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## Transparency around lobbying:

Written evidence

Summary of responses

The Committee on Standards in Public Life

5<sup>th</sup> September 2013

## A summary of written responses to the Committee on Standards in Public Life's call for evidence on the issues around lobbying

### Conducting the call for evidence

1. The call for evidence with an accompanying issues and question paper was issued on 7 June 2013. The paper was made available on the Committee on Standards in Public Life's website and drawn to the attention of a wide range of Committee on Standards in Public Life's stakeholders and other interested parties.

The number and categories of respondents were as follows:

Respondent category	Number	Percentage of total
Civil Society <sup>1</sup>	6	17.1
Company <sup>2</sup>	9	25.7
Private Individuals, this includes one MP	1	2.9
Regulators and NDPBs	3	8.6
Representative Body /Trade Association	8	22.9
Think Tank	2	5.7
Academic	4	11.4
Trade Union <sup>3</sup>	2	5.7
<b>TOTAL</b>	<b>35</b>	<b>100%</b>

### Summary of responses to the consultation questions

2. There were thirty five responses received from stakeholders who answered the consultation questions. The responses received were from a broad range of stakeholders. The Committee on Standards in Public Life would like to thank respondents for taking the time to share their views.

3. The majority of respondents agreed that lobbying in itself was an essential part of the democratic process and was not a problem per se. Respondents were particularly concerned with ensuring that no legislation infringes on parliamentary privilege and that the normal activities of MPs representing constituents are excluded from being defined as lobbying. It was largely agreed that effective lobbying can enhance policy making by providing valuable evidence and pointing out potential unintended consequences. However, there was agreement that there was a need for greater transparency around lobbying activity.

<sup>1</sup> Includes charities as well as other groups

<sup>2</sup> Includes 8 public affairs or public relations companies

<sup>3</sup> Includes British Medical Association and National Farmers Union

4. The definition of lobbying was problematic for the majority of respondents. However, the majority stated that any lobbying definition should focus on the action of lobbying rather than attempting to define what a lobbyist is. Further, respondents were largely in favour of a wide definition of lobbying which then contained exemptions, such as the constituent example above.

5. There was widespread agreement that some form of statutory register for lobbyists is a good idea in principle. However, the overwhelming majority of respondents felt that the register proposed in the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill 2013-14 would not sufficiently address the problem of transparency around lobbying. The reason given for this was that the definition of lobbying is too narrow and will therefore only include a small proportion of lobbyists.

6. Respondents thought the government focus on third party lobbyists was perplexing and reflected a misunderstanding of the nature of the work of third party lobbyists. Third party lobbyists largely advise clients on how to lobby but do not engage in lobbying themselves. Lobbying firms in particular were keen to enhance transparency and welcome their own inclusion on any register.

7. There was equal support for focusing the solution of transparency around lobbying on both those lobbying and those being lobbied.

8. There was wide support for a code of conduct. The main reasons given for this were that it can be used as a tool by which to decide what behaviour requires sanctioning and that some politicians have already shown their willingness to stretch the rules. Those in support agreed that embedding principles of ethical conduct was important.

9. The respondents supported external regulation of any register and sanctions focussing largely on the lobbyist, including removal from the register and criminal proceedings for repeated and/or serious infringements.

10. Stakeholders were not supportive on the whole of focussing solely on a solution which centred on those lobbied taking proactive measures as it was not thought that focussing on one side would increase transparency around lobbying sufficiently. However, there was support for training and guidance for those who are lobbied.

11. The majority of replies stated that enhanced disclosure combined with the Freedom of Information (FOI) Act would improve transparency around lobbying. The lobbying industry in particular were supportive of this as they felt increased transparency would enable the public to see that it is not they who are the problem.

## Responses to specific questions

### Question 1

**Is there any reason to think that lobbying per se is a problem; and is there any evidence that abuse of lobbying is widespread or systemic, as opposed to exceptional behaviour by a few?**

6. 29 responses addressed the question of definition. The categories of respondents are set out below:

Respondent Category	Number	Percentage of total
Civil Society/ Charity	6	20.7
Company	8	27.6
Private Individuals, this includes one MP	1	3.4
Regulators and NDPBs	1	3.4
Representative Body /Trade Association	6	20.7
Think Tank	2	6.9
Academic	4	13.8
Trade Union	1	3.4
<b>TOTAL</b>	<b>29</b>	<b>100%</b>

7. The dominant theme of responses to question 1 was that lobbying itself is an essential part of the democratic process and aids policy makers by helping to refine policy and iron out unintended consequences. Many respondents also pointed out that the recent scandals did not involve professional lobbyists but stings organised by journalists who then approached politicians as lobbyists. They therefore noted that the Government's current proposals would not have prevented the recent scandals, as they did not involve third party lobbyists.

8. 27 respondents did not think that lobbying per se was an issue. The majority of these respondents felt that unethical or secretive lobbying was the real issue. However, 2 respondents felt that all paid lobbying was unacceptable.

**Question 2****How wide should the definition of lobbying be? What activities should be excluded from the definition?**

9. 28 responses addressed the question of definition. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society/ Charity	5	17.9
Company	8	28.6
Private Individuals, this includes one MP	1	3.6
Regulators and NDPBs	1	3.6
Representative Body /Trade Association	9	32.1
Think Tank	1	3.6
Academic	2	7.1
Trade Union	1	3.6
<b>TOTAL</b>	<b>28</b>	<b>100%</b>

10. The majority of respondents felt that the government's proposed definition of lobbying is too narrow. These respondents thought a wider, more encompassing definition would be more suitable if the aim of any register is to increase transparency. Half of those respondents wanted anyone who engaged in lobbying politicians to be included in any definition with the other half suggesting all paid lobbyists should be included in any register. Many respondents also suggested using exemptions to exclude the normal activities of MPs representing constituents and other groups such as small businesses and charities.

11. Although a number of respondents felt defining lobbying is difficult, many felt that it was more important to define "lobbying" as an activity rather than "lobbyist".

**Question 3**

**Is the proposed legislation for a Statutory Register of lobbyists likely to be sufficient to address the problem and are the Political and Constitutional Reform Committee's proposals (wider registration, disclosure of issues and enhanced Ministerial disclosure) necessary, either as an interim measure or longer term?**

12. 29 responses addressed the question of proposed legislation. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society/ Charity	5	17.2
Company	7	24.1
Private Individuals, this includes one MP	1	3.4
Regulators and NDPBs	1	3.4
Representative Body /Trade Association	8	27.6
Think Tank	2	6.9
Academic	4	13.8
Trade Union	1	3.4
<b>TOTAL</b>	<b>29</b>	<b>100%</b>

13. 25 respondents felt that the government's proposed register for lobbyists does not go far enough to increase transparency. Of these, 19 felt it was necessary to extend the scope of the register and welcomed statutory regulation. The responses from companies, most of whom are professional lobbyists, indicated that they themselves would not need to be included on the register as they did not fall within the definition of consultant lobbying. Many also felt that the Government had misunderstood the role of third party lobbyists and pointed out they do not usually lobby but advise clients how to do this successfully. However, 4 respondents felt that the proposed register would increase transparency adequately without adding what they felt are unnecessary administrative burdens.

**Additional comments**

Respondents thought that rather than implementing the current government proposals which will be expensive; this same level of detail could be achieved by simply including this information in the recording of ministerial meetings.

**Question 4**

**To what extent should the focus of finding a solution to the problems around lobbying be on those that are likely to be lobbied rather than those who do the lobbying?**

14. 24 responses addressed the question of where a solution should focus. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	4	16.7
Company	7	29.2
Private Individuals, this includes one MP	1	4.2
Regulators and NDPBs	2	8.4
Representative Body /Trade Association	5	20.8
Think Tank	1	4.2
Academic	4	16.7
<b>TOTAL</b>	<b>24</b>	<b>100%</b>

15. 11 respondents felt that any solution to the perceived problem of lobbying transparency around lobbying should be addressed by focussing on those who are lobbied. 11 respondents felt that there should be a focus on both the person lobbying and the person being lobbied as this would be likely to ensure full transparency. Most respondents commented that both parties had a duty to uphold high ethical standards. However, 1 respondent felt that the focus should be on the lobbyist as they said that those who are lobbied are already required to disclose meetings and are obliged to abide by an ethical code.

**Question 5****Do you consider that the existing rules are sufficient? If not how should they be changed?**

16. 21 responses addressed the question of the existing rules. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	4	19.0
Company	6	28.6
Private Individuals, this includes one MP	1	4.8
Regulators and NDPBs	1	4.8
Representative Body /Trade Association	3	14.3
Think Tank	1	4.8
Academic	4	19.0
Trade Union	1	4.8
<b>TOTAL</b>	<b>21</b>	<b>100%</b>

17. 15 replies said that the existing rules around lobbying including self regulation of lobbyists and the code of conduct for politicians are not robust enough and do not go far enough to be fully transparent. The main reason given for this was that self regulation has failed to provide meaningful transparency of the industry. Of these replies, 12 said that statutory regulation such as a lobbying register is required but that the register would need to include a wider range of lobbyists than the current proposals. However, 6 respondents felt that the existing rules for lobbyists are sufficient to provide transparency but that there needs to be improvement in enforcement and sanctions.

**Question 6**

**Do you think it is a good idea to have a code of conduct or guidance directly applicable to any individual or organisation that is lobbied? If so, what are the main elements that should be included in any code of conduct or guidance and how could it be enforced?**

18. 18 responses addressed the question of a code of conduct. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	5	27.8
Company	4	22.2
Private Individuals, this includes one MP	1	5.6
Representative Body /Trade Association	3	16.7
Academic	4	22.2
Trade Union	1	5.6
<b>TOTAL</b>	<b>18</b>	<b>100%</b>

19. 14 stakeholders said that there is a need for a code of conduct for lobbyists, those who are lobbied or both. Most of the replies in favour of a code of conduct were evenly divided between implementing a code of conduct for lobbyists or both lobbyists and those lobbied. The explanation given for this was that self regulation on both sides has failed and the recent lobbying scandals were seen as evidence of this failure. Further, many respondents stated that it is important to embed high ethical standards in all public office holders as it was felt that those who are lobbied have stretched the current rules to breaking point.

**Question 7****Is there a case for establishing an external regulator for lobbying or are existing oversight mechanisms sufficient?**

20. 19 responses addressed the question of an external regulator. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	5	26.3
Company	4	21.1
Private Individuals, this includes one MP	1	5.3
Representative Body /Trade Association	5	26.3
Academic	3	15.8
Trade Union	1	5.3
<b>TOTAL</b>	<b>19</b>	<b>100%</b>

21. 13 respondents felt that there is a need for an external regulator. Of these, the majority stated that an existing regulator for lobbyists would be best in principle. There was a strong feeling that regulation should not be left to lobbyists themselves and that another body should oversee regulation.

22. Stakeholders suggested that the regulator should be an existing body such as the Electoral Commission, Committee on Standards in Public Life and Parliamentary Commissioner.

**Question 8**

**Do you agree that some form of sanctioning is a necessity? What form could it take?**

23. 22 responses addressed the question of sanctioning. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	5	22.7
Company	5	22.7
Private Individuals, this includes one MP	1	4.5
Regulators and NDPBs	1	4.5
Representative Body /Trade Association	5	22.7
Academic	4	18.2
Trade Union	1	4.5
<b>TOTAL</b>	<b>22</b>	<b>100%</b>

24. 20 respondents felt that sanctions were necessary for any breach of lobbying regulations or code of conduct. The majority of these respondents focused their reply on sanctions for those lobbying. Those who were specific about the form sanctions should take were divided equally between suggesting only civil penalties like fines and suggesting a mix of civil penalties for minor offences and criminal prosecutions for more serious or repeated breaches. Many replies stated that the sanctions should act as a deterrent as well as punishment for non-compliance.

26. 5 respondents felt that removal from the register, being barred from meeting with minister and adverse publicity would be a strong enough punishment.

**Additional comments**

27. One stakeholder noted that any sanction for non-registration on a mandatory register should include a reduction in registration fees to avoid a cycle of fining and non-compliance due to financial restrictions.

**Question 9**

**Do you think an outcome which relies on individuals who are lobbied taking proactive personal responsibility for being transparent in dealings with lobbyists is desirable and feasible?**

28. 18 responses addressed the question of proactive disclosure. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	3	16.7
Company	5	27.8
Private Individuals, this includes one MP	1	5.6
Regulators and NDPBs	1	5.6
Representative Body /Trade Association	3	16.7
Think Tank	0	0
Academic	4	22.2
Trade Union	1	5.6
<b>TOTAL</b>	<b>18</b>	<b>100%</b>

29. Respondents generally did not agree with an outcome which relies only on individuals who are lobbied taking proactive personal responsibility for being transparent in dealings with lobbyists. The majority of respondents stated that the outcome must focus on both lobbyist and the lobbied as part of any solution. The reason given for this was that focussing on one side would fail to achieve full transparency.

30. 4 respondents did however feel that a focus on individuals who are lobbied taking responsibility was both feasible and desirable to prevent lobbyists from being able to circumvent any system. Further, it was stated that public office holders have a duty to the public.

31. 3 respondents stated that this outcome was neither feasible nor desirable. The reasons given for this were that this approach is impractical as officials who are lobbied are already expected to adhere to a code of conduct so therefore any new rules would not affect those that they would be targeted at. Further, this approach relies on personal discretion and a mandatory approach would be more robust.

**Question 10**

**What should an individual do to ensure that he/she is aware of the dangers of potential conflicts of interest?**

33. 16 responses addressed the question of conflict of interest. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	2	12.5
Company	4	25.0
Private Individuals, this includes one MP	1	6.3
Regulators and NDPBs	1	6.3
Representative Body /Trade Association	3	18.8
Academic	4	25.0
Trade Union	1	6.3
<b>TOTAL</b>	<b>16</b>	<b>100%</b>

34. 5 respondents replied that training or guidance to deal with potential conflicts of interest were necessary. The reason for this was that awareness could be improved through education. The use of frequently asked questions and codes of conducts was suggested by several respondents.

35. However, several respondents commented that conflicts of interest are obvious and therefore those who are lobbied should know when they arise and deal with them accordingly.

**Question 11**

**Would enhanced disclosure by individuals and organisations provide the pertinent information on who is lobbying whom and sufficient incentive for decision makers and legislators to be balanced in the views they seek? Would this taken together with the Freedom of Information regime ensure sufficient transparency and accountability to enable effective public scrutiny of lobbying?**

36. 19 responses addressed the question of enhanced disclosure and Freedom of Information. The categories of respondents are set out below:

<b>Respondent category</b>	<b>Number</b>	<b>Percentage of total</b>
Civil Society	5	26.3
Company	5	26.3
Private Individuals, this includes one MP	1	5.3
Representative Body /Trade Association	3	15.8
Academic	4	21.1
Trade Union	1	5.3
<b>TOTAL</b>	<b>19</b>	<b>100%</b>

37. 14 replies stated that improved transparency around ministers meeting by way of an improved lobbying register, a broadening of the information included in details of ministers meetings with external organisations, timely publication of those meetings together with the Freedom of Information (FOI) Act would provide enough transparency around lobbying.

39. Whilst respondents mainly felt that a combination of FOI and enhanced transparency would improve things, some noted inadequacies with the FOI system. One stakeholder noted that the FOI regime is time consuming and inefficient and the government has plans which they felt would make the system more cumbersome, thereby decreasing transparency.