



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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[The Standards of Conduct Committee](#)

13/6/2017

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance**

Claire Griffiths	Dirprwy Clerc Deputy Clerk
Nia Moss	Y Gwasanaeth Ymchwil Research Service
Meriel Singleton	Clerc Clerk

*Dechreuodd y cyfarfod am 09:30.
The meeting began at 09:30.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest**

[1] **Jayne Bryant:** Good morning, everybody. Thank you for coming in this morning, to our witnesses. Just to let you know that Members are allowed to speak in English and Welsh, and translation is on channel 1 on the headsets, and just to remind everybody to turn off any electronic devices.

**Papurau i'w Nodi
Papers to Note**

[2] **Jayne Bryant:** The first point on item 2 is papers to note for Members. So, we've got a lobbying briefing paper on lobbying registers in Ireland and the European Parliament, and Public Affairs Cymru's code of conduct on lobbying. All noted on that? Great, thank you.

**Ymchwiliad i Lobio: Sesiwn Dystiolaeth 5
Inquiry into Lobbying: Evidence Session 5**

[3] **Jayne Bryant:** We move on to item 3, which is our evidence session for our inquiry into lobbying, so welcome once again. Perhaps the witnesses could state their names and their roles within their organisations.

[4] **Ms Nicholl:** I'm Anna Nicholl. I'm director of strategy and sector

development at the Wales Council for Voluntary Action.

[5] **Mr Cook:** I'm David Cook. I'm policy officer at WCVA.

[6] **Ms Meikle:** I'm Anne Meikle. I'm the head of WWF Cymru.

[7] **Jayne Bryant:** Brilliant, thank you. To set up, perhaps you can answer this, each of you: perhaps you can say why you believe that there is or isn't a need for a statutory register on lobbying. I don't know who'd like to start.

[8] **Ms Nicholls:** Shall I kick off? Okay. So, firstly, I suppose, for WCVA, we're firm supporters of open government, open democracy and making things as transparent as possible. That leads to good government and also supports participation by others, including the third sector, and builds trust, I suppose, in democratic systems and the people, including third sector groups, who are involved in engaging with Governments. So, we're supportive of that in principle. However, we've done a brief consultation with members on this, and we didn't get much of a response. It doesn't feel like it's a big issue for our members, and from those who did respond, it was a mixed response. I suppose—I think Dave will touch on this more—we're concerned really to get the balance right between transparency and accountability, and then placing a burden on those who we want to be positively engaging with Government and the Assembly. Indeed I think there's a cautionary tale from other places in the UK where they've introduced more registrations, and it hasn't—well, I think Dave will touch on this more—but I think where it's actually had a negative impact on that positive engagement that we think is an important part of our democracy.

[9] **Jayne Bryant:** Thank you.

[10] **Mr Cook:** Yes, as Anna was saying, Scotland, as I'm sure you know, is about to introduce its own register, but at this point it seems to us—although it officially hasn't come into force yet—like it's going to be very burdensome on the third sector in Scotland, having to report, every quarter, a whole load of e-mails that have been sent and every conversation that it has had with a Member of the Scottish Parliament. So, if you go to, for instance, a party conference, and you might speak to 10, 20 or 30 MSPs if you're there, having to record every conversation that you have there is—that's a lot of work. Then, as you all know, there's the UK Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, which has been viewed as highly restrictive and the third sector is very keen

to see the Hodgson recommendations implemented.

[11] **Ms Meikle:** I think I'm with Anna that we're really keen to encourage transparency. I've been trying to influence Government and politicians for at least 10 years now, so I'm definitely in some way captured by any definition you want to go with, and we as an organisation try to do that, and I'm not really aware that, in all that time, there has ever been a serious problem, or a problem of any description, with lobbying. I think, personally, often I want to understand who influenced that decision, or why that decision was made, and I do think there's definitely a lack of clarity and a lack of transparency around even who has been involved in those conversations, who has actually had some of their voice heard in that system. I guess, from my side, I wonder why that needs to involve a register; whereas, for me, with the proposals whereby politicians should publish their meetings with people, I have absolutely no problem. You can publish every meeting you've had with me, what the subject was, and anything else. I think that's a really good idea, and it would definitely help me when I want to kind of understand, 'Ooh, well, why did the Government make that decision?', or 'Why has the committee come to that recommendation?' At least in committees you can see everybody you've talked to. That's not clear, but I'm not really sure why the burden is being transferred to those of us out here who want to engage with the democratic process, from politicians who—. I'm not really sure why it's not sufficient, I think, for you, in effect, to be publishing who you're meeting, and the Government, in particular, to be doing that.

[12] **Jayne Bryant:** Okay. Llyr, on this point.

[13] **Llyr Gruffydd:** So, yes, just to probe that a little bit further then. So, the current arrangement where Ministers now do publish who they've met, is that not sufficient, or do you think that's enough?

[14] **Ms Meikle:** Well, I think it's tricky, isn't it? That's Government Ministers and only them. It doesn't include Chairs of committees or anybody else that you might be going to talk to who might then go and have a word with the First Minister or somebody or other. I generally think it's a bit of a mixture.

[15] **Llyr Gruffydd:** So, all Assembly Members would, you think, be appropriate—

[16] **Ms Meikle:** I'm sure you could define that in a way that wouldn't be burdensome, in the sense that nobody should be having to publish all their

meetings with their constituents or whatever.

[17] **Llyr Gruffydd:** No, no, but as long as you define it clearly and that everybody understands that certain meetings need to be recorded and published.

[18] **Ms Meikle:** Yes.

[19] **Llyr Gruffydd:** Okay.

[20] **Jayne Bryant:** Okay. Thank you. So, what are your views on a voluntary register? I think you touched on a couple of those points. Do you want to expand on that a little bit more? Do you prefer a voluntary register to a statutory register, or no register?

[21] **Ms Nicholl:** Again, the WCVA doesn't have a strong position on a statutory register or not. In a sense it's about making it light touch, I suppose, and proportionate to what you're trying to achieve. I suppose, just as if there are other ways of achieving this, including Government and Assembly Members recording their diaries and making that transparent, that seems a more proportionate way of doing it. So, we don't have a strong position on this. A voluntary register already seems to exist, in some ways, with Public Affairs Cymru and other lobbying groups. I suppose it's then—. You know, again, whether it's important to capture—. Not everybody may be members of those, and so I suppose it's just being clear what we're trying to achieve by that. But as I say, the WCVA, we don't have a strong position on this, to be honest with you.

[22] **Jayne Bryant:** Anybody else?

[23] **Ms Meikle:** Yes. Again, I'm not really clear what that would be trying to achieve, because if it's a voluntary register, what happens if lots of people decide they don't want to be part of that? Again, I'm not really clear what it is you're trying to achieve. Perhaps we'll come on to it a bit later when we talk about the definition of lobbying, but it's a bit like, well, for me, this is—. What I would be seeking to achieve, I think, is: what is the range of voices that's being heard here, and listened to, and have we got some way of capturing it? I'm not sure that picking out, say, professional lobbyists or people like me who work for an organisation that wants to influence, is actually going to get you that range of information, voluntary or statutory, in a way, because you're going to be looking at a subset of the people who are

being engaged with. I'm being perfectly honest: I'm not really clear, from the purpose of the inquiry, in the sense of what exactly you are trying to achieve here, and whether a voluntary or statutory register really does get you to that point.

[24] **Jayne Bryant:** Okay. Thank you.

[25] **Ms Nicholl:** I don't know if this is coming to a slightly different point, but I suppose, with the purpose of doing this, I think that trust and transparency are really important. Equally important—and Anne might want to come back on this—is encouraging people, civil society, to actively engage with the Assembly and Government. So, I suppose it's just being proportionate that the way this is done does achieve your first goal and doesn't impact negatively on groups proactively getting involved and engaging.

[26] **Jayne Bryant:** Thank you. Llyr.

[27] **Llyr Gruffydd:** We have, clearly, models in operation on a UK level from Westminster Government, and you've referred to the Scottish model earlier. Do you have particular views on those? Because clearly, you know, they are different, and whether they'd be appropriate for us here in Wales of course is another question.

[28] **Mr Cook:** I think the Scottish model hasn't been thoroughly implemented yet. I think it would be wise to see how that goes over a period of time before—

[29] **Llyr Gruffydd:** Before we move on from the Scottish one then, in case you go straight to the Westminster one, can I just ask—? One of the criticisms of the Scottish model, although we're yet to see, I suppose, it functioning, is that it's very asymmetrical, that the focus is very much on the lobbyist or the lobbyists and not on those being lobbied. We've touched on this already. If there was to be some sort of arrangement here in Wales, with the publication of diaries, for example, you'd be looking for something that's much more balanced, would you, between the two sides of the argument?

[30] **Mr Cook:** Yes.

[31] **Ms Nicholl:** I think that is right, rather than—. It almost seems like it's creating a barrier to engagement, rather than—. It's got to be a two-way

process. I don't know, Anne, if you want to come in. So, it's Government opening up and not putting the whole burden on those who are influencing and engaging.

[32] **Llyr Gruffydd:** Could I go a step further then and suggest, given that politicians are the people who are elected and are there to be answerable, should the whole burden fall on politicians and not on organisations such as yours? Should we consider taking it all the way the other way, or do you think that it's only fair that the balance is somewhere in the middle, because that's been suggested as well?

[33] **Ms Nicholl:** Right, okay—did you want to come in?

[34] **Mr Cook:** No.

[35] **Ms Nicholl:** In a sense, I suppose. So, why not have Government open up and politicians open up and test out to what extent there is a problem in trust and accountability, before you need to put additional burdens on sometimes fairly poorly resourced third sector organisations or charities who, quite rightly, want to get engaged and be influencing positive policy practice in Wales? So, you may be unsurprised that the WCVA's quick reaction to that would be, 'Yes, let's see how opening up Government and the Assembly more works, before we put additional burdens on charities.'

[36] **Llyr Gruffydd:** So, what about the Westminster regime, then—any views about that?

[37] **Mr Cook:** Well, the lobbying Act has been viewed generally by the sector as not a good thing. It's been very restrictive in the run-up to elections. The Harries report said that more than 50 per cent of organisations either massively reduced their campaigning or did not campaign in the run-up to the 2015 elections because they were unsure of what they could or couldn't do. So, I think the UK model is not something that we should be looking to implement here in Wales.

[38] **Llyr Gruffydd:** Although, Anne's point about not knowing who's influencing the debate, and your point about if we talk to a dozen people at a conference, then we've got to record all of that, it seems to contradict, really, doesn't it? So, is it not fair, if we want to know who's influencing the debate, that people are expected to record the discussions that they have with elected politicians?

[39] **Ms Meikle:** Could I come in here? From a practical point of view, I'll be absolutely honest, I don't even manage to keep my internal contact database up to date every three months.

[40] **Llyr Gruffydd:** You're not the only one, Anne. [*Laughter.*]

[41] **Ms Meikle:** Seriously, I mean, like many charitable organisations, I go through patches where I spend a lot of time talking to politicians, if we're working on a piece of policy development or legislation, and then there are other times, like over the last year, when I've had very, very few meetings at all with politicians, because there's nothing currently being debated that I'm working on. So, it's very patchy and, at some points, it would be very burdensome, because we would be doing a lot of toing and froing and sending you e-mails going, 'Could you possibly lay an amendment to this?', or whatever, if we're working intensively on something. And, you know, I'd say my own contact database is a disgrace, as most of my staff will tell me, because I don't do that.

09:45

[42] I was really surprised when I read those definitions that included things like conversations you might have at party conferences. Now, occasionally, some of those are detailed, because people will come to you if you have a stand or you have a debate. So, what happens? You sponsor a debate or a fringe meeting, and you have, I don't know, 10—amongst those people who turn up, there may be 10 Assembly Members. I just—. I practically don't understand how I would be expected to record that, realistically. It just seems overly burdensome, and I can't quite work out quite what we're getting at.

[43] I think, from my perspective—. And this goes back to having done a lot of work on the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016, both of which require a change from everybody in terms of the amount of involvement of people affected by decisions in that decision making. So, all public bodies need to be now involving those affected by decisions more. That's quite a challenge, and I don't think it's really getting moving yet and making a difference. And it's very much about involving. It's not this old passive idea of consultation; it's about how do you get those service users involved in designing a new service, or people who might be affected by something or other—an air

quality Act—involved in that. How do you ensure that that range of voices, which the future generations Act asks for, including people who are currently excluded or disadvantaged—how do you get that range heard? I know Government are struggling with that, because, again, that could be an enormous burden on public bodies. So, in many ways, what you're doing is relying on representative bodies, aren't you? Whether that's trade unions, or charitable organisations that represent service users, or whoever, you're trying to get a range of voices, and I think it's really important that, as part of the implementation of those Acts, we have some way of recording and assessing what is that range of voices that's being heard and what's the outcome at the end of that. There is some really good guidance, which I think I actually sent you, probably as part of the environment Act, about the water framework directive, about what constitutes good engagement in things like river basin management plans: when do you have to tell people, when do you have to publish drafts, how long do you have to give, and, very crucially—what I don't think happens very well here—is feed back on the decision you made and what you took into account. That's proper transparency and engagement, because then the people who are inputting into this process understand what was listened to and what was not. Not everybody's opinion can possibly be taken into account, but you want to see that range.

[44] So, it is really important that not just—this goes back to it; it's not just Government Ministers, in a way, but that whole structure of how is legislation or policy developed has a different way of recording what voices are involved in this. I've thought quite hard about this, because I was thinking of when you were talking about the definition of lobbying—I'm thinking, 'How do you distinguish some of that from lobbying?' You might say that some of WCVA's people are lobbying on behalf of people with a mental health problem. Really? Or are they representing those service users? And how do you distinguish one from the other? I find that really difficult, and, therefore, for me, trying to think of when do I have to record something and when would I not, when am I engaging and when am I lobbying—I find that really tricky. I personally would find that very hard to understand.

[45] **Llyr Gruffydd:** Thank you.

[46] **Jayne Bryant:** Paul.

[47] **Paul Davies:** Obviously, during the course of our inquiry, we've discovered that the definition of lobbying can vary considerably, depending on who you talk to, of course. Do you have any concerns about using a broad

definition of lobbying in this context?

[48] **Ms Meikle:** I know you've got something you wanted to say on this. Do you want to come in?

[49] **Ms Nicholl:** Do you want to go? Well, okay, I'll answer that first, then—you might have other thoughts. So, for WCVA, the definition that we've been using of lobbying is very broad, and it's something that we've sort of—on the basis, I suppose, of it not being a definition used in legislation, but something we've been using, and I think seeing as a positive thing to encourage and support our members to influence for the public good. So, we've had a very broad definition. If you're looking at a piece of legislation, then we would think that we would definitely want to consider what that definition should be and define it much more tightly. And we'd want the committee, or somebody, to consider whether that needs to be, for this sort of legislation, professional lobbyists lobbying on behalf of a third party, whether that should be—. And, if not, then—as I think Anne's raised that point there—. If you're talking more broadly, then I think we've got to be—. We'd want a lot of discussion, I suppose, on what that definition—how you define it so we don't start to include, especially if there's going to be lots of bureaucracy around it, groups who are not professionally lobbying in the way that I think the public are concerned about. I suppose it's trying to make sure that we're addressing the concern where this has arisen from, I suppose.

[50] **Paul Davies:** So, just to clarify then, what you're saying is that, if a statutory or a voluntary register was introduced, you'd want to see the definition of lobbying narrowed?

[51] **Ms Nicholl:** Certainly from what we—. So, the definition of lobbying for WCVA at the moment is anything where people are almost engaging with—.

[52] **Paul Davies:** Yes. But, for any legislative purposes, you'd want to narrow that definition.

[53] **Ms Nicholl:** I think we'd have to have a discussion about what—. Yes. Yes, we'd want there—. Yes, definitely. I think this is something that—. Yes.

[54] **Paul Davies:** Because of the impact it could have on, obviously, smaller organisations, yes?

[55] **Ms Meikle:** Well, it's not just smaller organisations, I don't think. But it

is partly this when are you—. I've noticed in some of the others, for example, that, if you are asked to give something to a politician, that doesn't count. Well, that puts me in a very passive place; I don't think that's engagement. If I can only engage if you invite me, I don't think that's the spirit of what the two Acts are trying to do, which is trying to encourage people to engage with the democratic process. And it's a bit like, 'So, I don't have to record it if you ask me, but, if I think you need to know something because you've made a statement or something and I think, "Oh, that doesn't sound quite right", that is lobbying'. Well, that just seems bizarre to me, and I find that definition quite difficult. So, yes. So, I think how you define that is pretty complex when you start trying to put it in legislation.

[56] **Jayne Bryant:** Llyr.

[57] **Llyr Gruffydd:** Just to pick up on that, then, are we kidding ourselves in thinking, or trying to think, that we can actually catch everything? You know, there isn't a clear-cut definition, there are always going to be grey areas, so should we not be a bit more relaxed about it and actually accept that, sometimes—as long as we're clear what the core of the information is we need and under what circumstances we certainly need this information, then there'll always be a sort of hinterland around that, about is it in or is it out? Do we need to beat ourselves up about it? That's what I'm asking.

[58] **Ms Meikle:** I think—. So, here's where I have a problem. I think most voluntary organisations—and I don't know about other businesses or whatever—I think most of them worry a lot about complying with legislation. We are already heavily regulated by the Charity Commission, and they are very, very strong if they see us not doing what a charity is supposed to do under the law. And they have quite strong powers to do things about that. And I think part of that response to the UK Lobbying Act, and the way it has stifled engagement, is because the Charity Commission, along with the Electoral Commission, came out with some pretty strong guidance about what they thought that meant—which we absolutely disagreed with, because we thought they'd strayed, going into that grey area, into a place where that surely can't be what you mean by campaigning. But that was their advice. And, in consequence, as you say, half of the organisations said they stopped campaigning. So, actually, I don't think it is such a small point, because I think they are concerned about making sure they comply.

[59] **Ms Nicholl:** Yes. Yes, I totally agree with Anne there that if this is going to be statutory then you can't rely on—. We can't be relaxed about

that, and the way and the interpretation—. For example, the Electoral Commission, despite us not knowing—or nobody knowing—that there was going to be a general election, then saying that we had to take the law exactly as it is and all activities for the previous year had to be captured now in campaigning in the run-up to the election. So, yes, if it's going to be statutory, we need to be really, really careful—or clear.

[60] **Ms Meikle:** I think the other thing I was slightly concerned about—. My immediate reaction, when we were talking about registering lobbyists—. My immediate reaction is, 'But I'm not a lobbyist.' It's sometimes quite a big bit of my job, but, most of the time, it's a very small part of my job, and I thought, 'Well, no, probably by most definitions, I am'. But it's back to what are you trying to capture, and, for me, I was really quite concerned that I don't want to be tarred with that brush. I don't think I behave in the way that the problem is perceived publicly, and I was a bit nervous, and I said to WCVA, 'It's almost like if you called it something else, I wouldn't mind so much' but actually saying, 'This is a register of professional lobbyists', I'm like, 'Oh, that's not in my job description and I'm not sure I want to be tarred with that brush', which is very sad. And you can look at this the other way, and say, 'By broadening this definition and talking about it more openly, you rehabilitate what is a lobbyist and why it's a very useful part of democracy.' On the other hand, I've got a reputation to defend, and I feel a bit like, 'Oh, I don't know as I want to be written down as that', which I think is pretty sad.

[61] **Jayne Bryant:** David.

[62] **David J. Rowlands:** Yes. If a register were to be introduced in Wales, do you have any views as to who should administrate and be responsible for its development and operation? Should it be the Welsh Government, the Assembly, or some independent body? Would you have any views?

[63] **Ms Nicholl:** Shall I go or do you want—?

[64] **Ms Meikle:** Yes.

[65] **Ms Nicholl:** Okay. I think, again, we're not experts on this, but, just from a brief look, an independent body would be preferable. I understand there's a standards commissioner for Wales. Perhaps that might be an appropriate—have an appropriate place for oversight. Yes.

[66] **Ms Meikle:** I must admit I don't have a view, because we've not been

engaged with it. So, sorry.

[67] **David J. Rowlands:** David, anything else?

[68] **Mr Cook:** I agree with Anna. I think the standards commissioner sounds like it ought to be a good place.

[69] **David J. Rowlands:** Okay. Do you think a fee should be levied with regard to it—anybody coming on to the register?

[70] **Ms Nicholl:** Again, for WCVA, we don't have a hugely strong position. It's again just concern about being proportionate and not putting organisations who we want to be positively influencing Government or politicians—we don't want this to be putting people off from engaging. So, if there is going to be a fee, it needs to be really careful that that's proportionate and not putting people off engaging in the democratic process.

[71] **David J. Rowlands:** Okay. Can I just ask one further question?

[72] **Jayne Bryant:** Yes, of course you can.

[73] **David J. Rowlands:** We've had some evidence that has come to light about the composition of some of the actual lobbying groups. The concerns are that there are individuals on those lobbying groups who have had previous close connections with Ministers, et cetera. They've been actually working as advisers to them, et cetera. Do you have any views on should we have some prescriptive situation put in place with regard to that?

[74] **Ms Nicholl:** I don't think we do have a position particularly, but, again—. Yes, I don't think—. We don't have a position, but, again, there's something—. Yes, we don't—. I'm not going to go there, but it doesn't feel something that's—

[75] **David J. Rowlands:** Does it concern you in any way, then, that those sorts of situations exist?

[76] **Ms Nicholl:** That somebody has—? I think, again, it's transparency, but not—. If somebody's got expertise on like—. Yes, I don't think—. Anne, do you want to—?

[77] **Ms Meikle:** I'm smiling, because one of things I always think is that Wales is such a small place. Certainly, in my sector, people rotate between organisations on a fairly regular basis, and, if you want promotion or something, you move to another one. I feel like it's a bit the same.

10:00

[78] The pool of people who have expertise and experience in politics and political influencing is not huge. I'm not aware—. I mean, it's obvious to me. We occasionally employ professional lobbyists when we don't have capacity and we want somebody to help us out. One of the reasons that you employ them is you know they have good contacts and good—. And I don't mean that in a pejorative way in any way, but of course they have good contacts. They understand better than I do the system and which politicians are interested in what subjects, and, in a way, that's what you're paying for.

[79] **David J. Rowlands:** That brings up a revolving-door concept, doesn't it, really?

[80] **Ms Meikle:** Yes.

[81] **Ms Nicholl:** I think there's something—. Again, maybe it comes in also with the Charity Commission and the regulation that third sector groups must be non-partisan. And it's down to us and our own trustees and our own governance to make sure we can demonstrate that. So, yes, that's where I think that needs to come in.

[82] **Jayne Bryant:** Great, thanks. Just finally, it goes back to Anne's point, I think, about who affects decisions and, sort of, that point. But do you feel that if there was a register, whether voluntary or statutory, contextual information—it would be important to provide that information so that people could not just look that so-and-so has met this person, but perhaps explain a little bit more in context why they've met those people.

[83] **Ms Meikle:** Personally, I don't think that should be linked to a register. I'm going back to my previous point. I think there should be really much better monitoring and recording of whose voices are being heard, in the same way that you do with a consultation, but this is—. Normally, all you see are formal consultation responses, and you don't get that when Governments run workshops or open sessions. The committees have been changing the way they operate recently to try and have more informal sessions and get

people along. I'm not sure—this is back to my point—. That's what I would really like to see carefully monitored to make sure that you're getting that range of voices, rather than people on a register. They may or may not be representing those voices, but you want to be going beyond them, really.

[84] **Jayne Bryant:** So, would you suggest things like, with certain pieces of legislation, something like at the end of a consultation document—who's inputted into that? Or would you need more information, or—?

[85] **Ms Meikle:** Personally, I don't think quite that the procedures, both of the Assembly and of Government, have caught up with the legislation, in that they're still based on that idea of formal consultation responses and recording those. I can't remember now if we've reinstated the thing that you used to have when there was a Government consultation, which was an analysis of the consultation responses, which told you—. And they did used to say, when I started, things like, 'We've agreed with this point. We've incorporated it', 'Not practical', or whatever, and 'Don't do that'. They haven't done that for years and I don't know if they're starting to do it again. So, you can't actually see which of those the person at the other end thought was valid or not. But that's one very small subset of what engagement should be, because engagement is at the point of developing a policy, not at the point where you consult about it. Consultation isn't engagement; it's the tail end of the process.

[86] I guess that trying to see how you get those voices in there—. I think, for me, the other thing is I would certainly say that some environmental organisations and, perhaps, the future generations commissioner as well, are trying to represent people who don't have a voice at all. Future generations—they can't lobby you. Somebody has to lobby or influence or engage on their behalf, and I'm not suggesting that's the commissioner, but that's certainly part of her role and trying to bring into this debate voices of people who are not going to be heard, because they're not even here yet. And, similarly in a lot of wildlife organisations, we sit there quite often saying, 'Well, actually, this is entirely being talked about as its impact on humans, when, actually, some of what we'd like you to talk about is the impact on animals', who also don't have a voice unless we do that. So, trying to see that range, personally for me, is a much more important thing to put right than who's actually lobbying.

[87] **Jayne Bryant:** I think Llyr wants to come in here very briefly.

[88] **Llyr Gruffydd:** I know we're out of time, so just very briefly. We mentioned at the beginning the need to open up Government and maybe to look at the balance of where the burden lies, and whether the Government and elected Members need to do more, and not just look to the lobbyists or whoever they may be. With an eye on that, of course, some very interesting evidence that we had from Public Affairs Cymru was that over half of their members had been lobbied by Government to take certain views or standpoints on issues. Do you have experience or evidence of that happening in the voluntary sector, and, if you do, then how do we bring that out into the open? That's not a short question, or at least it doesn't ask for a short answer, does it?

[89] **Ms Nicholl:** Right, okay. I'm not sure that I do have direct experience of that. We'd need, I think, to look more at what they were saying, but, of course, relationships are not just one way.

[90] **Ms Meikle:** I'm looking slightly puzzled because I don't think I've had experience of that, but I think what I certainly have had is: I'm going along and saying, 'I think you should do this', and a Minister or whoever may be saying, 'Would you support that? Do you think that's okay?' Is that him trying to influence me? Do you know what I mean? I find it quite a grey area. He's kind of saying, 'Well, would you support that if we did that?' Well, that's a reasonable thing to ask, isn't it—'Would that meet your concerns? Can we do that? What if we did this?' That's a dialogue, really. I've never felt that's somebody lobbying me to try and change my opinion.

[91] **Llyr Gruffydd:** We haven't got time to pursue this, really. Okay.

[92] **Jayne Bryant:** Thank you very much for coming in today. You'll be sent a draft transcript for you to have a look through just to double check everything by the Clerk here. But, thanks so much for coming in and giving us evidence today.

[93] **Ms Meikle:** Thank you.

[94] **Mr Cook:** Thank you.

[95] **Ms Nicholl:** Thank you.

10:08

Ymchwiliad i Lobïo: Sesiwn Dystiolaeth 6
Inquiry into Lobbying: Evidence Session 6

[96] **Jayne Bryant:** Good morning. We've had a quick turnaround now, so your nameplates have changed. If you'd like to give your names and where you've come from, just for the record, please.

[97] **Ms Owens:** I'm Cathy Owens, and I'm the director of Deryn Consulting Ltd. I'm also a member of the management board of the Association of Professional Political Consultants.

[98] **Mr Glover:** Hi. I'm Mark Glover. I'm chief executive of Newington Communications, and I'm the elected chairman of the APPC.

[99] **Jayne Bryant:** Brilliant. Thanks for coming in today. Perhaps you could outline first of all your views on a statutory register and why you don't think that that would be a good thing.

[100] **Mr Glover:** We, as the APPC, are very much in favour of transparency around all activities to do with lobbying. The question we've asked ourselves is: is this needed? I believe, so far, the evidence I've read to the committee to date is that the case hasn't been made for that register to be needed. I think the publication of the ministerial diaries goes a long way to providing transparency around key decisions, and I think that if you are to go forward with any form of register, it has to be a level playing field. I'd be happy to talk about the UK register later on on that side, and what I feel are its weaknesses.

[101] **Jayne Bryant:** Okay, thank you. Cathy.

[102] **Ms Owens:** Of course, here in Wales we have a slightly different system in the way that the Assembly has developed. There is a thriving but very small and very niche industry of public affairs consultants that we are part of, but there is a very much broader, of course, arena in terms of the number of people who work on a fairly regular basis with Assembly Members. We've chosen to be a member of the Association of Professional Political Consultants because it has a very strong code of conduct, and, in addition to that, we're members of the Public Affairs Council. One of the strengths of the APPC code of conduct is not just that we're transparent in terms of the clients that we work for, but also there's a very strong independent assessment process that goes along with that code of conduct, which I think

is very important.

[103] So, we're very proud of the work that we do here in Wales with the clients that we have, and we'd be very happy to talk about it. We are members of a voluntary register in that regard, and we are very happy to be so. Whether we need a statutory one, I guess you may want to talk to those organisations who lobby on a regular basis or who work with AMs and Ministers regularly who aren't members of any particular organisation.

[104] **Jayne Bryant:** Thank you. Can you give an outline of how many members you have who lobby Ministers and Assembly Members, so that we've got an idea?

[105] **Mr Glover:** We cover 75 to 80 organisations, the vast majority of whom are political consultancies. They probably cover 80 per cent of the practising consultants in the UK. All of them, on a quarterly basis, have to publish who within their organisation has carried out any public affairs activity and which clients they have actually engaged with. We have a fairly broad definition, so, if you're speaking to a local councillor in support of a planning application, we regard that as a declarable event. So, we would rather agencies were broad in their declaration of any activity that could be construed as lobbying, which is very different to the UK statutory register. It will be much more aligned with the register that they are seeking to be implemented in Scotland, probably in the new year.

[106] **Mr Owens:** To add, in terms of Wales, of those 70 to 80 organisations, some of those will be operating on a UK-wide basis and, therefore, will be operating effectively in Wales, but, in terms of membership in Wales, there are also around six or seven members that operate in the main here in Wales. But, equally, there's probably another six or seven registered companies that are not members of the APCC.

[107] **Jayne Bryant:** Thank you. We've heard from Public Affairs Cymru about their proposal for a voluntary register. How would you respond to that call?

[108] **Mr Glover:** We would welcome it if more organisations were to be on the voluntary register. We believe our register and our code of conduct is the gold standard. We have it independently—. Any complaints are independently investigated by the Centre for Effective Dispute Resolution under the terms of the APCC's complaints and disciplinary rules and procedures. We publish any results of these complaints on the website, so journalists have full access

to see what the complaint was and what the decision was. It's very interesting; I heard the previous evidence to the committee about instances of lobbying scandals in Westminster. APCC members have not been involved in any lobbying scandal since probably the turn of the century. Lobbying scandals have tended to involve journalists pretending to be lobbyists and politicians, but, actually, the key thing is if you have a professional body, if we have good self-regulation and we have independent adjudication, then the professionals who are involved in public affairs know what the rules are and abide by the rules. So, we would encourage Assembly Members to be asking those people who come to lobby, and especially those people who pay for lobbyists, whether in-house or through consultancy, if they do abide by a code of conduct. And we'd encourage Members to actually put pressure on the people who are lobbying them to actually challenge them to—you know, if they are complying with the code of conduct. We should welcome that. We should be encouraging that.

10:15

[109] **Jayne Bryant:** I think you've outlined a bit about how the self-regulatory system is operated. I don't know if you want to add anything to it. But what sort of sanctions are imposed for any breaches and how many sanctions have occurred over a period of time?

[110] **Mr Glover:** I can't give you the exact figures. I'd be happy to write to the committee with the exact number of sanctions that have occurred over the period of time. We only serve one year in office. So, in my one year in office, I do know we've had one serious complaint that's been investigated. There has been a full publication of the findings of that complaint in the report. I'd guide the committee to the APPC website to look at how that complaint has been handled. The sanctions range from everything from people having to pay for the costs of the investigation to ultimately being kicked out of the membership of the APPC. Most public affairs companies are very concerned about their reputation and how they're perceived to behave, so actually being kicked out of the APPC organisation is a very big issue.

[111] If I can give an example: we, this year, had a system where we said nobody who was an APPC member—no organisation could employ a member of staff who had a parliamentary pass. Now, a number of members of staff of public affairs organisations were ennobled this year and so they, by definition, were sitting both as a legislator and, while they were employed by the public affairs company, as a lobbyist. We said that wasn't acceptable and

all the organisations, when challenged on that, challenged their members of staff to give up their pass or did not retain them in a public affairs capacity. I think that's a strength of having an effective, independent, self-regulatory organisation.

[112] **Jayne Bryant:** Spinwatch and Unlock Democracy came before us at our last meeting and they suggested that voluntary registers were ineffective.

[113] **Mr Glover:** Well, Spinwatch and Unlock Democracy are really at the top of the game as lobbyists go; they really are effective lobbying organisations. We've had a code of conduct for 20 years. We've carried out a number of investigations. All those investigations have been publicised. We've increased the membership of the APPC over that time. So, 80 per cent of all consultants are actually members of the APPC. It is well regarded, I think. The quarterly register that we publish publishes all the relevant clients and their political practitioners and it's regularly used by journalists as a source of information to investigate stories. Since the turn of the century, as I say, no APPC member has been caught up in any sort of lobbying scandal. So, I think that shows the effectiveness of self-regulation.

[114] **Jayne Bryant:** Okay, thank you. Llyr.

[115] **Llyr Gruffydd:** Have you ever had any MPs ask whether you're on the voluntary register before accepting an invitation to meet?

[116] **Mr Glover:** We've had a small number. I wouldn't say, in the Westminster Parliament, it regularly comes up, but I think politicians are well aware that APPC members aren't allowed to have parliamentary passes. A number of them have been challenged on that. I think that has been welcomed because it makes it very clear. As we say, we like to see clear blue water between the lobbyists and legislator. I think that's been very effective. Ken Livingstone, at City Hall, when he was mayor, did try to institute that only people who signed up to the APPC code should be met. That was carried on for a period of time. But I think the APPC is recognised by Members of Parliament. People know we are involved in that and know that we train all members of staff in the code of conduct. But, have we ever been challenged to that? Once or twice, but not regularly.

[117] **Llyr Gruffydd:** Okay, thank you, because I'm just thinking, there was mention earlier today about a cultural change not just for lobbyists but for politicians as well, and maybe it's something we should be a bit more

proactive around.

[118] **Mr Glover:** We wrote earlier in the year to all Assembly Members to outline what the role of the APPC was and to encourage Assembly Members to challenge people that they're meeting to see if they are signed up to any code of conduct, whether that's an APPC code of conduct, a PRCA code of conduct, a CIPR code of conduct or a PAC code of conduct.

[119] **Llyr Gruffydd:** Okay. Could I just pick up again on something that you said earlier? You said that the case hasn't been made for a statutory register in Wales. The question I'm asking, therefore, is: what would make that case? Do we just have to wait until there is a lobbying scandal in Wales and then accept, 'Well, maybe we should do something now'? Is it not a duty of ours as a standards committee to guard against those kinds of eventualities, and not just sit back and hope that it doesn't happen?

[120] **Mr Glover:** Well, I think the case hasn't been made, because I think the self-regulation to date has worked effectively, particularly for APPC members. I think: why create something when something seems to be working quite effectively as it is? We are not opposed to a statutory register if that was your decision, but we feel very much it's your decision. We don't feel there's a need for it at this point. We would suggest that if you were looking at something like that, you should wait to see what happens with the new Scottish register, and we would plead that we don't create something from scratch for the Welsh Assembly, because if I, as a client at party conference, perhaps, have an event that's attended by a Member of Parliament, an Assembly Member, a Member of the European Parliament and a Member of the Scottish Parliament, I really don't want to be filling out four different forms in four different ways just to carry out what might be a very simple five-minute briefing on an issue of interest to those Members.

[121] **Llyr Gruffydd:** So, duplication is a risk.

[122] **Ms Owens:** Could I add that you could, potentially, if that was a particular issue for you, test that outcome, for example? So you could, for example, test your diaries, let's just say, as a sample, for Assembly Members, over the next three months, and compare, potentially, your diaries with what would happen had there been a statutory register. If there was a statutory register like the one in England that simply is for consultant lobbyists, I should imagine your diary would only capture 0.1 per cent of that. If you then included those in-house lobbyists that saw themselves as lobbyists then

you might be 5 to 10 per cent of that. Probably 90 per cent of your diaries are not filled with people who would be captured by a lobbying register, necessarily. You would see the list of people that you would be expecting to register and you would probably be quite surprised by it. So, I think there is a way of testing in terms of evidence base—by looking at your diaries for the next certain amount of weeks.

[123] **Llyr Gruffydd:** Okay. We've touched on Scotland, and I was going to ask, really, about your views on what's proposed, or being gradually implemented, in Scotland, and of course what the UK or the Westminster Government is implementing, and whether you have any views on those potential models. We've touched on this already, I know.

[124] **Mr Glover:** Well, the UK statutory register was very much set up in response to the publication of ministerial diaries, with a very specific purpose—to make it clear on whose behalf a third-party consultant lobbyist was representing. At the time it was expected that the numbers signing up to that would be 600 or 700. The reality is that there has only been about 128 or so people who've signed up to that register, so there's much less lobbying of Ministers and private secretaries than people thought there was. It's ineffective because it's not a level playing field. You don't capture any of the in-house lobbyists at all, who probably make up 90 per cent plus of people who are actually lobbying. You do capture the consultant lobbyists. It's a chore to complete it, but it's not particularly onerous and it's self-financing, by the industry itself. I don't think the effectiveness of it has been tested to date, and I think we need to wait to see back from the registrar whether that statutory register has actually been effective. We will seek to see some publication within the next year or so by the registrar of how effective that's been to date. To date, I am unaware of any that have been imposed for anything other than very minor administrative changes. Does it put people off actually engaging with politicians? I believe public affairs and lobbying is critical to the political process, because it's critical for yourselves and others to understand the views of business and other organisations. Is a statutory register putting some of that off? I contend that, possibly, that might be the case and I think the lobbying Act as a whole has created a lot of uncertainty about what is allowed and what isn't allowed. You as Assembly Members want to be speaking to members of the public and members of business. You've just got to make sure that's done in a transparent way. I would wait to see how the publication of ministerial diaries works, and I think with that, plus freedom of information requests, you're probably as transparent as you need to be.

[125] **Jayne Bryant:** Paul.

[126] **Paul Davies:** We discovered during our inquiry that the definition of lobbying can vary considerably, depending on who we talk to. Now, if a register was introduced in Wales, do you agree with other witnesses that we've seen that it should seek to define lobbying by activity, rather than by just organisation?

[127] **Ms Owens:** I think so, but that, again, is going to be quite tricky to do, because you don't want to be spending £1 million-worth of public money on a Bill to find out that the WWF is lobbying on environmental matters and that I might be meeting with the odd Assembly Member every now and again. We are very clear about what we do. We publish that on a statutory register, so it might be a little bit of overkill.

[128] Who would you be capturing? Of all the meetings that a very senior civil servant might undertake, of all the meetings that a Minister might undertake, of all the meetings that an AM might undertake, whether it's in their constituency, whether it's individuals coming to talk to them about issues they want them to affect directly, constituency or not, what proportion would be covered by that statutory register? It might identify some people who you wouldn't necessarily have thought of as lobbyists, but they simply don't see themselves as lobbyists right now. But if the chief exec of a company comes to meet you, would they see themselves as lobbyists? Would you see them as lobbyists? If the onus was on you to register that, would you have registered them as a lobbyist or would it just be me? That's got to be pretty clear, and I'm just wondering whether, if there was a relatively straightforward way of creating a statutory register, it would probably include people like me and members of PAC, but it probably wouldn't go much further than that, potentially. Who knows?

[129] **Mr Glover:** I would agree with you. I would define it by the process and not the organisation. Otherwise, the big problem with the UK statutory register is it only really targets consultant lobbyists, so, as I say, that picks up a very small number of political meetings where exchange of information is taking place within Parliament. So, we give you in our written response a definition of what we see as lobbying, and we would stick by that and say that is accurate and accepted. Within the APPC, as I've said, any communication by an APPC member with a politician that is in any way paid for by a client we would define—we would encourage that company to

declare that as a lobbying activity and, therefore, it would appear in our quarterly register.

[130] **Paul Davies:** If a statutory register was introduced, would you want to see exemptions attached to that, at all?

[131] **Mr Glover:** No. Personally, I would like it to be as broad and level as possible. My nervousness about another statutory register is that it would weaken the effectiveness of us having a voluntary register. We're already beginning to see some people who are saying, 'Why should I continue to remain a member of the APPC?'—even though it's the gold standard in terms of our code of conduct—'Because I'm already being asked to do the statutory register. I might be asked to do the Scottish register, the European register and there are other registers out there.' So, you may be weakening something that's effective just to create something that's much less effective.

[132] **Paul Davies:** Just one final question from me. I just want to clarify that, obviously, from your perspective, you don't want to see any change—you feel that the current process is sufficient and is robust. However, if there were any changes, are you also saying that the onus should shift to the politician as well as the lobbyist?

10:30

[133] **Mr Glover:** I would say I think you have enough transparency in place at the moment. The case hasn't been made for a new register. I think, if you were to go further, then I would like to see the onus certainly shared with the members.

[134] **David J. Rowlands:** If a register was to be introduced in Wales, do you have any views as to who should oversee its development and operation? Would it be the Welsh Government, the Assembly or an independent body?

[135] **Ms Owens:** First, I think it's a matter for you to decide whether you are recommending to the Welsh Government that they legislate in a way that affects Welsh Ministers, in the way that the register is in Westminster. You also have the choice of whether you deliver a register that affects Assembly Members. You then have a choice about whether it only includes consultant lobbyists, which I would say is a very small number of people for whom you're generating a specific piece of legislation here in Wales. And then

you're talking about in-house lobbyists as well. So, there are some very big decisions to be made there, if you are going to suggest that there is a piece of legislation from this work.

[136] So, the reason we signed up to the Association of Professional Political Consultants is that we are perfectly happy to be as open as we can about the work that we do, because we're very proud of it. So, we'd be very happy to sign up to a statutory register, if that is what you wanted to do. We'd just like to make sure that it's proportionate and it actually does what it's designed to deliver, which is to show further light than the voluntary registers already do, about who you engage with on a very regular basis.

[137] **Mr Glover:** I think my view would be that, however you create it, you need to liaise very closely with those people who're already running self-regulatory registers. I think there's a real danger if we have numerous different registers in all different parts of the United Kingdom. Most lobbying campaigns are normally across the UK. They're very rarely specifically targeted at specific legislation, because most of them are about creating an understanding of how a piece of legislation will affect a company. So, I would plead to try and make sure that if anything was introduced, it was consistent with other registers.

[138] **Ms Owens:** And the independence of the process, of course, is important. What you're looking for is an independent assessment of whether somebody has actually broken a code of conduct, and that's why the APPC code is pretty strong and it's really quite independent; it doesn't involve other members of the management board, it doesn't involve other lobbyists in the industry. It's a very independent process where people can be charged quite substantial sums of money for having failing to comply with a code of conduct. Now, that's different from, say, the Public Affairs Cymru code of conduct, which reminds people how they should behave, but there isn't necessarily a system if somebody suggests that somebody might've broken that code of conduct. Also, it doesn't actually—. There are a lot of people who haven't signed up to either of those codes.

[139] **David J. Rowlands:** Okay. I'm fairly sure that I know your answer to this. If a register should be implemented, should there be a fee charged for joining that register?

[140] **Mr Glover:** You probably guessed right then, I'd say. Probably not, would be my suggestion. I mean, no disrespect, but you are the elected

Members, we are commercial organisations carrying out public affairs activity on behalf of our clients, which include everything from charities to businesses, all the way through. I don't see why we should be paying an additional level of tax.

[141] **David J. Rowlands:** Your members are already paying fees at this moment in time for registering with you. Is that right?

[142] **Mr Glover:** Yes, that's correct. They have to pay a fee for registering with us—

[143] **David J. Rowlands:** Does this subsidise the cost of the self-regulatory regime?

[144] **Mr Glover:** All our self-regulatory regime is self-funded. So, all of the funding of our independent regulatory regime is funded through members' fees. So, you'd be duplicating that, and potentially weakening the attractiveness of people doing self-regulation.

[145] **Ms Owens:** And potentially charging for people to meet Assembly Members, because if you think about it, if a west Wales charity wanted to come and talk to you about stroke services, they would have to register that they'd lobbied you, and they would have to pay to do that.

[146] **David J. Rowlands:** Fine. A little earlier on, Mark, I think you commented on this. As you said, we aren't at this moment convinced that we should have a regulatory register. But, having said that, some things have come to light with regard to this, brought forward by Spinwatch and Unlock Democracy, et cetera, about the actual composition of some of the lobbying groups, and there are individuals on those lobbying groups who've had some particularly close contact with Ministers in the past—they've actually been working for them or advising them, et cetera. We've got concerns—or certainly I've got concerns—that that would give those a particular intro to Ministers that would disadvantage other lobbying groups. Can you make any comment on that? Should there be a prescriptive situation with regard to that?

[147] **Mr Glover:** First of all, if you're an APPC member you can't be a member that has a pass to any of the—. You couldn't have a pass to the Assembly. If one of your members of staff had a pass to the Assembly, that would rule you out of membership. As soon as we became aware of that, we

would give that member's organisation time to the next committee to divest themselves of that pass, or else that would be a disciplinary issue for us to take. I think there are certain rules already in place, within the standards process of the Welsh Assembly. Sorry, I'm not as expert as Cathy is on this. But, certainly, within Westminster, if you're an ex-Minister or an ex-special adviser, there is a certain period of time that you're not allowed to participate in direct lobbying, if you go and join a lobbying organisation. I think, between the two, that adequately covers the situation.

[148] **Ms Owen:** And just to give a bit of colour in Wales: we all know that it's a small environment, but just as an example, I'm a former special adviser. Five minutes ago, you had another former special adviser sitting here, who works for the WCVA, who's a more recent special adviser. Now, do you say to the WCVA, 'You cannot employ anybody who has any knowledge of having worked for the Government or, potentially, as a legislator'? There has to be rules, as Mark has explained, around recent Ministers and recent special advisers. We've abided by those actually, as well, but it has to be in proportion.

[149] **Jayne Bryant:** Okay, and just finally. Do you support the view, if a register was developed, that contextual information needs to be published along with that, so that the public are able to understand what the effect of these meetings are? Or how much information would you suggest needs to be—?

[150] **Mr Glover:** I think if you say who's lobbying, who the person has met, and on behalf of which client, that flags it up to the people who are interested in this, who are predominantly journalists, who do the first line of inquiry. If they see something of interest, they have the right, through freedom of information and other mechanisms, to follow up on that information. I think if you ask anything more at the declaration stage, then that's going to be unnecessarily burdensome and put off a lot of people who should be engaging with politicians from actually engaging with politicians.

[151] **Jayne Bryant:** Okay. Brilliant. Thank you for coming in today. And you'll be sent a draft transcript by the clerk, just to check everything over, and thank you once again for coming in.

[152] **Mr Glover:** Thank you, a pleasure.

[153] **Ms Owen:** Thank you.

10:39

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting**

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o weddill y exclude the public from the
cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in
17.42(vi).*

*accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[154] **Jayne Bryant:** We'll move on to item 5, which is to propose in accordance with Standing Order 17.42 that the committee resolves to meet in private for item 6 of today's meeting. All agreed? Thank you.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:39.

The public part of the meeting ended at 10:39.