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National
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[The Standards of Conduct Committee](#)

04/04/2017

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

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi 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.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jayne Bryant Llafur (Cadeirydd y Pwyllgor)
[Bywgraffiad](#) | [Biography](#) Labour (Committee Chair)

Paul Davies Ceidwadwyr Cymreig
[Bywgraffiad](#) | [Biography](#) Welsh Conservatives

Llyr Gruffydd Plaid Cymru
[Bywgraffiad](#) | [Biography](#) The Party of Wales

David J. Rowlands UKIP Cymru
[Bywgraffiad](#) | [Biography](#) UKIP Wales

Eraill yn bresennol
Others in attendance

Billy McLaren Cofrestrydd Lobïo yr Alban
 Scottish Lobbying Registrar

Alison J. White Cofrestrydd Lobïwyr Ymgynghorol
 Registrar of Consultant Lobbyists

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

Enrico Carpanini Cynghorydd Cyfreithiol
 Legal Adviser

Claire Griffiths Dirprwy Clerc
 Deputy Clerk

Nia Moss Gwasanaeth Ymchwil
 Research Service

Meriel Singleton Clerc
 Clerk

Dechreuodd y cyfarfod am 09:45.
The meeting began at 09:45.

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

[1] **Jayne Bryant:** Good morning and welcome to the meeting of the standards committee.

**Ymchwiliad i Lobïo: Sesiwn Dystiolaeth 2
Inquiry into Lobbying: Evidence Session 2**

[2] **Jayne Bryant:** This morning we're looking at our inquiry into lobbying. Welcome to Billy McLaren and Alison White. You're very welcome here this morning. You're here to obviously give some evidence to us. I believe you've got an opening statement to make to us. Also, we've got translation. So, it's on channel 1 if you need translation because the meeting is bilingual.

[3] **Ms White:** May I start?

[4] **Jayne Bryant:** Yes, of course.

[5] **Ms White:** Good morning, everybody. Bore da. Thank you very much indeed for inviting me here today to give some evidence to your inquiry. It follows the brief response that I made back in January to your request for written evidence.

[6] I've been appointed to be the registrar for consultant lobbyists in accordance with the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. I'm sorry, that's rather a mouthful. As registrar, I don't take any view myself about the legislation or its success in implementing the objectives that were set by Ministers, but I'm very pleased to make comment on the facts and my experience of establishing the register from a zero base and interpreting the legislation, and also its continued operation and stakeholder management.

[7] As you all know, the registrar is an independent statutory office, which was established to both keep and publish the register of consultant lobbyists, in which those that lobby on behalf of a third party in return for payment are required to disclose the names of their clients and whether or not they subscribe to a valid code of conduct. I have a duty to monitor compliance with the requirement to register, and a power to undertake

enforcement action in the event of non-compliance. Under the Act, I'm required to establish and manage the UK register of consultant lobbyists, develop and publish detailed guidance for industry on its duties under the Act, monitor and enforce the industry's compliance with the Act's legal requirements, and publish an annual statement of accounts. As registrar, I'm formally accountable to Parliament, and that accountability is exercised through the Public Administration and Constitutional Affairs Committee. Its predecessor approved my appointment at a pre-appointment scrutiny hearing. It's very important to note that my role is independent of both Ministers and the industry. I'm not a civil servant.

[8] So, in brief, the Act applies only to those VAT-registered organisations or individuals that communicate directly with either Ministers or permanent secretaries, and that's about some aspect of Government business, on behalf of a client and in return for payment. Registration must take place ahead of any such communications. It's not retrospective.

[9] The register's been open since 26 March 2015. So, we've just had our second birthday. At the moment, it's got 124 registrants. At its peak, it was 134. That includes lawyers, accountants and a think tank. It costs about £0.25 million a year to operate the register and the office, and the estimated income for the current year covers about half that amount, but not all of the costs are considered by the Cabinet Office to be attributable for the purpose of calculating the costs that should be off-charged to registrants. Ministers have decided there won't be any further increase in the fees, which is currently £1,000, until the end of the current spending review period.

[10] I hope that that gives you a helpful introduction to my work as registrar and, of course, I'm delighted to answer any questions that you may have.

[11] **Jayne Bryant:** Thank you. Thank you very much. Billy, would you like to give an opening statement?

[12] **Mr McLaren:** Thank you. I'd like to start by thanking the committee for inviting me along today and, likewise, bore da. As the committee knows, the Scottish system is still embryonic and not yet in operation. However, I'd like a few minutes just to bring the committee up to date on our progress and our planning, if I may.

[13] On 15 March, we announced we'd entered into a contract with

Northgate Public Services—Northgate PS—to build the IT system and the website, which will support the new lobbying register in Scotland. We're now in the development phase of that contract. Following that, and just last Thursday, we were then able to announce the details of our intended implementation timetable. The stated aim now is for the lobbying register in Scotland to go live in early 2018. Between now and that go-live date, we intend to user test our IT over the summer to ensure a working system is in place by autumn. In response to requests from a wide range of our stakeholders, that finalised system and parliamentary guidance will then be made available to users for a trial period up until the end of 2017.

[14] I just mentioned parliamentary guidance and that, of course, is one of the other key areas of work at the moment. Since I started in post, which was six months ago now, I've been meeting with many stakeholders and interested parties to get their views in relation to the practicalities of operating the register.

[15] Building on this work, we also announced on Thursday that we're going to set up a dedicated working group, which will help us to provide further practical information and assistance as the Act moves towards full implementation early next year. That working group will consist of up to 12 individuals from a varied range of interests. These will include smaller and larger organisations from the third sector, from PR or consultancy firms, and from other businesses.

[16] We're also seeking to recruit from more specialist fields in legal, journalism and transparency fields. Applications for these roles are currently being advertised—forgive me for advertising it here today—with the intention of holding our first meeting later in May. The working group will also include a standing representative from a team in the Standards in Public Office Commission in Ireland who have been already introducing a lobbying register. We hope to pick up on the key lessons that they've learnt since their own introduction, which was back in September 2015.

[17] We continue to work with others, including Alison and her team, to understand the requirements of other systems and benefit from the experiences that they've had and, of course, I'd be happy to help the committee in any way I can today, to say more about our own experiences to date in Scotland.

[18] **Jayne Bryant:** Brilliant. Thank you very much. Alison, you mentioned

there were 124 registrants on the UK register.

[19] **Ms White:** That is correct.

[20] **Jayne Bryant:** Billy, how many do you anticipate? I know it's quite a wide question. How many would you anticipate being on the Scottish register?

[21] **Mr McLaren:** The financial memorandum set out a margin of between 255 and 2,550, I think, so—. We've got around about 230 to 240 registered stakeholders for information just now, so as an indicator I think we'd be looking at sort of high hundreds.

[22] **Jayne Bryant:** Right, okay. Brilliant, thank you. Perhaps both of you could outline the challenges that you faced when establishing the register, if any.

[23] **Ms White:** May I start?

[24] **Jayne Bryant:** Yes, of course.

[25] **Ms White:** One of the challenges, I think, for me in coming to this, right back at the beginning, was that this had been a very contentious piece of legislation, and I'd say that the stakeholder environment at the outset was hostile. I inherited nothing other than an Act of Parliament and so, with a small team, I had to first of all interpret the Act of Parliament in a way that the industry was then able to work with. I also inherited a deadline that I didn't know about at the time, which was quite a short deadline: I was appointed in August 2014, and I subsequently discovered that the register had to be opened by the end of March 2015, which didn't give an enormous amount of time. The main things that had to be done were establish some guidance in order that potential registrants knew what they were going to have to register, and to set up a website and an electronic register in order that the registration details could be collected. That had to be done within a very short, challenging timescale, in a very hostile stakeholder environment. So, I would say that those were the main challenges in setting up the register.

[26] **Mr McLaren:** Probably slightly different, we had an awful lot of pre-legislative scrutiny of the Bill as it was going through, and there were an awful lot of conversations in Scotland and a lot of evidence gathered on what

sort of register we might undertake. So, by the time I came to the post in October last year, the Act was already in place, so we knew what we were working to. So, in terms of that, our main challenge really, I suppose, is the timetable that we set ourselves for this being set up, which is that we said between 18 and 24 months after the Act received its Royal Assent, which was back on 14 April 2016. So, we're sort of roughly in the middle of that timetable as we speak. That's probably been the main challenges in terms of moving forward for us.

[27] **Jayne Bryant:** Great. Llyr.

[28] **Llyr Gruffydd:** Yes. Morning. You mentioned guidance a moment ago. Issuing clear guidance is central to this, really, isn't it, and there'll always be grey areas. So, short of asking you how you do it, clearly you needed to act pretty quickly to get everything in place, but that presumably necessitates, then, revisiting the guidance regularly and maybe realising, as circumstances develop and as incidents occur, that, actually, that base isn't covered. So, could you just talk us through, a little bit, the process of drafting the different guidance that you have? I see that there was something on cross-party groups that was published last week—

[29] **Ms White:** Yes.

[30] **Llyr Gruffydd:** —which always tend to be—

[31] **Ms White:** I think you've put your finger on it exactly: it's an iterative process. One of the challenges for me has always been that I wanted to try to make the register as cost-effective as possible. So, the more that I've been able to do with my very small team, ourselves, then, that is really what keeps the cost down, because if you hand it over to lawyers and consultants, then, potentially, the costs are going to escalate. So, the approach that I've adopted, from the beginning, is that I would write the guidance myself, which—as though I had personally written the guidance. I've used the Government legal service to provide me with legal advice to make sure that I haven't misdirected myself, but all the guidance that there is has been written by me.

[32] You're absolutely correct that the guidance that I wrote two years ago, which was the initial guidance to enable people to sign up in the first place—I'm now looking at it and thinking that it needs to be refreshed. And it's in exactly the way that you suggested, which is that there have been

experiences during the past couple of years that I don't think the legislation ever thought about, but, actually, this legislation applies and brings in those organisations that you might not ever have thought about ending up, and they didn't think about ending up on a register of consultant lobbyists, like a think tank, for example.

[33] And, yes, I have been doing some work quite recently. I've been consulting on what constitutes a relevant code of conduct and I've just issued a response to that consultation. I've also issued some recent specialist guidance for the providers of support services for all-party parliamentary groups. Because those work in a variety of disparate ways, and sometimes, where they get their finances from can be quite complicated, trying to interpret the guidance in the light of those disparate arrangements is a real challenge and I've had to seek some legal advice from counsel in order to enable me to interpret the legislation in the context of those complex arrangements. In the year ahead, it's my intention to refresh my registration guidance, so that the pieces of specialist advice that I've provided and the bits and pieces of interpretation that I've done can all be brought together so it's all in one place, in a refreshed piece of guidance, which I'll be doing this summer.

[34] **Llyr Gruffydd:** And you're in the process of writing.

[35] **Mr McLaren:** Yes, very much so. And you're right to mention grey areas. Probably a better phrase might be a wee bit of confusion around how the Act could be implemented, and it's always been clear to me that the guidance is going to be key to making this operate effectively. So, yes, we are in the process of doing it. I've had, I suppose, the opportunity, when we had a bit of a run-in for the procurement process for the IT system, to use my time well to go and speak to stakeholders. So, in the last six months, I've really been talking to stakeholders of all different opinions across the board. That's been really useful in terms of having conversations about the practicalities of the Act. They're able to bring to me scenarios that they have for their organisations, whether they be large or small organisations, and it's allowed us to, sort of, soak that up, if you like. So, I'm feeling that, now I'm starting to begin to write the guidance, I've got a much better understanding of how it actually feels out there for people who'll be users of the register itself, whether submitting information returns, actual members of the public or interested parties who will be interested in reading what's on the register.

[36] **Llyr Gruffydd:** Thank you for that, but the guidance and the

procedures that we're talking about will only be effective if those who are subject to them know or realise that, actually, these are things that they're answerable for. So, could I just ask, in terms of raising awareness—do you actively seek out people who would, in your view, come under the legislation, or is it very much sitting back and saying, 'Well, the onus is on other people to do the legwork'?

[37] **Ms White:** Absolutely not. I'm a very proactive registrar. So, the reason that we have the number of lawyers, accountants, think tanks and now the providers of support services for all-party parliamentary groups on the register that we do is because of the work that I have done. There's a whole range of ways in which that's been done. First of all, I believe that it's very important that I make myself available, and so at the moment, for example, in the past week and again later on this week, I actually go out to organisations and talk to their teams in order that they can understand what the requirements are, and quite often, that's a bit of a revelation for them.

10:00

[38] I have an annual stakeholder conference. This year, part of that was a working session for compliance officers, so that they had an opportunity to understand more fully and to engage with the—. Lots of people think if they ask a question of detail, that it's an idiot question, that it's not a good question to ask. But, actually, the only bad question is the one that they don't ask, and I'd much rather that they came to me with a question of detail, perhaps a precise communication, and then I could provide a ruling on that. Over time, I've built, I believe, a degree of trust and confidence, so that now organisations feel that they can come to me, ask about things and engage, and they're not going to be rebuffed.

[39] So, I think that being very open, welcoming, but also making it clear that my first priority is the education of the sector, so that they know what it is that's expected—. Also, if they feel that my first response is going to be a proportionate response and I'm not going to start wielding an axe over penalty notices and all the rest of it—that, really, for me, is very much a last resort. I will use it and, indeed, have done so, but I believe that it has to be a proportionate response and a focus on communication and education, and that's what I've been doing.

[40] **Mr McLaren:** Absolutely. I fully endorse Alison's strategy—it's something we do ourselves in our team. We obviously don't have the register

in place yet; that hasn't stopped us engaging, and engaging widely. I've never said 'no' to a meeting or an event since I've started and I don't intend to for as long as I can. We started primarily focusing on some of the membership groups so we could allow that information to trickle out a little bit more to the members. It's an effective way to get our communication across, so that's where we're starting. We've also written to a few people as well who we thought it may be worth having a chat with at an earlier stage to prepare them for what's coming ahead. That will never stop. I see that as being a core part of the job, as Alison mentioned. It's something that we just do continuously, and that will be before and after commencement of the Act.

[41] **Llyr Gruffydd:** Good. Thanks.

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

[43] **David J. Rowlands:** It's rather following on from my colleague's questions, but our investigations so far have centred on the definition of lobbyists, and I think, to a certain extent, you've answered some of my queries, but how much do you think the various organisations understand the requirements of the different registers? Obviously, even between—when we listened to you, you've both had different actual interpretations of lobbyists. How do you feel that they are happy with regard to knowing what's required of them for the registers and to clarify the information lobbyists are required to provide on the different registers? Could you give a comment on that?

[44] **Ms White:** Do you want to go first, Billy?

[45] **Mr McLaren:** Yes, certainly. Our definition of a lobbyist is very wide-ranging. It includes not just consultant lobbyists but in-house lobbyists and a whole range of people who would act on their behalf. However, the actual lobbying itself has to be face to face with a listed number of people, which in our case are MSPs—Members of the Scottish Parliament, Scottish Ministers, the Permanent Secretary of the Scottish Government and special advisers who work for the Scottish Government. So, it has to be face to face or by video-conference. That's the, sort of, remit, if you like. We call that, or the Act calls that 'regulated lobbying'. So, I think, key to getting stakeholders to understand this is to keep emphasising what regulated lobbying actually means—that, primarily, it's orally and face to face, as I say. I think sometimes people get a little bit confused about how wide-ranging the Act is, but it's good to go back and focus on what that actually means.

[46] In terms of styles of lobbying, if you like, it could be a whole different type of style of lobbying. There are people there who'll be working for charities, the voluntary sector, and there'll be people there who will be working for consultant lobbyists or PR firms, so I think it's very wide-ranging in definition in terms of the style of lobbying that could take place. I know people might say 'influence' or 'inform' or—I think there's a whole range of different definitions that could be applied for that wide range of lobbyists that the regulated lobbying covers.

[47] **Ms White:** So, in the case of the UK Government legislation, it's quite a narrow definition and it references consultant lobbying as being something that is carried on in the course of business and in return for payment if a person makes communications on behalf of another person and they're registered under the VAT Act, and none of the exceptions that are laid out apply, and the communications are only with Ministers and/or Permanent Secretaries. So, that's a completely different definition from the one that Billy was describing.

[48] One of the challenges, I think, for the industry—and this is something that I have been discussing with them—is that when there are differential requirements—and, potentially, at the moment, there are the UK Government requirements, there are the Scottish Government requirements, there are the Irish Government requirements, and there are the EU requirements, and, potentially now also, the Welsh Government requirements. So, the challenge for organisations is to understand all of those requirements, each of which is overseen by a different registrar, and be able to collect the information for those in addition to the information they're required to collect for voluntary registration. Many of them also belong to a representative body that, as far as they're concerned, is a professional institution, and they're expected to subscribe to its code of conduct as well.

[49] So, the critical issue for them—and they've communicated this to me—is that, first of all, they have to understand those requirements. Nobody looks across all of them. They're each individually administered. They have to collect different information for each, as well as potentially pay a fee. The difficulty for them is more about the cost of compliance. I've tried to do everything that I can, for example by inviting Billy to come to my stakeholder conference and talk about the sorts of things that he's talking about today, and he's just invited me to go and address his stakeholder group, which he referenced earlier. So, we try to work together as best we can, but, of course,

we're implementing different legislative requirements.

[50] **David J. Rowlands:** Just following on from that a little bit, despite your best endeavours to make sure that these people know exactly how or if they need to comply, or whatever, what sort of leeway is given to organisations that might mistakenly give incorrect information to the register, and what leeway would be given to organisations that do not register but are unaware that they're required to do so? It is a complex area, isn't it?

[51] **Ms White:** I couldn't agree more. To help with that, I've issued some guidance on my approach to compliance that, clearly, you've had the opportunity to reference. The important thing for me—I said earlier that I wanted to, from the beginning, adopt a proportionate response. I didn't want to constantly be wielding a big stick, although, clearly, I've got those powers if I need to use them. So, the approach that I tend to take, particularly for those organisations that are already on the register—and one of the problems that I've got currently is what I call 'over-declaration', and that's organisations that tell me that they're declaring clients in the interest of transparency or because they're erring on the side of caution. Now, the Act doesn't require them to do either. There's nothing in the Act about transparency or erring on the side of caution, but they're trying to do the right thing too hard, if you like. So, what I do is to work with them in order to be able to help them to arrive at the correct conclusion about what their client declaration should look like. Generally speaking, as long as the approach is a positive approach from them, then I would treat those as administrative errors.

[52] But there have been situations where organisations have conducted lobbying without being registered. Clearly, that's a serious issue because the law says that you must be registered before you conduct such direct communications. The approach that I've taken—and there are five organisations where I've decided that, even though they conducted pre-registration lobbying, it was in the public interest, and a proportionate response, for a variety of reasons, was that I would not issue a penalty notice in those circumstances. But that doesn't mean that if such reasons didn't exist, I wouldn't do so. Indeed, for one organisation that had done exactly that, a penalty notice was issued, and that was because the organisation wasn't frank and didn't know what it was that was going on in its own organisation. So, the directors didn't have sufficient compliance processes in place to ensure that they knew what their staff were doing. So, that's the sort of instance where a penalty notice might be appropriate, but they are rare.

[53] **Mr McLaren:** Of course, we don't have the advantage of having anything yet, but we have a couple of things in place that might help that when we do move forward. When information returns are submitted, they don't go directly on to the register—they will come through me and my team and we'll be able to look at the information returns. I think by that method, we'll be able to build up a degree of consistency in approach, I hope, and mainly we'll be able to help people as they start to do these things for the first time. I mentioned the trial familiarisation period that we'd have this year as well; again, that's to give people a bit of space to have a practice, if you like, and to help their understanding of what they have to submit. Again, it's to try and build upon some of the experiences Alison and the Irish and others have had on over-reporting and unnecessary bureaucracy in returns. So, we're working to try and make sure we can sort some of that out before it goes live on the register.

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

[55] **Paul Davies:** Obviously the whole purpose of establishing these registers is to provide transparency and to ensure that the public is aware of who is lobbying. Can I just ask you, what role, Alison, do you see in raising awareness amongst the public about the information on these registers? Do you have a role in that? And perhaps, Billy, you can tell us whether you envisage having a role in making sure the public is aware of these registers.

[56] **Ms White:** I think the answer to that must be 'yes'. I try to be as open and transparent as possible, so, for example, one of the things that we have made investment in is having our own independent website and I, to a limited extent, indulge in some social media communications associated with the sort of work that I and my team are doing. So, I've tried very hard within the limited resources that we have to be able to spread the word. I'm aware of the fact that students and researchers are interested in the work that we do, and I have given time to the work of those individuals to enable them to be able to understand more fully the sort of work that I do. Additionally, I work very positively with the media, so I've spoken to a number of journalists. As I mentioned at the beginning, I'm not able to make comment personally about the legislation, but I always make myself available to answer any questions in order to enable the media to be able to communicate on my behalf about the sorts of issues that, clearly, the public are asking questions about.

[57] So, I think being very open and responsive—I don't have a press office, there's just me, and a lot of members of the media have my personal contact details and they just pick up the phone and ring me. I also regularly meet with transparency organisations. Clearly, their view about the legislation is—well, they have disparate views about the legislation—sometimes negative—however, they recognise the fact that in terms of what it is that I'm trying to do, which is to implement the legislation in the best way that it can be implemented, they respect that and we're able to have positive conversations. So, I think that having positive conversations with a whole range of stakeholders is a very important part of my work.

[58] **Mr McLaren:** It's certainly our intention. I think it's very clear from the passage of the Bill that the intention is to see who lobbied who, when, where and on what. The public is part of that. I think we'd need to build up a sufficient content on the register to make it engaging and interesting for the public, but it's certainly part of our marketing strategy that we will be putting in place this year as we roll out towards commencement and beyond that, and we put some resources behind that marketing strategy. I mean, again, our system is free to use and it should be easy to use, and the simplicity of it is the principle that we're trying to bring forward so that the general public would be interested in seeing what's put onto the register.

[59] **Paul Davies:** Because it's been suggested to us by previous witnesses that contextual information should actually be published and provided with the registers to help, obviously, the public understand and interpret the data. Do you do that already, Alison? Is there contextual information published?

10:15

[60] **Ms White:** To a certain extent, yes. Funnily enough, one of the things I've been looking at recently, and it's in the context of the work that I've been doing in consulting on what constitutes a relevant code of conduct, and I've been looking at the words that appear on the face of the register in that regard, and I'm not particularly happy with them at the moment—. So, one of the things that I want to do, precisely for that reason, is to change that wording a little bit in order that it can be more explanatory to a user of the register. I think that kind of thing needs to be constantly kept under review. I think positive input really is welcomed and that's where it's come from—the need to change it has come out of the consultation I conducted.

[61] **Mr McLaren:** I'd welcome discussions on that. The primary focus will

be to get the register up and running and to get some content on it. Clearly, as you're aware, there's a review by parliamentary committee two years after we start operation, so if we commence the Act early next year, we'll be looking at a review starting in early 2020, and I'm sure the committee would want to look at how that information's being used. We certainly aim to be able to export information from the system so that it's there for people to use in a CSV file format. Some form of assessment will be done of what's going onto the register, and I'll be interested to hear views on that, and as we move away from the implementation phase, to see where we could go with that suggestion.

[62] **Paul Davies:** Now, you mentioned some of the compliance mechanisms available to you. Do you believe that the compliance mechanisms available to you at the moment are sufficient for you to do your job?

[63] **Ms White:** The challenge for me is that the compliance mechanisms are what are set out in the legislation, and it's my responsibility to work with them. I haven't—

[64] **Paul Davies:** Would you be able to change them?

[65] **Ms White:** It's not something on which I'm able to comment, I'm afraid. May I just say, though, that in terms of my ability to be able to do my work, I haven't identified that I haven't been able to do my work because of a lack of compliance mechanisms? If I have been required to issue a penalty notice, for example, actually, the industry sees that as the ultimate ignominy. I don't set out to name and shame organisations, but the fact that a penalty notice has been issued is something that organisations—it's not the amount of money, it's the fact that there's been a penalty notice associated with their company. That, for them, is an extremely serious issue, particularly those organisations that subscribe to a professional code of conduct. They see it as being awful, dreadful, not something that they really want to be associated with their organisation, and I think that's why you get the over-declaration, erring on the side of caution, because organisations do take this very seriously.

[66] **Mr McLaren:** Again, I'm picking up from the sector that nobody really wants to be named and shamed in any way. I think that especially as it's now an Act, there's a general feeling out there that I'm getting from stakeholders that they want to be compliant and they want to work with us to make sure they are complying. So, the sanctions seem appropriate.

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

[68] **Llyr Gruffydd:** I just wanted to pick up on your reference to the website. Clearly, yours isn't quite there yet. How much is it used? What evidence is there that the register is regularly searched and that people are actually using it as an effective tool in their day-to-day work?

[69] **Ms White:** I'm not in a position, Mr Gruffydd, to be able to answer your question precisely, because one of the things that we have an intention to do this year is to be able to use the mechanisms that make measurements of those hits on the website, using the technical terminology, that are taking place. One of the things, though, that we've recently done, and this is based on user feedback, is to try to make our website a bit fresher, a bit more user-friendly. Previously, it was a bit too stiff, if I can describe it thus. So, I have to say that we're not quite where I would like us to be in terms of the use of the sorts of measurement mechanisms that, nowadays, organisations use to be able to discover the usage. I hope that, during the course of the year ahead, that's something that I'll be able to focus a little bit more on.

[70] **Llyr Gruffydd:** Okay. So, can I ask—both pieces of legislation are asymmetrical, I suppose, in terms of the responsibility being on the lobbyist, to register, to provide the content for the register and to declare what's happening. Are there examples of Ministers, Permanent Secretaries or others coming to you and saying, 'Actually, I think we've just met somebody who should have been registered'?

[71] **Ms White:** I have had no such examples. Having said that, what I've found is that when I have gone to them—

[72] **Llyr Gruffydd:** Them being?

[73] **Ms White:** To Ministers' offices. They are extremely helpful in terms of providing me with the information that I ask for. For the UK Government, Ministers are required to publish their diaries on a quarterly basis, and I make use of that information to check from the opposite end the veracity of the information that's been declared to me.

[74] **Llyr Gruffydd:** Because I'm just wondering whether you have any evidence of Ministers and others actively checking before they meet with lobbyists whether they're registered.

[75] **Ms White:** I have no such evidence, but I haven't asked for it.

[76] **Llyr Gruffydd:** Okay, so it could well be that it's a retrospective process if you're the one wading through diaries to check.

[77] **Ms White:** Yes. I'm afraid I do wade through.

[78] **Llyr Gruffydd:** That's reassuring.

[79] **Ms White:** And actually, it's proved to be a very useful exercise, because that has helped me to identify more than one organisation in the past year that should have been registered and wasn't, for exactly the reason that Mr Davies identified earlier.

[80] **Mr McLaren:** I was going to add that, again, there's nothing yet to see—

[81] **Llyr Gruffydd:** No, sure.

[82] **Mr McLaren:** —but there's certainly a full intention. We're slightly different in this respect in that that the Parliament has the duty to implement the register. So, there is an emphasis on the Parliament not to create any reputational damage as a result of that and, of course, Ministers are MSPs. So, I think there's a willingness on both the part of the Government and Members to help with this process.

[83] **Llyr Gruffydd:** But I presume also that you would encourage all those who are having meeting with lobbyists to be regularly checking whether they're registered.

[84] **Ms White:** Yes, and funnily enough, on Friday of this week I'm conducting a piece of training for one of the private offices, and that's one of the things that I'll be emphasising. The critical issue for me to communicate to private offices is that it is not my role to embarrass Ministers; the critical issue for me is making sure that the register is just reflective of what the legislation requires. And so, there is no embarrassment intended in terms of checking information whatsoever. It's just about making sure that I'm doing my job properly.

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

[86] **Ms White:** Thank you.

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

[88] **David J. Rowlands:** I suppose the whole ethos of lobbyists is to gain, perhaps at certain times, significant advantages for their clients. So, how do you work out the proportionality of the fines if they step outside the rules?

[89] **Ms White:** Well, you've put your finger on the key word, which is proportionality. What I tend to look at—. And there have only been four penalty notices. One of those was for unregistered lobbying, and that was for £2,000. There were three issued last year for very late payments of the annual fee. So, those organisations were conducting unregistered lobbying whilst they hadn't paid their fee, and those were each were £300. So, I've tried to make them proportionate, consistent with the time and effort that has to be spent by me and my office in order to be able to establish what went wrong and what happened.

[90] **David J. Rowlands:** And do you actually make that decision on the value of the fine?

[91] **Ms White:** Yes, it's entirely my decision. Clearly, I always take proper legal advice, but, nevertheless, it's within the jurisdiction of the registrar to make that decision.

[92] **David J. Rowlands:** Thank you.

[93] **Jayne Bryant:** Thank you very much. Just lastly, perhaps, Alison, you could explain a little bit more about your work with the all-party parliamentary groups? You alluded to it a little bit in your—

[94] **Ms White:** Of course. Yes, I'd be delighted to that. The support services that are provided—it doesn't really make any difference what kind of organisation it is. And generally speaking, the same rules apply to the providers of support services for all-party parliamentary groups as to any other organisation. However, the particular complexity arises in a situation where those organisations have many members. So, you might think of an all-party parliamentary group as just having parliamentary members, but there are a small number of groups—and some of those are very long-established—that may have hundreds and hundreds of members, all of whom

pay an annual subscription. And the difficulty in those situations is in working out whether or not those are clients as far as the legislation is concerned.

[95] One of the things that I particularly had to look at was whether or not such organisations might be able to call on particular exemptions in the Act. So, those organisations would conduct communications on behalf of a particular class or body of people, the revenues of that organisation would be wholly or mainly raised from that body of people, and the communications were incidental to the normal work of that organisation. All of those criteria have to be in place. So, if one of them isn't, then the organisation would be exempt. I'm sorry—if one of them isn't, the organisation would have to be registered. The exemption can't be called upon unless all of those criteria are jointly in place.

[96] The difficulty then is in applying the requirements of the legislation to the complex arrangements of the all-party parliamentary groups. Arising from that, groups that didn't anticipate that they would have to be registered will in fact have to not only register but also backdate their registration. Having now issued the guidance, I'm working with those organisations currently to make sure that that happens.

[97] **Jayne Bryant:** But you say that's quite a lot of organisations that you are—

[98] **Ms White:** No, it's a very small number.

[99] **Jayne Bryant:** A very small number. Okay.

[100] **Ms White:** Yes, because there have been quite a few organisations where those criteria applied, but what I've had to do is to make individual determinations to establish whether or not the three criteria on which an exemption could be called upon apply to the individual circumstances of different organisations, and I've had to look at, since the register opened, the total number of communications that those organisations have conducted with Ministers or permanent secretaries, as well as the situation that the organisation is in apropos the membership of that organisation. Some of those organisations provide services for many all-party parliamentary groups, some of them only provide services for one, and the situation can be different, depending on which of those applies.

[101] **Jayne Bryant:** Okay. Just from me, lastly, the UK register is supported by 1.9 full-time equivalents, I believe, and Scotland's due for one, I think. How do you feel about that? Do you think that's enough, or do you—? Is it adequate?

[102] **Ms White:** The way that it works is that, in order to be able to implement the requirements of the legislation, I go to Ministers and make a case for the resources that are needed, both people and technical and communications resources, in order to be able to implement the legislation. So, every year, I agree a budget with Ministers, which is then published in my business plan. That has been what's been happening over the past few years and that works well. In the event that there was some argument between me and Ministers about the level of resources that were to be made available then, potentially, if I thought that I needed resources that Ministers weren't prepared to provide, I would consider that to be a compromise to my independence. But that situation has never been in place. I've always been able to have positive discussions with Ministers about the level of resources that were needed and we've been able to agree a business plan without particular difficulty.

[103] **Jayne Bryant:** Thank you. Billy, do you anticipate—?

[104] **Mr McLaren:** We are parliamentary staff, essentially. So, two new posts, you're right to say that—myself and my colleague, James Drummond. We call upon staff, as you would do in the Assembly, from different specialisms—so we have our lawyers, we have our marketing, we have our press office, we have our events staff. There's a whole range of different people who can help us in terms of resources. If I feel that we're getting to the stage where the amount of returns that are coming in are getting larger than we expect, I'm sure we'd be able to call upon extra resources to do so.

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

[106] **Llyr Gruffydd:** I'm interested in the grey area, still. If I'm a lobbyist, if I work for an organisation that is registered, and I'm actively, through my work, pursuing a certain policy issue with the Government, let's say, but I meet with an elected representative as a constituent, is there not a risk there that I may abuse my status as a constituent?

[107] **Ms White:** I was there ahead of you, regrettably.

[108] **Llyr Gruffydd:** Okay, good.

[109] **Ms White:** This is covered in my guidance. So, if a consultant lobbyist meets with a constituency MP who happens to be a Minister—even if they're a Minister in an unrelated area, they are still a Minister, and so, the determination I've made is that they would be required to declare that meeting.

10:30

[110] **Llyr Gruffydd:** Okay. And what's your take?

[111] **Mr McLaren:** It's the same. It being a Minister, it's not exempt. They've exempted themselves from that, essentially. But it is an area that—in terms of constituency and local exemptions, there's an exemption in the Act around that. It will take a little bit of explaining in the guidance, I think—what is a local issue, and at what point would that local issue become something bigger than a local issue. We've been talking to stakeholders about that and how we might define that.

[112] **Llyr Gruffydd:** Could I just ask as well about whether you've had any feedback from the lobbying sector as to the additional bureaucracy or the processes in place? I suppose it's law; they have little choice but to join you on this journey, but, surely, being in dialogue with them, you will have picked up if there are any issues that they may have about the level of additional work that's burdened on them.

[113] **Ms White:** Yes. I would say that the feedback that I've had is less about the requirements for registration, as far as my register is concerned; it's more about there are now multiple registers, and others envisaged, as well as the voluntary registers. The cost of compliance associated with multiple registers in multiple jurisdictions is what organisations have reported to me they are most concerned about. It's not so much the cost of paying for the register; it's more about the cost of compliance over multiple different jurisdictions.

[114] **Llyr Gruffydd:** Good point. Thank you.

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

[116] **David J. Rowlands:** Alison, you mentioned that you've had to give

further guidance to certain organisations with regard to the fact of whether they should be registered, et cetera. Are you at liberty to give us some idea of what those organisations are, or who those organisations are?

[117] **Ms White:** Yes. In the earlier part of my work, I did a lot of work with lawyers, so I interacted with their representative and regulatory bodies. I did a lot of interviews with the legal media, and I visited the magic circle lawyers. I had meetings with the next tier down. I made lots of presentations to partners, and, as a result of that, we've got a number of lawyers now that are on the register. That's because they occasionally conduct direct communications in a way that is defined by the legislation. It's not because they consider themselves to be lobbyists. In fact, it's fairly ignominious, as far as they're concerned, they tell me.

[118] The same applies to accountants around the same kind of time period, and the next group that I then moved on to look at was think tanks. A lot of this came from—and I was reading some of the feedback from the evidence that you'd called for from different organisations—. And one of the things that they referenced constantly to me is the need for a level playing field, so that everybody who ought to be registered should be registered. It doesn't make any difference whether or not they're a public affairs organisation, whether they're a lawyer, whether they're a think tank. The view of those organisations is that, if the legislation requires it, then everybody should be subject to it, and, of course, that's my job—that's what I do. So, what I want to make sure is that I am as thorough and assiduous as I can possibly be in making sure that those organisations that should be registering, whatever kind of organisation they are, are on the register. That's why I've been doing this work in the way that I have—to try to make sure that that's the case.

[119] **David J. Rowlands:** So, is it confined to professional organisations?

[120] **Ms White:** I'm sorry.

[121] **David J. Rowlands:** Is it confined to professional organisations?

[122] **Ms White:** Well, it's tended to be sectors. So, I've looked at the legal sector; I've looked at the accountancy sector. One of the things in the year ahead that I will do is some cross-referencing between registers—so, those organisations who are on another register but aren't on mine. So, that kind of exercise, I find, is very helpful in establishing whether or not organisations should be registered. Lots of organisations—the lawyers, for example—

advertise the provision of public affairs services, but one of the things that I found, and I described this at my stakeholder conference as over-egging the pudding—. So, quite often, the marketeers on a website will perhaps rather over-egg in terms of the services that are being provided, and, when one enquires into it in more depth, one finds that it may be slightly less than what was suggested, or perhaps it's being done in another country or another jurisdiction.

[123] **David J. Rowlands:** Thank you.

[124] **Jayne Bryant:** Any more questions? No. Thank you very much for coming in today to give us evidence. You will receive a transcript of today's proceedings that you can check to see that everything is accurate. Thank you for giving evidence to us today.

[125] **Ms White:** It's been a tremendous pleasure. Thank you very much indeed.

10:35

**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'r cyfarfod yn unol â Rheol Sefydlog 17.42(vi).*

*exclude the public from the meeting
in accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[126] **Jayne Bryant:** Under Standing Order 17.42, we're to exclude the public from the meeting for the following business. All agreed? Thank you.

Derbyniwyd y cynnig.

Motion agreed.

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:35.
The public part of the meeting ended at 10:35.*