



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Safonau Ymddygiad](#)

[The Standards of Conduct Committee](#)

23/5/2017

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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. Mae hon yn fersiwn ddrafft o'r cofnod. Cyhoeddir fersiwn derfynol ymhen pum diwrnod gwaith.

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. This is a draft version of the record. The final version will be published within five working days.

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

Eraill yn bresennol
Others in attendance

Yr Athro/Professor Cyfarwyddwr, Spinwatch
David Miller Director, Spinwatch

Alexandra Runswick Cyfarwyddwr, Unlock Democracy
Director, Unlock Democracy

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 Y 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. Before we start, I think it's only fitting that we pay tribute to Rhodri Morgan. Rhodri led Wales boldly and bravely; a clever, kind and proud Welshman who made a huge contribution to this Assembly and leaves a strong legacy for Wales. There'll be opportunity for Members later in Plenary this afternoon to give their memories.

[2] Also, on behalf of this committee I'd like to send our condolences to those who've lost loved ones in the tragic events in Manchester last night. Our thoughts are with them, the injured and the emergency services.

[3] So, welcome to this meeting of the standards committee. I've received apologies from David Rowlands.

Ymchwiliad i Lobïo: Sesiwn Dystiolaeth 4 Inquiry into Lobbying: Evidence Session 4

[4] **Jayne Bryant:** Welcome to our guests this morning. Perhaps you could introduce yourselves and your roles, respectively.

[5] **Ms Runswick:** I'm Alexandra Runswick. I'm director of a UK campaigning organisation called Unlock Democracy. We campaign for democratic and constitutional reform in the UK and one of the areas that we campaign on is lobbying transparency.

[6] **Professor Miller:** My name is David Miller. I'm professor of sociology at the University of Bath and I'm a co-director of Spinwatch, which campaigns also for lobbying transparency, and has been doing for some decade.

[7] **Jayne Bryant:** Thank you. I should also say that this meeting is bilingual and if you do need translation, the headsets are next to you and the translation is on channel 1.

[8] In your written evidence, you've both recommended that the Assembly establish a comprehensive statutory register of lobbyists. Can you set out here today why you believe that to be the case?

[9] **Ms Runswick:** I think you have a great opportunity to put in place

strong transparency measures before you start seeing the wide-scale scandals that we've seen at Westminster now for many, many years. We know that the perception that money buys access and influence corrodes trust in politics and leads people to be less engaged with political institutions. We also know that, as we've seen in Scotland, as institutions gain more powers—and obviously the expectation is that devolution will see further powers coming to the Welsh Assembly and the Welsh Government; particularly with Brexit, one would hope that powers that were held at a European level on devolved matters would come to the Assembly and the Government here—that is seen very much as a business opportunity for the lobbying industry. So, you have an opportunity now to put these measures in place before there are scandals and to ensure that you can help to build that trust with the public. The reason we think there should be a lobbying register is not because we think that lobbying is in itself a bad thing. Lobbying is an important part of democracy and, as we say in the evidence, we are ourselves lobbyists. I'm lobbying you about lobbying transparency. So, it's not an attempt to demonise lobbying. It's important that experts and stakeholders are able to make their views heard, but it's also important that the public and voters have confidence in our political system and can see who it is that is trying to influence their Government and their politicians.

[10] **Professor Miller:** I would only add that we live in an era where the whole question of transparency has become much more important in countries all across the western world, where lobbying transparency regulations have been introduced in many different legislatures, parliaments and assemblies. The reason for that, it seems to me, is that we've moved into a political era where the role of money in politics has become more important. Now, that obviously works its way out in different ways in different places, and I'm conscious that the Assembly, like the Scottish Parliament, is not Westminster, but what we face is the possibility is public disengagement from politics in a way that is bad for democracy. The idea about lobbying transparency is about trying to protect or stem that; to stem the idea that politics—representative, democratic politics—is not something you should get involved in and you should do it by other means. I think that's an important, big issue that stands behind this, which is there, whatever are the small issues—the specific issues—that we might talk about.

[11] **Jayne Bryant:** Thank you. I don't know if you heard the evidence from Public Affairs Cymru. They've got a proposal for a voluntary register where a list of its members would be published on the website every six months and where those members who are consultant lobbyists would publish a list of

their clients. What would you say in response to their suggestion?

[12] **Ms Runswick:** I would say that voluntary registers have been widely discredited at every inquiry that has ever looked into them. Without meaning to sound cynical, we have been on this merry-go-round before. Every time at Westminster there is a lobbying scandal, they create a new voluntary register—until the next scandal. It doesn't actually change things. The other thing to bear in mind, of course, is that the vast majority of lobbyists are not consultant lobbyists, they're in-house lobbyists. So, if you take the Westminster approach of just looking at consultant lobbyists, then you're missing the vast majority of lobbying activity that goes on.

[13] **Professor Miller:** I've been giving evidence on lobbying transparency since I first started doing research on this back in the 1990s. I first gave evidence to the Scottish Parliament in 2000, when there was a scandal just after the creation of the Scottish Parliament, which you might or might not recall. This has been the constant refrain. I've given evidence in the Scottish Parliament, in Westminster, in the European Parliament and the European Council and it's always been the refrain of the lobbying industry that we can have a form of self-regulation. The real problem with that is that it doesn't work. There's no proper mechanisms to enforce it. They always complain that they're being forced into something that would be illegal by disclosing their clients. There's a question of how they would enforce their code on, for example, lawyers or management consultants or accountancy consultancies et cetera, because they say that it would be illegal to disclose their clients. These are proposals that are there to enable there not to be transparency. That's the purpose of them creating the notion of self-regulation. That's been demonstrated all the way through from Scotland to the European Parliament to Westminster, I think.

[14] **Jayne Bryant:** So, you'd say there was no evidence to say that voluntary registers have been effective anywhere.

[15] **Ms Runswick:** I would say the exact opposite. I'd say there's extensive evidence that shows they've failed to be effective everywhere. There are voluntary registers in place. We did a mapping exercise of what lobbying activity we believe is currently going on in Wales and I'll happily share that with the committee after this session. We believe that there's at least one agency that's lobbying in Wales that isn't registered with any of the voluntary registers. There are lots of agencies that are advertising services around Welsh lobbying but don't have offices in Cardiff that, again, are not being

forthcoming about their clients. We know that voluntary registers do not work. Every single committee in every single legislature that has looked at this has found that voluntary systems do not work.

[16] **Professor Miller:** The other thing I would say about that, just to expand that, is that, yes, they would do a voluntary register, which would require consultant lobbyists to disclose their clients—they'd miss out all the other lobbyists that Alexandra's been talking about. But, the content of the register—even if we assume that they were able to regulate it and that everyone would sign up, which they wouldn't—the content of the register will be just that: a list of clients. It won't be what issues they were lobbying on, how much money's involved, which personnel—no actual data that you can use to try and work out what vested interests are trying to manage or influence politics, which is what transparency ought to be about.

[17] **Jayne Bryant:** Do you have any examples of where a statutory register has had the desired effect or worked very well, throughout the world, or any examples—?

[18] **Professor Miller:** This is a process, and what you find when you have the introduction of lobbying transparency regulations is that they are then monitored to see how effective they've been. Sometimes that means that they have to be altered, because sometimes the lobbyists try and get around the rules that are put in place and other times it becomes apparent that there are ways in which the initial legislation or rules were not adequate. So, there's a process to that. I think I would say that there are examples of lobbying registers that are quite reasonable in securing some information for the public. I would point to the Canadian model, for example, as one of the better models. There are models, as I'm sure you're aware, in many of the state legislatures in the US—I think at more than half of them—and at the federal level in the US, there's regulation that's much better than the regulation even that's available at the European Parliament and the Commission, their current model. So, there are models that you can use. For me, the best model is not a lobbying registration model, but is the US Foreign Agents Registration Act, which was brought in in the 1930s to try and prevent public relations consultancies working for the Nazi regime in Germany. That's a model that is better than the lobbying transparency model in the US and it requires more information to be revealed. They have a wee poky office in Washington DC where the public can go along and actually examine the bits of paper showing which press releases have been sent to which congressman and senator, et cetera. So, that's the most far-reaching

piece of legislation that there is. I'm not proposing that you do something like that here, but you can see that there is a whole range of different models that are in existence.

[19] Just to finish on that, what I would say is that, of the current models—I've mentioned the Canadian model; I think that's very important—but, of the current models that we see in Scotland or Westminster or the European Parliament, I think the European Parliament one is the best in terms of its definitions of lobbying. And when it becomes a mandatory register—it's in the process of becoming a mandatory register—it will have the strongest data underlying it. At present, there are all sorts of problems with it, which I can talk about if you want me to. But, the data that is required for organisations to release will be the strongest of any European legislation or lobby register. So, I think that's a model to observe the direction of travel of.

[20] **Jayne Bryant:** Okay, thank you. On that point—Llyr.

[21] **Llyr Gruffydd:** So why is it that the European Parliament is moving from a voluntary approach to a statutory one?

[22] **Professor Miller:** Because the voluntary approach didn't work and because the organisations engaged in disclosing in a voluntary manner were found to have—I see there's a legal adviser here—were found not to have given full information. There's a number of different examples, but one sticks in the mind, which was the leak of a whole tranche of Philip Morris documents—tobacco industry documents—in Brussels, which showed that they had systematically understated their lobbying activities.

[23] But even at the more general level, if you compare the data that's in the register with what's known—. For example, there are lobby groups that are disclosed by some companies. So, Coca-Cola discloses that it's a member of an organisation called EU Pledge, which focuses on children's advertising and food. There are three other organisations that claim to be members of that on the register, but there are 15 others that don't. So, there's no real way in which that can be monitored and enforced in a voluntary register. When you start to have a mandatory register, you can say, 'Well, actually, people need to have a proper disclosure'. Even the fact of it being mandatory will help that process along.

[24] At present, the voluntary register at the European Parliament and Commission—which, as you know, is a joint Commission-Parliament

venture—it's voluntary, but it has a certain mandatory edge to its voluntariness, in the sense that you have to register if you want a European Parliament pass. It's moving from that to a more straightforwardly mandatory system. As a result of the pass thing being introduced, you can see that the quality of data disclosed has significantly improved, although it still has holes.

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

[26] **Paul Davies:** Obviously, it's important that, if a statutory register is established, the public understands the register and understands the information that that register provides. Do you have any evidence of public use and awareness of existing statutory registers in the UK and elsewhere?

[27] **Ms Runswick:** Not really in the UK, because obviously we have a shockingly awful consultant lobbyist register for Westminster, which very few people—mainly, I think, Unlock Democracy, Spinwatch and lobbyists—have been looking at. There's so little data, there's no reason for a member of the public to engage with it at all. Obviously, Scotland is in the process of setting up their lobbying register and thinking about how the public might use that data and how they can engage with the public on that data, but it doesn't exist yet. So, it's difficult to say, at a UK level, that we have a model to work with. It might be more interesting to look at the Irish model, which is a more comprehensive lobbying register, but again that's relatively recently set up, so there's not a huge amount of evidence yet.

[28] **Professor Miller:** I think you can see in the evolution of the European model the way in which it has been used. Part of the reason that the voluntary nature of the register became to be seen to be unworkable was because there was an engagement from NGOs, from journalists and from citizen groups suggesting that there was a problem with the register. So, it was that very involvement that brought it to the attention of the people in the Commission and the Parliament, and it was only latterly the Parliament came on board with this and pushed it through, through a vote in the Parliament. It was that engagement that helped the process on.

10:00

[29] I would say one more thing, which is: if you want people to engage in this, you need to try and help that process along and that means outreach and promotion; it means an engagement by the Assembly in popularising

and showing organisations how it can be useful and showing people how it can be useful, rather than it being something that is a dry web page that no-one ever looks at and that is difficult to download. You can find ways to allow the data to be accessible digitally, to make them easily searchable—there are all sorts of things that you can do to make it an inviting and easy thing for people to engage with, and that will help.

[30] **Ms Runswick:** If I could just add on the data point, with transparency of data, making sure that they are in a variety of accessible formats and are machine-readable is one of the most important things that you can do in terms of making sure that the public have meaningful access to them, because there are lots of voluntary sector initiatives that will readily take data and turn them into something exciting for the public to engage with, if the data are in a format that they can use. Unlock Democracy and Spinwatch tried to do this at a UK level with all the different publicly available data sources around Westminster, which are all, in theory, published and in the public domain, but it basically failed, or at least is stopped at the moment, because the data sources were impossible to use. So, as long as you're making sure that the data are easy to find and are in a variety of accessible formats, there are lots of people who will be interested in doing public engagement work with those data.

[31] **Paul Davies:** So, you firmly believe, of course, that contextual information needs to be provided with any register to make it clear to the public.

[32] **Ms Runswick:** Absolutely, yes.

[33] **Paul Davies:** What sort of data are we talking about, in your view?

[34] **Ms Runswick:** From an Unlock Democracy point of view, yes, we're interested in lobbying transparency, but it's not just about lobbying. Lobbying is one form of access; it's not the only one. So, for example, we're also interested in party funding data; we're also interested in registers of interest. We're interested in, basically, making those links between the different data sets and the different ways that people can try and access Governments and politicians, because it's not just about ministerial meetings; it's far broader than that. But, also, it's then allowing people to, for example, use other sites that look at how MPs or elected representatives have voted on different issues. Once you have the data, you can do amazing things with them, but it's about getting those data to begin with. The really

crucial bit to make a lobbying register work within the wider transparency agenda is to make sure that we know the policy area or the contract or the issue that is being lobbied on, because, while having a register is a good thing, if it is just a list of clients, as David mentioned earlier, it's not going to take us very far on the transparency journey—we're not going to be able to make those kinds of links.

[35] **Paul Davies:** Can you explain to us why you believe the current existing advisory guidance on lobbying here in the Welsh Assembly is actually insufficient and what changes do you believe are needed?

[36] **Professor Miller:** The issuing of information from lobbyists needs to be—. There's an argument, isn't there, from the Labour Party, I believe, here, that there's not much contact between lobbyists and Ministers. That's kind of an argument that you see in Scotland as well, where the only person in the civil service who is required to disclose meetings with lobbyists is the Permanent Secretary—just one individual. Similarly, in the UK system, where Ministers are the only people, and the Permanent Secretary, of each department.

[37] Lobbyists are engaged in all sorts of activities with all sorts of people who are engaged in decision making, so it's all the way through the civil service—special advisers, of course, as well, and a range of other decision-making and regulatory bodies. So, you need to have a sense of where the lobbyists are focusing. The kind of research that I do, as a sociologist, looks at the ways in which, particularly, corporations plan their strategies. When you look at it from the point of view of the corporation, it's not just a question of how the corporation targets the Minister, it's a question of engagement of the whole series of policy planning groups, of sponsorship of debates—a whole range of activities, which, when you put together the different things that they do from publicly available sources, is a really large selection of activities. In order for there to be transparency for the public to appreciate where particular interests, representing any section of society, are engaged, those kind of data need to be in there. So, there needs to be a recognition that lobbying is something that is much wider than just focusing on particular policy outcomes of Ministers, and to have a definition of lobbying that is expansive enough. And I think, in that regard, the European definition of lobbying is much better than that existing in Scotland, or in the UK Parliament.

[38] **Jayne Bryant:** Okay. Llyr.

[39] **Llyr Gruffydd:** Thank you. You've told us quite clearly what you think about the Westminster legislation, and the Scottish legislation—as has been indicated earlier, it may be a bit too early to decide how effective it is. But do you foresee it actually fulfilling its purpose effectively, or do you have any major concerns about the way it's been put forward?

[40] **Ms Runswick:** I think it's certainly a step up from the Westminster model. I think there's very little that probably wouldn't be a step up from the Westminster model. I think one of the concerns around the Scottish register was the focus on face-to-face meetings. So, for example, there was a whole thing about, if you have a telephone call, that's not lobbying, but if you have a Skype call it is. So, that was one of the strange nuances that came in the debate there.

[41] Again, there hadn't been the same cycle of significant lobbying scandals in Scotland in the same way as there had been at Westminster. So, the debate there was very different, and it was about preventing a culture of lobbying—the perception of lobbying, buying access and influence. And there were, obviously, a lot of concerns there around how you set up a transparency system that doesn't impact on public engagement with the Parliament. But I think one of the interesting things that did come out of that debate was the sense that, actually, lobbying transparency can help with public engagement rather than hinder it. So, I do think that that's going to be an interesting model to watch, with that odd exception about face-to-face meetings.

[42] I don't know if you have anything to add.

[43] **Professor Miller:** Yes, I would say I think a point I already made about one civil servant being—that lobbyists meet with the Permanent Secretary of the Scottish Government and that's recorded; all the rest of the civil service is exempted from that. I think that's a really significant problem with the Scottish legislation. But I think that, more importantly, the idea that you're just looking at the behaviour of lobbyists, and the requirement of lobbyists to disclose, is something that we should think about.

[44] This is also a question about—and this is what this committee's here for, right—conduct in public life, and about the behaviour and conduct in public of elected officials, of course, and also public officials. So, in the Scottish case, because Scotland has particular responsibilities in relation to,

for example, health, or pharmaceuticals, there is a huge amount of activity by the pharmaceutical industry, for example, in Scotland to try and influence what drugs are prescribed in the NHS. And they do that not just by targeting the Parliament, and setting up all-party groups, or covertly funnelling money into particular debates in Parliament—which has happened—but also by paying scientists, and doctors, and patient groups, and non-governmental organisations, who then turn up at the committee meetings that decide on whether drugs should be dispersed in the NHS or not, and they don't disclose their interests, or at least the body that is there to license drugs doesn't fulfil its own stated policy of requiring conflicts of interest to be disclosed. So, there's a whole question of conflict of interest throughout the public service that should be part of this discussion.

[45] It's a debate that has been had, in particular, in science and in medicine in the academic production of journal articles, et cetera—the production of the gold standard of scientific literature—where, if your research is funded by a corporation, or by any other organisation with an interest, you need to disclose that. The kinds of policies you have in the medical journals, for example, are the kinds of policies that we should be seeing, it seems to me, throughout the public service. Now, we already have some conflict of interest rules and regulations in different places, but there's a real sense that that kind of culture of disclosure and transparency needs to be more thoroughly applied throughout.

[46] **Ms Runswick:** If I could just briefly add, I think the other thing to watch in terms of the Scottish register and the Scottish journey in terms of lobbying transparency is around the revolving door. Because, obviously, one of the big issues is people leaving public life, either as a special adviser, or having been an elected official and then either setting up or working as a lobbyist. And, certainly, that's one of the big issues within Scotland and the lobbying scene within Scotland, and I think it would also be something that would apply in Wales, making sure that there is transparency about that and the fact that, when people are hiring certain lobbying agencies, it's with the expectation that they are getting somebody's little black book of contacts and experience and knowledge as well.

[47] **Llyr Gruffydd:** And do you think 10 years would be sufficient in terms of disclosing any of those kinds of—?

[48] **Ms Runswick:** Yes.

[49] **Llyr Gruffydd:** I think that's what's been suggested, isn't it, in the evidence.

[50] **Professor Miller:** Ten years is longer than is generally suggested, yes.

[51] **Llyr Gruffydd:** One of the points that's been made to us is that all the guns seem to be pointing at the lobbyists, whereas, in fact, it's the politicians who are publicly accountable. 'They would say that, wouldn't they?', I suppose you're going to tell me, but I just want to hear what you have to say. But I genuinely think there is a question about striking the balance—it's not that one doesn't have to and the other does it all, but it's where the balance of the burden lies. Could you enlighten us—

[52] **Ms Runswick:** I absolutely agree with you that there should be a balance. For me, the balance is actually having a lobbying register. It's unusual for people to defend politicians, but, on this one, I will, in the sense that, generally speaking, in most cases there are rules in place around transparency of meetings, registers of interests—. I'm not saying that they couldn't be improved; obviously, ministerial meetings being published is very new in Wales, and it doesn't include policy details. So, there are things that could be done better on the political side, but that is only one side of it. You need to have the whole picture. And, as David said repeatedly, ministerial meetings, or even registers of interests, are an aspect of lobbying, but they don't get anywhere near telling the whole story. So, unless you are also having transparency of lobbyists, you're not going to be able to get anywhere near the picture of who's trying to influence elected officials—. Sorry, elected representatives was the word I was looking for.

[53] **Llyr Gruffydd:** Sure, fine. But we are hearing as well, of course, evidence from Public Affairs Cymru, for example, that they've surveyed their members who tell them—the majority, I think, of their members from memory—that they have been lobbied by Government, whereby Government has put pressure on them maybe to support something or not to oppose something. So, how would you capture that kind of information? If we're serious about striking that balance, then all of this needs to be caught somehow.

[54] **Professor Miller:** The Government is putting pressure on lobbyists to take certain positions that might or might not relate to their clients' interests?

[55] **Llyr Gruffydd:** Yes.

[56] **Professor Miller:** I think that shows—. I'm quite surprised by that. It shows quite a significant issue, then, with the kind of closeness between political interests and lobbying interests. I've never heard it said that that was being done before, and that, of course, is something we should be trying to disclose. It only illustrates the problem is much greater than perhaps had been thought here, it seems to me.

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

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

[59] **Paul Davies:** Can I just come back to the definition of lobbying, because, obviously, people will have different views on the definition of lobbying? And I think, Mr Miller, you referred earlier to the European definition of lobbying, and I think you make reference to paid lobbyists in your evidence. Can you just clarify what you mean by paid lobbyists, and also, if a register is established here in Wales, who should be captured by that register?

[60] **Professor Miller:** Paid lobbyists meaning lobbying consultancies, so those who have clients. They're the ones that Public Affairs Cymru represents, some of that sector; they don't represent people who work for large companies or for some of the non-governmental organisations, or even for the trade unions. But the EU lobbying definition I think is quite a good one. I'm not going to read all of it. This is from the institutional agreement, chapter 3, 'scope of the register', paragraph 7, where it's recommended to register if your organisation performs one or more of these activities: lobbies to influence policymaking, engages with Commissioners or civil servants, provides written or oral positions in public consultations, takes part in EU-run structures such as expert advisory groups, and it goes on. So, that's quite a wide definition of lobbying, and I think that's correct, that's what lobbyists do. So, the example I was giving you about the pharmaceutical industry equally applies to other industries whose products have potential health issues associated with them: the food industry, the tobacco industry, the alcohol industry, and others—the fossil fuel industry. They are involved in a whole series of activities that are attempting to not just, as I said, influence Government policy or the policy decisions of the Assembly, but also to manage the whole way in which the end product or issue is discussed.

10:15

[61] So, that means—. Coca-Cola has recently published a list of all the nutritionists around the world that it funds, and then you follow the chain of that and you find out where these nutritionists appear. There was a story just the other week in Scotland about a nutritionist funded by Coca-Cola who sits on the Scottish Government-appointed food safety agency. Now, those kinds of conflicts of interest are really quite widespread throughout public life, not just in relation to industries like that. And that's clearly about lobbying. It's clearly about exerting influence by vested interests, in this case corporations—it could be other interests. So, I think that if you're going to have a definition, you've got to have a definition that actually captures what the interests involved are doing. It's not that they don't know what they're doing, it's that perhaps we are less conscious of the wide variety of the things they do.

[62] **Ms Runswick:** I think the important thing when defining lobbying is to define what lobbying activity is, as David says, because that covers a wide range of different activities, and then the lobbyist is somebody who is doing that activity, who is paid to do that activity, whether it's as an in-house lobbyist or as a consultant lobbyist. There are slightly different definitions of it. There's obviously the European register that David's been taking about. Unlock Democracy and Spinwatch work with Lord Brooke on a private Member's Bill in the House of Lords around introducing a comprehensive lobbying register for Westminster. That has a definition that's similar but slightly narrower than the European one. There were lots of different ways of doing it, but the important thing is that you define the activity and then go to the people who are doing it. Whereas the Westminster approach has been to define a specific, very narrow group of people and then define lobbying on that basis. That is one of the reasons why that register fails to capture any meaningful activity.

[63] **Paul Davies:** Obviously, the activity is extremely important. Can I just clarify, really, then, as far as the activity is concerned, what sort of activity would you want the register to capture? Would it include face-to-face communications and everything, effectively?

[64] **Ms Runswick:** It wouldn't capture things that are already in the public domain, so, for example, if you were giving a newspaper article, for example, or giving evidence to a committee like this, because transcripts of that are already published it wouldn't necessarily need to capture that. But it would

need to capture face-to-face meetings, it would need to capture written communications, whether that's e-mail, letters, or whatever technological form will come up in a few years' time. It would need to cover things like briefings, research, reports—things like that. It does need to be a broad range of activities, not just meetings, because otherwise you are missing out on an enormous amount of activities.

[65] **Professor Miller:** And I would say also it needs to encompass a range of institutional locations at which these things occur, so not just meetings at Parliament or the Assembly or just meetings targeting those organisations, but also surrounding policy discussions. So, think tanks clearly are engaged in lobbying at least for part of their activities, and that's why the tobacco industry has funded the Institute for Economic Affairs, for example, since 1963. It's about pursuing their interests. So, you need to have the associated hinterland of politics, which is policy discussion, policy planning, think tanks—those kinds of areas. Those are all engaged with by vested interests in order to pursue their interests.

[66] **Paul Davies:** Obviously, this is a difficult issue, because, of course, politicians could bump into a lobbyist in a corridor, for example. Would you therefore, then, suggest that should be captured on a register?

[67] **Professor Miller:** You used the word 'balance' earlier, and I think that in introducing some kind of register like this, you don't want to introduce a register that is going to make it impossible to actually capture all the detail, or too burdensome to capture all the detail. So, there needs to be a balance struck with that. You need to be confident, though, that you can have some measure of transparency of these kinds of activities. How is it that the lobbyists can bump into such a person? What kind of activities are they involved in? Is it in the constituencies? Is it in the corridors here? Where is it, and under what circumstances? Have they been invited to a meeting, or to address a gala or a fête? That's the way they do it. I don't know if you remember the Labour 'taxis for hire' scandal, where Patricia Hewitt was filmed covertly saying, 'You know, what you want to do is, you want to get your Minister—. Take the think tank route, you know, there are left-wing think tanks, there are right-wing think tanks—get your Minister up with a think tank. That's a good way to get your message through.' Those are things that are clearly used by the lobbyists to try and find influence. So, while you wouldn't want to be monitoring all the activities of every civil servant and every Minister, minute by minute, all the day—of course not—you do want to capture significant activities.

[68] **Paul Davies:** So, what exemptions would you introduce, then?

[69] **Professor Miller:** I think the way I would do it is to start with a reasonable and minimal set of disclosures and if that's found not to be adequate, to expand them. But what I would call reasonable and minimal are way more than you would have, for example, in the Westminster or indeed the Scottish model—approach the European model.

[70] **Ms Runswick:** I'd just like to echo David's balance point, because, obviously, we're not looking to try and capture a transcript of every single conversation that every single politician ever has with any think tank or lobbyist or community organisation, because aside from anything else, that would actually not do what we wanted to do. That would make it harder for people to find the significant activity rather than easier. So, it's about finding those patterns, it's about finding those networks, and it is about getting the balance right. And as David said earlier, it is about going on a journey—you start the journey and you might need to change it later, but the important thing is that you do actually start that journey.

[71] **Llyr Gruffydd:** Just to pick up, then, on the wider hinterland of policyville, shall we say, capturing all of those terms, I think in Ireland, the legislation there captures chief executives of local authorities and directors of services as well. Would you encourage us to look at that level of government within our deliberations as well?

[72] **Ms Runswick:** I don't know if that would be relevant for Wales, but possibly, yes, because, certainly, lobbying can take place between different branches of government. So, it's not an exceptional suggestion to have it in. Again, I don't know enough about the relationship between the Assembly and Welsh local government and the various powers to know whether that would capture meaningful activity, but I think in principle, yes.

[73] **Professor Miller:** Well, let me give a nod here to Margaret Thatcher and the local authority accounts regulations 1985, which require local authorities in Scotland, England and Wales to release documents ancillary to their annual accounts for a period of two weeks every year, before they publish their annual accounts. Those documents can include all sorts of materials that are not normally published by even Governments, including councillors' expenses, including the details of accounts and, indeed, of contracts. So, that's one way in which, for example, private finance initiative contracts have

been disclosed before, which you can't otherwise get through freedom of information or anything. So, there already is legislation that is way harsher in terms of transparency than the current models we're considering. And that's only available for two weeks before the accounts are published, and it's only available, I think, in England and Wales, to constituents in the council—in Scotland, any voter can do it—and there are other models available for a much more thoroughgoing set of transparency measures. But, of course, local councillors are required to have registers of interest, as are scientists, as are many other public officials. Of course they should have those things. I don't know whether there's a job specifically for this committee or for the Assembly.

[74] **Llyr Gruffydd:** Okay. So, if we were to decide that we need a register in Wales, then who do you think should be responsible for developing it? Is it here in the Assembly? Is it the Government or should it be done jointly?

[75] **Professor Miller:** I think the fact that the Assembly is answerable to the people is a very strong reason for saying that the Assembly should do it. Now, what happened in the European case was that the Commission originated this process—the transparency initiative of 2005—and the Parliament came on latterly, but I think it's really important that there's parliamentary authority for this as opposed to governmental authority, especially because this is about regulation of a variety of interests. There's a structural conflict of interest if you have a Government of one party, or even two parties, regulating something that can affect their interests. If it's the Parliament, then you've got more confidence.

[76] **Llyr Gruffydd:** And what about its operation, then? Can it be operated by the Assembly, or do you think that we need an independent body to create a body with employees and, you know—?

[77] **Ms Runswick:** I would certainly recommend an independent model. I think it needs to be independent of both the Government and the Assembly so that you have public trust. It doesn't need to create a huge bureaucracy, but I do think there needs to be independence.

[78] **Professor Miller:** I should know this, but I don't know about whether there is a commissioner of public standards—

[79] **Llyr Gruffydd:** Yes. Present in the room here.

[80] **Professor Miller:** Sorry.

[81] **Llyr Gruffydd:** But, of course, our standards commissioner has responsibility for conduct of Assembly Members, but it doesn't extend beyond that. And to change that it would require legislation.

[82] **Professor Miller:** It would. You could do it differently, you could have a separate body. I think what I would favour—I haven't asked anyone else about this [*Laughter.*—but I think what I would favour in general is the kind of body that currently is able to assess these kinds of transparency questions. There is a body—it's the Information Commissioner's Office in England and Wales and the Scottish Information Commissioner's Office in Scotland; they're separate bodies, as you'll know—and it regulates the freedom of information legislation, the environmental information regulations, the Data Protection Act, and so that kind of an organisation, because it has a kind of quasi-investigative remit, seems to be important, because that's what you need. But if you're going to have a mandatory register, you've got to spend some effort checking if it's right, checking if people are being consistent or if they're properly disclosing, and there has to be some method for complaints, like there is with a request for an FOI request, and then you go to the commissioner and you ask for the commissioner to make a decision about whether public authority A should release document B or not. So, it seems to me that that's crucial, and I would point to a kind of counter example where a public body—the Equality and Human Rights Commission, for example—has been starved of resources by the present Government—I don't want to make party-political points—and that means that it's not able to effectively carry out its remit because it doesn't have the resources to carry out investigations and to make judgments in the way that the legislation, the Equalities Act 2010, suggested it did do. So, I think it's really important that, if you're doing this, you've got to be serious.

[83] **Ms Runswick:** The other thing I would just add is, while I think the regulator does need to be independent, and it could well be the Information Commissioner's Office or a body like that, then there does need to be a formal link back to the Assembly—they need to be able to report back and say, 'This is working' or 'This isn't working', or 'These are the additional powers we believe that we need to make this register effective', or 'This is how we set up the register—five years on, we think we need to do it slightly differently.' There needs to be that feedback function and for there to be powers to change the register, if necessary, on the basis of that evidence.

[84] **Llyr Gruffydd:** But the independent body would be responsible for the process, it wouldn't refer it back to someone to enforce.

[85] **Ms Runswick:** Yes.

[86] **Llyr Gruffydd:** Okay. I'm tempted to ask about enforcement mechanisms, but we could be here all day, I'm sure. [*Laughter.*] But it would need to be, clearly, sufficiently robust to be effective.

[87] **Ms Runswick:** Yes.

[88] **Llyr Gruffydd:** Okay. And I presume that you'd balk at the suggestion that we're taking a sledgehammer to crack a nut here in Wales, because it's clearly become apparent to us in evidence—whether we agree or not is a separate matter—that people feel that the risk in Wales is very low because, compared to some other Parliaments in the UK and beyond, the powers we have here, albeit increasing, so one would expect the threat to increase and the risk to increase, is quite minimal and we have a decent record, I would argue, in terms of not having found ourselves exposed to these kinds of experiences previously. So, do you accept that any conclusions we as a committee come to need to be proportionate in respect of that, or do you think—? There's a danger I'm asking—[*Inaudible.*] [*Laughter.*] Go on, tell me what I think you're going to say.

[89] **Ms Runswick:** Well, as I said at the beginning, I think that this is about safeguarding the Assembly's reputation and taking pre-emptive action before there are major scandals. If you wait until there are major scandals, until there is extensive evidence, then the public trust will have been lost. Yes, you can take action from that point onwards, but the damage has been done.

10:30

[90] You have an opportunity now to set up strong transparency mechanisms, so that, before you get additional powers, before Brexit happens and the massive increase in lobbying that we are expecting as a result of Brexit, you put safeguards in place and that you are able to go with the public on that transparency journey, and bluntly, you can show Westminster how it's done. So, no, I don't think it's a sledgehammer to a nut at all. I think it's precautionary.

[91] **Professor Miller:** I do think that both the Welsh Assembly and the Scottish Parliament have been more transparent and attempted to create new models of governance since their creation. So, I think there is a distinction between this place and Westminster. But, nevertheless, I think that if you were to conduct a study of the kinds of conflicts of interest there are in Wales, then you might be surprised. I've already been surprised today by what you said. That's because the business of influence is a curious thing. The power that you get through influence is magnified by the secrecy. Quite often, when one does research on how it is that policy A or policy B was influenced, or how a particular set of industries works, you find that they did things that weren't known about before. A classic example is the example at the European level of the tobacco industry's activities via think tanks to try and influence the health directorate. The Irish representative, who was the health commissioner at the time, said that he would be utterly staggered if it was shown that the tobacco industry had been influencing the discussions in this think tank that he had participated in. And it was demonstrated. The documents, which were revealed through the tobacco archives and other places, show very clearly what had happened. So, I think those kinds of examples—the tobacco industry isn't as active here as it is in the European Parliament—show that the kind of influence that corporations can have is very often secret, and we don't know about it until there is research or a scandal that reveals those kinds of things. So, I think that's the additional reason I would say, 'Put some measures in place and we'll see what there is.' It's only then we'll probably start to see.

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

[93] **Jayne Bryant:** Okay. Thank you both very much for coming in this morning. You'll be sent a draft transcript by the clerk to check before being finalised. So, thank you once again.

10:32

**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 accordance with Standing Order 17.42(vi).

*Cynigiwyd y cynnig.
Motion moved.*

[94] **Jayne Bryant:** I propose now, in accordance with Standing Order 17.42, that the committee resolves to meet in private for item 4 of today's meeting. All agreed? Thank you.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:32.
The public part of the meeting ended at 10:32.*