



## Agenda

### Standards Committee

3rd Meeting, 2001

Wednesday 28 February

The Committee will meet at 10.00 in the Chamber, Assembly Hall, The Mound, Edinburgh.

1. **Item in Private:** The Committee will decide whether to take Item 4 in private.
2. **Lobbying:** The Committee will take evidence from
  - Stirling Media Research Institute (SMRI)
  - Convention of Scottish Local Authorities (COSLA)
  - Scottish Council for Voluntary Organisations (SCVO)
3. **Cross-Party Groups:** The Committee will consider applications for approval as a Cross-Party Group in the Scottish Parliament from the following:
  - Proposed Cross-Party Group on the Scots Language
  - Proposed Cross-Party Group on Mental Health
4. **Questions for Witnesses:** The Committee will consider its line of questioning for its next evidence-taking session on Lobbying.

Dr Sam Jones  
Clerk to the Standards Committee  
Rm. 5.19, PHQ  
Ext: 85239

email: [samantha.jones@scottish.parliament.uk](mailto:samantha.jones@scottish.parliament.uk)

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Please find attached the following papers:

Agenda ST/01/3/A

Lobbying ST/01/3/2

Cross-Party Groups ST/01/3/3

**THIRD MEETING OF THE STANDARDS COMMITTEE  
LOBBYING INQUIRY: ORAL EVIDENCE**

1. At its meeting on 31 January, the Committee agreed to take oral evidence from the Stirling Media Research Institute, COSLA and the SCVO at its meeting on 28 February.
2. Copies of the organisations' respective submissions in response to the Committee's consultation paper (SP 200) are attached.

**CLERK TO THE STANDARDS COMMITTEE  
FEBRUARY 2001**

**THE SCOTTISH PARLIAMENT**  
**STANDARDS COMMITTEE**  
**3rd MEETING, 28 FEBRUARY 2001**

**AGENDA ITEM 3: REQUEST FOR STANDARDS COMMITTEE APPROVAL OF  
PROPOSED CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT**

In accordance with the Rules on Cross-Party Groups, proposals for the establishment of Cross-Party Groups in the Scottish Parliament have been submitted to the Standards Committee for its approval. The proposed Cross-Party Groups are:

- The Scots Language (submitted by Irene McGugan MSP)
- Mental Health (submitted by Adam Ingram MSP)

A copy of the Registration and Declaration of Compliance forms for the above proposed Groups are attached at **Annexe A and B**.

**Action**

The Committee is invited to consider whether it wishes to approve, under the Rules on Cross-Party Groups, the establishment of the above Cross-Party Group.

**STANDARDS COMMITTEE CLERKS**  
**FEBRUARY 2001**

**REGISTRATION FORM FOR CROSS-PARTY GROUPS IN THE SCOTTISH  
PARLIAMENT**

**Full name of Group:** Groups which have undertaken to comply with the rules on Cross-Party Groups may use the words “Cross-Party Group in the Scottish Parliament” in their title.

**Cross-Partie Group I The Scottish Pairliament on the Scots Leid**

**Cross-Party Group in the Scottish Parliament on the Scots Language**

**Purpose of the Group:** A brief statement of the main purpose of the group. Groups are reminded that the Standards Committee will look very carefully at the proposed purpose of a group to satisfy itself that its purpose is Parliamentary in nature and of genuine public interest.

**Ettle:**

**Taeforder the cause o the Scots leid, lat Memmers kew abbot the cultur an heritage o the leid and shaw the need for action tae uphaud Scots.**

**Purpose:**

**To promote the cause of Scots, inform members of the culture and heritage of the language and highlight the need for action to support Scots.**

**Members of the Group:** When listing members who are MSPs, only the MSPs name need be given. For members from outwith the Parliament, the name of the member and an indication of any interest or employer they represent must be given.

**MSPs**

**Cathy Peattie  
Maureen Macmillan  
Kate MacLean  
Helen Eadie  
Rhoda Grant  
Robin Harper  
Ian Jenkins  
Nora Radcliffe  
Lord James Douglas-Hamilton  
Alex Fergusson  
Irene McGugan  
Michael Russell  
Colin Campbell  
Fergus Ewing  
Margaret Ewing  
Winnie Ewing  
Brian Adam  
Gil Paterson  
Tricia Marwick  
George Reid**

**Other Group members**

**John Law, Scots Language Society**  
**Jenny Brown, Scottish Arts Council**  
**Sheila Douglas, Scots language Resource Centre (RSAMD, TMSA, SLS, SSF)**  
**Dr. George Philp, Scotsoun Productions (SLS, Robert Fergusson Fund)**  
**Paul Scott, Saltire Society**  
**Catrina McGillivray, Newbattle Abbey College**  
**Stuart McHardy, Scots language activist**  
**Ann Rayner**  
**Ronnie Cramond**  
**Richard Heinsar, Scots Tung**  
**Robert Fairlie, Scots Tung**  
**L Colin Wilson**  
**Sue Robertson, Scots Language Resource Centre**  
**Jim Gilchrist, Scotsman**  
**Iseabail Macleod, Scottish National Dictionary Association**  
**Caroline Macafee, Aberdeen University**  
**Joy Hendry, Chapman (publishers)**  
**Billy Kay, author, broadcaster**  
**Alasdair Allan**  
**Michael Hande, Scottish Arts Council**  
**Colin Donatt, poet**  
**Liz Niven, poet**  
**James Robertson, author**  
**Professor Richard Johnstone, Scottish CILT**  
**J Derrick McClure, Association for Scottish Literary Studies**  
**Janet Paisley, writer**  
**Moira Stratton, Scots Language Society**  
**Aimee Chalmers**  
**John Corbett, Association for Scottish Literary Studies**  
**Gavin MacDougall, Luaty Press**  
**Matthew Fitt, author**  
**Dauvit Horsbroch**  
**David Purves**  
**Pauline Cairns, SWDA**

**Officers of the Group:** Please amend titles as necessary e.g. to indicate joint office holders, or preferred titles.

Convener: **Irene McGugan MSP**

Vice–Convener: **Cathy Peattie MSP**

Secretary: **Aimee Chalmers (Member of Public)**

Treasurer: **Joy Hendry, Chapman Publishers**

**Financial or other benefits received by the Group:** The group must register any financial or other material benefit received by the group from whatever source, where the value of the financial sum or benefit from any single source exceeds £250 in any one calendar year. This includes donations, sponsorship, subscriptions, hospitality, gifts, visits, provision of services or accommodation or staff assistance. The value of use of Parliamentary facilities need not be registered.

The details requiring to be registered include a brief description of the benefit, the approximate monetary value, the date on which it was received and the source from which it came. Where a consultancy organisation provides benefits, the client on whose behalf these are provided should be named.

**Subscriptions:** Where a group charges or proposes to charge a subscription, this must be reasonable and the same for all members. The amount of the subscription should be registered and the purposes for which it is intended to use the subscription.

**N/A**



**Staff employed by or working for groups:** If a group makes use of staff issued with a Parliamentary pass, any paid activity undertaken by those staff where the employer benefits from the pass holder's access to the Parliament must be registered. There is no need to state the amount of remuneration. The requirement relates both to staff employed directly by the group and to staff employed by an outside organisation to provide assistance to the group.

Name of staff member

**N/A**

Job title (in paid activity where employer organisation benefits from pass holder's access to Parliament).

Name of Employer Organisation

Type of Employer Organisation

**Group contact:** Please give the name, **full Parliamentary address and telephone number** of an elected official of the group who is an MSP who will be the contact for registration matters for the group. Initially this must be the Member who signs the declaration on compliance with the rules on behalf of the group. If a group subsequently changes the designated contact, the office of the Standards Clerk must be informed within 7 days of the change.

**Irene McGugan MSP  
Room 2.2  
PHQ  
George IV Bridge  
Edinburgh  
EH99 1SP**

**0131 348 5711**

**Declaration on establishment of a Cross-Party Group**

I declare that *Cross-Party Group in the Scottish Parliament on the Scots Language* is constituted in accordance with the Rules on Cross-Party Groups in the Scottish Parliament as set out in Section 8.3 of the Code of Conduct.

Failure to comply with or contravention of these rules may result in a group's loss of recognition as a Cross-Party Group and loss of access by the group to the Parliament's facilities and any privileges generally accorded to recognised Cross-Party Groups. Such failure could also lead to penalties being imposed on a Member by the Parliament.

Signed: .....

Name: Irene McGugan

Date: 8 February 2001

This declaration must be signed by an elected officer of the group who is a Member of the Parliament. **This Member will be held primarily responsible for ensuring that the rules, including the rules on registration, are complied with by the group.**

**REGISTRATION FORM FOR CROSS-PARTY GROUPS IN THE SCOTTISH  
PARLIAMENT**

**Full name of Group:** Groups which have undertaken to comply with the rules on Cross-Party Groups may use the words “Cross-Party Group in the Scottish Parliament” in their title.

**Cross-Party Group in the Scottish Parliament on Mental Health**

**Purpose of the Group:** A brief statement of the main purpose of the group. Groups are reminded that the Standards Committee will look very carefully at the proposed purpose of a group to satisfy itself that its purpose is Parliamentary in nature and of genuine public interest.

**To act as a forum for assessing the implications for people with mental health problems and their carers of any relevant proposed legislation or other action which may impact upon them.**

**To raise awareness and understanding of mental illness and mental health and wellbeing.**

**To promote the rights of people with mental health problems and their carers and help to ensure that the experience and views of these groups inform the political process.**

**To campaign to reduce the stigma and discrimination experienced by people with mental health problems and work to improve public understanding of mental health issues.**

**Members of the Group:** When listing members who are MSPs, only the MSPs name need be given. For members from outwith the Parliament, the name of the member and an indication of any interest or employer they represent must be given.

**MSPs**

Adam Ingram  
Richard Simpson  
Cathy Jamieson  
Elaine Smith  
Kenny Gibson  
Lyndsay McIntosh  
Irene McGugan  
David Mundell  
Cathie Craigie  
Colin Campbell  
Fiona McLeod  
Robin Harper  
Ian Jenkins  
Kate McLean  
Johann Lamont  
Margaret Ewing  
Annabel Goldie  
Margo MacDonald  
Alex Neil

**Other Group members**

Nigel Henderson, PENUMBRA  
Mary Weir, Schizophrenia Fellowship  
John Hargreaves, Parliamentary Researcher  
Juliet Cheetham, Mental Welfare Commission  
Ruth Lang, Depression Alliance Scotland  
Richard Norris, Scottish Association for Mental Health  
Shona Barons, Scottish Association for Mental Health  
Kate Addie, Royal College of Psychiatrists  
Robin Anderson, Parliamentary Assistant  
Jane Kennedy, Parliamentary Researcher  
Amanda Quinan, Parliamentary Researcher

**Officers of the Group:** Please amend titles as necessary e.g. to indicate joint office holders, or preferred titles.

Convener **Adam Ingram MSP**

Vice–Convener  
**Robin Harper MSP,**  
**Shona Barcus, SAMH**  
**Richard Simpson MSP**

Secretary  
**Michael Smith**  
**Karen Addie**

Treasurer

**Financial or other benefits received by the Group:** The group must register any financial or other material benefit received by the group from whatever source, where the value of the financial sum or benefit from any single source exceeds £250 in any one calendar year. This includes donations, sponsorship, subscriptions, hospitality, gifts, visits, provision of services or accommodation or staff assistance. The value of use of Parliamentary facilities need not be registered.

The details requiring to be registered include a brief description of the benefit, the approximate monetary value, the date on which it was received and the source from which it came. Where a consultancy organisation provides benefits, the client on whose behalf these are provided should be named.

**Subscriptions:** Where a group charges or proposes to charge a subscription, this must be reasonable and the same for all members. The amount of the subscription should be registered and the purposes for which it is intended to use the subscription.

**Staff employed by or working for groups:** If a group makes use of staff issued with a Parliamentary pass, any paid activity undertaken by those staff where the employer benefits from the pass holder's access to the Parliament must be registered. There is no need to state the amount of remuneration. The requirement relates both to staff employed directly by the group and to staff employed by an outside organisation to provide assistance to the group.

Name of staff member

Job title (in paid activity where employer organisation benefits from pass holder's access to Parliament).

Name of Employer Organisation

Type of Employer Organisation

**Group contact:** Please give the name, **full Parliamentary address and telephone number** of an elected official of the group who is an MSP who will be the contact for registration matters for the group. Initially this must be the Member who signs the declaration on compliance with the rules on behalf of the group. If a group subsequently changes the designated contact, the office of the Standards Clerk must be informed within 7 days of the change.

**Declaration on establishment of a Cross-Party Group**

I declare that *Cross-Party Group in the Scottish Parliament on.....*is constituted in accordance with the Rules on Cross-Party Groups in the Scottish Parliament as set out in Section 8.3 of the Code of Conduct.

Failure to comply with or contravention of these rules may result in a group's loss of recognition as a Cross-Party Group and loss of access by the group to the Parliament's facilities and any privileges generally accorded to recognised Cross-Party Groups. Such failure could also lead to penalties being imposed on a Member by the Parliament.

Signed: .....

Name: Adam Ingram MSP.

Date: 15/2/01

This declaration must be signed by an elected officer of the group who is a Member of the Parliament. **This Member will be held primarily responsible for ensuring that the rules, including the rules on registration, are complied with by the group.**

## REGISTER OF CROSS-PARTY GROUPS IN THE SCOTTISH PARLIAMENT

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<b>1</b>	<b>CROSS PARTY ANIMAL WELFARE GROUP</b>
<b>2</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON CHILDREN</b>
<b>3</b>	<b>CROSS PARTY GROUP ON INFORMATION, KNOWLEDGE AND ENLIGHTENMENT</b>
<b>4</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON OIL AND GAS</b>
<b>5</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON OLDER PEOPLE, AGE AND AGEING</b>
<b>6</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON TOBACCO CONTROL</b>
<b>7</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON CITIZENSHIP, INCOME, ECONOMY AND SOCIETY (CIES)</b>
<b>8</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON BORDERS RAIL</b>
<b>9</b>	<b>CROSS PARTY GROUP ON PALLIATIVE CARE</b>
<b>11</b>	<b>CROSS PARTY GROUP ON RENEWABLE ENERGY</b>
<b>12</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON EPILEPSY</b>
<b>13</b>	<b>CROSS PARTY GROUP ON SHIP BUILDING</b>
<b>14</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON SPORT</b>
<b>15</b>	<b>CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON THE MEDIA</b>
<b>16</b>	<b>CROSS PARTY GROUP ON WOMEN</b>
<b>17</b>	<b>PROPOSED CROSS PARTY GROUP ON DISABILITY</b>
<b>18</b>	<b>PROPOSED CROSS PARTY GROUP ON NUCLEAR DISARMAMENT</b>
<b>20</b>	<b>CROSS PARTY GROUP ON CROFTING</b>
<b>21</b>	<b>CROSS PARTY GROUP ON INTERNATIONAL DEVELOPMENT</b>
<b>22</b>	<b>CROSS PARTY GROUP ON AGRICULTURE AND HORTICULTURE</b>
<b>23</b>	<b>CROSS PARTY GROUP ON STRATEGIC RAIL SERVICES IN SCOTLAND</b>
<b>24</b>	<b>CROSS PARTY GROUP ON REFUGEES AND ASYLUM SEEKERS</b>
<b>25</b>	<b>CROSS PARTY-GROUP ON MEN'S VIOLENCE AGAINST WOMEN AND CHILDREN</b>
<b>26</b>	<b>CROSS PARTY-GROUP ON ARCHITECTURE AND THE BUILT ENVIRONMENT</b>
<b>27</b>	<b>CROSS PARTY-GROUP ON DRUG MISUSE</b>
<b>28</b>	<b>CROSS PARTY-GROUP ON GAELIC</b>
<b>29</b>	<b>CROSS-PARTY GROUP ON CARERS</b>
<b>30</b>	<b>CROSS-PARTY GROUP ON HUMAN RIGHTS</b>
<b>31</b>	<b>CROSS PARTY GROUP ON DEAFNESS</b>



<b>32</b>	<b>CROSS-PARTY GROUP ON AUTISTIC SPECTRUM DISORDER</b>
<b>33</b>	<b>CROSS-PARTY GROUP ON TOURISM</b>
<b>34</b>	<b>CROSS-PARTY GROUP ON CYCLING</b>
<b>35</b>	<b>CROSS-PARTY GROUP ON SURVIVORS OF CHILDHOOD SEXUAL ABUSE</b>
<b>36</b>	<b>CROSS-PARTY GROUP ON SCOTTISH TRADITIONAL ARTS</b>
<b>37</b>	<b>CROSS-PARTY GROUP ON THE SCOTTISH CONTEMPORARY MUSIC INDUSTRY</b>

## **LEGISLATION IN WHICH COSLA HAS/HAS HAD AN INTEREST**

Census (Amendment) (Scotland) Act 2000 asp 3  
Adults with Incapacity (Scotland) Act 2000 asp 4  
Abolition of Feudal Tenure etc (Scotland) Act 2000 asp 5  
Standards in Scotland's Schools etc (Scotland) Act 2000 asp 6  
Ethical Standards in Public Life etc (Scotland) Act 2000 asp 7  
Bail, Judicial Appointments etc (Scotland) Act 2000 asp 9  
National Parks (Scotland) Act 2000 asp 10  
Regulation of Investigatory Powers (Scotland) Act 2000 asp 11  
Abolition of Poindings and Warrant Sales Bill  
Education (Graduate Endowment and Student Support) (Scotland) Bill  
Family Homes and Homelessness (Scotland) Bill  
Mortgage Rights (Scotland) Bill  
Transport (Scotland) Bill  
Forthcoming Housing Bill  
Forthcoming Regulation of Care Bill

## **Submission to Standards Committee Consultation on Lobbying the Scottish Parliament**

**William Dinan, David Miller, Philip Schlesinger  
Stirling Media Research Institute  
University of Stirling**

### **Introduction**

The Stirling Media Research Institute has been engaged in an ongoing programme of research into the public relations and lobbying industry in Scotland, the UK and Europe since 1996<sup>1</sup>. We have been encouraged by the Standards Committee's recognition of the importance of lobbying as a matter of both professional and public concern, and we welcome the opportunity to respond to the consultation paper. Our contribution is offered in the spirit of independent academic analysis.

We have monitored the growth and development of the lobbying industry in Scotland and interviewed a wide range of lobbyists and public relations professionals ranging across the commercial (consultancy and in-house) and voluntary sectors. As part of our research activity, the SMRI has been a corporate member of ASPA since its inception. When we joined, it was made clear we were researchers and not in any way engaged in professional lobbying. Our research at the UK and European levels has also brought us into contact with commercial and voluntary sector lobbyists who work in other jurisdictions, and has broadened our perspective on the issues relating to lobbying.

### **What is a Lobbyist?**

We accept that a wide variety of organisations engage in lobbying. But it is hardly a serious argument to say, as lobbyists sometimes do, that lobbying consultancies have nothing to do with lobbying. This is because many lobbyists are extremely keen not to describe themselves as lobbyists. They use all sorts of euphemisms such as 'political consultants', 'advocates', 'public affairs advisers' 'government relations counsel' etc. Whatever label they use, and however much they claim to help the democratic process by enabling dialogue and mutual understanding, it remains the case that they work for clients who hire them to pursue their own sectional interests.

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<sup>1</sup> 'Political Communication and Democracy' Economic and Social Research Council, Award No. L 126 30 100228, (1996-1998) and 'Political Communication and the Scottish Parliament', Award No. L 327 25 3003 (1999-2000).

We certainly accept that all organisations have a democratic right to lobby their MSPs and the Executive and that all organisations have a right to employ professional advisers. It is, however, fanciful to pretend (as some lobbyists do) that the ability to employ advisers is not systematically limited by resources. In fact lobbying consultancies overwhelmingly work for business interests, who also provide by far the largest proportion of their income.

### **The Lobbying Industry**

It is worth noting that many of the bigger lobbying and public relations consultancies currently active in Scotland are themselves owned by large multinational communication conglomerates.

For example, most APPC Scotland member agencies have offices both in Brussels and London, and are affiliated to, or owned by, communications conglomerates with a global reach. Scotland is merely a local outpost of the global communications economy. Of the eight lobbying companies with offices in Scotland who are members of the APPC, six are owned by multinational communication conglomerates with global reach:

#### **Strategy in Scotland**

(part of Westminster Strategy, in turn part of the international Grayling group, owned by the Lopex communication corporation);

#### **Shandwick**

(the Scottish branch of the Interpublic communication conglomerate);

#### **GPC Scotland**

(part of the global GPC network, owned by the Omnicom group, which has other interests in Scotland through Countrywide Porter Novelli, who are members of ASPA);

#### **Citigate Public Affairs**

(a branch of Citigate Dewe Rogerson, owned by the communications corporation Incepta);

#### **GJW Scotland**

(the Scottish office of GJW Government Relations, recently acquired by BSMG Worldwide);

#### **APCO Scotland**

(part of APCO Worldwide).

These corporations have their own interests across the media and communication industries. One of the key concerns for the future is the extent to which their activities in differing branches of the communication industries might involve a conflict of interest. This issue has not yet been of public concern in Scotland. But at the UK and global levels communications conglomerates increasingly promote the sectional interests of their clients through lobbying and public relations activities while also owning news

organisations which are supposed to report dispassionately on the same clients. For example ITN and the PR giant Burson Marsteller jointly own Corporate Television News which makes corporate videos and video news releases. There have recently been allegations that the priorities of CTN's clients can affect ITN reporting of public issues such as the role of Shell in Nigeria, Shell being a CTN client (Monbiot 1998; Whitehead 1998). Whether these particular allegations have substance or not, the issue of a potential conflict of interest is clear. As things stand in Scotland there are a number of prominent broadcast journalists who both work for organisations which provide media training to large Scottish and multinational corporations and who are also expected to dispassionately report the activities of those corporations.

Such potential conflicts of interest are currently not widely known or aired in Scotland and are likely to remain hidden in the absence of statutory regulation which would require the disclosure of clients and fees by both PR and lobbying consultancies.

### **Lobbying trade associations**

Lobbying trade associations exist largely in order to defend the sectional interests of their industries. Both of the dedicated lobbying trade organisations in the UK (APPC, ASPA) have come into existence in the last six years as a result of journalistic exposure of alleged lobbying malpractice. One of their main aims in practice is to resist proper democratic scrutiny of their activities. To this end they will attempt to portray lobbying as a harmless or democratically helpful activity or claim that they represent a wide range of opinion and interests and not simply those which are narrowly corporate. Both ASPA and the APPC engage in the former and ASPA in the latter. It is true that ASPA does have members who are not from corporations or consultancies, but these are very much junior partners in the enterprise. ASPA currently has around 25 paid-up members. Of these, around two-thirds are from corporate or consultancy backgrounds. In essence the trade associations (and the wider PR associations such as the IPR and PRCA) are self-interested actors in this debate.

### **The case for regulation**

At present the system of regulation in Scotland is very similar to that of Westminster. The rhetoric of an open Scotland distinct from Westminster has not so far been achieved in practice. Statutory regulation of lobbying in Scotland would be a significant departure from the practice at Westminster and could provide a model to be followed in London.

The Standards Committee has already devised a code of conduct governing the actions of MSPs. This was a welcome first step in providing for probity in Scottish public life. However, it is our view that only statutory regulation of

all lobbyists in Scotland would guarantee the highest standards of behaviour of all those involved in the political process. Moreover, it could provide the public with important information about the political process and increase public confidence in the Parliament as an institution.

Objections to a statutory register of outside interests tend to focus on the difficulty in defining lobbyists and the impracticality of maintaining a register of outside interests. There is in fact much evidence to suggest that these objections are misplaced. If a statutory register of lobbyists includes all those who lobby then the difficulty of distinguishing between different types of lobbyists (commercial consultants, in-house corporate, voluntary sector) becomes less problematic. Many states in the US have managed to produce systems of registration which can cope with the variety of outside interests who seek to shape public policy<sup>2</sup>.

There is also evidence that these systems are practicable and, according to evidence to the Neill Committee, that they can make important information available to the public 'cheaply and effectively by electronic information gathering, storage and retrieval, providing easy access to all who wish it' (Neill Committee 2000: 86). Contemporary experience from the State of New York (which has recently enacted, and implemented, the New York State Lobbying Act 1999) suggests this. It is inaccurate to claim that all statutory regulation is cumbersome and ineffective.

Statutory regulation can work and would help to improve the transparency of governance and accessibility of the Parliament. But statutory regulation is not a panacea for all the ills of democracy in Scotland. It is only the first step in ensuring sound standards in Scottish public life. Our research suggests that there is a need to make significant reforms of the whole culture of governance, especially in a small country like Scotland where personal networks can be so important (as was highlighted during 'Lobbygate'). Statutory regulation could be conceived as the beginnings of a rolling programme of reform of the culture of secrecy which affects both lobbying and the civil service in Scotland.

In the US, corporations have tried to by-pass statutory regulation by setting up 'citizens groups' which do not have to be registered, or by supplying 'free' entertainment and leisure opportunities (Silverstein 1998: 221-227). This

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<sup>2</sup> For example, see the registration systems of the following US states:  
Missouri, <http://www.moethics.state.mo.us/mec/lob.html>;  
Ohio, <http://www.jlec-olig.state.oh.us/lobby.html>;  
Texas, <http://www.ethics.state.tx.us/guides/lobby.htm#Part%20II>  
New York, <http://www.nylobby.state.ny.us/LobInstruct.html> and  
<http://www.nylobby.state.ny.us/LobInstruct.html>

suggests the need for all lobbyists to be covered by a statutory register if they repeatedly contact MSPs or officials a significant number of times a year. In addition, there is the question of fundraising dinners and other events organised by political parties which are attended by significant numbers of lobbyists and their clients and of donations to political parties. All of these lobbying activities should be public, transparent and, above all disclosed in a central register.

### **The targets of lobbying: Parliament and Executive**

We note that the consultation paper mentions lobbying only in relation to Parliament. The survey carried out by the Committee was of MSPs only. The Parliament certainly is a target for commercial and other lobbyists, but lobbying takes place anywhere that public policy is made. In Scotland, lobbyists predominantly target the Executive.

It is many years now since MPs in Westminster were the major targets of lobbying activity. The cash for questions case in 1994 did show that lobbyists still target MPs (Leigh and Vulliamy 1997). But more important is the targeting of ministers and civil servants by lobbyists and their clients. This to some extent lay behind the cash-for-questions affair as some of it took place when Neil Hamilton was a government minister. Access specifically to ministers (and not MPs or MSPs) was also central to both the 'Drapergate' and 'lobbygate' scandals.

It is crucial, therefore, that the deliberations of the Committee take the lobbying of ministers and civil servants into account in considering regulation. It may be argued that this is beyond the remit of the Committee. We would point however, to the Neill Committee and its recommendation that a clear written record of all contacts with outside interests be kept by government departments:

We do not think that compliance with a new requirement to the record would be burdensome for departments, and we believe that it would encourage high and uniform standards. (Neill 2000: 91)

Of course, such a record would have to be regularly and publicly reported for it to be of any use in promoting transparency or accountability. The key point for us, then is that for any system of regulation to work it would have to apply to MSPs, ministers and their staff (i.e. civil servants, including those in public bodies, quangos, NDPBs, nationalised industries and the like.) It should also apply even where there may be some current or future exemption under Freedom of Information practice or legislation (Scottish Executive 1999). The blanket exemption in the Freedom of Information consultation document for commercial confidentiality, should have no place in obscuring the use of lobbying, public relations, 'hospitality' and other gifts in kind. This

is particularly the case where corporations or others stand to gain significantly from contracts with Parliament or the Executive or in bidding for PPP/PFI projects and the like.

It would be rather ironic if the Parliament, born from a commitment to open up decision making, were to endorse a system of regulation which was less open than that in London. Our recommendation would be that ministers and civil servants be required to keep a record of meetings or other significant contacts with lobbyists, their clients and other special interests in line with the recommendations of the Neill Committee. This record should be put into the public domain<sup>3</sup> at regular intervals – perhaps once every parliamentary session.

### **The role of the public in public consultations**

We recognise the Standards Committee's genuine interest in public consultation on the regulation of lobbying. We also note the concern to ascertain whether the public finds it easy to access the Parliament. But we also note that this consultation has not been very extensively promoted to the public. The consultation document is available on the Parliament website, but a copy of the document was sent out to only 35 organisations. It is unlikely, therefore, that the public will have much genuine opportunity to participate in this debate. While we accept that a fair range of non-governmental and non-corporate organisations have been consulted (although the percentage representing corporate interests is rather high at 20%), it is not clear how the public interest might have any obvious role in this consultation. All those that have been asked to respond to the consultation are groups who will have a particular interest in the rules governing lobbying. To the extent that there is a crisis of confidence in governance in Scotland, this consultation will do little to counteract that problem. There are a number of ways in which public views can be taken account of. From opinion polls and focus group research to new initiatives in public consultation such as that adopted by the Petitions Committee, there are ways and means of tapping into and responding to public concern.

It is important that the Standards Committee is not unduly swayed by the weight of evidence, but rather its quality. A Neill Committee insider revealed to us that this was a problem with their recent review of lobbying at Westminster (Neill 2000). As most of the evidence was provided by political insiders and actors with vested interests in the outcome of the review, it became difficult to sustain detached public interest arguments. We would

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<sup>3</sup> By the public domain, we do not mean that it should be lodged only in SPICe. It needs to be easily accessible in printed form and via both the Executive and Parliament websites.



recommend that the Committee take public concerns seriously by attempting to find out what they are and then acting upon them.

**We Recommend:**

- Statutory regulation of all those engaged in lobbying in Scotland;
- Disclosure of resources expended in lobbying campaigns, which itemises expenditure by outside interests (clients and their agents) on each piece of legislation they have lobbied on;
- The publication and dissemination of information in the register of lobbyists, including details of all significant contacts with Ministers, MSPs and officials;
- The adoption of an electronic system of registration, which would facilitate data gathering, storage, retrieval and access to information held in the register of lobbyists.

**Responses to questions in Annex A of the consultation document**

**SECTION 1 – Lobbying Activity**

1.1

The Stirling Media Research Institute (SMRI) has been studying the lobbying industry in Scotland, the UK and Europe since 1996. Strictly as part of this research the SMRI has been a corporate member of the Association for Scottish Public Affairs (ASPA) since its inception in 1998. One of our members, William Dinan, has been a committee member of ASPA for the last year. Our submission to the Committee reflects our knowledge of and research on the lobbying industry. It does not express the views of ASPA or any other section of the lobbying industry.

**SECTION 2 – Accessing the Parliament**

2.7

Our research suggests that the rules and procedures that govern the Parliament are indeed well understood by professional lobbyists. However, our research has also brought us into contact with other civic groups and members of the public who are interested in accessing the Parliament. For these non-professionals the Parliament and the Executive are often not seen as open, accessible or transparent. This, we believe, seriously undermines the CSG's optimism that 'the open nature of the Scottish Parliament would hopefully encourage individuals and groups to approach MSPs directly, therefore, to some extent, making the need for specialist lobbying organisations

redundant'<sup>44</sup>. While we agree that the individual constituent has as much right as the professional lobbyist to make representations to the Parliament (and Executive), we must recognise that such individuals simply don't have the necessary resources (time, money, and experience) to lobby in the same way as professional lobbyists. Statutory regulation will not create a two-tier lobbying system, as this already exists and is firmly in place in Holyrood. One way to tackle this imbalance, in our view, is to open up the activities of lobbyists to public scrutiny. In New York one consequence of engaging in statutory regulation of lobbyists was the production of a guide to lobbying for citizens and citizens groups, thus attempting to use statutory regulation as a real catalyst for opening up and broadening access to law-makers. We recommend an approach which sees statutory regulation as the beginning of a process which will help to reinvigorate democracy to the extent that it widens participation and demystifies commercial lobbying activity.

Furthermore, the fact that the lobbying industry itself is not in favour of statutory regulation indicates they do not believe that any special advantage might be gained by this. The industry is keen on 'voluntary' codes precisely because they will not have to disclose information about their clients, fees and tactics, which is in the public interest.

## **SECTION 3 – Regulation of Lobbyists and Code of Conduct**

### **Statutory Regulation**

- 3.1 Yes. We would strongly support the establishment of a statutory registration scheme for professional lobbyists.
- 3.2 The main benefit of introducing statutory regulation of lobbyists in Scotland would be to ensure that Parliament takes distinctive action to police lobbying which is in advance of the systems operated in both Westminster and Brussels. This would be extremely significant evidence that the Parliament was attempting to live up to the CSG's provisions on openness. A statutory register would provide a public record of the resources devoted by outside interests to shaping public policy in Scotland. At present, the principles of openness and transparency that the Scottish Parliament has been founded upon lack concrete form. A register of lobbyists and their clients would be a very effective way of auditing the activities of outside interests who seek to

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<sup>44</sup> Report of the Code of Conduct Working Group to the Consultative Steering Group, <http://www.scotland.gov.uk/government/devolution/ccwg-11.asp>.

influence policy making. One of the recurrent problems in trying to understand the nature and scope of lobbying activity has been the absence of any reliable data on what lobbyists actually do, and what resources are devoted to influencing policy. This kind of information will not be disclosed by lobbyists unless Parliament requires it. A statutory register of lobbyists would allow such important information to enter the public domain.

- 3.3 The drawbacks of statutory regulation are, in our opinion, more imagined than real. There is evidence from the United States and Canada that registration systems can be administered easily and efficiently, especially in electronic form, which has the advantage of being relatively cheap and accessible. The only drawback we can see is that it would threaten the unaccountable, opaque and secretive conduct of some lobbyists. The main arguments used against the existing systems of regulation by lobbyists tend to be that they do not work and are complicated and subject to loopholes. But in fact these systems have secured a measure of transparency. There certainly is a concern in some places (such as the US) that the systems of regulation in place are subject to loopholes and that corporations and lobbyists have found ways to get round them (Silverstein 1998). In our view this is only an argument for having more, not less, effective regulation.
- 3.4 For a statutory registration scheme to have the full confidence of the public, the Parliament, and the lobbying community, it should be administered by an independent commissioner or commission. Given the scale of lobbying in Scotland, such a body could probably operate on a part-time basis, with the administrative support of Parliamentary staff.

### **Voluntary Code**

- 3.5 As a corporate member of ASPA, the SMRI is affiliated to ASPA's code of conduct. However, since we do not engage in any lobbying activities, its provisions have never actively applied to us.
- 3.6 The creation of the ASPA code of conduct was seen by some in the organisation as a way of establishing self-regulation as the norm for Scotland, and as a way of seeing off statutory regulation.
- 3.7 Based on our research, it would appear that ASPA's voluntary code (and indeed that of the APPC) is not being monitored in any systematic way, and that enforcement is also problematic in principle. In fact, it would appear that these voluntary codes are only policed sporadically

and informally. During our research, we were told of a case where professional lobbyists were offering preferential access to ministers. These self-same lobbyists were signatories to a code which explicitly prohibited such behaviour. That this event happened only a short while after the 'Lobbygate' affair serves to highlight the inadequacies of self-regulation on the part of lobbyists.

It is hardly likely to inspire public confidence in the Parliament if the regulation and policing of lobbying is left to the industry itself, or industry appointed agents. An arrangement whereby lobbyists are able to sit in judgement on themselves ought to give rise to questions about conflict of interest.

Furthermore, there remain real legal doubts over the ability of lobbyist trade associations to enforce sanctions by the application of their codes. In particular there may be legal difficulties for ASPA or APPC Scotland in 'naming and shaming' lobbyists in member companies. It has been suggested to us by lobbyists in London, that lobbying companies which have members named and shamed might well resort to or threaten to resort to law if their business is adversely affected by a trade association judgement. Such pressures are not conducive to self-regulation.

- 3.8 The advantage of voluntary codes has been that they have given lobbyists guidance on how they should behave when in contact with MSPs and their staff. However, as these codes are voluntary they do not necessarily apply to all those engaged in lobbying the Scottish Parliament or Executive. This is a serious regulatory blindspot. Again, with no obvious mechanisms to effectively police these codes, their value as regulatory instruments is questionable.
- 3.9 We do not see any benefits to be gained through the introduction of a voluntary code of conduct for lobbyists.
- 3.10 Voluntary codes are often ineffectual. If lobbyists are not compelled to sign up to such codes, and are not bound by any independently applied sanction if they breach these codes, then their impact can only be cosmetic. It is our view that voluntary codes are poor substitutes for statutory regulation. The weak and ineffectual regulation in Brussels and Westminster are testament to that.
- 3.11 Although we think only a statutory code will satisfy the CSG's aspirations for openness if a voluntary code were to be introduced it should apply to all those who lobby in Scotland, including commercial

consultants, in-house lobbyists in commercial corporations and the voluntary sector. The code should make explicit provision for the disclosure of the resources devoted to lobbying. Furthermore it should apply to the Parliament and to the Executive. Any information which is disclosed should be made widely available to the public in printed form and on the web. It is simply not enough to bury it by making disclosure only to SPICe or some other part of the Parliamentary apparatus.

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## **Response of the Third Sector Policy Officers Network to the Standards Committee Consultation on Lobbying in the Scottish Parliament, October 2000**

### **Section 1 - Lobbying Activity**

*1.1 Please give the name of your organisation and state briefly its main activities, including an outline of who you represent.*

The Third Sector Policy Officer's Network is a group of around 80 voluntary sector workers from across Scotland who work closely with the Scottish Parliament. Regular meetings are held in which policy officers can exchange information and ideas and learn about the remit and structure of the Scottish Parliament, and good practice in parliamentary liaison. Speakers from the Parliament who have visited the network include MSPs, clerks, researchers, committee convenors, etc.

1.2 The network consists of individual policy workers from different voluntary sector organisations all of whom may be involved in lobbying activity at different times on behalf of service users or member organisations.

We considered section 3 as the consultation area most appropriate for a response by the network.

### **Section 3 - Regulation of Lobbyists and Code of Conduct**

*3.1 Would you support the establishment of a statutory registration scheme for **professional** lobbyists?*

Whilst we would of course honour a statutory code if it were imposed, the network were unanimous in their opposition to a statutory registration scheme.

*3.2 In your view what would be the benefits of introduction of statutory regulation of lobbyists?*

Whilst there could be some benefits in increased transparency and clarity on who is lobbying on which issue and for whom, the benefits would be outweighed by the disadvantages.

*3.3 In your view what would be the drawbacks of introduction of statutory regulation of lobbyists.*

There is a distinction to be made between registration and regulation.

Members have concerns over the definition of professional lobbyist and whether voluntary sector workers who may be paid or who may volunteer to represent the interests of service users, often from 'voiceless' communities - would be included in the definition, alongside individuals who are paid to represent the interests of commercial organisations.

Members were concerned that the creation of a group of registered lobbyists would create an elite group of greater status than those who are not registered and who do not see themselves as professional lobbyists, but who may wish to influence the action of MSPs at a given point in time. The result may be an artificial divide between 'professional' and 'amateur' or non-professional lobbyists. The situation may be further complicated by voluntary organisations on occasion using the services of lobbying companies.

Everyone has the right to lobby. The Scottish Parliament is founded on the principles of access and participation. To require registration of lobbyists may act as a barrier to participation.

A register would be difficult to maintain if voluntary sector policy workers were required to register, as such workers may have liaison with the Scottish Parliament as only one of a number of areas within their work remit and may be involved in intense lobbying for a period of time when policy relating to their interest is going through, and then may not be involved in lobbying at all for much of the time.

## **Voluntary Code**

*3.5 Does your organisation currently have a voluntary code of conduct ?*

No. Whilst information on good practice is shared, the Policy Officer's Network do not have a code of conduct.

*3.9 In your view what would be the benefits of introduction of **voluntary** code of conduct as outlined in this paper?*

There could be benefit in having clear guidance on what lobbying practice is considered appropriate or inappropriate. There would also be benefit in increased transparency, and in having a consensual base for a code or guidance.

*3.10 In your view what would be the drawbacks of introduction of **voluntary** code of conduct?*

There may be difficulty in arriving at a code that is acceptable to all. There is a danger again that a group of lobbyists would be created and that those who choose not to sign up to the code be considered less professional. This may have an adverse effect on the founding principle of access to the Parliament for all.

It might be useful to draw up guidance for MSPs and their staff on how to recognise improper lobbying practices.

There was concern amongst the network that a voluntary code might in effect be a first step towards statutory regulation.

*3.11 In your view what would be the principle components of a voluntary code and how widely should it be drawn? How should it be 'policed' and what sanctions should be available?*

The network envisaged a statement of guidance rather than a code of conduct. This statement of guidance should be available to MSPs as well as lobbyists. Network members consider it to be the responsibility of MSPs to be make clear what lobbying behaviour is inappropriate and to respond appropriately, turning down improper lobbying.

A voluntary code/ statement of guidance should be easily accessible to all concerned and should regulate the lobbying function rather than the people involved in lobbying.

There would be no need for any 'policing' of a voluntary code or statement of guidance. The MSPS' rejection of improper lobbying would act as sanction.

6 December 2000

Your Ref:

Dr Sam Jones  
Standards Committee Clerk  
The Scottish Parliament  
EDINBURGH  
EH99 1SP

Our Ref: P/28/4/17 – DB/AR

Dear Dr Jones

## LOBBYING IN THE SCOTTISH PARLIAMENT – STANDARDS COMMITTEE CONSULTATION

### **Introduction**

The Convention of Scottish Local Authorities (COSLA) does not classify itself as a lobbying group per se. As the body that represents all 32 of Scotland's Councils, COSLA is uniquely placed to represent the views of local government in Scotland to the Scottish Parliament and the Scottish Executive. COSLA recognises within its structures the political complexion of its member councils and the needs of both large and small councils and urban and rural councils.

COSLA does, however, acknowledge the Committee's definition of lobbying as –

“the representation of organised interests to MSPs by the interested parties themselves, or the professional representation of organised interests by a third party, with the intention of influencing the action of MSPs”.

### **Lobbying Activity**

Since the opening of the Parliament in July 1999 COSLA has been in almost constant contact with the Parliament, its Committees, MSPs and staff. The formality of such contact ranges from informal discussions to formal submissions of oral and written evidence. It is important to note that, as COSLA is the national voice of local government in Scotland, the contact may be instigated by the Parliament seeking COSLA's advice or by COSLA offering information to the Parliament. Contact is seen as very much a two-way process with a view to explaining local government and, as a consequence, assisting in the level of informed debate in the Parliament on behalf of the people of Scotland, all of whom have access to the services provided by Scotland's councils.

Given COSLA's unique position, it is difficult to quantify the number of times contact may take place in relation to a particular issue. The two-way process tends to result in a dialogue between our two organisations and, again, the informality of some contacts makes it difficult to quantify the extent to which contact takes place. For instance, telephone conversations with Clerks may occur several times a day depending on the issue being discussed.

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Audrie Robertson



With regard to the number of issues on which contact has been made, if an issue impacts on local government in Scotland, COSLA will have made contact with the Parliament. Some examples include regular briefings of MSPs on local government finance, promoting amendments to legislation such as the Ethical Standards in Public Life (Scotland) Act 2000 and giving evidence to the Procedures Committee promotion of private legislation. The full list of legislation in which we have/have had an interest is annexed to this letter.

COSLA only represents the views of local government in Scotland and would not act on behalf of another organisation, either on an unpaid or paid basis. Where a public body has the same or a similar view to COSLA on a particular issue, it is probable that we would make a joint submission to the Parliament as this would be seen to be both more effective from our joint perspective and a less onerous burden on MSPs' time.

### **Accessing the Parliament**

As alluded to earlier, COSLA's contacts with the Parliament are made in a variety of ways. Briefings may be written or oral, evidence may be written or oral, written communications may be in the form of letters, emails or formal submissions and personal contact may be made by telephone, face-to-face individual contact or at formal meetings. The appropriateness of the method of contact depends very much on the subject matter concerned and prevailing circumstances and all appear to be equally as effective.

COSLA is fortunate in having good contacts with MSPs, over one third of whom have been Councillors and many of whom were actively involved with COSLA during their time as Councillors. We have also developed links with many of the other MSPs as and when issues that are of concern to them have arisen.

Our main links with the Parliament's Committees are with the Local Government; Education, Culture and Sport; European; Rural Affairs; Social Inclusion, Housing and Voluntary Sector; and Transport and Environment Committees. All of the links have developed because of COSLA's direct involvement in the subjects within their remits. That having been said, we have given evidence to other committees, for instance the Standards Committee. The President and Chief Executive meet with all the Conveners to discuss matters of mutual concern and to offer assistance as appropriate.

Generally speaking, we find it easy to access information about what is happening in the Parliament. Where there are good links with Committee Clerks, we are kept informed of forthcoming work programmes. We are also kept informed of forthcoming business to be debated by the Parliament. Also, as the Parliament's website evolves, it is becoming easier to access information via that route.

With regard to the rules and procedures that govern the Parliament, they appear to be reasonably straightforward and understandable.

Our experience of working with the Parliament is, generally, positive. We do, however, have a general concern about the way in which Parliament handles Stage 2 of the Bill process. 36 hours is not sufficient time for the MSPs on a Committee to consider substantive amendments to a Bill of any size. It is certainly not sufficient time for organisations to consider these amendments and to lobby the MSPs in relation to them, or for the MSPs to access considered advice from organisations.

The comment in relation to substantive amendments is particularly relevant where they relate to major changes to proposed legislation, an example being the late introduction of surcharge

to the Ethical Standards Bill. Such major issues would benefit from fuller consideration, particularly if the Parliament is to fulfil its inclusive role.

### **Regulation of Lobbyists and Code of Conduct**

COSLA is concerned about the phrase “professional” lobbyists as it is likely to be difficult to define. We do not have any problem with the concept of openness and transparency in lobbying the Parliament and, indeed, actively support openness and transparency in local government. Statutory regulation does, however, as referred to in the consultation paper, give an impression that only registered lobbyists could access MSPs. Given that the Scottish Parliament is intended to be more accessible than Westminster, it would be regrettable if such a regressive development were to occur.

With regard to voluntary regulation of “lobbyists”, COSLA would support lobbyists being encouraged to adopt principles of accountability, accessibility, openness and responsiveness in their dealings with the Parliament. COSLA and its member councils already adopt such principles in their own day-to-day activities. Given the views expressed in its response, COSLA would support the introduction of a voluntary code of conduct for “lobbyists” rather than their statutory regulation.

### **Conclusion**

COSLA trusts that its comment will be of interest and would be pleased to expand on them if required.

Yours sincerely

Dawn Burrows  
Parliamentary Officer