bodies or public relations agencies, where it can be difficult or impossible for the public or, indeed, public sector decision makers to understand who is funding the lobbying activity.²⁴

The role of think tanks

Think tanks present another opportunity to conceal the interest and the funders of a lobbying campaign. Think tanks often organise informal forums in which decision makers and interest groups meet, as well as providing evidence in the form of research. At the stage of policy and debate framing, think tanks or campaign groups may seek to raise the profile of a certain issue or undertake research to provide evidence that can inform policy. By framing the debate in a certain way, they seek to constrain the policy options that are considered. This can mean that many arguments and conversations, or the presentation of certain types of evidence, help to shape policy long before a formal policy-making process begins.

This is not necessarily a cause for concern, but it might become one if the think tank research is funded by an interest group which was not publicly declared. Yet think tank and NGO funding is often non-transparent. Recent research by Transparify on UK think tanks found that some were entirely unwilling to reveal their donors. Overall, nine out of the 11 UK think tanks they assessed were not transparent, while only two were willing to reveal more data in the future. This makes UK think tanks far less transparent than US and European counterparts.²⁵ Similar research by 'whofundyou', focusing only on UK think tanks, had previously found that very few of the think tanks which dominate the public policy arena publish details of funding sources.²⁶ Arguably, government-funded research by academics could raise similar concerns.

e-democracy...?

So called e-democracy presents additional opportunities to conceal the interests of lobbyists. Lobbying techniques change over time, and new strategies may become available as a result of new technologies. An emerging risk area relates to the use of e-petitions, whereby signatures are collected in support of a particular issue or cause. The UK government provides the public with the possibility to create an e-petition about anything that the government is responsible for and pledges that, if it collects at least 100,000 signatures, it will be considered for debate in the House of Commons. In addition, some platforms have emerged that allow individuals to do the same thing in a less formal context. While the government pledge does not apply to the latter, such petitions can still be used by lobby groups to present evidence to policy makers about – potentially artificial – support for their cause.

Risks arise because e-petitions appear as grass roots initiatives independent of interest groups, and gain legitimacy from the fact that they appear to reflect widespread spontaneous support. However, this aura of legitimacy is not always justified. It can be easy and tempting for interest groups to manipulate or hijack e-petitions to their own ends. In the United States, scholars have documented how corporations sometimes devote great resources to such campaigns in an effort to demonstrate that there is 'grass roots' support for their own agenda (so-called 'astroturfing'²⁷). They rarely declare their interest, framing issues instead as a campaign initiated by the masses and thereby claiming broad legitimacy for their cause.

23. <http://www.theguardian.com/politics/2013/dec/18/labour-theresa-villiers-meeting-helioslough-lobbyist-northern-ireland-secretary> [accessed: 15 Dec 2014]

24. The Joseph Rowntree Charitable Trust is supporting TI research into corporate lobbying accountability and transparency, in addition to guidance material for corporates to meet good practice standards. More details can be found on www.transparency.org.uk

25. Data available on <http://www.transparify.org>. [accessed: 2 Jun 2014]

26. See table comparing leading think tanks here: <http://whofundyou.org/compare> [accessed 23 Jul 2014]

27. See Walker, Edward T. Grassroots for Hire: Public Affairs Consultants in American Democracy, Cambridge University Press, 2014

Political party financing

Another key concern is that there is a link between UK political fundraising and lobbying. Political parties are essential to democracy. They foster debate on policy and provide voters with a way of expressing their preferences. They also provide an entry point for individuals who wish to become politically active, and support those who wish to pursue political careers. To do all this, and to compete in elections, political parties need funds, all the more so because traditional income sources such as membership dues are declining.

However, parties also exercise influence and can be extremely powerful. This raises risks that funders might expect gratitude in the form of special influence, and that parties will allow themselves to be influenced in return for much-needed funds. There is particular concern that a handful of wealthy individuals and organisations might be able to exert influence through making large donations: £250m of the £432m donated to political parties between 2001 and mid-2010 was from single donations of more than £100,000 made by individuals, companies or trade unions.²⁸

The scale of donations to parties certainly raises questions as to why donors are prepared to give so much money, and what they expect to gain in return. According to figures released by the Electoral Commission, an independent regulator, in May 2014, the 10 political parties registered in Great Britain reported accepting £14,230,841 in donations between 1 January and 31 March 2014. The value of outstanding loans to parties at 31 March 2014 was £15,096,219.²⁹

Political party funding has been at the heart of many political corruption scandals in the UK. In March 2012, the 'cash for access' scandal showed how the absence of a cap on donations to political parties created the opportunity for corruption. In 2006-07, in the 'cash for honours' scandal, it was revealed that several men who had been nominated for peerages by then Prime Minister Tony Blair had loaned large amounts of money to the Labour Party.³⁰ Loans, unlike donations, do not by law have to be declared providing they are made at a commercial rate of interest. Blair denied there was any connection between the loans and the peerage nominations. The Conservative Party and the Liberal Democrats were also revealed to have taken large loans from wealthy individuals.

In June 2014, the Daily Mail reported that two-fifths of cash donations to the Liberal Democrats had been made by three individuals, all of whom had been appointed to the House of Lords under the current coalition government. The three donors, successful businessmen in clothing, nightclubs and takeaway pizza, donated a total of £632,000 to the Liberal Democrats in 2013, £605,000 in 2012, and £408,000 in 2011.³¹

Press reports have revealed that the Conservative Party receives large donations from dining clubs, which can effectively channel anonymous donations to the party from 'diners'. The Conservative Party reportedly received £140,000 in donations from the United and Cecil Club in a period of only four months.³² Another dining club, the Leader's Group, is open to those who donate at least £50,000 a year to the Conservatives. In return, donors gain the right to attend dinners, lunches and drinks receptions with the Prime Minister and other senior Conservatives. Press reports in January 2014, citing leaked data, suggest that 72 members of the group had attended dinners with David Cameron and other senior Ministers in the previous 18 months.³³

Further supporting concerns about 'cash for peerages', recent research by Transparency International UK indicates that the total value of donations (from 2001 to November 2014) from members of the House of Lords totalled £39m, and that 11 individuals who were nominated as Peers collectively donated £14m before they were ennobled.³⁴ Many of these individuals have business interests and there is a risk that in the UK, far beyond providing mere lobbying access, money plays a major role in becoming a member of the legislature.

A handful of wealthy individuals and organisations might be able to exert influence through making large donations

11 individuals who were nominated as Peers collectively donated £14m before they were ennobled

28. Committee on Standards in Public Life, Political Party Finance: Ending the big donor culture, Thirteenth Report, November 2011

29. Electoral Commission, Press release, 15 May 2014

30. <http://www.theguardian.com/politics/2007/oct/11/partyfunding.uk> [accessed: 15 Jul 2014]

31. <http://www.dailymail.co.uk/news/article-2658623/Clegg-cash-honours-row-biggest-donors-Two-fifths-Lib-Dem-donations-came-three-men-theyve-recently-peers.html> [accessed: 15 Dec 2014]

32. <http://www.independent.co.uk/news/uk/politics/tory-dining-club-secretively-channels-hundreds-of-thousands-of-pounds-of-funding-by-anonymous-wealthy-donors-9380723.html> [accessed: 15 Dec 2014]

33. <http://www.dailymail.co.uk/news/article-2544318/Revealed-The-43m-paid-elite-group-donors-access-Tories-including-David-Cameron.html#ixzz33pXvsjBt> [accessed: 5 Jun 2014]

34. www.thesundaytimes.co.uk/sto/news/Politics/article1490091.ece [accessed: 15 Dec 2014]

Conservative Party donor Michael Farmer, who was appointed to the House of Lords in 2010, reportedly stated, “We are all human beings and you cannot get away from the fact that the word ‘peerage’ is connected to large donations, so if you are giving a large donation there is a part of your mind somewhere that every now and then thinks about it”.³⁵

All three major parties made commitments to reform party financing in their pre-election manifestos prior to the 2010 general election, but there has been little evidence since of political will to tackle the issue. Many loopholes in the rules remain.

CASE STUDIES - INTEGRITY

Misconduct by public officials and politicians

In a complex and open democratic system, there is a responsibility placed on individual politicians and policy makers to uphold appropriate standards of conduct and to eschew efforts to influence their behaviour improperly.³⁶

Yet recent lobbying scandals have revealed that some politicians and civil servants abuse their formal powers to benefit a private interest group, do so in exchange for payment and fail to declare that payment.

Some politicians and civil servants abuse their formal powers to benefit a private interest group

Case study: Patrick Mercer MP serious misconduct

In June 2013, as a result of a joint investigation by BBC television documentary Panorama and the Daily Telegraph, allegations emerged that four parliamentarians had potentially breached codes of conduct in the House of Commons and House of Lords by agreeing to act as paid lobbyists and to ask parliamentary questions in exchange for payment. The journalists had set up a ‘sting operation’ in which they posed as lobbyists for a fictitious group called ‘Friends of Fiji’ and approached Mercer claiming that they wished to build British parliamentary and government support for the Pacific islands’ readmission to the Commonwealth. Fiji is currently run by a former army commander who seized power in a coup and has been accused of human rights and constitutional abuses. Mercer reportedly signed a contract worth £2,000 a month to lobby on behalf of Friends of Fiji and also agreed, it was claimed, to provide a pass to parts of the House of Commons for a representative of the fictional client, an apparent breach of rules.³⁷

Following the meeting, Mercer took several actions to advocate for Fiji:

- He tabled an Early Day Motion in the House of Commons arguing that there was no justification for Fiji’s continued suspension from the Commonwealth, and urging the government to arrange a ministerial visit in order to help prepare for and assist its readmission. This motion had been drafted by the fake lobbying company on Mercer’s behalf, and used without alteration.
- He tabled four questions to the Foreign Office Minister Hugo Swire, asking what the government’s current policy was on the islands.
- He began setting up an All-Party Parliamentary Group on Fiji and asked the fake lobbying company to set up an expenses-paid group trip to the islands to see at first hand the progress they were making.
- He promised to set up meetings for Friends of Fiji on the parliamentary estate.

(continued over page)

35. <http://www.mirror.co.uk/news/uk-news/house-lords-fury-david-cameron-4025716> [accessed: 15 Dec 2014]

36. For a discussion of these two approaches, and how recent reforms in the UK have sought to institutionalise the public service ethos, but with ambiguous results, see Paul M. Heywood, ‘Integrity management and the public service ethos in the UK: patchwork quilt or threadbare blanket’, *International Review of Administrative Sciences*, 2012, 78: 474

37. <http://www.independent.co.uk/news/uk/politics/tory-mp-patrick-mercero-quits-party-over-alleged-cashforquestions-fiji-lobbying-scandal-exposed-in-bbc-panorama-8639459.html> [accessed: 19 Jul 2014]

Under parliamentary rules, Mercer should have declared the payment from Friends of Fiji in each of these interventions – but he failed to do so. He should also have registered the payments he received in the Register of Members' Interests within a month, but also reportedly failed to do so, in respect of some of the payments.

On the day before the broadcast was due to be made, after being approached by Panorama to comment on his actions, he announced that he was resigning the Conservative whip and would not stand for parliament at the next election. He also referred himself to the Commissioner for Standards. The Commissioner concluded, after her investigation, that:

*...in allowing payment to influence his actions in parliamentary proceedings, in failing to declare his interests on appropriate occasions, in failing to recognise that his actions were not in accordance with his expressed views on acceptable behaviour, in repeatedly denigrating fellow Members both individually and collectively, and in using racially offensive language, Mr Mercer inflicted significant reputational damage on the House and its Members.*³⁸

Following the Commissioner's report, the Select Committee on Standards decided to recommend suspending Mercer from parliament for six months. The Committee viewed the case as a very serious instance of misconduct, judging:

*The rules recognise that lobbying by third parties can be a legitimate part of the process, but it is wholly improper for a Member to be a paid lobbyist. Mr Mercer not only engaged in paid advocacy himself, but he also brought the House into disrepute. As the Commissioner said, he denigrated his colleagues individually and collectively, and involved them in setting up an APPG, without making clear that in doing so they were furthering his commercial interests.*³⁹

Mercer resigned his seat on 29 April, two days before the report was due to be published.⁴⁰

Mercer's behaviour, in deliberately flouting the rules about parliamentary conduct of which he was aware, is disturbing

Some commentators argue that the fact that Mercer was the target of a sting operation is a comfort. There was no real lobbyist seeking to influence Mercer. Perhaps real lobbyists do not behave so badly, and hence the risks are small. And the fact that one MP acted so badly does not mean that they all do. Indeed, Mercer did not find it easy to recruit supporters to his proposed APPG on Fiji; many individuals that he approached refused to be influenced with the promise of an overseas trip.

Yet Mercer's behaviour, in deliberately flouting the rules about parliamentary conduct of which he was aware, is disturbing. Similar behaviour has emerged in other cases.

38. See Appendix 1 of Committee on Standards meeting formal minutes, 8 April 2014 <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmstandards/1225/122507.htm#note195> [accessed: 19 Jul 2014]

39. Paragraph 11, <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmstandards/1225/122507.htm#note195> [accessed: 19 Jul 2014]

40. <http://www.theguardian.com/politics/2014/apr/29/patrick-mercer-suspended-house-of-commons> [accessed: 19 Jul 2014]

Case study: Lord Blencathra - breach of code

Following press reports alleging that Lord Blencathra had abused his parliamentary and government contacts in his role as Director of the Cayman Islands Government Office⁴¹, in July 2012 Paul Flynn MP asked the Commissioner for Standards to investigate alleged contraventions of the House of Lords Code of Conduct (the Guide), with regards to accepting payment in return for parliamentary services.⁴²

Flynn cited five instances in which it is alleged that Lord Blencathra breached the Guide:

- Writing to the Chancellor of the Exchequer to lobby for a reduction in Air Passenger Duty on flights to the Cayman Islands.
- Facilitating an all-expenses-paid visit by three MPs to the Cayman Islands.
- Attempting to facilitate a meeting between three Cayman Island officials and Mr John Cryer MP, who had earlier called for the Islands to be closed down as a 'tax haven'.
- Approaching the International Bar Association before they launched a task force on human rights and illicit financial flows.
- Writing to Angela Eagle MP (after she raised a question in the House of Commons about Lord Blencathra's role) in which he defended the importance of the Cayman Islands as a financial centre.

In particular, Mr Flynn drew attention to a press conference at which Lord Blencathra said "I've been appointed because I have 27 years' experience as a Member of Parliament, ten to twelve years' experience in a British Government. I'm still a parliamentarian [...]. And the Government feels that because of the knowledge I have of how Whitehall works, Westminster works, that I can be a good representative to feed in to the correct authorities in the Government the views of the Cayman Islands and help defend our interests."⁴³ During the Commissioner's investigation, Lord Blencathra strongly denies that his role involved lobbying Parliament.

The Commissioner concluded in November 2012 that Lord Blencathra had not breached the Guide and dismissed the complaint. More recently the Bureau of Investigative Journalism (BIJ) obtained a copy of the £12,000 per month contract which Lord Blencathra signed with the Cayman Islands Government, which lists 'making representations to ... Members of Parliament' amongst services to be provided. In March 2014, the Commissioner agreed to reopen the investigation into Lord Blencathra, focusing on whether he breached the Guide by signing the contract, even if there were no evidence that he undertook lobbying activity.

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41. The Independent, 17 April 2012 <http://www.independent.co.uk/news/uk/politics/revealed-exconservative-minister-lord-blencathra-paid-to-lobby-for-island-tax-haven-7648252.html> [accessed: 15 Dec 2014]

42. The Guide recognises that members have outside interests. However, members are prohibited from accepting payment in return for parliamentary advice or services. This prohibition means that members may not, in return for payment or other incentive or reward, assist outside organisations or persons in influencing Parliament. This includes seeking to confer exclusive benefit upon an organisation (the "no paid advocacy rule"); or making use of their position to arrange meetings with any member of either house for lobbying purposes. The Guide goes on to say that a member may exceptionally give parliamentary advice to an organisation with whom the member has a financial interest, providing that the member can demonstrate that "The payment or benefit which the member does receive is not substantially due to membership of the House, but is by reason of personal expertise or experience gained substantially outside Parliament; and that the member was, or would have been, appointed to the position without being a member of the House."

43. <http://www.thebureauinvestigates.com/2012/04/17/lord-blencathra-in-his-own-words/> [accessed: 15 Dec 2014]

The Commissioner contended that Lord Blencathra was appointed on the basis of his parliamentary and governmental experience. Nevertheless he concluded that Lord Blencathra's membership of the House of Lords was not a prerequisite for appointment and that there was no evidence to suggest that he had provided parliamentary advice in return for payment. Lord Blencathra was cleared for all of the specific abuses which Mr Flynn alleged, largely because Lord Blencathra had stated that he was acting in his capacity as an official representative of the Cayman Islands Government (including not writing on official House of Lords paper), that his membership of the House of Lords was irrelevant, or that he was not seeking to exercise parliamentary influence.

The Commissioner did not use his power to request the contract which Lord Blencathra signed. The contract stipulates that the role involved 'Promoting the Cayman Islands' interests in the UK and Europe by liaising with and making representations to UK Ministers, the FCO (Foreign and Commonwealth Office), Members of Parliament in the House of Commons and Members of the House of Lords.' Furthermore, private emails sent by Lord Blencathra (seen by BIJ) about his contract prior to its signing which include correspondence on how he might 'guarantee access' to the FCO. In one message to Dax Basdeo, chief officer in the Cayman Ministry of Finance, Lord Blencathra says: "The only way I can guarantee access to all the key people in the FCO and elsewhere is to be designated as the "official" Cayman Islands Government "Political Director"...No matter how good I may be and even with the title "Lord" I need that endorsement."⁴⁴ After being cleared by the Commissioner, Lord Blencathra amended the contract to remove all reference to lobbying UK MPs and Parliament.

The fact that the Commissioner decided to reopen the investigation indicates that there may be a wider issue of whether the Guide is sufficiently understood, and effective. Since the 'Cash for Questions' scandal 15 years ago, the House of Commons has strengthened rules around lobbying. However, for Peers the rules are much less clear and open to abuse. One senior Liberal Democrat described the scene in the lobbies and bar of the Lords on occasion as being like a 'lobbyists' convention'.

On 6 March 2014, the House of Lords agreed proposals to ban Peers from lobbying members of the Commons or Lords, Ministers or government officials in return for payment or other reward. Additional changes also require more transparent registration of interests, and a reduction of the threshold for registering gifts and hospitality. The Cayman Islands Government and Lord Blencathra mutually agreed to terminate the contract in March 2014 after deciding its terms were incompatible with these new rules.

On 14 July 2014, the Commissioner found that by agreeing to a contract which would involve the provision of parliamentary services Lord Blencathra had breached paragraph 8(d) of the Code of Conduct (which prohibits Members from accepting or agreeing to accept payment or other reward in return for providing parliamentary advice or services). Although the Commissioner found no evidence that Lord Blencathra in fact provided such services, the mere existence of that contractual term put him in breach of the Code. Lord Blencathra was ordered to apologise to the Lords for agreeing to lobby MPs and Peers on behalf of a Caribbean tax haven in breach of Lords rules. Paul Flynn MP commented, I think the sub-committee have been very generous with Lord Blencathra in allowing him just to make an apology. I think that the committee have been excessively lenient. I think they would have been justified in taking a much harder line with him."⁴⁵

44. <http://www.independent.co.uk/news/uk/politics/revealed-conservative-peer-lord-blencathraslobbying-contract-for-tax-haven-cayman-islands-9211092.html> [accessed: 15 Dec 2014]

45. The Guardian Politics Blog: <http://www.theguardian.com/politics/blog/2014/jul/14/mps-question-theresa-may-over-child-abuse-inquiry-and-surveillance-bill-politics-live-blog>. [accessed: 14 Jul 2014]

MPs and Peers are not routinely exposed to ethics and standards training in their workplace

The Hansard Society *Audit of Political Engagement 2014* indicated that an overwhelming majority of the public (86 per cent) believed that MPs should behave in accordance with an agreed set of standards and guidance. Three-quarters of respondents (77 per cent) thought MPs should have to undertake regular ethics and standards training. MPs and Peers are not routinely exposed to ethics and standards training in their workplace.

In 2010, new MPs were offered a briefing session on 'Parliamentary standards and the registration and declaration of interests', Members were introduced to the Code of Conduct in the Members' Handbook and advice was given about standards issues and procedures. Beyond this there was little guidance on offer and training and development is not made available on an on-going basis.

The Hansard Society identified that there is an underlying cultural resistance to such training, including on ethical issues, among MPs, "not least for fear that it will leave them open to ridicule by the media for spending public money on training to instil ethical behaviour".⁴⁶ The CSPL *Ethics in Practice* report also identified the importance of training and found that inductions were of key importance to ensuring that all public office holders are aware of the standards expected of them.⁴⁷

The 'revolving door' of employment

Lucrative employment for former Ministers in the private sector is relatively commonplace in the UK.

In November 2014, Public Affairs News reported on recent appointments including:⁴⁸

- Stephen Dorrell MP, former Health Minister, taking a consultancy position within KPMG's healthcare division.
- Mark Prisk MP, former Housing Minister, taking an advisory role with a private property developer.
- Bob Neill MP, former Planning Minister, taking a non-executive director role at lobbying firm Cratus Communications.
- Chris Huhne MP, former Environment Secretary, taking up a position as Europe Chairman for Zilkha Biomass Energy, a company supplying renewable energy.
- Henry Bellingham MP, former Foreign Office Minister, taking up a position with a global consultancy and investment conference organiser.
- Charles Hendry MP, former Energy Minister, now chairman of Forewind Ltd, which is a consortium of four leading energy companies.
- Jim Paice MP, former Agriculture Minister, taking up a new role as non-executive Chairman of dairy firm First Milk Ltd.

Senior crown servants may also be subject to lobbying risks related to the 'revolving door', whereby individuals may trade on knowledge or contacts gained in public employment when they leave public office (or in anticipation of leaving public office). As the following case studies demonstrate, some individuals are aware of the rules but perfectly willing to flout them.

individuals may trade on knowledge or contacts gained in public employment when they leave public office (or in anticipation of leaving public office).

46. <http://www.hansardsociety.org.uk/research/public-attitudes/audit-of-political-engagement/> [accessed: 15 Dec 2014]

47. Committee on Standards in Public Life *Ethics in Practice: Promoting Ethical Standards in Public Life* (14 Jul 2014)

48. <https://www.publicaffairsnews.com/articles/news/dorrell-takes-kmpg-advisory-post> [accessed: 15 Dec 2014]

Case study: Generals for hire

On 14 October 2012, The Sunday Times published details of an undercover investigative operation by their journalists. Posing as a South Korean arms firm, the journalists had secretly filmed top-ranking retired military officers offering to use their contacts with Ministers and colleagues on behalf of the firm in return for large payments. Of the eight senior former officers approached by the journalists, only two refused to take part in lobbying activities on the firm's behalf.⁴⁹

Those who appear on the video offering to lobby on behalf of the firm, include:

- General Lord Dannatt, the former head of the British army, who offered to speak to the civilian head of defence material, Bernard Gray, to facilitate the company's bid to sell hi-tech drones to the British Armed Forces.
- Lieutenant-General Kiszely, then head of the Royal British Legion and a Falklands war hero, who claimed that he could use his role to push the firm's agenda with the Prime Minister and other senior figures at Remembrance Day events. Following the revelations, he offered his resignation.

All officers implicated in the scandal have denied any wrongdoing. As a result of the undercover investigation, the Ministry of Defence (MoD) launched an investigation to determine whether any official rules had been broken or neglected. According to the Civil Service Management Code, there is a two-year ban on civil servants above a certain position lobbying government departments and officials on behalf of private companies after they leave the service. Depending on the circumstances of a particular case the ACoBA, the body charged with regulating movement of individuals from government to the private sector, can reduce the time period. As recently as February 2014, ACoBA approved two lieutenant generals, who had left the Army less than 18 months previously, working for companies competing for an MoD contract.

The review commissioned by the Ministry of Defence resulted in approximately 2,500 retired and serving officers having their access passes to the MoD revoked. Further, according to the then Defence Secretary Philip Hammond, "there has been too much access given to a range of people, including former military chiefs". The review revealed that six former officers had either physically met or conducted telephone calls with MoD staff on over 250 occasions. Lieutenant General Richard Applegate, former head of procurement for the Army, had held nine meetings about defence equipment. Whilst the review concluded that none of the meetings resulted in undue influence or sales for the companies involved, his behaviour was reported to the Cabinet Office since it gave the appearance of impropriety.

Responding to the allegations surrounding General Kiszely's behaviour on the undercover video recording, British defence firm Babcock released a statement that the former officer would be relieved of his duties with the company on the grounds that his comments "clearly fall foul of our code".⁵⁰

The Ministry of Defence is a major site of 'revolving door' movement between public and private roles, leading to risks of conflict of interest. In 2009/10, ACoBA permitted 326 MoD officials to join private firms, of which 240 took jobs with defence companies. Of the 326, 20 were high ranking officials including generals, admirals and air marshals. Whilst the revolving door can be of benefit to both sectors, the system to regulate the movement of individuals needs reform. To remove suspicions of impropriety, it would benefit from greater transparency in the way such decisions are undertaken.

ACoBA permitted 326 MoD officials to join private firms, of which 240 took jobs with defence companies

49. <http://www.thesundaytimes.co.uk/sto/news/insight/article1147765.ece> [accessed: 15 Dec 2014]

50. <http://www.babcockinternational.com/media-centre/statement-concerning-sunday-times-story/?atemplate=MobileNewsItem> [accessed: 15 Dec 2014]

In its submission to Parliament, Transparency International UK called for ACoBA to be replaced with a new statutory body that has sufficient resources and power to enforce rules governing the movement of individuals from government to business. However, the watchdog is not the only entity that has espoused such a view. John Trickett, the Shadow Cabinet Office Minister, recently described the Committee as a ‘toothless’ watchdog.⁵¹

Case study: Former regulator moves to Tesco

In November 2014, the Guardian reported that Tesco director and former Food Standards Agency head, Tim Smith, lobbied the government to not publish a report into the food poisoning contamination rates for chicken in supermarkets. Smith was subject to advice from ACoBA that he should not lobby on behalf of Tesco during the period he was alleged to have lobbied.⁵²

CASE STUDIES - ACCESS

Unequal opportunity of access and influence in politics and decision making

Lobbying raises concerns about corruption when it grants or facilitates preferential access to some groups or individuals, or serves only narrow interests rather than the broader public interest. It is inevitable that some organisations and individuals are better equipped to engage in public policy and lobbying than others, but policy makers should seek to account for this. While it is impossible to ensure that all groups have equal access, the case studies below suggest that, in the UK, money can buy lobbying capabilities and activity and, very likely, influence.

It is very difficult to judge what constitutes ‘excessive’ access, and even more difficult to demonstrate that access translates into influence, or that influence was improper. Nevertheless, the sheer extent of lobbying activity can prompt suspicions of unequal access and the possibility that decisions have been taken to serve the interests of those with greater access.

Case study: Alcoholic drinks industry lobbying

In January 2014, the British Medical Journal (BMJ) published a report arguing that the government had been influenced to reverse a policy plan on minimum alcohol pricing after receiving an avalanche of lobbying activity from the alcoholic drinks industry. The UK government had published an alcohol strategy in March 2012, pledging to introduce a minimum price for a unit of alcohol. The report claimed that a minimum price would “target the cheapest products and help reduce drinking in those who drink the most”. The report stated that the appropriate level of minimum prices had not yet been agreed, but suggested that a rate of 40 pence per unit could mean “50,000 fewer crimes . . . and 900 fewer alcohol-related deaths a year by the end of the decade.”⁵³ In July 2013, however, in the last day before the House of Commons went into summer recess, the commitment was withdrawn. Scotland had already passed a bill to introduce a minimum price of 50 pence per unit, but England and Wales would not follow.

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The sheer extent of lobbying activity can prompt suspicions of unequal access

51. <http://www.independent.co.uk/news/uk/politics/labour-to-give-jobs-watchdog-more-teeth-8735035.html> [accessed: 15 Dec 2014]

52. <http://www.theguardian.com/world/2014/nov/25/-sp-tesco-director-facing-questions-lobbying-government-dirty-chicken-report> [accessed: 20 Dec 2014]

53. <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhealth/132/13206.htm> [accessed: 15 Dec 2014]

The BMJ report argued that the change in policy reflected massive lobbying from the industry and, in an open letter, 21 senior doctors and campaigners, including Prof Sir Ian Gilmore, special adviser on alcohol for the Royal College of Physicians, raised fears that “big business is trumping public health concerns in Westminster”. The report revealed that health officials and Ministers had participated in 130 meetings with alcohol and supermarket lobbyists while they were considering new price controls. Many of the meetings had not been publicly documented because they were not with Ministers or the most senior civil servants, to whom transparency rules apply, but rather with middle-ranking civil servants. Moreover, one meeting with Jeremy Hunt MP, the Health Secretary, and another, with then public health Minister, Anna Soubry, took place after the end of an official consultation into the policy. The government said the meetings were entirely proper and there were a similar number with health campaigners; the BMJ took a different view.⁵⁴

The process of selecting members of advisory groups is discretionary and lacks transparency with a risk that external advisors might promote their own agendas

The role of external and unaccountable ‘expertise’

Policy-making is becoming more technical and complex. One consequence is that politicians and civil servants increasingly look to external experts for advice, including advisory groups, academic institutions and think tanks. Advisory groups are formed at various stages of a policy or implementation process and there is no legal obligation for them to have a balanced composition (between private sector and civil society representatives, for example), although it is common practice to seek balance. The current UK government has also created ‘management boards’ for each government department, responsible for overseeing an individual department’s strategic direction. Some commentators argue that this new governance mechanism is not adequately regulated. For example, the process of selecting members of advisory groups is discretionary and lacks transparency with a risk that external advisors might promote their own agendas.⁵⁵

Case study: NHS England and the Specialised Healthcare Alliance

In February 2014, the Independent reported that NHS England had invited a patients’ group – entirely funded by the pharmaceutical industry and headed by a well-known pharmaceutical industry lobbyist – to draft a report which could have influence over policy. It is a matter of concern that industry backed groups may be able to engage with government in a way which might affect policy, without that being fully transparent.

The group, the Specialised Healthcare Alliance, claimed to represent more than 90 patient groups and charities. However, its costs were entirely funded by 13 pharmaceutical companies, while its director, John Murray, also headed a lobbying firm whose clients include some of the world’s biggest drug and medical device firms.⁵⁶ The report provided a summary and analysis of an engagement event designed to gather views about the principles for a five-year £12bn commissioning strategy for treatment for complex diseases such as cancer. It was co-written with James Palmer, clinical director of specialised services at NHS England, who oversees this budget.⁵⁷

NHS England does not register its meetings with lobbyists, nor does it routinely disclose to the public the potential conflicts of interest of its employees or contractors.⁵⁸

(continued over page)

54. <http://www.theguardian.com/society/2014/jan/08/government-dancing-tune-drinks-industry-doctors> [accessed: 15 Dec 2014]

55. Information about such groups is available online (<https://www.gov.uk/government/groups>), but the quality varies.

56. <http://www.independent.co.uk/news/uk/politics/revealed-big-pharma-links-to-nhs-policy-with-senior-mps-saying-medical-industry-uses-wealth-to-influence-government-9120187.html> [accessed: 25 Mar 2014]

57. <http://www.thetimes.co.uk/tto/news/politics/article4002172.ece> [accessed: 25 Mar 2014]

58. The Independent, 11 February 2014, Revealed: Big Pharma’s hidden links to NHS policy, with senior MPs saying medical industry uses ‘wealth to influence government’

Liberal Democrat MP Tessa Munt said that this “called into question the integrity and objectivity of NHS England’s handling of 143 specialised services for millions of people”.⁵⁹ These feelings were echoed by Sarah Wollaston, former General Practitioner and member of the House of Commons Health Select Committee: “NHS England is increasingly commissioning vast sums of public money and we need to know who is getting invited to sit on what panels and what potential conflicts of interest they might have”.⁶⁰

NHS England and the Specialised Healthcare Alliance rejected suggestions that any inappropriate activities had taken place and reiterated that the correct procedures for declaring conflicts of interest are in place at NHS England⁶¹; a statement supported by the Secretary of State for Health, Jeremy Hunt.⁶² NHS England claims that what group provided was “merely a write up of one of 17 [patient group] engagement events”.⁶³

NHS England might have avoided the appearance of impropriety if it had in place a simple electronic register for meetings, hospitality and conflicts of interest so that it could be seen who is lobbying whom and on which issues.

The health sector involves the spending of large sums of money, particularly within the English system, with services delivered through increasingly complex public-private relationships which lead to the sector being a magnet for lobbying.

“Crown Representatives”, a new role established in 2011 within the Cabinet Office to act as focal point for particular groups of providers looking to supply to the public sector, represent an accountability risk. The individuals have a brief to work across departments to ensure “a single and strategic view of the government’s needs is communicated to the market” and have advisory access to Ministers and government suppliers.⁶⁴ The roles are not subject to an open and transparent appointment process and not regarded as subject to the same rules as civil servants or Special Advisors but are presumably getting access to commercial information.

Secondments into government from private-sector companies also raise questions about conflicts of interest and improper influence. When management consultancies provide staff off the public payroll to work on technical details of policy or implementation in government departments, there is a risk they might shape policy to suit themselves or their clients. While technical insights can be useful to policy makers, the lack of transparency over such placements, the conflicts of interest over individuals’ incentives, and the unequal access to policy making it provides all present significant corruption risks.

Case study: Political parties accept tax policy advice from accountancy firms

Analysis by the Guardian in 2014 indicated the scale at which political parties accept secondments from firms that stand to gain from helping to shape policy. The issue may be particularly prevalent in the case of opposition parties, who have no civil service support in drafting policy and are more heavily reliant on external support.⁶⁵

Since the 2010 election, the Labour party received staff secondments from PwC equivalent to £626,895 in value. PwC staff have been seconded to the offices of several senior members of the Shadow Cabinet. PwC have also placed staff in the offices of shadow Ministers for

(continued over page)

59. The Independent, 11 February 2014

60. The Independent, 11 February 2014

61. <http://www.shca.info/blog/post.php?s=2014-02-11-shca-statement-in-response-to-the-independent-newspaper-article> [accessed: 25 Mar 2014]

62. <http://www.parliament.uk/documents/commons-committees/Health/Correspondence-with-the-Secretary-of-State-for-Health-on-NHS-England's-dealings-with-commercial-organisations-2014-02-14.pdf> [accessed: 25 Mar 2014]

63. <http://www.england.nhs.uk/2014/02/11/resp-independent/> [accessed: 15 Dec 2014]

64. <https://www.gov.uk/government/organisations/cabinet-office/groups/crown-representatives> [accessed: 15 Dec 2014]

65. theguardian, 12 November 2014, Labour received £600,000 of advice from PwC to help form tax policy

Secondments into government from private-sector companies also raise questions about conflicts of interest and improper influence

business, education, housing and international development. PwC staff, according to the register of MPs' interests, assisted with the shadow treasury team's work on several finance bills. These bills included measures aimed at minimising corporate tax avoidance, including a general anti-avoidance rule. Labour has also received £252,533 in staff support from KPMG since the May 2010 election.

In 2013, the House of Commons Public Accounts Committee highlighted examples where employees from the big four accountancy firms that advise government "go back to their firms and advise their clients on how they can use those laws to reduce the amount of tax they pay". In responding to the article, the Labour party claimed "Given the complexity of government decisions in areas such as tax policy – and that opposition parties do not have significant access to civil servants – the support provided by organisations such as these helps ensure that there is better scrutiny of government policy."⁶⁶

The report highlighted the discrepancy in declarations, finding that – unlike the PwC secondments to the front bench – KPMG staff were not included in parliamentary registers, as the support was not provided directly to MPs' offices, but to party headquarters.

While in opposition, between 2005 and 2010, the Conservatives received secondments worth £1.5m from the accountancy firms, including the 'big four', and US firms Boston Consulting and Bain & Company.⁶⁷

Case study: Gas industry employee seconded to draft UK's energy policy.

In 2013, after a targeted Freedom of Information campaign by Greenpeace, documentation released by the Department of Energy and Climate Change (DECC) indicated that a major state subsidy scheme for the UK's gas-fired power stations was being designed by an employee of a gas company working on secondment to the government. The material released listed the head of capacity market design at DECC as an employee seconded for two years from the Irish energy company ESB, which owns three gas-fired power plants in the UK.⁶⁸

66. Employees from the big four accountancy firms that advise government "go back to their firms and advise their clients on how they can use those laws to reduce the amount of tax they pay". In responding to the article, the Labour party claimed "Given the complexity of government decisions in areas such as tax policy – and that opposition parties do not have significant access to civil servants – the support provided by organisations such as these helps ensure that there is better scrutiny of government policy

67. <http://www.theguardian.com/politics/2014/nov/12/pricewaterhousecoopers-tax-structures-politics-influence> [accessed: 15 Dec 2014]

68. <http://www.theguardian.com/environment/2013/nov/10/gas-industry-employee-energy-policy> [accessed: 15 Dec 2014]

THE UK REGULATORY FRAMEWORK FOR THE LOBBYING INDUSTRY

One way of regulating lobbying corruption risks is to regulate the lobbyists. Until 2014 however (see below), the lobbying industry was left entirely to regulate itself and is likely to continue to operate alongside the parliamentary register.

SELF-REGULATION BY THE LOBBYING INDUSTRY

Self-regulation of the professional UK lobbying industry is provided through three main industry bodies:⁶⁹

- **The Chartered Institute of Public Relations (CIPR)** (founded in 1947). The CIPR received a Royal Charter in 2006, which requires its members to always act in a way that contributes to the public good. The CIPR has a code of conduct for its members (who are individuals), with breaches investigated by a committee and punishable by fines, suspension or expulsion. Its specialist group, CIPR Public Affairs, also has its own code, dealing with integrity, transparency, confidentiality, undue influence and conflicts of interest.
- **The Public Relations Consultants Association (PRCA)** (founded in 1969). The PRCA represents the larger consultancies in the UK (members are organisations not individuals). It has a code of conduct aimed specifically at lobbyists and requires the public disclosure of clients' names, as well as prohibiting member agencies from employing MPs, Peers, or members of the devolved assemblies.
- **The Association of Professional Political Consultants (APPC)** (founded in 1994). The APPC was set up following the 'cash for questions' affair. It has a strict code of conduct, prohibiting members from employing MPs, Peers, or members of the devolved assemblies, as well as from holding parliamentary passes. Its code also contains a general requirement to behave openly and ethically. In addition, the APPC requires members to list both their staff and their clients on the APPC website.

A Public Administration Select Committee (PASC) Inquiry in 2007-09 examined this system of self-regulation. It argued that the guiding principles for conduct did not go far enough, but were a welcome step towards a consistent approach. However, the inquiry suggested that self-regulation would be more effective if there was one single body that was trusted by the lobbyists, their clients and the wider public. Whilst there was no single body fulfilling that role, there were concerns that one of the organisations, the APPC, was seeking to monopolise the market for government contracts by claiming that it was the sole acceptable arbiter of ethical standards in the profession.⁷⁰

The inquiry's most damning finding was that the complaints system operated by the organisations had received only three complaints in ten years, and that the outcomes in those cases had failed to build confidence in the disciplinary process. The report noted that complainants might be deterred because they were expected to bear the costs of their complaints (as is still the case if the complaint is not upheld).

The complaints system operated by the organisations had received only three complaints in ten years, and that the outcomes in those cases had failed to build confidence in the disciplinary process

69. Zetter, Lionel. *Lobbying: The Art of Political Persuasion*, Harriman, 2nd edition.(2011)

70. Public Administration Select Committee *Lobbying: Access and influence in Whitehall*, First Report of Session 2008-09 Volume 1, p. 19

UK Public Affairs Council

Following the Select Committee's criticisms, in 2010 the three professional bodies together set up the UK Public Affairs Council (UKPAC), establishing a set of Guiding Principles and an online voluntary register of lobbyists.⁷¹ Iain Anderson, chairman of the APPC, explained that, "the purpose of UKPAC was to try and give some more synthesis and cohesion to the process of self-regulation."⁷² The UKPAC register captures mainly the members of the professional associations which constitute the organisation, the APPC and CIPR, as well as any others who choose to register with it. The register is online and searchable, and is updated regularly.

However, UKPAC remains very much an umbrella body, whose main role is to host the register and set out some guiding principles, while the three constituent organisations play the primary role in regulating their members. If UKPAC receives a complaint that an organisation has violated its guiding principles, it refers this to the body of which the organisation is a member for investigation. The UKPAC principles are not particularly strict. They do not 'prohibit' simultaneous employment as a lobbyist and a public official but regards it as "inappropriate". Moreover, ethics training is not a condition of membership.

The UKPAC principles are not particularly strict

THE NEW LOBBYING ACT

In 2014, the UK introduced legislation to formally regulate lobbying. Although the UK is a signatory to the UN Convention Against Corruption (UNCAC) and the Council of Europe Criminal Law Convention on Corruption, trading in influence has never been legislated against in the UK, on the reasoning that such criminalisation could affect lobbying activities that are not improper and could hinder democratic engagement.⁷³

However, calls for tighter regulation of lobbying date back several years. David Cameron's 2010 comments had been preceded by an inquiry into lobbying by the PASC of the House of Commons.⁷⁴ That inquiry identified a number of problems with self-regulation and made several recommendations for enhancing self-regulation, including the establishment of a single umbrella self-regulatory body and the setting up of a mandatory register of lobbying activity – which led to the creation of UKPAC. The PASC recommended that the register include the names of individuals carrying out lobbying activity, the names of their clients, information about public office roles previously held, a list of the relevant interests of decision makers, and information about contacts between lobbyists and decision makers.

Given David Cameron's concerns, it was expected that new tougher rules on lobbying would be at the top of his government's legislative agenda. In fact, the new government was slow to follow through on its commitments. Cameron introduced a two-year ban on lobbying for former Ministers shortly after entering office, and subsequently launched a consultation on lobbying, but did not initiate any legislation. It was not until a wave of fresh lobbying scandals hit the headlines in spring 2013 that the government drafted The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill. This was introduced to parliament in July 2013 and received Royal Assent on 30 January 2014.

71. These questions refer in the main to a public lobbyist registry which would apply to a broad range of lobbying targets across a range of public institutions (see Definition questions for 'best practice' scope of institutions and targets that should be covered by a registry). Where individual institutions have adopted their own registries, these should be assessed using the framework but the narrative should explicitly state the limitations in scope of the institutions covered. Furthermore, in such cases, scoring should be discussed with TI-S, as there are comparability issues to consider.

72. Interview by telephone 2 May 2014

73. Council of Europe Criminal Law Convention on Corruption, Third Evaluation Round Report on the United Kingdom on Incriminations (ETS 173 and 191, GPC 2) (Theme I) paragraphs 91 and 131. See discussion of this argument in Slingerland (2010)

74. Public Administration Select Committee, Lobbying: Access and influence in Whitehall, First Report of Session 2008-09 Volume 1

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (hereafter the Lobbying Act) was the focus of much opposition campaigning – largely relating to the sections covering pre-election restrictions on political activity. However, this research considers the contribution of the Lobbying Act to lobbying registration only.

The Lobbying Act establishes a mandatory register for ‘consultant lobbyists’, and defines the business of consultant lobbying as:

- (a) in the course of a business and in return for payment, the person makes communications within subsection (3) on behalf of another person or persons,*
(b) the person is registered under the Value Added Tax Act 1994, and
(c) none of the exceptions in Part 1 of Schedule 1 applies.

The Lobbying Act requires consultant lobbyists to register, and creates an offence of carrying on the business of consultant lobbying without being registered (s.12). It is also an offence to fail to submit an information return within a certain period, or to provide inaccurate or incomplete information. However, it is a defence against these offences if the person has exercised all due diligence to avoid committing the offence. This suggests that organisations might not be liable if an employee fails to submit information to the register, as long as they have in place procedures designed to ensure that information is submitted.

Criticisms of the Lobbying Act

The Lobbying Act has been criticised on several grounds.

1. The Lobbying Act defines lobbyists too narrowly.

Many individuals and organisations that engage in lobbying activity do clearly not fall under its remit, including in-house lobbyists, NGOs, industry associations, trade unions and, potentially, professional service firms such as lawyers and management consultants. The APPC has estimated that its scope covers only around 1 per cent of those who engage in lobbying activity.⁷⁵

The government has defended this narrow definition of lobbyists by arguing that transparency already exists for in-house lobbyists, because the records of ministerial meetings record the organisations which individuals represent when they interview Ministers. The aim of the Lobbying Act is thus to rectify the relative lack of transparency when a professional lobbyist visits a Minister, given that it is not obvious whose interests the professional represents.⁷⁶

2. The Lobbying Act is concerned with only a very narrow group of possible lobbying targets – Ministers, Permanent Secretaries and special advisers.

This is a wholly inadequate definition and there has been widespread criticism of this narrow remit. It does not apply to the lobbying of MPs or local councillors, the staff of regulatory bodies, private companies providing public services, or any but the most senior members of the civil service. The Lobbying Act therefore omits to regulate a large swathe of lobbying activity which targets other stages of the policy-making process or different types of decisions (see Table 2 on Targets and techniques of lobbying activity).

Graham Allen MP, Chair of the Political and Constitutional Affairs Select Committee, suggested that this reflected an unrealistic view of policy making, arguing that:

People who lobby the civil service do not go to the Permanent Secretary but talk to the desk officer or the director general. Those people are outwith the concept of the Bill.⁷⁷

75. <http://www.appc.org.uk/appc-submission-to-lobbying-issues-and-questions/> [accessed: 15 Dec 2014]

76. See Andrew Lansley MP's response to a question from Chris Bryant MP, cited in the National Assembly for Wales Research paper on the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill', September 2013, p.9, paragraph 4.1; available here: <http://www.assemblywales.org/13-067.pdf> [accessed 16 Jul 2014]

77. HC Debates, 3 September 2013, Columns 193-94; [accessed 10 Jul 2014]

Iain Anderson, chair of the APPC, commented that:

...you might not meet a Minister but [still] achieve a lot. It might be far more valuable to meet the civil servant responsible for the statutory order. You can achieve quick and effective change without having met the Minister.⁷⁸

and:

Looking back on the last quarter, only about 15 per cent of members could say that they had direct contact with a Minister or perm sec.

Tamasin Cave, Director of the NGO Spinwatch, agrees:

...the focus on Ministers and permanent undersecretaries is to wilfully misunderstand how lobbying works.⁷⁹

The Lobbying Act therefore seems unlikely to be comprehensive in terms of the lobbying activity it seeks to regulate. This is particularly controversial with regard to lobbying of MPs, and especially those MPs who hold influential positions, such as chairs of select committees or members of the shadow cabinet, as Iain Anderson explained:

I could go and lobby Ed Balls [Shadow Chancellor of the Exchequer, and an MP] and I'm not going to go on this register, because the government was very clear to ensure that it was only about institutions of government.

The definition of lobbying activity in the Lobbying Act includes any contact for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position. Whilst this is an adequate definition in itself, its relevance is undermined by the limited scope of the Lobbying Act in terms of both lobbyists and the lobbied.

3. The information that lobbyists are required to disclose is very limited.

The Lobbying Act requires consultant lobbyists to report quarterly, and to disclose the name of the client and the name of the person on whose behalf the lobbying is being done. However, the wording of the law is such that this information must only be provided if the lobbyist is being paid for the activity, and need not specify who is making the payment. Organisations must supply the names of the company directors or partners, but not the employees. They are not required to report on the subject matter of the lobbying activity. The new Lobbying Act does not require lobbyists to report information on who they are lobbying and what they are advocating.

Tamasin Cave commented that:

If you are going to have public scrutiny of lobbying you have to show the interaction between government and lobbyists. It tells me nothing that, for example, a developer has hired Bell Pottinger. But it tells me a lot more to know that a developer has hired BP to meet Eric Pickles and talk about planning.

4. There is a lack of clarity over what constitutes direct contact with a Minister or Permanent Secretary – the trigger requiring a lobbyist to register.

The Lobbying Act therefore omits to regulate a large swathe of lobbying activity

They are not required to report on the subject matter of the lobbying activity

⁷⁸ Interview with senior professional lobbyist

⁷⁹ Telephone interview, 5 May 2014. Tamasin Cave is director of Spinwatch (www.spinwatch.org) and author of *A Quiet Word: Lobbying, Crony Capitalism and Broken Politics in Britain* (Random House, 2014)

5. *The arrangements for monitoring compliance with the register have not yet been set out.*

There is no mechanism for auditing or verifying disclosures as yet, and it is unclear what powers the Registrar will have to detect anomalies.

6. *The sanction of £7,500 is unlikely to act as a major deterrent to anyone seeking to evade the law.*⁸⁰

Failure to file a return is punishable by a maximum fine of £7,500; this is arguably not sufficient to deter efforts to evade the law. The law does not specify penalties for knowingly filing a false lobbying registration, but this might be regarded as ‘failure to file a return’. The law does not require the Registrar to disclose the names of those who violate the rules.

7. *There is little indication of the expected costs of the Registrar, or how they will be met.*

Given the small proportion of lobbyists within its remit, requiring those who register to bear the costs would be controversial. Giving evidence to the Political and Constitutional Reform Select Committee while the Bill was in progress, UKPAC also raised concerns about effectiveness:

*UKPAC is worried that the process will undermine rather than build on the existing and expanding regime of voluntary registration and self-regulation. If asked, we would be willing in principle to continue to deliver a voluntary register in support of industry bodies and others who value transparency.*⁸¹

Perhaps the greatest irony is that the Lobbying Act, which was drafted in response to the Patrick Mercer MP scandal, would have had no impact on that episode. One in-house lobbyist interviewed for this report commented:

*It's unclear that the Act is anything more than a political measure designed to show that something is being done, rather than an effort to look at what the problems are.*⁸²

The Lobbying Act provides for the information collected in the new register of lobbyists to be published by the Registrar, on a website and in any other form the Registrar considers appropriate (article 7 of the Act). It is not yet clear whether it will be published in a searchable machine-readable open-data format.

Perhaps the greatest irony is that the Lobbying Act, which was drafted in response to the Patrick Mercer MP scandal, would have had no impact on that episode

80. Giving oral evidence to the Political and Constitutional Reform Select Committee, Communications Consultant Jane Wilson commented, “The £7,500—I cannot believe that I am about to say this— is quite a low figure in comparison with other types of bodies and would not make a splash. Access is a far tougher sanction that you could impose.” See <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpolcon/601/601ii.pdf>

81. Evidence submitted to the committee, <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpolcon/601/601vw.pdf> [accessed: 15 Dec 2014]

82. Telephone interview, 9 May 2014

Political campaign transparency: Learning from the Scottish referendum

The build-up to the Scottish referendum, which took place on 18 September 2014, provided a good example of how much more information about political campaigns could be made available to the public than is currently the case or will be available under the Lobbying Act.

Referendums are regulated by the Electoral Commission.⁸³ In the run up to the Scottish referendum, there was a formal campaigning period called the 'referendum period'. During this period, referendum campaign spending limits and rules applied and covered any organisation spending more than £10,000 on campaigning. This included:

- advertising of any kind including, for example, street banners, websites, YouTube videos.
- material sent to voters including, for example, letters or leaflets that each side of the referendum sent to promote their campaign.

Each campaigning organisation was obliged to register:

- A 'responsible person' responsible for making sure that the rules are followed.
- All donations, loans and campaign spending.

The reporting regime provided for regular updates about money raised and spent on campaigning. Under the Scottish Independence Referendum Act, registered campaigners completed pre-poll reports setting out donations and loans over £7,500 received between commencement of the Act (18 December 2013) and 05 September 2014.⁸⁴

By 12 September 2014, 33 campaign organisations had registered with the Electoral Commission. An additional nine registered campaigners were political parties and thus reported their donations and loans to the Electoral Commission on a quarterly basis through a separate and parallel system.

The Electoral Commission published the data in a timely and user-friendly fashion, allowing quick analysis of the results.

In contrast to the Lobbying Act register which will not record the issues campaigned on and the amount of funds spent on campaigning, the rules around the Scottish referendum showed that such transparency is achievable.

The rules around the Scottish referendum showed that such transparency is achievable

83. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/164390/intro-ris-ref-campaign.pdf [accessed: 12 Nov 2014]

84. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/164390/intro-ris-ref-campaign.pdf [accessed: 12 Nov 2014]

The importance of transparency through open data

*Open means anyone can freely access, use, modify, and share for any purpose (subject, at most, to requirements that preserve provenance and openness).*⁸⁵

The government provides significant information about the activities of the public sector on the website <http://data.gov.uk> as part of its open data commitments, without the need for the public to make requests. In theory, open data around government expenditure combined with open data about lobbying, donations, and gifts and hospitality should help to minimise risks around secrecy and payment for influence.

Some examples of open government data:

- New central government tender documents for contracts over £10,000 are published online, with this information made available to the public free of charge.
- New items of central government spending over £25,000 are published online.
- New central government contracts are published in full.
- Full information on all international development projects over £500 is published online, including financial information and project documentation.
- New items of local government spending over £500 are published on a council-by-council basis.
- New local government contracts and tender documents for expenditure over £500 are published in full.

Open data can act as an effective tool to make governments more accountable, participatory and transparent. Other examples of open data released are salaries of senior level civil servants, expenses of MPs, UK Central Government Procurement Spend, to name a few. If lobbying and conflicts of interest information is produced and published as open data, it can be reused and analysed at scale by data analysis tools, including being automatically updated when the data set is updated.

According to Principle 8 of the Code of Practice for Official Statistics:

... producers of official statistics should ensure that they are disseminated in forms that enable and encourage analysis and reuse. Producers should release datasets and reference databases, supported by documentation, in formats that are convenient to users. Technology also has a part to play in delivering open public data. Data needs to be published on the web, be machine readable and be encoded using non-proprietary formats. All of these factors will help minimise the barriers to the use and reuse of data.

While some very recent work by data.parliament team⁸⁶ appears to be addressing open data standard for the House of Lords and House of Commons, the vast majority of lobbying, conflicts of interest, and gifts and hospitality information across the public sector is not produced as open data. Instead it is produced as pdf or website text, or at worst, as a scanned image – which cannot be easily analysed.

Open data can act as an effective tool to make governments more accountable, participatory and transparent

85. <http://opendefinition.org/> [accessed: 10 Oct 2014]

86. <http://www.data.parliament.uk/about> [accessed: 15 Dec 2014]

Implementing the Lobbying Act

The Lobbying Act provides for a Registrar to be appointed, with a duty to monitor compliance with the obligations imposed by the Act for registration. In September 2014, the Political and Constitutional Reform Committee approved the government's nominated candidate, Alison White, to be the first ever Registrar of Consultant Lobbyists. Mrs White is the former Chief Executive of the National Pharmacy Association.⁸⁷ It is not yet clear what resources the Registrar will have to accomplish this potentially onerous task.

Tamasin Cave highlights the need for the Registrar to be independent:

*The Registrar needs to be independent of government and of the industry. At the moment with the voluntary system, one company is judging another which is its competitor.*⁸⁸

Yet it seems that the Registrar will be independent of neither government nor the industry. The post will be funded by the professional lobbying sector, and the Registrar will report to the Cabinet Office Minister.

Lobbyist registration: Permissible behaviour in the UK under current rules

- Those not covered by the Lobbying Act of 2014, estimated by the APPC to be 99 per cent of lobbyists, can lobby anywhere in the UK without being required to register.
- All lobbyists can lobby UK parliamentarians, all but the most senior civil service officials, public service officials, and local government officials without being required to register any details.
- There is no requirement for lobbyists to report their expenditure on lobbying, including gifts and hospitality to public officials.
- No information on 'in-kind' contributions need be publicly disclosed by lobbyists – including advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office.
- There is no obligation on lobbyists to publish how they have used secondments or advisers placed within government to influence policy.
- Think tanks and lobbying campaigns can withhold information about their funders.

Those not covered by the Lobbying Act of 2014, estimated by the APPC to be 99 per cent of lobbyists, can lobby anywhere in the UK without being required to register

87. <https://www.gov.uk/government/people/alison-white> [accessed: 20 Dec 2014]

88. Interview by telephone, 5 May 2014

THE REGULATION AND TRANSPARENCY OF POLITICAL PARTY FINANCE

Lobbyists are not required to disclose political donations to parties and candidates, and there is no special regulation for donations by lobbyists. Political party finance in general is regulated by the Political Parties, Elections and Referendums Act 2000, which was introduced in response to a Committee on Standards in Public Life report in 1998 and covers UK Westminster and the devolved nations alike.⁸⁹

The Act created a new regulator, the Electoral Commission, introduced a ban on donations from outside the UK and set limits on the amount which could be spent on campaigning at parliamentary elections. It also provided that all donations above £7,500 to the central party, and all donations above £1,500 to an 'accounting unit' of a party, must be disclosed as a matter of public record. However, the onus is on the political parties to disclose donations, not the donors. MPs are required to declare donations exceeding £1,500 from a single source (even if this donation is provided in many instalments) in the Register of Interests and by doing so they also confirm that the donation is from a permissible source.⁹⁰

Whilst this law improved the transparency of political party financing, it remains possible for individual donors to make fairly large donations without the need to declare them. Moreover, there are concerns that parties are overly reliant on a few donors, that anonymous donations are sometimes channelled through informal connections, and hence go under the radar of transparency rules, and that the major parties benefit from 'loans' which are not subject to the same transparency rules as donations.

The CSPL examined the issue of party financing once again in 2011 and made a number of recommendations for reform, including a cap on individual donations, a reduction in the limit on campaign spending, and the introduction of a small element of public funding for political parties.⁹¹ All three main political parties had previously made manifesto commitments to take 'big money' out of party funding, and all three participated in all-party talks following publication of the CSPL report. However, on 4 July 2013 the Deputy Prime Minister made a written ministerial statement on the funding of political parties confirming that these discussions had reached no agreement. Efforts to further reform party financing had failed, arguably because the major parties have an interest in maintaining the status quo.

Donations can be accepted by political parties without any limit.

Political party donations: Permissible behaviour in the UK under current rules

- Donations can be accepted by political parties without any limit.
- Party donors are entitled to seek to influence party policies.
- Major party donors can be offered positions in the legislature – through appointment as Peers.

89. Committee on Standards in Public Life. The Funding of Political Parties in the United Kingdom. Fifth Report. Cm 4057. (London: The Stationery Office, October 1998)

90. See paragraph 17 of the Guide to the Rules relating to the Conduct of Members, an adjunct to the Members' Code of Conduct [accessed: 20 Dec 2014]

91. Committee on Standards in Public Life. Political party finance: Ending the big donor culture. (November 2011)

Case study: The Cruddas case

In July 2013, Justice Tugendhat found the Sunday Times guilty of libel and malicious falsehood following accusations that Peter Cruddas, a former co-treasurer of the Conservative Party, had offered access to the Prime Minister in exchange for £250,000 donations, and in so doing had acted corruptly. The ruling suggested that activity could not be corrupt if it was commonplace and not prohibited in law by Parliament.⁹²

The judgement concluded that:

The present system of party funding, whether desirable or not, is lawful and practical, whereas other possible systems, such as funding out of taxation, or mass membership of political parties, are either not provided for by law, or not in practice available to the parties, however much they might wish that they were. This court cannot declare to be corrupt, as a matter of fact, the system of party funding authorised by Parliament and adopted by the Conservative and other parties. That may or may not be an opinion which people may honestly hold. It is not true as a matter of fact that the system is corrupt.

The Court of Appeal later overturned the determination that the use of the term 'corrupt' denoted a criminal act.

92. <http://www.theguardian.com/politics/2013/jul/31/peter-cruddas-damages-libel-sunday-times>
[accessed: 20 Dec 2014]

REGULATING THOSE BEING LOBBIED: A COMPARISON ACROSS THE UK

Regulations on public officials and politicians – those being lobbied – vary dramatically across the different categories of public figures (parliamentarians, Ministers and civil servants) and across the UK (Westminster & Whitehall; the Scottish Parliament and government; the Welsh Assembly and government; and the Northern Irish Assembly and government).

This research, for the first time, provides a comparison of the level and quality of disclosure of lobbying meetings across the UK jurisdictions.

The following sections set out the comparisons across the UK on these issues:

- Conflicts of interest
- Gifts and hospitality
- Lobbying in office
- Revolving door
- Lobbying transparency
- Cross-Party Group transparency





RULES ON CONFLICTS OF INTEREST ACROSS THE UK

There are no consistent and explicit UK-wide laws governing conflicts of interest in the public sector, although guidance is laid out in the codes of various institutions. In theory, the Bribery Act 2010 could be used to legally underpin the sanctions against illegitimate conflicts of interest and sanctions against political bribery, if giving or receiving a financial or other advantage in connection with the “improper performance” of a position of trust could be argued. However, there is no precedent for this.

Instead there is inconsistency across the UK nations as to whether conflicts of interest should be published, what is covered and how it is sanctioned.

This research, for the first time, provides a comparison of the level and quality of disclosure of lobbying meetings across the UK jurisdictions.

Table 3: Conflicts of Interest comparison across the UK

		Public declaration of interests?	Code includes prohibition conflicts of interest?	Partner/spouse included?	Investigations and sanctions regime?	Published as Open Data?	Summary notes
	Ministers	Yes ★	Yes	Yes	No	Yes ★	Strongest ministerial conflict of interest regime and Lords' data transparency is unique. However, the lack of criminal sanctions weakens the regime for legislators.
	Civil service	No	Yes	No*	Yes	No	
	Members of Parliament	Yes	Yes	Yes	Yes** ☉	No****	
	Members of the House of Lords	Yes	No	Yes	Yes** ☉	Yes ★	
	Ministers	No ☉	Yes	Yes	No	No	Untransparent ministerial regime and legislator regime fails to explicitly include partners.
	Civil service	No	Yes	No*	Yes	No	
	Parliamentarians	Yes	Yes	No* ☉	Yes*** ★	No ☉	
	Ministers	Yes ★	Yes	Yes	No	No	Strong ministerial regime, and among the strongest regime for legislators.
	Civil service	No	Yes	No*	Yes	No	
	Assembly Members	Yes	Yes	Yes	Yes*** ★	No ☉	
	Ministers	Yes ★	No	No* ☉	No	No	Strongest regime for legislators. However ministerial regime fails to include partners.
	Civil service	No	Yes	No*	Yes	No	
	Assembly Members	Yes	Yes	Yes	Yes**** ★	No ☉	

- * Not explicitly
 ** Standards Committee only, no criminal sanctions
 *** Criminal sanctions apply
 **** Reporting that this will be produced as Open Data in the short term
 ★ Relatively good practice
 ☉ Relatively poor practice

The conflicts of interest regime for parliamentarians and Assembly Members

Across the UK, in practice, the system for regulating conflicts of interest relies on individual officeholders to declare potential conflicts, rather than prohibiting them.

However, the House of Commons, Northern Irish Assembly and Welsh Assembly code contain the following provision which, in theory, requires Members to resolve conflicts of interest in favour of the public interest. It requires that:

Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.⁹³

While the clause also appears in the House of Lords Code of Conduct, in that code there is a specific clarification that “it is not only permissible, but desirable, that such Members, having declared their employment and other interests, should contribute to debate on issues to which these interests are relevant” negating the implication of the commitment in the Northern Irish Assembly, House of Commons and Welsh Codes of Conduct. The Scottish Parliament Code of Conduct contains a weaker wording to the effect that “They must declare any private interests (as required by the Interests of Members of the Scottish Parliament Act 2006) relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest”.

In practice, this clause is not literally interpreted. However, the indicators used in this research are in-law procedural tests, rather than ‘in-practice’ tests. As a result, we have recognised a commitment to prohibit

93. <http://www.niassembly.gov.uk/Your-MLAs/Code-of-Conduct/The-Code-of-Conduct-together-with-the-Guide-to-the-Rules-Relating-to-the-Conduct-of-Members-amended-and-reissued-by-the-Committee-on-Standards-and-Privileges-for-2013-14/> [accessed: 20 Nov 2014]

In practice, the system for regulating conflicts of interest relies on individual office-holders to declare potential conflicts, rather than prohibiting them

conflicts of interest in the code of conduct in the House of Commons, Welsh and Northern Irish Codes of Conduct, and a partial commitment in the Scottish Parliament. Arguably, for clarity and confidence in the codes of conduct, such clauses should be interpreted literally, and implemented as such.

For MPs, the Rules require them to register directorships, earned income and any donations to support their candidacy for elected office.⁹⁴ MPs are not required to declare their assets, although they must declare and register interests. The Code for Members of Parliament also includes a general catch-all statement which might be interpreted to include in-kind benefits.⁹⁵ The rules on registering interests, and the regular publication of the register, allow civil society organisations and the media to play a role in monitoring and scrutinising the interests that MPs declare. The website ‘theyworkforyou’, for example, allows analysis of how MPs’ entries in the Register of Members’ Interests have changed over time, sorting either by MP, or for a particular issue on the Register.⁹⁶

Table 4. Details of information to be provided on the House of Commons Members’ register

	Interest to be registered	Data to be provided
1	Remunerated directorships in public and private companies	Amount of payments made, nature of the work, number of hours worked, name, address of person/company making the payment
2	Remunerated employment, office, profession	Amount of payments made, nature of work, number of hours, name, address of person/company making the payment
3	Clients to which personal services are provided	Nature of the client’s business, amount of payments made, nature of work, number of hours, name, address of person/company making the payment
4	Sponsorships or other forms of support by companies, trade unions, professional bodies, trade associations and individuals.	Name, address of donor, amount/nature of donation, date of receipt/acceptance of donation, donor status
5	Gifts benefits and hospitality from a person or a company within the UK that amounts to more than 1% of the current parliamentary salary	Name, address of donor, amount/nature of donation, date of receipt/acceptance of donation, donor status
6	Overseas visits relating to membership of the House where the cost exceeds 1% of current parliamentary salary and was not wholly borne by UK public funds	Name, address of donor, amount of donation, destination, date and purpose of visit
7	Overseas benefits and gifts of a value greater than 1% of the current parliamentary salary from any person/organization overseas which relates to membership of the House.	Name, address of donor, amount/nature of donation, date of receipt/acceptance of donation, donor status
8	Land or property worth more than 100% of a Member’s annual parliamentary salary or with rental income worth 10% of that salary	Nature of the property, general location of the property
9	Shareholding worth more than 100% of the annual parliamentary salary.	Name of company, nature of business, nature of interest
10	Permissible loans and credit agreements related to political activity amounting to more than £1,500	Registration of all benefits in a calendar year in increments of more than £500.
11	Miscellaneous: any relevant interest not falling within one of the above categories but within the main purpose of the Register	Any interest which the Member considers to be relevant that does not fall under
12	Family member employed and remunerated through parliamentary allowances.	Name, relationship to Member, job title of any family members.

94. The MPs’ register is published soon after the beginning of a new Parliament and every year thereafter. Members of Parliament are to notify changes in their relevant interests within four weeks of the change occurring. The register is available online on the Parliamentary website and it is also available for inspection by the public in the Search Room of the Parliamentary Archives. The Register of Lords’ Interests is updated every 15 minutes except during recess, and details of Members’ registered interests are available online on the Members’ biography pages on the Parliament website

95. It requires the registration of: “Any relevant interest, not falling within one of the above categories, which nevertheless falls within the definition of the main purpose of the Register which is “to provide information of any financial interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches, or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament,” or which the Member considers might be thought by others to influence his or her actions in a similar manner, even though the Member receives no financial benefit” (Category 11 of the Register of Members’ Interests)

96. <http://www.theyworkforyou.com/regmem/?f=2014-06-02> [accessed: 20 Jun 2014]

The House of Lords is the first legislature in the UK to seek to provide a framework for conflicts of interests to be analysed at scale through open data formats

In early November 2014, the new data.parliament.uk official data publication unit for the Westminster Houses of Parliament, published the Register of Lords' Interests as open data, accessible through an application programming interface (or 'API').⁹⁷ An API platform provides a number of benefits, including that any other applications or websites using the data are automatically updated when the original list is updated. As a result of this move, the House of Lords is the first legislature in the UK to seek to provide a framework for conflicts of interests to be analysed at scale through open data formats. There are reports that the House of Commons Register of Members' Interests will soon follow suit and be published through the data.parliament.uk portal.

All codes of conduct explicitly include partners and spouses' interests, apart from Scotland.

Both the House of Commons and the House of Lords have Commissioners for Standards who investigate alleged breaches of the rules governing the declaration of Members' interests as well as other breaches of the code of conduct. The Commissioner for Standards in the House of Lords reports to the Committee for Privileges and Conduct,⁹⁸ while the commissioner in the House of Commons reports to the Select Committee on Standards. In both cases the commissioner prepares and the committee publishes a report containing their findings and recommendations and this is presented to the Committee for the House to take action. Below (Table 5) is a summary of some cases investigated, the recommendations made and actions taken.

All of the devolved authorities have a Standards Commissioner and standards committees, as well as criminal offences in place for serious breaches of the codes of conduct.

Table 5. Recent relevant investigations

Year	Member	Allegation	Recommendation/Action Taken
2014	Peter Lilley MP (Hitchin and Harpenden)	Failed to declare an interest as a director of Tethys Petroleum – an oil and gas exploration and production company in Asia although he is a member of the Energy and Climate Committee	Media reports state that investigation by the Standards Committee is underway.
2014	Patrick Mercer MP (Newark)	Failure to register monies received for the provision of consultancy services Failure to deposit an agreement for the provision of services Failure to declare a relevant interest when tabling five parliamentary questions and an motion about Fiji	Recommended suspension for six calendar months including loss of salary and pension contributions for the entire period of suspension. He resigned as an MP following the judgement.
2014	Charlotte Leslie MP (Bristol North West)	Failure to declare cash donations	Media reports state that the letter of complaint received by the Committee and to be investigated. Member apologised to the House and undertook to register interest
2013	Tim Yeo MP (South Suffolk)	It was alleged that Mr Yeo had coached a director of a firm in which he had a financial interest before the latter gave evidence to the Energy and Climate Change Committee, which Mr Yeo chaired	Investigated and found Mr Yeo had not broken rules and had registered interests appropriately.
2010	David Curry MP (Skipton and Ripton)	Alleged that he did not adequately register his employment as Chairman of Dairy UK in the Register of Members' Interests from 2005 to 2008.	Recommended that he apologise in writing

97. <http://mapgubbins.tumblr.com/post/102086992280/lords-register-of-interests-full-dataset-as> [accessed: 20 Dec 2014]

98. House of Lords Code of Conduct p.15 [accessed: 20 Nov 2014]

The House of Commons has moved slowly to address gaps in the Rules that create potential risks. In July 2014, Kathryn Hudson, the Parliamentary Standards Commissioner, expressed “grave concern” that changes to the Guide to the Rules – the document which supports the Code of Conduct – that were proposed in December 2012 had yet to be brought before the House.⁹⁹ The measures were intended to tighten controls on lobbying and declaring interests, including banning MPs with second jobs from initiating parliamentary proceedings, such as tabling amendments, in the interests of their employers. The new code also suggests that MPs should be investigated if their ‘private and personal’ behaviour brings the House into disrepute.¹⁰⁰

The conflicts of interest regime for Ministers

Given ministerial duties and decisions, there are potential conflicts that arise for Ministers that would not arise if they were non-ministerial parliamentarians or Assembly Members. The Cabinet Office describes this as due to the need to disclose interests relevant to Ministerial responsibilities and the enhanced disclosure required by members of the executive.¹⁰¹

Once a parliamentarian or Assembly Member becomes a Minister, throughout all the UK institutions, conflicts of interest are generally prohibited. Ministers must “scrupulously avoid any danger of an actual or perceived conflict of interest between their ministerial position and their private financial interests”.¹⁰² If Ministers retain an interest, he or she should declare that interest to ministerial colleagues if they have to discuss public business which in any way affects it and the Minister should remain entirely detached from the consideration of that business.

However, there is inconsistency in transparency requirements at the ministerial level across the UK. Only Northern Ireland and Wales require Ministers’ interests to be published. In contrast, Scotland and UK Ministers must declare interests to their Permanent Secretaries, but it is left to Ministers’ and Permanent Secretaries’ discretion to decide how to manage any conflicts.¹⁰³ For UK Ministers, the Cabinet office chooses to publish a *List of Ministers’ Interests* and is published in a data form as well as a pdf report.¹⁰⁴ No such published list is publicly available in Scotland. All codes of ministerial conduct (with the exception of Northern Ireland) include partners’/spouses’ interests in conflicts of interest.

Across the UK, it is incumbent on Ministers to declare conflicts of interest (either publicly or privately) and no bespoke investigative authority monitors or sanctions failure to declare interests. In Scotland and at the UK level, where Ministers’ interests are considered confidential information within the departments, scrutiny over ministerial conflicts of interest is limited.¹⁰⁵

The conflicts of interest regime for civil servants

Across all the authorities in the UK nations, civil servants are prohibited from maintaining conflicts of interest, however there are no explicit considerations of spouses’/partners’ interests. Complaints of breaches of the civil service codes of conduct are heard by the Civil Service Commission (for UK, Wales and Scotland) and the Civil Service Commissioners for Northern Ireland.

According to the civil service code, civil servants:

...must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share a civil servants private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed. (para 4.1.3.c)

99. The delay appears to reflect concern among MPs about one of the proposed changes to the code, which would bring some aspects of a Member’s private life under the purview of the commissioner for Standards. In October 2014, the Standards and Privileges Committee proposed a compromise solution on this aspect, and pledged to seek a backbench business debate on the matter if the government did not schedule a debate. For the committee’s full report, see here: <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/772/77203.htm#a3>

100. <http://www.telegraph.co.uk/news/politics/10965855/Grave-concern-over-18-month-wait-for-MPs-to-debate-new-code-of-conduct.html>. [accessed 14 Jul 2014]

101. <https://www.gov.uk/government/publications/list-of-ministers-interests> [accessed: 20 Dec 2014]

102. <https://www.gov.uk/government/publications/list-of-ministers-interests> [accessed: 20 Dec 2014]

103. UK requires “On appointment to each new office, Ministers must provide their Permanent Secretary with a full list in writing of all interests which might be thought to give rise to a conflict.” https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61402/ministerial-code-may-2010.pdf [accessed: 20 Dec 2014]

104. <https://www.gov.uk/government/publications/list-of-ministers-interests> [accessed: 20 Dec 2014]

105. The personal information which Ministers disclose to those who advise them is treated in complete confidence and may not be disclosed without their permission. <http://www.scotland.gov.uk/Resource/Doc/364058/0123666.pdf> [accessed: 20 Dec 2014]

There is inconsistency in transparency requirements at the ministerial level across the UK





The rules are clear, but the burden is on the civil servant to identify potential conflicts and declare them. There is arguably a case for requiring civil servants with particular responsibilities, for example those responsible for commissioning services or awarding contracts, to be required to submit and update registers of interests.

GIFTS AND HOSPITALITY REGIME ACROSS THE UK

Lobbying can often include hospitality events and even gifts to public servants. The gifts and hospitality rules differ dramatically across each level of government, and to a lesser extent between the UK nations. In general gifts and hospitality are prohibited beyond a nominal value for Ministers and civil servants, but are permitted for legislators.

Gifts and hospitality registers are important for guarding against the most egregious forms of lobbying corruption.

Table 6: Gifts and hospitality regime across the UK

		Must be registered? (threshold?)	Prohibited? (Threshold)	Partners'/ spouses' interests included?	Investigations and sanctions regime?	Published as Open Data?	Summary notes
	Ministers	Yes*	Yes (Over £140)	Yes	No	Yes ★	A strong ministerial regime, but the legislator regime lacks criminal sanctions
	Civil service	No	Yes	No	Yes	N/A	
	Members of Parliament	Yes (Over £660 - 1% of salary)	No	Yes	Yes** ☉	N/A	
	Members of the House of Lords	Yes (Over £140)	No	Yes	Yes** ☉	N/A	
	Ministers	Yes*	Yes (Over £140)	Yes	No	Yes ★	A strong ministerial regime, but the legislator regime fails to include partners
	Civil service	No	Yes	No	Yes	N/A	
	Parliamentarians	Yes (Over £575 - 1% of salary)	No	No ☉	Yes*** ★	N/A	
	Ministers	Yes*	Yes (over £260)	Yes	No	No ☉	Ministerial regime let down by lack of open data, but strong legislator regime
	Civil service	No	Yes	No	Yes	N/A	
	Assembly Members	Yes (Over £279 - 0.5% of salary)	No	Yes	Yes*** ★	N/A	
	Ministers	No	No ☉	Yes	No	No ☉	Strong legislator regime and the civil service regime is the most detailed, but there is no specific prohibition on ministerial gifts
	Civil service	No	Yes**** ★	No	Yes	N/A	
	Assembly Members	Yes (Over £240 - 0.5% of salary)	No	Yes	Yes*** ★	N/A	

* Gifts over the prohibited threshold value must become government property and are published online

** Standards Committee only, no criminal sanctions

*** Criminal sanctions apply

**** Detailed guidance provided to civil servants

★ Relatively good practice

☉ Relatively poor practice

Gifts and hospitality registers are important for guarding against the most egregious forms of lobbying corruption.

The gifts and hospitality regime for parliamentarians and Assembly Members

Across the UK, parliamentarians and Assembly Members are allowed to accept gifts and hospitality but must declare them.

All codes of conduct (apart from Scotland's) on gifts and hospitality that must be registered include partners and spouses. Scotland explicitly omits partners and spouses with its Members of the Scottish Parliament (MSP) code of conduct stating that it:

*covers both gifts received in a members capacity as an MSP and gifts received in a private capacity. However, it does not cover gifts to spouses and cohabitees.*¹⁰⁶

This is in contrast to the House of Commons which defines gifts and hospitality as:

*Any gift to the Member or the Member's spouse or partner, or any material benefit, of a value greater than one per cent of the current parliamentary salary from any company, organisation or person within the UK which in any way relates to membership of the House or to a Member's political activity.*¹⁰⁷

As with conflicts of interest, a major difference arises in that all of the devolved authorities have criminal offences in place as a sanction for serious breaches of the gifts and hospitality regime. UK legislators face no such potential charges, apart from the possible use of the Bribery Act 2010.

There are significant differences in the threshold levels above which gifts and hospitality must be declared. The House of Lords has the most stringent regime, with an obligation for all gifts over £140 to be declared. Wales and Northern Ireland place the threshold at 0.5 per cent of a Member's salary, whereas Scotland and the UK House of Commons have the most relaxed regime with only gifts above 1 per cent of the Member's salary having to be declared.

Table 7. Threshold values at which gifts or benefits must be registered and declared

Institution	Threshold (£)
UK House of Commons	660 (1% of Member's salary) ¹⁰⁸
UK House of Lords	140
Scottish Parliament	575 (1%)
Welsh Assembly	279 (0.5%)
N. Ireland Assembly	240 (0.5%)

The gifts and hospitality regime for Ministers

Unlike the legislator regimes, gifts and hospitality over a relatively low threshold are prohibited for Ministers across the UK. The only exception is in Northern Ireland, where the ministerial regime fails to provide any additional restrictions on gifts and hospitality beyond those in place for Assembly Members.

In all institutions apart from those in Northern Ireland, gifts to Ministers above the threshold value must become government property and details must be published online. Scotland and the UK publish this information as open data, whereas Wales only publishes the information in pdf format.

For UK government Ministers, the Ministerial Code states that

It is a well-established and recognised rule that no Minister should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts etc. are offered to a member of their family (para 7.20).

106. http://www.scottish.parliament.uk/Parliamentaryprocedureandguidance/CodeofConduct-5thEdMay2014_3rdRevision.pdf [accessed: 18 Nov 2014]

107. <http://www.publications.parliament.uk/pa/cm201012/cmcode/1885/1885.pdf> [accessed: 20 Dec 2014]

108. This threshold is likely to be adjusted following further Parliamentary consideration of the proposals set out in the Standards and Privileges Committee Third Report on the Code of Conduct and the Guide to the Rules published in 28 October 2014 <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/772/77202.htm> [accessed: 20 Dec 2014]

All of the devolved authorities have criminal offences in place as a sanction for serious breaches of the gifts and hospitality regime. UK legislators face no such potential charges, apart from the possible use of the Bribery Act 2010

While Westminster Ministers must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise, there is no formal monitoring or sanctions process around this obligation. The rules do not prevent a Westminster Member from holding a remunerated outside interest, whether or not such interests are related to membership of the Houses of Parliament.

Which register?

In July 2013, the press reported that Cabinet Ministers Michael Gove and Theresa May had received hospitality from a major property developer, by being invited to the Royal Opera House for a performance and dinner. Neither Minister had recorded the hospitality in the MPs' register and, when asked about this, they both argued that the hospitality had not exceeded the £660 threshold value. Moreover, their staff claimed that the visits had been in their ministerial capacity, rather than relating to their role as legislators. May had, in line with this argument, recorded the hospitality in the departmental records, while Gove's department had not yet published the records for that period at the time the case was reported.¹⁰⁹ However, the cases demonstrated that ambiguity can arise because of the dual legislative and executive roles of UK government Ministers. It is also not clear whether individuals are adequately able to separate out their roles as members of political parties from their official roles. Informal lobbying may also be related to party financing, as noted above, to the extent that party donors gain preferential access to decision makers.

Public officials and politicians in the UK can exercise a high degree of discretion over what is published as a registered interest

Public officials and politicians in the UK can exercise a high degree of discretion over what is published as a registered interest. Moreover, an important area of ambiguity arises where MPs are also Ministers. Ministers in the UK can pick and choose whether to declare gifts as an MP or as a Minister, but Scottish Ministers are explicitly obliged to follow the rules as both a Member of Parliament and as a Scottish Minister (Section 11.24 of the Scottish Ministerial Code).¹¹⁰

Unlike UK parliamentarians, UK Ministers have separate publication lists for gifts and hospitality and for registers of interests. However, only the gifts and hospitality received by Ministers in the UK and Scotland are recorded in a format that enables open data techniques to be used.

The gifts and hospitality regime for civil servants

The Civil Service Management Code stipulates that civil servants

...must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity (para 4.1.3.d).

The Northern Irish code for civil servants is substantially more detailed than equivalent codes for other UK jurisdictions. It provides not only a clear prohibition on "gifts, hospitality or benefits of any kind from a third party which might be seen to compromise your personal judgement or integrity", but also offers detailed guidance and direction on what grade of civil servant approval must be sought for justifiable hospitality.¹¹¹

109. <http://www.independent.co.uk/news/uk/politics/questions-arise-over-hospitality-enjoyed-by-two-top-ministers-ahead-of-cabinet-reshuffle-9602509.html> [accessed: 17 July 2014]

110. <http://www.scotland.gov.uk/Resource/Doc/364058/0123666.pdf> [accessed: 20 Dec 2014]

111. <http://www.dfpni.gov.uk/6.01-standards-of-conduct.pdf> [accessed: 20 Dec 2014]

Members of the House of Commons are free to raise Parliamentary business and table amendments that relate directly to their declared private interests

The House of Lords also prohibits paid 'advice to lobbyists', raising questions as to whether this should be included under the prohibitions that relate to legislators in other parts of the UK










Conflicts of interest and gifts and hospitality: Permissible behaviour under the current rules

- Members of the House of Commons are free to raise Parliamentary business and table amendments that relate directly to their declared private interests.
- All the jurisdictions across the UK can publish conflict of interest information in formats that, in practice, mean that they cannot be easily compared or analysed, limiting transparency and accountability.
- Ministers across the UK have a large degree of discretion about reporting their own ministerial conflicts of interest and how to manage any conflicts of interest that arise.
- Ministers in Scotland and the UK can keep their interests from being published to the public, unlike Ministers in Wales and Northern Ireland.
- Apart from Northern Ireland, legislators across the UK can retain conflicts of interest so long as they are declared.
- Members of the Scottish Parliament may avoid registering gifts and hospitality if they are received by their partners or spouses.
- Ministers in the Northern Ireland Executive may retain gifts received, unlike their counterparts elsewhere in the UK who must submit gifts over a certain value to their departments.
- Ministers in the UK can choose whether to declare gifts as a Member of Parliament or as a Minister, unlike Scottish Ministers who are obliged to follow the rules as both a Member of Parliament and a Minister.

PROHIBITIONS ON PUBLIC FIGURES BEING PAID TO LOBBY ACROSS THE UK

Paid lobbying while in office is now prohibited across the UK legislatures. However, the House of Lords also prohibits paid 'advice to lobbyists', raising questions as to whether this should be included under the prohibitions that relate to legislators in other parts of the UK and in the House of Commons.

Table 8: Prohibitions on Lobbying comparison across the UK

		Lobbying while in office is prohibited?	Payment for advice to lobbyists is prohibited?	Investigations and sanctions regime?	Summary notes
	Ministers	Yes	No**	No 	Unlike the House of Lords, the House of Commons fails to prohibit providing paid advice to lobbyists, and the rules and sanctions around ministers are relatively weak
	Civil service	Yes	No**	Yes	
	Members of Parliament	Yes	No 	Yes*	
	Members of the House of Lords	Yes	Yes ★	Yes*	
	Ministers	Yes	No**	No***	No prohibitions exist for paid advice to lobbyists
	Civil service	Yes	No**	Yes	
	Parliamentarians	Yes	No 	Yes ★	
	Ministers	Yes	No**	No***	No prohibitions exist for paid advice to lobbyists
	Civil service	Yes	No**	Yes	
	Assembly Members	Yes*	No 	Yes ★	
	Ministers	Yes	No**	No***	No prohibitions exist for paid advice to lobbyists
	Civil service	Yes	No**	Yes	
	Assembly Members	Yes*	No 	Yes ★	

* Criminal sanctions and investigations do not apply

** Not explicitly

*** However, Ministers would be covered by criminal sanctions covering all legislators

★ Relatively good practice

 Relatively poor practice

Prohibitions on lobbying for parliamentarians and Assembly Members

In the House of Commons, Scotland MPs are required to avoid engaging in lobbying “for reward or consideration”. This is set out in a number of parliamentary resolutions dating back to 1695. Only the House of Lords explicitly prohibits payment for advice or ‘parliamentary services’ to lobbyists and others.

The House of Lords provision is unique within the UK. Paragraph 8(d) of the Code describes the specific application of this provision that Members:

must not seek to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services.

The code goes on to specify:

The prohibition from accepting payment in return for parliamentary advice means that Members may not act as paid parliamentary consultants, advising outside organisations or persons on process, for example how they may lobby or otherwise influence the work of Parliament, and the Member should, if challenged, be able clearly to show that the payment or benefit is provided in return for some non-parliamentary advice or service which the Member provides; the Member should, where possible, ensure that contractual agreements specifically exclude the provision of parliamentary advice or services.¹¹²

In the House of Commons, Wales and Northern Ireland there are no such explicit prohibitions on payment for advice to lobbyists.

The Scottish parliament code of conduct for MSPs (Section 14) represents good practice in providing specific and detailed prohibition of lobbying and related issues.¹¹³

The House of Lords recently improved its Code of Conduct, partly in response to documented abuse of lobbying and paid advocacy by Peers. Until relatively recently it was permissible under the rules for members of the House of Lords to be paid lobbyists. Despite these improvements, regulation in both the House of Lords as well as in the Commons remains somewhat weaker relative to the devolved jurisdictions, because there is no criminal offence for breaches. The previously referenced case of Lord Blencathra demonstrates the relative leniency of sanctions at the UK level.

In May 2014, the House of Lords Code of Conduct and the Guide to the Code of Conduct were amended to incorporate recommendations arising from the Privileges and Conduct Committee’s January 2014 report. The amendments included an ‘honour principle’, informed by the Nolan principles. The revised guide also included specific guidance on lobbying such that:

Members should take particular care not to give the impression of giving greater weight to representations because they come from paid lobbyists; representations should be given such weight as they deserve based on their intrinsic merit. Members must in their dealings with lobbyists observe the prohibitions on paid advocacy and on the provision of parliamentary advice or services for payment or other reward. Members should decline all but the most insignificant or incidental hospitality, benefit or gift offered by a lobbyist.¹¹⁴

Prohibitions on lobbying for Ministers

Across the UK, the Ministerial Code includes general principles about avoiding conflicts of interest, but the decision about what constitutes a conflict is left to the Minister’s discretion. For example:

It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent Secretary and the independent adviser on Ministers’ interests. (paragraph 7.2).

However, employment as a lobbyist or payment for advice to lobbyists would almost certainly be regarded as violating the Code.

112. <http://www.publications.parliament.uk/pa/ld/ldcond/504.htm#a11> [accessed: 20 Dec 2014]

113. http://www.scottish.parliament.uk/Parliamentaryprocedureandguidance/CodeofConduct-5thEdMay2014_3rdRevision.pdf [accessed: 20 Dec 2014]

114. <http://www.publications.parliament.uk/pa/ld/ldcond/code.pdf> [accessed: 20 Dec 2014]

The House of Lords recently improved its Code of Conduct, partly in response to documented abuse of lobbying and paid advocacy by Peers

While Ministers in the devolved jurisdictions would be covered by criminal offences for breaches of restrictions on lobbying and paid advocacy, no such sanction exists for UK Ministers. As a result there is a grey area where UK Ministers might fail to publicly acknowledge payment for advice to lobbyists, might decide within their own department how to handle such a conflict, and would not be exposed to any credible external monitoring of their decisions.

Prohibitions on lobbying for civil servants

The UK Civil Service Management Code sets out core values of integrity, honesty, objectivity and impartiality, and offers some advice on lobbying in the context of post-public employment. But it does not specify more detailed standards on how public officials should conduct their communication with interest groups.¹¹⁵

Providing paid advice to lobbyists is not explicitly prohibited in the UK civil service codes of conduct, but would certainly be covered by conflict of interest rules, although these rely on civil servants to identify and manage conflicts. Given that the civil service conflict of interest regime relies on self-declarations – or in extreme cases – referrals to the civil service commission, it is not clear that any decisions to accept payment for advice from civil servants would be transparent.

Public figures being paid to lobby: Permissible behaviour under the rules

- Members of the House of Commons, the Scottish Parliament and Welsh & Northern Irish Assemblies may be paid to provide advice to lobbyists.
- In theory, a civil servant may take payment for providing advice to lobbyists given the lack of explicit prohibitions for such behaviour.
- UK Ministers may fail to publicly acknowledge payment for advice to lobbyists, may decide within their own department how to handle such a conflict, and would not be exposed to any credible external investigation over such a decision.
- Members of the House of Commons and House of Lords may breach rules with regard to lobbying and not face criminal sanctions.


Members of the House of Commons and House of Lords may breach rules with regard to lobbying and not face criminal sanctions.

REGULATING THE 'REVOLVING DOOR' ACROSS THE UK

The term 'revolving door' refers to the movement of individuals between positions of public office and jobs in the private or voluntary sector, in either direction. Moving through the revolving door can be beneficial to both sides; improving understanding and communication between public officials and business, and allowing sharing of expertise. However, the revolving door brings risks that government officials will be influenced in their policy or procurement decisions by the interests of past or prospective employers. Conflicts of interest arise particularly for individuals in government who have responsibilities to regulate business activity or who are charged with procuring goods or services from the private sector.

¹¹⁵ <http://www.civilservice.gov.uk/about/resources/civil-service-management-code> [accessed: 20 Dec 2014]

Table 9: Comparison across the UK of Revolving Door restrictions

		Subject to advice on post-public employment?	Mandatory restrictions apply on post-public employment?	Investigations and sanctions?	Published in an open data standard?	Summary notes
	Ministers	Yes	Yes ★	No	No	Rules are most strict for Ministers, but civil service oversight is weak and there are no restrictions on legislators
	Civil service*	Limited**	No	No	No	
	Members of Parliament	No	No	No	No	
	Members of the House of Lords	No	No	No	No	
	Ministers	Yes	Yes ★	No	No	As the UK - a relatively strong ministerial regime, with weak civil service oversight and no restrictions on legislators
	Civil service	Limited**	No	No	No	
	Parliamentarians	No	No	No	No	
	Ministers	Yes	No*** ☐	No	No	An out of date ministerial regime, with a weak civil service oversight and no restrictions on legislators
	Civil service	Limited**	No	No	No	
	Assembly Members	No	No	No	No	
	Ministers	Yes	No*** ☐	No	No	A very strong civil service regime, but an out of date ministerial regime and no restrictions on legislators
	Civil service	Yes ★	No	No	No	
	Assembly Members	No	No	No	No	

* Not including Permanent Secretaries and director-general level civil servants

** Dealt with within their departments (apart from Permanent Secretaries and Director General, which are referred to ACoBA for advice)

*** Not stated in the Ministerial code

★ Relatively good practice

☐ Relatively poor practice

No restrictions, or even advisory rulings, are in place in any part of the UK to manage revolving door corruption risks that apply to legislators

The revolving door regime for parliamentarians and Assembly Members

Aside from rules pertaining to parliamentarians who are also Ministers, no restrictions, or even advisory rulings, are in place in any part of the UK to manage revolving door corruption risks that apply to legislators.

There is no requirement for former Members of Parliament to seek advice on future appointments. The Committee on Standards in Public Life and the Parliamentary Commissioner for Standards have recommended that restrictions should be imposed on the ability of former MPs to engage in lobbying activity. However, this advice has not been taken up by the Committee on Standards, which is responsible for overseeing and reviewing the Code of Conduct for Members.¹¹⁶

The revolving door regime for Ministers

A mandatory two-year cooling-off period has been in place for Ministers since 2010 for roles that involve lobbying the government. Senior public servants are required to consult ACoBA when taking up new employment. Depending on the past and expected future responsibilities of the individual, the committee may advise a cooling-off period. However, ACoBA is not a statutory body and its advice is not binding, nor does it have any capacity to monitor compliance. Transparency International UK's 2011 report *Cabs for Hire? Fixing the Revolving Door Between Government and Business* highlighted several weaknesses in the regulatory regime.

The restrictions on Ministers apply only to lobbying roles and not to advisory positions, although these may support an organisation's lobbying efforts.

116. Committee on Standards in Public Life, *Strengthening Transparency Around Lobbying*, p. 19. (2013)

ACoBA has weak resources for monitoring whether its advice is followed, or indeed for identifying cases where officials have taken private-sector jobs but its advice has not been sought

ACoBA has weak resources for monitoring whether its advice is followed, or indeed for identifying cases where officials have taken private-sector jobs but its advice has not been sought. ACoBA has neither resources nor mandate for investigating apparent breaches. The Committee on Standards in Public Life cites research by Dr John Hogan, Professor Gary Murphy and Professor Raj Chari who stated:

From our experience, looking at a lot of different lobbying regulating systems, we found that systems with weak or no sanctions were most vulnerable to abuse. Such systems also failed to gain the respect of those the regulations were meant to monitor (the lobbyists), and those they were meant to protect (the public).¹¹⁷

The Welsh and Northern Irish Ministerial Codes of Conduct do not reflect the Prime Minister's 2010 decision to introduce a mandatory two-year cooling-off period on direct lobbying.

The revolving door regime for the civil service

The Civil Service Management Code states that movement into the private sector should not be considered problematic and should not be regulated unjustifiably:

It is in the public interest that people with experience of public administration should be able to move into business or other bodies outside central Government, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important that when a former civil servant takes up an outside appointment there should be no cause for justified public concern, criticism or misinterpretation.

UK, Scottish and Welsh civil servants who are not Permanent Secretaries are only subject to oversight at an internal departmental level, based on self-referrals, for any advice on post-public employment.

The Government has recently revised the Business Appointment Rules, which included a requirement for departments to publish information in broad terms about the advice they give to applicants in the senior civil servants whose applications are not dealt with by ACoBA.¹¹⁸

While the new rules provided some greater clarity over lobbying definitions, the CSPL argued that the revision may have been a retrograde step in terms of scope of civil servants covered by ACoBA guidelines:

[T]he rules have reverted to the pre-2010 position whereby only applications from the most senior Special Advisors are referred to the Advisory Committee on Business Appointments ("ACoBA"). Whilst this Committee has argued for a risk based approach to application of the rules, we do not think seniority is necessarily the only risk factor and the nature of the role of Special Advisor as a conduit of access to the Minister, in our view necessitates the referral of all applications to ACoBA.¹¹⁹

The new rules also did not cover secondments and interchanges in and out of their departments. The CSPL *Strengthening Transparency Around Lobbying* report discussed these rules in detail and noted that the rules are more substantial in other countries.¹²⁰

The Northern Irish code of conduct for civil servants is unique in the level of oversight it applies to the revolving door. All civil servants who meet any of the following criteria must apply to the Northern Irish Office of the Advisory Committee on Business Appointments (OACoBA)¹²¹:

The new rules also did not cover secondments and interchanges in and out of their departments.

117. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336925/2901376_LobbyingStandards_WEB.pdf [accessed: 20 Dec 2014]

118. <https://www.gov.uk/government/organisations/advisory-committee-on-business-appointments> [accessed: 20 Dec 2014]

119. Committee on Standards in Public Life CSPL Annual Report 2013 to 2014 (Sep 2014)

120. Committee on Standards in Public Life *Strengthening Transparency Around Lobbying* (Nov 2013)

121. <http://www.dfpni.gov.uk/6.01-standards-of-conduct.pdf> [accessed: 20 Dec 2014]

- a. *if they are in the Senior Civil Service or if they are Specialists or Special Advisers of equivalent standing;*
- b. *if they have had any official dealings with their prospective employer during the last two years of Civil Service employment;*
- c. *if they have had official dealings of a continued or repeated nature with their prospective employer at any time during their period of Civil Service employment;*
- d. *if they have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties;*
- e. *if their official duties during the last two years of Civil Service employment have involved advice or decisions benefiting their prospective employer, for which the offer of employment could be interpreted as a reward, or have been involved in developing policy, knowledge of which may be of benefit to the prospective employer;*
- f. *if they are to be employed on a consultancy basis (either for a firm of consultants or as an independent or self-employed consultant) and they have had any dealings of a commercial nature with outside bodies or organisations in their last two years of Civil Service employment.*

Revolving door: Permissible behaviour under the current rules

- Parliamentarians and Assembly Members, who are not Ministers, are not subject to any restrictions or advice on revolving door corruption risks.
- Only the most senior civil servants at the UK level, in Scotland and in Wales are subject to any independent oversight of post-public employment revolving door risks.
- There are no sanctions for breaching advice on revolving door risks or failing to seek advice.

House of Commons proposals for the Code of Conduct

The Standards and Privileges Committee – Third Report on the *Code of Conduct and the Guide to the Rules* published in 28 October 2014 set out a number of changes affecting the current regulatory framework for the House of Commons.¹²²

In particular, the Standards Commissioner proposed changes to strengthen the lobbying prohibition, by restricting MPs from **initiating** proceedings which would confer any financial or material benefit on an outside organisation or individual from whom they have received, are receiving or expect to receive reward or consideration.

In what would be a strengthening of the House of Commons protections against revolving door risks, the Standards Commissioner proposed that former MPs should be subject to the restrictions around lobbying for two years after their departure from the House in respect of any approach they make to Ministers, Members or public officials. Further the Commissioner argued that former Members should be required to register any occupation or employment which involves contact with Ministers, Members or public officials in the two years following their departure from the House.

However, in the next stage of the process, the Standards and Privileges Committee rejected a two year prohibition on MPs as disproportionate compared to the regime faced by Ministers under ACoBA. Instead the Committee proposed a requirement that Members should be bound by the lobbying rule for six months after they leave the House. The Committee also rejected the requirement for a register for former Members.

It is unclear what the sanctions or investigations regime would be in place for MPs who breach these lobbying rules after their roles in the House.

It is unclear when the House of Commons will vote on the proposals.

There are no sanctions for breaching advice on revolving door risks or failing to seek advice.

122. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmstandards/772/77202.htm> [accessed: 20 Dec 2014]

The level of transparency over lobbying meetings with legislators and the civil service is negligible to non-existent

TRANSPARENCY OVER LOBBYING MEETINGS ACROSS THE UK

The UK has in place some requirements for those being lobbied to provide a record of the meetings. This analysis reveals significant inconsistencies and gaps in obligations across the UK. Ministerial obligations for transparency are the most advanced, but the data quality and depth of information is very poor. The level of transparency over lobbying meetings with legislators and the civil service is negligible to non-existent.

Table 10: Transparency requirements over lobbying meetings across the UK

		Requirement to keep a record of lobbying meetings?	Summaries of the content of the meeting disclosed?	Requirement for lobbyists of these officials to register?	Published in an open data standard?	Summary notes
	Ministers	Yes**	Partial ★	Yes***	Partial ★	The ministerial regime for disclosure of lobbying meetings is relatively strong, however the regime for legislators is weak.
	Civil service*	No	No	No	No	
	Members of Parliament	No ☹	No	No	No	
	Members of the House of Lords	No ☹	No	No	No	
	Ministers	Yes	No	No	No	The ministerial and legislator obligations to disclose meetings are advised, but available information and data standard is poor quality
	Civil service*	No	No	No	No	
	Parliamentarians	Advised ★	No	No	No	
	Ministers	Yes	Partial ★	No	No	The ministerial and legislator obligations to disclose meetings are advised, but available information and data standard is low quality
	Civil service*	No	No	No	No	
	Assembly Members	Advised ★	No	No	No	
	Ministers	No ☹	No	No	No	Both ministerial and legislator transparency of lobbying meetings is the weakest in the UK
	Civil service*	No ☹	No	No	No	
	Assembly Members	No	No	No	No	

- * Not including Permanent Secretaries, who must maintain a record of lobbying meetings akin to Ministers
- ** Only when Ministers claim they are acting in a Ministerial role (rather than a private or constituency interest)
- *** Partial record of lobbyists
- ★ Relatively good practice
- ☹ Relatively poor practice

Lobbying transparency obligations for parliamentarians and Assembly Members

There are no requirements on UK or devolved legislators to publish documentation related to meetings, although some Members of Parliament choose to do so. The Guidance on Lobbying provided for members of the Welsh Assembly notes that they may wish to consider keeping a record of meetings with persons undertaking lobbying activity.¹²³ Similarly, MSPs are advised to keep a record of lobbying meetings.¹²⁴ No such guidance exists for members of the Houses of Commons and Lords, or the Northern Irish Assembly.

However, even where record keeping is advised (in Scotland and Wales), there is no systematic and consistent public disclosure of lobbying meetings by legislators, nor is it published in an open data format that would allow data analysis and genuine transparency.

123. National Assembly for Wales' Guidance on Lobbying and Access to Assembly Members, available here: <http://www.senedd.assemblywales.org/documents/s18881/%20Guidance%20on%20Lobbying%20and%20Access%20to%20AMs%20-%2026%20June%202013.pdf> [accessed: 3 Jun 2014]

124. <http://www.scottish.parliament.uk/msps/42778.aspx> [accessed: 20 Dec 2014]

Ministers are required to publish a record of their meetings with external individuals or organisations, as are Permanent Secretaries

Lobbying transparency obligations for Ministers

Ministers are required to publish a record of their meetings with external individuals or organisations, as are Permanent Secretaries. However, this information is not collected in a way that relates that information to an issue or particular legislative initiative. Moreover, although many mid-ranking and senior civil servants are involved in policy making, they are not required to publish details of their meetings.

Data on lobbyist meetings (for Ministers and Permanent Secretaries) is published on gov.uk but only after a time lag of several months, and it is difficult to extract much information about lobbying from it because it lacks detail.¹²⁵ The data on ministerial meetings provided by the government is available in searchable machine-

readable format, and is now published as CSV files which facilitate analysis.¹²⁶ However, the government does not collate the information beyond the ministerial level. Moreover, the record of individual ministries is mixed. The Cabinet Office monitors compliance and reports to parliament every six months with details of how each ministry performs on this issue, hence there is some pressure on ministries to improve their compliance.

Other than the requirement for Ministers and Permanent Secretaries to publish a record of what meetings took place with whom on what date, there is no requirement to make available other documentation related to meetings, such as agendas or documentation received from lobbyists. Disclosure obligations around ministerial meetings do not cover Ministers when they are acting in a private or constituency role, which – as demonstrated by case studies – is an important weakness.

There is no obligation on Ministers in Northern Ireland to keep a record of lobbying meetings.

The Scottish guidance on Ministers requires record keeping of lobbying meetings, as set out in Section 4.18 of the relevant code:

*4.18 Ministers receive deputations from many outside interest groups which they will wish to consider as part of the formulation of Government policy. The basic facts of formal meetings between Ministers and outside interest groups should be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented.*¹²⁷

However, the records are not published, reducing the accountability value of the obligation.

Ministers in Wales regularly publish details of lobbying meetings, but this is produced as a pdf and can include very general descriptions of the topic area of discussion. Despite its shortcomings, it is one of the stronger regimes in the UK.

The UK the vast majority of the civil service has no obligation to keep records of lobbying meetings

Lobbying transparency obligations for the civil service

While Permanent Secretaries must maintain a record of lobbying meetings akin to Ministers' obligation, across the UK the vast majority of the civil service has no obligation to keep records of lobbying meetings.

This is a major transparency gap as mid-level civil servants can exert a substantial amount of influence on policy before issues become a ministerial concern, or in working on the detail or evidence base for a proposal.

125. Data on ministerial meetings in 2013 is available here: <https://www.gov.uk/government/collections/ministerial-gifts-hospitality-travel-and-meetings-2013>

126. CSV files are Comma Separated Values files

127. <http://www.scotland.gov.uk/resource/doc/276226/0082926.pdf> [accessed: 20 Dec 2014]

Transparency over lobbying: Permissible behaviour under the current rules

- All UK and devolved legislators and all but the most senior civil service officials may keep lobbying meetings secret, unless a specific Freedom of Information request is submitted and succeeds.
- Where (weak) transparency obligations exist on those being lobbied – for Ministers, Permanent Secretaries and Special Advisors – details of lobbying meetings can be summarised as ‘general discussion’, published many months after the lobbying meeting took place, and made available in non-open data formats that hinder analysis and comparability.
- Ministers are not obliged to declare lobbying meetings, if they are classified as taking place in their private time or constituency roles.
- All lobbyists in the UK may keep any information about who they have lobbied and on what issues they have lobbied concealed from the public.
- In-house lobbyists (such as a company’s head of Government Relations) do not have to register any details whatsoever, regardless of who they lobby.
- There is no guidance within the code of conduct for Members of the House of Commons, Peers in the House of Lords and Northern Irish Assembly Members on whether or not to record lobbying meetings.
- Ministers in Scotland can, without sanctions, fail to publish the record they are obliged to keep of lobbying meetings.
- Ministers in Northern Ireland have no obligation to record lobbying meetings, unlike their counterparts in every other part of the UK.

REGULATING ALL-PARTY PARLIAMENTARY (AND CROSS-PARTY) GROUPS ACROSS THE UK

All-Party Parliamentary Groups (and Cross Party Groups in the devolved legislatures) represent a transparency gap and a corruption risk across the UK Parliaments and Assemblies.

The UK Parliament has a tradition of establishing All-Party Parliamentary Groups as a channel for convening discussion on a particular issue, though they have no official status within the legislative process. At 18 August 2014, there were 614 APPGs registered. These groups aim to create a dialogue between MPs from all parties and groups with an interest in the relevant issue, whether corporates, unions or NGOs. Some argue that APPGs allow backbench MPs to raise the profile of an issue, meaning that the parliamentary agenda is less dominated by the government. On the other hand, this same quality might mean it is easier for a lobby group to abuse access to an APPG or a backbencher as a vehicle for putting an issue on the agenda for its own benefit. All of the devolved jurisdictions in the UK have in place similar forums for cross-party groupings.¹²⁸

Corruption risks arise because APPGs can be financed by interest groups as a way of gaining access to politicians¹²⁹. For example, industry associations representing subsections of the alcohol industry support the APPGs on their products by providing the Group’s secretariat, and financing wine-tasting evenings and tours. This raises concerns that these interest groups are able to influence the agenda or views of MPs as a result. Some APPGs are associated with extensive provision of hospitality and travel, often justified on the basis of informing MPs about the industry or country represented. APPGs certainly provide opportunities for companies and interest groups to engage in informal lobbying of MPs. It is impossible to tell whether MPs are improperly influenced by such activity, but the public should be better able to monitor APPG activity in order to make its own judgments about what lobbying occurs.





Across the UK, the transparency requirements in place for these groups vary substantially, particularly on the level of transparency over meetings of the groups.

Some APPGs are associated with extensive provision of hospitality and travel

128. Transparency International UK provides funding of £2,000 p.a. to the All Party Parliamentary Group on Anti-Corruption, and has signed an MoU stipulating that, as a funder of the APPG, TI-UK would not get any additional or special access not available to non-funders. See here: <http://www.transparency.org.uk/publications/15-publications/1114-ti-uk-anti-corruption-appg-mou>

129. According to the rules, any organisation, including charities, companies, not-for-profit-groups and consultancies, may give financial and material support to APPGs

Table 11. Comparison across the UK of APPG/CPG transparency

		Requirement for transparency over sponsorship and benefits received?	Requirement for transparency of over the content of meetings?	Published in an open data format?	Summary notes
	Members of Parliament	Yes	No	No	Financial transparency, but no disclosure over meetings content and not published as data
	Members of the House of Lords	Yes	No	No	
	Parliamentarians	Yes	Yes ★	No	Strongest regime in the UK for APGs
	Assembly Members	No* ☹	No* ☹	N/A	Weakest regime in the UK for APGs
	Assembly Members	Yes	No	No	Same as UK

* Designated by Parliamentary authorities for reform

★ Relatively good practice

☹ Relatively poor practice

APPGs in the Houses of Commons and Lords

The House of Commons has recently taken some steps to improve the regulation of APPGs, by withdrawing the parliamentary passes of APPG staff, for example. Moreover, the House of Commons Committee on Standards conducted an inquiry into APPGs in 2013, during which many of the witnesses expressed concerns that APPGs might be vulnerable to improper influence. The Speaker's Working Group reported to the Committee inquiry the results of a survey of Members, in which 48 per cent of respondents agreed with the proposition that APPGs were prone to be manipulated by public affairs and lobby groups for their own purposes. Douglas Carswell MP has described some APPGs as "front organisations", characterised by an "outside organisation running an APPG in order to impress their clients and to get fat fees for supposedly influencing public policy". However, several MPs also took the view that the capacity of APPGs to exert influence of any kind should not be overestimated.

After its inquiry, the Committee on Standards made a number of recommendations aimed at streamlining regulation to ensure that Members could be held to account for APPG activity. In particular, the Committee recommended that there should be greater transparency about external support and the activities funded by such support (for example, by publishing statements about income and expenditure).¹³⁰

Cross-Party Groups in Scotland – best practice

The Scottish parliament requires the most transparency from Cross-Party Groups (CPGs) of any jurisdiction in the UK, including:

- the name and purpose of the proposed Group.
- the proposed Group's office bearers.
- the planned frequency of meetings of the proposed Group and an outline of the issues that it expects to address in the next year.
- MSP and non-MSP membership lists.
- details of any financial benefits (including material assistance such as secretariat support) received from a single source with a value of over £500 per year (singly or cumulatively).
- details of any subscription the proposed Group intends to charge.
- details of staff employed by the proposed Group.

Scottish CPG meeting minutes should also be published on the Parliament's webpage. Thus, the Scottish Groups provide transparency over financial, administrative and meetings content. Westminster and Northern Irish All-Party Groups provide only financial and administrative transparency.

No regime across the UK provides for the information relating to All-Party and Cross-Party Groups to be published as open data.¹³¹

130. Standards Committee Sixth Report: All-Party Parliamentary Group (29 November 2013)

131. <http://www.scottish.parliament.uk/msps/42779.aspx> [accessed: 20 Dec 2014]

No regime across the UK provides for the information relating to All-Party and Cross-Party Groups to be published as open data

CPGs – an unfinished reform agenda in Wales

In Wales, the Conduct Committee was prompted by the UK government's consultation on introducing a register of lobbyists, to look into current arrangements for regulating lobbying in the Welsh Assembly. The Committee launched its own inquiry on this topic in 2012, which reported in May 2013.¹³²

The Welsh Assembly Conduct Committee proposed new rules for CPGs, reflecting the fact that the Commissioner reported receiving some mild concerns regarding their operation. The Committee emphasised the value of CPGs as part of the democratic process, but recommended that stronger rules for their business should be drafted and endorsed by the Assembly. In particular, the Committee recommended that these rules require CPGs to:

- publish minutes of all meetings.
- hold an Annual General Meeting.
- publish an annual financial statement setting out all expenses, benefits and hospitality received, and to list the providers.
- include in the annual report a list of any professional lobbyists or charitable organisations with whom it has met during the preceding year.
- emphasise the responsibility of Chairs of CPGs to comply with these rules.

In general, however, complaints pertaining to Members' activities within their role as members of CPGs are to be dealt with as normal complaints against Assembly Members for not complying with Assembly resolutions relating to standards of conduct. This includes any failure to properly register benefits received, which could also constitute a criminal offence.

The Committee also recommended that CPGs continue to be seen as informal groups rather than as part of the formal business of the Assembly – for example, by keeping their activities outside the purview of Standing Orders. This does not mean that their activities are not regulated; the rules already provide for conditions in which CPGs might be de-registered for consistently breaking the rules. However, it does have implications for their funding, since it means they are not entitled to funding from the Assembly Commission's central funding.

This informal status of CPGs may be problematic for two reasons. First, it makes them dependent on external sponsorship for resources. Second, arguably a certain status is conferred by operating within the buildings of the Assembly and having a membership comprising Assembly Members (AMs), which might mean that the public assumes that CPGs are conducting formal Assembly business. Thus, the arrangements as they stand lack clarity which may be detrimental to public confidence in the Assembly.

Although the Committee report on Lobbying and Cross-Party Groups did not recommend significant changes, it did recognise the need for regular reviews of the rules to ensure that they remain fit for purpose, particularly in the dynamic context of devolution.

The public assumes that CPGs are conducting formal Assembly business

APPGs can hold meetings in parliament which bring together industry lobbyists and parliamentarians, with no obligation to publish lists of who attends such meetings

APPGs/CPGs: Permissible behaviour in the UK under current rules

- APPGs can hold meetings in parliament which bring together industry lobbyists and parliamentarians, with no obligation to publish lists of who attends such meetings.
- All information about CPGs and APPGs can be published in a non-open data format.
- In Wales, very limited disclosure obligations are in place for Cross Party Groups.
- In the House of Commons and House of Lords, the Welsh and Northern Irish Assemblies, APPGs and CPGs do not have to publish minutes of Cross-Party Group meetings.

132. National Assembly for Wales, Standards of Conduct Committee, Report 03-13 to the Assembly on Lobbying and Cross-Party Groups, May 2013. Available here: <http://www.senedd.assemblywales.org/documents/s16949/Report%2003-13%20to%20the%20Assembly%20on%20Lobbying%20and%20Cross-Party%20Groups-%20April%202013.pdf> [accessed 15 Jul 2014]

COMPARING TRANSPARENCY AND INTEGRITY STANDARDS ACROSS THE UK















This report evaluates, across the UK and devolved nations, the gaps in the rules that permit an environment conducive to corruption. For the first time, this research can compare the wide variations across the UK in the approach to maintaining the integrity and transparency of public institutions and decision making. The findings indicate that there is much to be learned, in different ways, from good practice across the UK.

The findings indicate that there is much to be learned, in different ways, from good practice across the UK

RANKING OF UK NATIONS' LOBBYING TRANSPARENCY STANDARDS

Our ranking of the UK nations' transparency and integrity standards covers a wide range of indicators, including the gifts and hospitality regime, the register of interests, prohibitions and transparency on lobbying, oversight of the revolving door of employment, and oversight of cross party groups, and whether the information is published as open data.

The results are as follows:

Rank	Parliaments and Assemblies		Ministerial		Civil service
1	Northern Irish Assembly 	1	United Kingdom Ministers 	1	Northern Irish Civil Service 
=2	The House of Lords and the Welsh Assembly  	2	Scottish Ministers 	2=	The Civil Service regime for the UK, Scotland and Wales   
4	Scottish Parliament 	3	Welsh Ministers 		
5	The House of Commons  	4	Northern Irish Ministers 		

EVALUATING THE RESULTS

UK

The **House of Commons** is the weakest performer in legislative transparency and integrity in the UK. There are no restrictions on taking payment in return for advice to lobbyists, while still serving as an MP. There are no restrictions on raising business in the House directly related to the private interests of the MP, beyond a declaration. Unlike legislators in Scotland and Wales, MPs are not advised to keep a record of lobbying meetings. No information relating to conflicts of interest or lobbying is produced as open data, though this has been earmarked for change. Currently, there is no restriction or advice in place for MPs to manage post-public employment corruption risks.

The House of Commons Standards Review sub-committee inquiry is ongoing at the time of writing this report. The Review presents a potential opportunity to address issues raised in this report.¹³³

Perhaps surprisingly to some, the **House of Lords** is joint second place in the UK nations' ranking of legislative transparency and integrity standards. The House of Lords has benefited from recent changes to strengthen integrity and transparency requirements.

In May 2014, the House of Lords introduced a dramatic strengthening of its systems of integrity and prohibitions. And since November 2014, the House of Lords is the only legislative chamber in the UK to publish its register of interests as open data.¹³⁴

Significantly, it is also the only legislative chamber across the UK to prohibit its members from undertaking

133. <http://www.parliament.uk/business/committees/committees-a-z/commons-select/standards/standards-review-sub-committee/> [accessed: 20 Dec 2014]

134. Correct as of December 2014

paid parliamentary advisory services to outside interests, including lobbyists.

The House of Lords also has the lowest threshold of gifts and hospitality registration in the UK (£140).

However, unlike Scotland and Wales, Peers are not advised to keep a record of lobbying meetings. Its sanctions regime is weak, with no force of law behind breaches, with an apology in the House being used as a typical sanction.

While far from perfect, the disclosure regime for **UK Ministers** is the strongest relative to others across the UK nations. UK Ministers have obligations to keep a record of lobbying meetings, the information is produced as open data, and consultant lobbyists who lobby UK Ministers must register with the new lobbying Registrar.

The **civil service** regime in the UK, as with Scotland and Wales, is second to the Northern Irish civil service regime entirely as a result of looser oversight of 'revolving door' risks. This is the only significant difference between civil service codes across the UK.

Northern Ireland

Northern Ireland is something of an 'all-or-nothing' performer in integrity and transparency. For **members of the legislature** the regime is the strongest in the UK overall. Likewise its **civil service** is subject to the highest standards in the UK. However, the integrity and transparency obligations for Northern Ireland **Ministers** are the lowest in the UK. Along with Wales, the Northern Ireland Assembly fails to provide any meaningful open data through its reporting and registration regimes.

Relative to the Westminster Houses, the Northern Irish Assembly has the force of criminal law backing up sanctions against those who seriously breach the code of conduct. Northern Ireland also has the second lowest threshold for Members to declare gifts and hospitality.

However, legislators are not specifically prohibited from taking money to advise lobbyists. While Northern Ireland demonstrates good practice in requiring **Ministers** to disclose (ministerial) conflicts of interest publicly, the Northern Irish code of conduct for **Ministers** does not explicitly cover Ministers' partners/spouses, and it is the weakest in the UK regarding gifts and hospitality with no additional restrictions beyond the requirements for ordinary Assembly Members. As a result, and in contrast to all other jurisdictions, Northern Irish Ministers have no prohibition on retaining gifts and hospitality of any significant amount.

The Northern Ireland Committee on Standards and Privileges Review of Members' Code of Conduct is ongoing at the time of this research and, as with the House of Commons, presents an opportunity to address issues raised in this research.¹³⁵

Northern Ireland has the strongest **civil service** regime in the UK for protecting against 'revolving door' risks. In contrast to the other civil service codes, the Northern Irish code provides detailed guidance for civil servants about what the general prohibition on gifts and hospitality means in practice. As a result of different governing codes of conduct, despite having the strongest civil service 'revolving door' protections, Northern Ireland has among the weakest environment for **ministerial** post-public employment. No mandatory restrictions apply to ministerial post-public employment, as they do in Scotland and the UK.

Northern Ireland is the only jurisdiction which does not require **Ministers** to keep a record of lobbying meetings. Likewise it is the only devolved jurisdiction that does not at least advise **Members** to keep a record of lobbying meetings. No integrity or transparency information in Northern Ireland is produced as open data.

Scotland

135. <http://www.niassembly.gov.uk/your-mlas/code-of-conduct/committee-on-standards-and-privileges--review-of-the-assemblys-code-of-conduct/> [accessed: 20 Dec 2014]

Northern Ireland is something of an 'all-or-nothing' performer in integrity and transparency

Scotland is an average performer in the UK, ranking a joint third place for parliamentarians' integrity and transparency systems, and second place for the conduct regime for Ministers

Scotland is an average performer in the UK, ranking a fourth place for parliamentarians' integrity and transparency systems, and second place for the conduct regime for Ministers.

As with all the devolved jurisdictions, Scotland benefits from having criminal offences for serious breaches of legislative codes of conduct. Scotland is unique in emphasising that **Ministers** must meet both the declaration obligations of being a Minister and a Member, not just one. Along with the UK, Scotland is the only jurisdiction publishing ministerial gifts and hospitality as open data, although it fails to do the same for legislators' register of interests. The Scottish code of conduct for **parliamentarians** also advises legislators to keep a record of lobbying meetings. Scotland has the strongest regime for reporting on the work of Cross-Party Groups, requiring them to publish financial, sponsorship and benefits information as well as meeting minutes. However, apart from ministerial gifts and hospitality, no information in Scotland is produced as open data, creating needless barriers to analysis of the other registered information.

The Scottish regime for legislators is undermined slightly by the fact that the gifts and hospitality regime for **Members** of the Scottish Parliament does not cover those received by partners/spouses. This stands in direct contrast to the wording of all other legislator codes of conduct in the UK.

For **Ministers**, Scotland is the only devolved jurisdiction to establish a mandatory 'cooling-off' period of two years before Ministers can take jobs that involve lobbying the government. However, it is let down by secrecy over ministerial conflicts of interest.

[Wales](#)





Wales is joint second place with the House of Lords in the legislature rankings. Across legislators, Ministers and civil servants, it fails to shine out with any unique best practice in integrity and transparency mechanisms, and has some major gaps in its systems.

Wales performs well in **ministerial** transparency, requiring the public disclosure of (ministerial) conflicts of interest. It is also the one of only two jurisdictions, alongside Scotland, to advise **legislators** to keep a record of lobbying meetings.

Wales' ranking suffers from a poor open data regime and the lack of a prohibition on legislators taking money to advise lobbyists. Unlike the UK and Scotland, no mandatory restrictions apply to **ministerial** post-public employment in Wales, as they do in Scotland and for the UK. Despite the fact that the Standards Committee has recommended remedial action, Wales still has the weakest oversight arrangement in the UK for **Cross-Party Groups**.

Wales' ranking suffers from a poor open data regime and the lack of a prohibition on legislators taking money to advise lobbyists

Table 12. Complete assessment table - transparency and integrity standards

		Conflicts of interest					Gifts and hospitality			Lobbying in office		Revolving Door		Lobbying transparency		Cross Party Group Transparency										
		Public declaration of interests?	Prohibited in the code of conduct?	Partner/ spouse included?	Investigations and sanctions regime?	Published in an open data standard?	Must be registered and published?	Prohibited?	Partner/ spouse included?	Investigations and sanctions regime?	Published as Open Data?	Lobbying while in office is prohibited?	Payment for advice to lobbyists is prohibited?	Investigations and sanctions regime?	Subject to advice on post-public employment?	Mandatory restrictions apply on post-public employment?	Investigations and sanctions?	Published in an open data standard?	There is a requirement to keep a record of lobbying meetings?	Summaries of the content of the meeting are disclosed?	obbyists of these officials must be registered?	Published in an open data standard?	Transparency over group funding?	Transparency over the content of eetings?	Published in an open data standard?	SCORE (out of 48)
	Ministers																									28
	Civil service																									12
	Members of Parliament																									17
	Members of the House of Lords																									19
	Ministers																									20
	Civil service																									12
	Parliamentarians																									18
	Ministers																									19
	Civil service																									12
	Assembly Members																									19
	Ministers																									8
	Civil service																									14
	Assembly Members																									20

Condition met

Condition partially met

Condition failed or N/A



Condition met



Condition partially met



Condition failed or N/A

Table 13. Best practice from across the UK

UK	Publishing ministerial lobbying meetings information as open data
UK	Requiring lobbyists to register when lobbying Ministers
UK and Scotland	Publishing ministerial gifts and hospitality as open data
UK and Scotland	Establishing a mandatory cooling-off period of two years before Ministers can take jobs that involve lobbying of the government
The House of Lords	Having the lowest threshold of gifts and hospitality (£140)
The House of Lords	Explicitly prohibiting Members from providing paid advisory services to lobbyists
The House of Lords	Publishing the Register of Interests as open data
Scotland	Emphasising that Ministers must meet both the declaration obligations of being a Minister and a Member, not just one
Scotland	Requiring Cross Party Groups to publish financial, sponsorship and benefits information as well as meeting minutes
Scotland and Wales	Advising legislators to keep a record of lobbying meetings
Scotland, Northern Ireland and Wales	Having criminal offences for serious breaches of legislative codes of conduct
Northern Ireland	Providing detailed guidance for civil servants about what the general prohibition on gifts and hospitality means in practice
Northern Ireland	Providing a robust framework to oversee civil servants post-public employment corruption risks
Northern Ireland and Wales	Requiring Ministers to disclose ministerial conflicts of interest publicly

Establishing a consistent approach across the UK and adopting a best practice standard would go a long way to strengthening systems overall.

However, in some cases barriers to effective accountability and transparency over lobbying and conflicts of interest risks apply across the UK, and recommendations that go beyond best existing best practice should be considered. These barriers can be understood by what behaviour is currently acceptable within the UK. A complete list of permissible behaviour in the UK identified in this report is included in Annex 1.

One way of helping to ensure that lobbying is responsible and contributes to the democratic process, might

Establishing a consistent approach across the UK and adopting a highest common denominator standard would go a long way to strengthening systems overall

ACCESS AND CIVIC PARTICIPATION

- THE CONSULTATION PROCESS

be to tighten the rules or guidance around the consultation process. Although policies and recommendations have been put forward, there are no laws in the UK on the provision of input to, or rights to access, the legislative or policy-making processes.

At the local level, some local authorities have codes setting out recommended procedures for consultation. At national level, the Consultation Principles set out principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation.¹³⁶ These do not provide a 'how to' guide, but aim to help policy makers make the right judgments about when, with whom and how to consult, and to encourage real engagement rather than simply following bureaucratic process. The extent of consultation is also expected to be proportional to the type and scale of the potential impacts of the proposal or decision being taken.¹³⁷ The Civil Service Reform principles of open policy making also encourage discussion with affected parties and experts to make well-informed decisions. However, the government is under no obligation to provide parliament (or the public) with an evidence basis for policy proposals.¹³⁸ Arguably, informal consultations with selected groups are becoming more typical.

However, although consultations appear a good way of ensuring fair access to the policy-making process, some interest groups may be better equipped than others to respond to them and may as a result be able to exercise more influence. Law firms, for example, sometimes respond extensively to consultations, seeking to influence particular bills or guidance around the implementation of bills. This raises questions of whether they are acting on behalf of clients or themselves when contributing to such consultations. If the latter, it raises doubts over whose interests they are pursuing – the public interest or their own future business interests.

Consultations do not guarantee that the weight of consulted opinion or evidence presented through consultations will be acted on. One lobbyist was keen to point out that consultation is about making views heard rather than necessarily exercising influence. He noted:

A lot of people confuse consultation with being listened to. We can't cry foul if someone doesn't agree with us despite the brilliance of our case.¹³⁹

Nevertheless, it might aid engagement with the public if there were greater obligations on government to respond to evidence provided in consultations. The results of consultations are usually published as summaries, but they do not always make explicit which view was put forward by which organisation. Although government departments are required to show how they have responded to the results of consultations, they have considerable discretion over the level of detail they provide.

Access to politics and policy: Permissible activity under current rules

- There are no consistent procedures, rules or rights for allowing equal opportunity of access to policy or decision making.
- The evidence for policy decisions can be obscured or withheld.

TRANSPARENCY OBLIGATIONS UNDER FREEDOM OF INFORMATION LAW

136. <https://www.gov.uk/government/publications/consultation-principles-guidance> [accessed: 20 Dec 2014]

137. Information provided via email by the Cabinet Office.

138. <http://www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf> [accessed: 20 Dec 2014]

139. In-house lobbyist interviewed for this report.

Although consultations appear a good way of ensuring fair access to the policy-making process, some interest groups may be better equipped than others to respond to them

PUBLIC TRANSPARENCY AND OVERSIGHT

The UK passed a Freedom of Information Act in 2000, although it has some inadequacies.¹⁴⁰ It provides a right to all information held by public authorities, requiring disclosure of all requested information unless it is subject to exemptions listed in sections 35 and 36 which relate to the formulation of policy and the conduct of public affairs.¹⁴¹ Drafts of legal instruments and records of decision-making processes fall within its scope. Current FoIA case law (from the Information Commissioner and the Tribunal) indicates that a significant range of information related to lobbying is disclosable under FoIA. For example, for most meetings the names of Ministers, senior officials and lobbyists attending, dates, subjects discussed and minutes are accessible.¹⁴² In addition, the government has committed to publishing details of ministerial meetings on a regular basis as part of its commitments to open data.¹⁴³ FoIA powers and requests have played an important role in uncovering instances of corrupt lobbying behaviour.

FoIA powers and requests have played an important role in uncovering instances of corrupt lobbying behaviour

There are also concerns that the FoIA does not automatically have jurisdiction over outsourced government contracts. This is problematic, particularly given the extent of outsourcing, since it means that vast quantities of public spending are closed to such scrutiny. However, the problem has recently been raised by Public Administration Select Committee, which recommended that “companies contracting with the government should be required to make all data available on the same terms as the contracting department.”¹⁴⁴ The Cabinet Office is now seeking to address this problem in consultation with the Crown Commercial Service.¹⁴⁵

Nevertheless, citizens have relatively good access to government data through the FoI regime. Setting aside the limitations in scope, the FoI system is reasonably efficient and effective at answering requests from the public. Research found that, even in the first three years of its operation, 62-66 per cent of FoI requests were fully granted, while around 80 per cent were met within the statutory time limit of 20 days.¹⁴⁶ This compares well with the Irish and Canadian cases at a similar point in the implementation of their equivalent acts.

MONITORING BY MEDIA AND CIVIL SOCIETY WATCHDOGS

140. The most comprehensive attempt to rate the quality of access to information laws is the RTI Rating which is not a perfect rating system but is worth consulting. For Bulgaria, France and Spain see also Transparency & Silence: A Survey of Access to Information Laws and Practices in Fourteen Countries . Further sources include National Integrity System Assessments & Global Integrity reports.

141. Paragraphs 35 and 36 are subject to a public interest test, which means that information must be disclosed if, on balance, the public interest in disclosure outweighs the harm to policy formulation or public affairs that would arise as a result.

142. See for example Information Commissioner Cases FS50429932, FS50445422, FS50312407, cited in CSPL Strengthening Transparency Around Lobbying, p. 23. (2013)

143. See letters from Prime Minister David Cameron to Cabinet ministers on 31 May 2010 and 7 July 2011 <https://www.gov.uk/government/news/letter-to-government-departments-on-opening-up-data> [accessed: 20 Dec 2014] <https://www.gov.uk/government/news/letter-to-cabinet-ministers-on-transparency-and-open-data> [accessed: 20 Dec 2014]

144. Public Administration Select Committee, Statistics and Open Data: Harvesting unused knowledge, empowering citizens and improving public services, Tenth Report of Session 2013-14, (Mar 2014) Available here: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpublicadm/564/564.pdf>. [accessed 31 May 2014]

145. Interview by telephone with Kitty von Bertele, 29 May 2014.

146. Hazell, R. and B. Worthy. 'Assessing the performance of Freedom of Information', Government Information Quarterly, 27: 352-359, 2010.

The media and civil society play an important role in scrutinising lobbying risks and conduct. The media in the UK is generally regarded to be free of interference from the state, political parties, and private-sector groups, and is rated as free by Freedom House. Nevertheless, the media's freedom in scrutinising the executive has been threatened by the government's reaction against media outlets which reported on documents provided by US whistleblower Edward Snowden. In August 2013, the UK government invoked the Terrorism Act to force the Guardian newspaper to destroy documents, as well as detaining for nine hours at Heathrow airport the partner of the journalist who had analysed the Snowden files.¹⁴⁷

Investigative journalism is sophisticated but somewhat under-resourced – increasingly so, given financial pressure on the industry. However, the media – both printed press and broadcast – have played a key role in exposing misconduct related to lobbying in recent years. The Bureau of Investigative Journalism reports on lobbying, while Radio 4, Channel 4 Dispatches and BBC Panorama have all reported on lobbying and the revolving door.

A number of civil society initiatives have emerged in recent years which seek to capitalise on the FoIA and the Open Government movement to collect data about the activities of politicians and governments. For example, Theyworkforyou provides data on the voting records and activities of MPs. Spend Network collects data on public procurement contracts, potentially allowing scrutiny of whether those who engage in lobbying win government contracts. Transparency International UK has produced research on a number of issues related to lobbying and corruption in UK politics, including the revolving door.

The Alliance for Lobbying Transparency (ALT) is an alliance of civil society groups concerned about the influence of lobbying on decision-making in the UK, which seeks to increase transparency over the process. ALT states its broader aims as seeking to “restore trust in policy making and make Ministers, elected representatives and officials more accountable to the public”. ALT is campaigning for a mandatory register of lobbyists. The Alliance is coordinated by an NGO called Spinwatch, and funded by a Rowntree Charitable Trust grant. Its members include more than a dozen other NGOs, some focused on specific issues (such as the Campaign Against the Arms Trade) or representing certain groups (such as the the National Union of Journalists), others with an agenda of improving the quality of democracy in general (such as Unlock Democracy).

A number of civil society initiatives have emerged in recent years which seek to capitalise on the FoIA and the Open Government movement

147. <http://en.rsif.org/united-kingdom-snowden-journalist-glenn-greenwald-19-08-2013,45062.html> [accessed: 20 Dec 2014]

RECOMMENDATIONS

UK citizens currently have little opportunity to understand who is lobbying whom, how, for what and on what scale

UK citizens currently have little opportunity to understand who is lobbying whom, how, for what and on what scale. Measures for bringing transparency to lobbying and maintaining the integrity of institutions must be strong enough to guard against the threat of lobbying abuses but also go far enough to build confidence in politics and decision making.

The principal recommendation from this study of lobbying risks, transparency and integrity standards is that each part of the UK should – at the very least – rise to the best practice in integrity reporting and transparency.

If each of the UK nations adopted the best practice that exists across the UK, it would result in a dramatic improvement in resilience against lobbying and corruption risks and provide for large advances in transparency and accountability across the UK.

Meeting the best practice standard across the UK would mean:

Integrity standards

Recommendation 1.

Requiring Members' conflicts of interest to be resolved in favour of the public interest (as is required in theory by the codes of conduct in the House of Commons, Welsh Assembly and Northern Irish Assembly).

Recommendation 2.

Explicitly prohibiting Members from providing paid advice to lobbyists (as in The House of Lords).

Recommendation 3.

Providing a robust framework to oversee civil servants' post-public employment corruption risks (as in Northern Ireland).

Transparency standards

Recommendation 4.

Advising legislators to keep a record of lobbying meetings (as in Scotland and Wales).

Recommendation 5.

Publishing registers of interest as open data (as in House of Lords) and lobbying meeting information as open data (as for UK Ministers).

Sanctions

Recommendation 6.

Considering more effective sanctions for misconduct, including criminal offences for serious breaches of legislative codes of conduct (as in Scotland, Northern Ireland and Wales).

Given the public harm caused by lobbying corruption, it is the overarching recommendation of this paper that lobbying privacy must be justified, rather than assumed, over transparency.

Professional lobbying that supports an effective democratic process should be accountable to public scrutiny. The end objective should be that money is not a distorting factor in forming policy or gaining access to decision makers; that lobbying on any particular issue is visible to citizens, has an audit trail and that the information is presented in a manner that is accessible and comparable for the public, media and civil society to scrutinise.

The end objective should be that money is not a distorting factor in forming policy or gaining access to decision makers

This report also recommends that regulation should go further than the UK best practice to include:

Transparency over lobbyists.

Recommendation 7.

The Lobbying Act should be replaced with legislation that is fit for purpose, including more comprehensive registration obligations for lobbyists. This should cover both in-house and consultant lobbyists.

Recommendation 8.

For lobbyists with a budget of over £10,000, comprehensive campaign spending and lobbying objectives should be publicly disclosed.

Political financing.

Recommendation 9.

There should be a cap on political donations of £10,000 per donor per year.

Recommendation 10.

Private companies donating to political parties should declare their ultimate owner and report in a standardised way both at the national and constituency level.

Recommendation 11.

If a cap is not placed on donations to political parties, a political party should be prohibited from nominating a person for honours where that person has provided financial or other support of more than a total value of £10,000 in any one year, to that party or to a person or organisation associated with that party.

Regulating the revolving door.

Recommendation 12.

ACoBA should be replaced with a new statutory body with sufficient resources and powers to regulate the post-public employment of former Ministers and crown servants and sanction misconduct.

Recommendation 13.

Government bodies and political parties should be required to publish, on an annual basis, in an easily accessible format, the number of secondment in and out of their organisation and also publish any conflicts of interest risks that have been identified and the mitigating actions taken.

Recommendation 14.

Restrictions should be introduced for legislators on post-public employment in lobbying, in addition to Ministers.

Training.

Recommendation 15.

Given the complexity of the rules and the importance of high standards, training, induction and professional development in ethics standards should be made mandatory, rather than optional, for parliamentarians and Assembly Members.

A number of Standards Committee reviews are ongoing or under debate in the different legislatures across the UK. The aim of this report is to inform those reviews as well as broader public debate about transparency and accountability gaps and recommendations around lobbying across the UK.

A number of Standards Committee reviews are ongoing or under debate in the different legislatures across the UK

GLOSSARY

ACoBA:	Advisory Committee on Business Appointments
ALT:	Alliance for Lobbying Transparency
AMs:	Assembly Members
API:	Application programming interface
APPC:	Association of Professional Political Consultants
APPGs:	All Party Parliamentary Groups
BIJ:	Bureau of Investigative Journalism
BMJ:	British Medical Journal
CIPR:	Chartered Institute of Public Relations
CPG:	Cross Parliamentary Group
CSPL:	Committee on Standards in Public Life
CSV:	Comma Separated Values
DCLG:	Department for Communities and Local Government
DECC:	Department of Energy and Climate Change
DfT:	Department for Transport
FCO:	Foreign & Commonwealth Office
FoIA:	Freedom of Information Act
Lobbying Act:	Non-Party Campaigning and Trade Union Administration Act 2014
MEP:	Member of the European Parliament
MoD:	Ministry of Defence
MSP:	Member of the Scottish Parliament
NGO:	Non-governmental Organisation
NHS:	National Health Service
OACoBA:	Northern Irish Office of the Advisory Committee on Business Appointments
PASC:	Public Administration Select Committee
PRCA:	Public Relations Consultants Associations
PwC:	PricewaterhouseCoopers
RTI:	Right to information
UKPAC:	UK Public Affairs Council
UNCAC:	UN Convention against Corruption

ANNEX 1: PERMISSIBLE BEHAVIOUR IN THE UK UNDER CURRENT RULES

<p>Lobbyist registration</p> <ul style="list-style-type: none"> Those not covered by the Lobbying Act of 2014, an estimated 4 out of 5 lobbyists, can lobby anywhere in the UK without being required to register All lobbyists can lobby UK parliamentarians, all but the most senior civil service officials, public service officials, and local government officials without being required to register any details There is no requirement for lobbyists to report their expenditure on lobbying, including gifts and hospitality to public officials No information on 'in-kind' contributions need be publicly disclosed by lobbyists - including advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment nor consultancy work for elected politicians or candidates for office There is no obligation on lobbyists to publish how they have used secondments or advisers placed within government to influence policy Think tanks and lobbying campaigns can withhold information about their funders 	<p>Transparency over lobbying</p> <ul style="list-style-type: none"> All UK and devolved legislators and all but the most senior civil service officials may keep lobbying meetings secret, unless a specific Freedom of Information request is submitted Where weak transparency obligations exist on those being lobbied - for Ministers, Permanent Secretaries and Special Advisors - details of lobbying meetings can be summarised as 'general discussion', published many months after the lobbying meeting took place, and made available in non-open data formats that hinder analysis and comparability Ministers are not obliged to declare lobbying meetings, if they are classified as taking place in their private time or constituency roles All lobbyists in the UK may keep any information about whom they have lobbied and on what issues they have lobbied concealed from the public In-house lobbyists (such as a company's head of Government Relations) do not have to register any details whatsoever, regardless of whom they lobby There is no guidance within the code of conduct for Members of the House of Commons, Peers in the House of Lords and Northern Irish Assembly Members on whether to record lobbying meetings or not Ministers in Scotland can, without sanctions, fail to publish the record they are obliged to keep of lobbying meetings Ministers in Northern Ireland have no obligation to record lobbying meetings, unlike their counterparts in every other part of the UK
<p>All Parliamentary Groups & Cross Party Groups APPGs/CPGs</p> <ul style="list-style-type: none"> APPGs can hold meetings in parliament which bring together industry lobbyists and parliamentarians, with no obligation to publish lists of who attend such meetings All information about CPGs and APPGs can be published in a non open data format In Wales, very limited disclosure obligations are in place for Cross-Party Groups In the House of Commons and House of Lords, the Welsh and Northern Irish Assemblies, APPGs and CPGs do not have to publish minutes of Cross Party Group meetings 	<p>Access to politics and policy</p> <ul style="list-style-type: none"> There are no consistent procedures, rules or rights for allowing equal opportunity of access to policy or decision making The evidence for policy decisions can be obscured or withheld

<p>Conflicts of interest and gifts and hospitality</p> <ul style="list-style-type: none"> • Members of the House of Commons are free to raise parliamentary business and table amendments that relate directly to their declared private interests • All of the jurisdictions across the UK can publish conflict of interest information in formats that, in practice, mean that they cannot be easily compared or analysed, thus limiting transparency and accountability • Ministers across the UK have a large degree of discretion about reporting their own ministerial conflicts of interest and how to manage any conflicts of interest that arise • Ministers in Scotland and the UK can keep their interests from being published to the public, unlike Ministers in Wales and Northern Ireland • In practice, legislators across the UK can retain conflicts of interest so long as they are declared • Members of the Scottish Parliament may avoid registering gifts and hospitality if they are received by their partners or spouses • Ministers in the Northern Ireland Executive may retain gifts received, unlike their counterparts elsewhere in the UK who must submit gifts over a certain value to their departments • Ministers in the UK can choose whether to declare gifts as a Member of Parliament or as a Minister, unlike Scottish Ministers who are obliged to follow the rules as both a Member of Parliament and a Minister 	<p>Public figures being paid to lobby</p> <ul style="list-style-type: none"> • Members of the House of Commons and Welsh and Northern Irish Assembly Members may be paid to provide advice to lobbyists • In theory, a civil servant may take payment for providing advice to lobbyists given the lack of explicit prohibitions for such behaviour • UK Ministers may fail to publicly acknowledge payment for advice to lobbyists, may decide within their own department how to handle such a conflict, and would not be exposed to any credible external investigation over such a decision • Members of the House of Commons and House of Lords may breach rules with regard to lobbying and not face criminal sanctions
	<p>Revolving door</p> <ul style="list-style-type: none"> • Parliamentarians and Assembly Members, who are not Ministers, are not subject to any restrictions or advice on revolving door corruption risks • Only the most senior civil servants at the UK level, in Scotland and in Wales are subject to any independent oversight of post-public employment revolving door risks • There are no sanctions for breaching advice on revolving door risks or failing to seek advice
<p>Political finance</p> <ul style="list-style-type: none"> • Donations can be accepted by political parties without any limit • Party donors are entitled to seek to influence party policies • Major party donors can be offered positions in the legislature – through appointment to the House of Lords 	

ANNEX 2: CONTRASTING PERMISSIBLE BEHAVIOUR UNDER UK LAW WITH ACTIVITIES PROHIBITED UNDER SELF-REGULATION.

Permissible Activity in the UK	Lobbyist Self-Regulatory Codes of Conduct
All lobbyists in the UK may keep any information about whom they have lobbied, and on what issues they have lobbied, concealed from the public	The codes mandate lobbyists to register the names of all relevant clients
No information on ‘in-kind’ contributions needs to be publicly disclosed by lobbyists - including advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office	Lobbyists are prohibited from making payments in money or in kind to MPs
Think tanks and lobbying campaigns can withhold information about their funders	Lobbyists are mandated to be transparent in discussing the identity of their funders
Any lobbyist can lobby UK Members of Parliament, all but the most senior civil service officials, public service officials, and local government officials without being required to register any details	The codes require lobbyists to register the names of their clients and their staff conducting lobbying services
Any lobbyist can lobby the devolved legislatures and executives without being required to register any details	Lobbyists are required to register the names of their clients and their staff conducting lobbying services
Former legislators, all but the most senior civil servants, public service and local officials can move into lobbying roles and sell access and influence, without a cooling off period and without any disclosure, after public employment	Lobbyists are prohibited from employing MPs, MEPs, and sitting Peers

ANNEX 3: THE NATIONAL POLITICAL SYSTEM AND GOVERNANCE IN THE UK

The political system of the United Kingdom is often described as the Westminster model, named after the seat of the parliament. The parliament consists of an upper chamber, the House of Lords, and a lower chamber, the House of Commons. The elected lower chamber, the House of Commons, holds supremacy over the upper chamber, the House of Lords, the majority of members of which are appointed, while a minority inherited their peerages. Both MPs and Lords are able to influence policy by asking questions of Ministers about policy areas, tabling bills, scrutinising bills in committee stage, and ultimately voting to support or reject a bill. MPs tend to have a small staff of 2-3, of which one person is usually based in their constituency to provide support to constituents. The staff in Westminster are more actively involved in drafting positions about policies and bills. However, any of the MPs' staff might be the target of lobbying activity.

There is no codified written constitution, but by convention the head of the government, known as the Prime Minister, is the head of the party that wins the largest number of parliamentary seats. Cabinet Ministers are appointed from among the members of the House of Commons and, to a lesser extent, the House of Lords, and are accountable directly to parliament. In recent years, individuals have sometimes been appointed as Ministers because they offer specific technical expertise, but in this case it is necessary to appoint them to the House of Lords first. Ministers tend to have their own personal staff, known as 'special advisers', who are not part of the civil service. As trusted advisers to the Minister, they may be the target of lobbying activity.

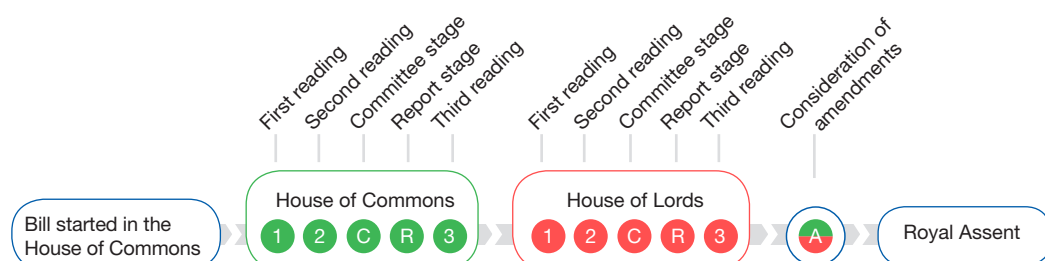
The civil service is the permanent bureaucracy that supports the government by implementing its decisions, but senior civil servants may be called to account by parliament. With a considerable role in drafting bills before they enter the legislative process, and fleshing out the details of new laws in secondary legislation, the civil service plays an important part in policy-making and is therefore a target of lobbying activity. The ministries may also be a target of lobbying activity because of their role in public procurement and in the provision of public services, either directly or through outsourcing. This means that companies may lobby in an effort to influence decisions made about the terms of public tenders or the allocation of contracts.

Any public sector organisation with some discretion over either budget decisions or policy decisions may be the subject of lobbying. In the UK, there are 24 ministerial departments, 22 non-ministerial departments (such as the Competition and Markets Authority, the Office of Rail Regulation or UK Trade & Investment), 337 agencies and other public bodies (such as The Insolvency Service, the NHS Business Services Authority and the Skills Funding Agency), 3 devolved administrations for Scotland, Wales and Northern Ireland (each with their own array of departments and agencies), and 468 local authorities.¹⁴⁸

Legislative process

Draft laws, known as bills, may be introduced to parliament by government Ministers (Government Bills) or other Members of Parliament (Private Members' Bills). Although Private Members' Bills represent the majority of bills, Government Bills are far more likely to pass, reflecting the fact that the government typically has the support of a majority of MPs who act in accordance with party discipline on most issues. Bills must then pass through several stages of scrutiny before they can be passed and enacted into law, as illustrated in Figure 1:

Figure 1. Legislative process in the UK parliament



Source: UK Parliament website

148. <http://www.lgiu.org.uk/local-government-facts-and-figures/> [accessed: 20 Dec 2014]

Lobbying which targets legislation may occur at any stage of this process. Indeed, it may also take place prior to the first reading, influencing the way that the bill is drafted, or indeed after the passage of the bill, when the terms of new laws are filled out through secondary regulation. The executive and civil service are therefore also targets of legislative lobbying activity, because of their roles in these stages of policy-making.

Perhaps the best model for maximising open and responsible lobbying occurs where Bills are introduced in draft for pre-legislative scrutiny one session ahead of their introduction.¹⁴⁹ They are then subjected to scrutiny before a committee – one of four: a HoC departmental select committee, a HoL select committee, a joint committee of both Houses, or an ad hoc committee – which reports on the Bill and makes recommendations for amendments or changes to the drafting, to which the Government responds before introducing the Bill. This process allows for more measured consideration of the Bill which can be used to gain expert evidence and build a consensus, as well as giving the Government sufficient time to amend a Bill before it enters the formal legislative process.¹⁵⁰ In contrast, the practice of introducing draft bills in a hurry – often in response to a scandal or crisis – reduces the time for consultation and means that important issues might be missed, or that certain well-prepared lobbyists might have excessive influence.

149. See lecture by Lord Puttnam on the benefits of pre-legislative scrutiny, available here: <http://www.parliament.uk/get-involved/outreach-and-training/resources-for-universities/teaching-resources/open-lecture-series/open-lectures/the-role-and-importance-of-pre-legislative-scrutiny-in-parliamentary-life/> and Law Commission report here: http://lawcommission.justice.gov.uk/docs/lc302_Post-legislative_Scrutiny.pdf [accessed 5 June 2014]

150. <http://www.parliament.uk/business/publications/research/briefing-papers/SN05859/prelegislative-scrutiny-under-the-coalition-government> [accessed: 20 Dec 2014]

ANNEX 4:

THE DEVOLVED INSTITUTIONS

In 1997-98, the UK government devolved powers to three of the nations (all except England), creating:

- In Wales, an assembly known as the *Senedd* with 60 AMs and a government. The Welsh institutions are responsible for such issues as health, education, language and culture and public services. The UK government retains responsibility for areas such as tax, defence, foreign policy and benefits. The Welsh voice in the UK Government is represented by the Secretary of State for Wales in the Wales Office. Initially, the Senedd had only secondary legislative powers and could not initiate primary legislation. However, it gained limited law-making powers through the Government of Wales Act 2006, and its primary legislative powers were enhanced following a referendum in 2011, making it possible for it to legislate without having to consult the UK parliament, nor the Secretary of State for Wales, in the 20 areas that are devolved.
- In Scotland, a parliament at Holyrood was established in 1998, with 129 MSPs - comprising 73 constituency MSPs and 56 regional MSPs - and a Scottish Government. The Scottish parliament has full legislative powers over a wide range of Scottish domestic affairs including limited tax varying powers, while Westminster retains responsibility for defence, employment, foreign policy, social security benefits and immigration and nationality.
- In Northern Ireland, a Legislative Assembly with 108 MLAs and an Executive as part of the Good Friday agreement, in 1998. The Northern Ireland Assembly has full legislative powers. Northern Ireland is required to include representatives of the two communities in the province – Unionists and Nationalists – on the Executive. The First and Deputy Minister are elected by the Assembly, requiring majorities of the whole Assembly as well as of the community groups. The First Minister and Deputy Minister hold office jointly as a dyarchy, such that, if one resigns, the other must also. All key legislative decisions require cross-community support. There are 16 committees pertaining to different policy areas and issues, and the institutional arrangements help to foster cross-party collegiality in these committees.

All of these institutions have their own rules pertaining to conduct. However, rules about party financing relate to the UK level, with no special arrangements for devolved institutions. The Lobbying Act does not contain a requirement for devolved bodies – or local authorities – to have a register of lobbyists. Nevertheless, all of the devolved institutions have undertaken efforts consider how this issue applies to them, where the greatest risks of lobbying lie, and whether their own contexts require special rules or provisions to regulate lobbying. These discussions and findings are reported below.

The Welsh and North Irish Assemblies and the Scottish Parliament all create identical offences prohibiting Members from advocating or initiating any cause or matter on behalf of any person, by any means specified in the provision, in consideration of any payment or benefit in kind of a description so specified, or urging, in consideration of any such payment or benefit in kind, any other Member to advocate or initiate any cause or matter on behalf of any person by any such means. The offence is supervised by the respective Standards Commissioners and Standards Committees.

The principal legislative criminal offences are established in the devolved legislatures and in local government through the Government of Wales Act 2006, Northern Ireland Act 1998, the Scotland Act 1998; the Interests of Members of the Scottish Parliament Act 2006; and the Localism Act 2011, (Part 1 Chapter 7 Section 30). In contrast, the regime in Westminster is overseen by regulation and codes of conduct rather than by criminal offences.

The devolved regions also have media focused on the respective legislatures, which may be more relevant than national media for those seeking to influence the devolved institutions. Thus, Scotland and Wales each has an equivalent of the agenda-setting BBC Radio 4 *Today* programme – *Good Morning Scotland* and *Good Morning Wales*.

ANNEX 5: METHODOLOGY

This report is part of the European Commission funded ‘Lifting the Lid on Lobbying’ project, which sees 19 European countries assess the environment with regard to lobbying and associated regulation in their country.¹⁵¹ The report aims to:

- Assess existing lobbying regulations, policies and practices in the UK.
- Compile evidence about corruption risks and incidences related to lack of lobbying control.
- Highlight promising practice around lobbying found in the UK.
- Provide recommendations and solutions for decision-makers and interest representatives in the public and private sector.

Data Collection and Validation

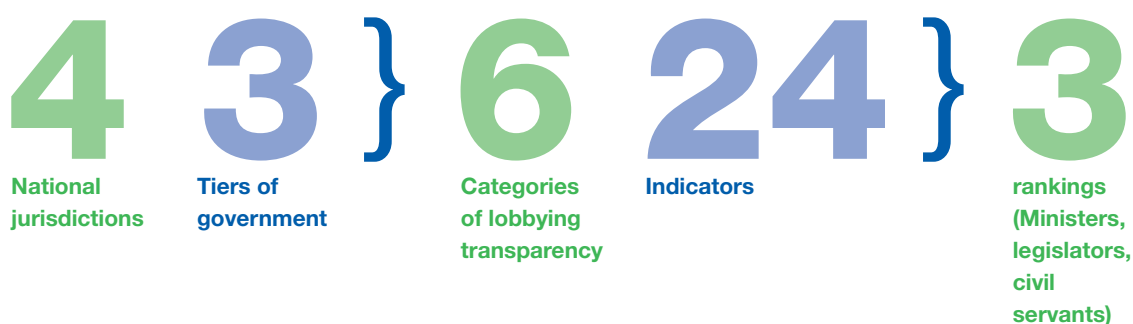
The research was carried out by Dr Liz David-Barrett, Sussex Centre for the Study of Corruption¹⁵², and Nick Maxwell, Research Manager at TI-UK, during the period from April to December 2014.

When conducting the research, the researchers drew on numerous secondary sources, listed in the references section, and direct analysis of the official information available and published by the UK jurisdictions. This secondary data was complemented by primary data obtained from a number of in-depth interviews with policymakers (and former policymakers), lobbyists and experts in the field of lobbying.

Interviews were particularly useful for finding out additional information not on the public record, and for gathering evidence on the implementation of regulations and more generally, what is happening in practice.

The research was primarily qualitative; however a quantitative element was also included in order to compare standards across the UK jurisdictions and provide the first ranking of UK nations’ lobbying transparency standards. This ranking is based on 24 procedural indicators. The indicators are spread across six categories, including the gifts and hospitality regime, the register of interests, lobbying by officials and politicians, transparency on lobbying, oversight of the ‘revolving door’ of employment and oversight of Cross-Party Groups. These indicators are applied to the different tiers of public decision makers (parliamentarians, Ministers and civil servants) and different UK institutions (Westminster and Whitehall; the Scottish Parliament and government; the Welsh Assembly and government; and the Northern Irish Assembly and government).

UK nations’ lobbying transparency standards



151. The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom

152. Formerly Director of the Corruption and Transparency Research Centre, Kellogg College, Oxford University

The rankings are not comparable across Ministers, legislators and civil service rankings, as indicators have different scoring criteria specific to that tier of government.

These indicators inform us about strengths and weaknesses in the rules and standards. However, there will be some law-makers who do not meet the standards in practice. Indeed, this is even more likely because of a lack of a culture of ethics training and limited sanctions for misconduct.

In addition to the UK nations' lobbying transparency standards, the research benefits from a more detailed set of 65 indicators scored by the researcher, on the UK Westminster and Whitehall regime. This more detailed set of indicators will be used to evaluate the robustness and efficacy of national regulations and self-regulation mechanisms around lobbying and allow for comparison across the other 18 EU countries involved in the broader project.¹⁵³ This comparison will be the subject of a forthcoming Transparency International report on lobbying across the EU. However, the UK data set is currently available, along with the complete scoring criteria for the UK nations' transparency standards at www.transparency.org.uk/lobbyingresearch.

153. An EU wide report compiling and comparing the national results is foreseen for publication in the Spring of 2015

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