

## Standards of Conduct Committee

### SoC(5)-03-16 Paper 1

15 November 2016

#### Inquiry into Lobbying – Note from Gerard Elias QC, Commissioner for Standards

1. At its meeting on 13 September 2016 under Agenda Items 4 & 5, the Committee invited my comments on possible areas of consultation to be undertaken by the Committee in relation to its review in relation to the arrangements in place for lobbying.
2. In the light of the fact that there has been recent legislation in relation to lobbying, I have consulted directly, albeit briefly, with my counterpart departments in Westminster and in Scotland.
3. In the House of Commons, the Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act which received Royal Assent in 2014 came fully into force in June of this year. In so far as it affects lobbying activity, it appears to be aimed at those who lobby government Ministers or senior civil servants.
4. An independent Registrar has been appointed to set up and “police” the Register. There is a significant cost in registering for a company or individual. The impact upon the Commissioner for Standards office to date has been none, not least because, as in Wales, the Commissioner has no jurisdiction over the conduct of Ministers acting as such.
5. Were the Committee to contemplate recommending a statutory register of lobbyists there would undoubtedly be significant resource implications.  
**Evidence from the new Registrar in London** might make the likely figures clearer.

6. In Scotland, the Lobbying (Scotland) Act 2016 received the Royal Assent in April. Essentially it covers only paid lobbying but by Section 6 requires detailed information of any lobbying meeting, including the personnel involved and its purpose, to be registered.
7. Again, since the Clerk of the Parliament has been tasked with running, updating and policing the Register, the cost is undoubtedly significant. In relation to the setting up and running costs of such a system in Wales, **the Clerk of the Parliament's** recent experience (or the person appointed in his Office), therefore, may be valuable in this regard.
8. It is perhaps noteworthy that in Scotland, what started as a Private Member's Bill was taken over by the Government. It seems self-evident, perhaps, that without government support a bill aimed at providing information on the activities of Ministers is unlikely to succeed. It would also appear that the Scottish legislation aims to regulate paid lobbying, thereby excluding most charity lobbying.
9. Further, the Committee may wish to know that in both legislatures, it seems that the Register is intended to complement the arrangements by which Government Ministers voluntarily disclose who they meet on a periodic basis by, for example, the disclosure of diaries or a register of ministerial meetings.
10. Without suggesting that what I reported 4 years ago is necessarily still valid, I take the liberty of appending parts of my Report of 1 October 2012. I am still able to say that there have been no complaints to me in relation to any aspect of lobbying at the National Assembly.

Gerard Elias QC  
Commissioner for Standards

## **Appendix**

### ***“My Findings***

*Having regard in particular to the following:*

- *That it was the unanimous view of all those consultees who operate in Wales and/or in the National Assembly, that lobbying practices are essentially transparent and adequately policed and regulated;*
- *That Standing Orders provide for the Registration and Declaration of any “gifts, hospitality, material benefits or advantage” to the Member, a Member’s partner or dependent child, and at a level (c £279) substantially lower, bar one, than other United Kingdom Parliaments, albeit higher, but in line with the level provided for in the Northern Ireland Assembly.*
- *That Standing Order 2 of the National Assembly for Wales, specifically prohibits lobbying for reward or consideration (2.8) and provides for the availability of the sanction of exclusion of a Member in the event of breach (2.10/11);*
- *That it is the fact that no complaint against an AM relating to lobbying has been made in recent years – or, so far as I can ascertain, since the setting up of the National Assembly;*
- *That the criminal law provides for the improper receipt or giving of gifts or bribes from or to those in public office;*

*and bearing in mind*

- *the need to maintain the “open” culture of the National Assembly and availability of its Members, so as not to fetter the democratic process;*
- *the need to maintain transparency and easy accessibility to the public, decision makers and other interested parties in ascertaining what influences are brought to bear on their elected representatives and*
- *the need for proportionality, both in terms of the use of resources and the burden placed upon AMs and lobbyists in meeting any perceived problem in this area,*

***I am firmly of the view that the arrangements currently in place for regulating lobbying, as it relates to Members of the National Assembly, are essentially sufficiently robust and fit for purpose."***

*"A possibly practical and proportionate measure which the Committee may wish to consider is a recommendation that the Industry in Wales (comprising e.g. the professional lobbyists and charitable organisations) voluntarily agrees to publish (in a register or by other satisfactory process) the following information on a quarterly/ half yearly or annual basis, some or all of the following information:*

- The name of the lobbying organisation;*
- Its members/employees*
- Its clients*
- The areas of interest pursued*
- The Assembly Member(s) engaged*
- The amount of money spent in pursuit of each broad area of lobbying*

- 1. Such voluntary code of practice could be encouraged and supported by the indication that every 3 years, the Presiding Officer would take stock of the effectiveness of such an arrangement and, if dissatisfied, invite the Standards of Conduct Committee to reconsider the question of whether statutory regulation was required.*
- 2. This has the virtue of not raising the burden on the public purse, not imposing on Members the almost impossible task of recording every informal meeting – or of having to determine who is a lobbyist – whilst at the same time giving the public the accountability required in this area."*