



**Submission to Working Party's consultation: Towards a Public Affairs Council
Alliance for Lobbying Transparency
June 2009**

Introduction

The Alliance for Lobbying Transparency is the coalition of civil society groups set up in September 2007 to campaign for a mandatory register of lobbyists. ALT believes that a system that allows public scrutiny of all lobbyists' activities is a significant first step in restoring public trust in policy making and boosting participation.

Current members of ALT are: Action Aid; Campaign Against Arms Trade; Campaign for Press and Broadcasting Freedom; Corporate Watch; enoughenough.org; Friends of the Earth; Greenpeace; National Union of Journalists; Pesticides Action Network; Platform; SPEAK Network; SpinWatch; Unlock Democracy; War on Want and the World Development Movement.

Many of these groups are lobbying organisations. They support a mandatory system of registration that would apply to all lobbyists, above a minimum financial threshold, including themselves.

ALT welcomed January's report by the Public Administration Select Committee in which it strongly recommended the introduction of a mandatory register of lobbying activity. As the Alliance said in evidence to the Committee, we believe that no system of self-regulation run by lobbyists can ensure transparency for the following reasons:

- Self-regulation is operated by self-interested actors and so lacks independence;
- Self-regulation cannot cover the whole of the lobbying industry, from in-house lobbyists to law firms, charities to think tanks;
- Both in the UK and elsewhere, systems of self-regulation have failed because of a lack of monitoring and serious sanctions to deter members from breaching the rules;
- The information provided by current and proposed systems of self-regulation in the UK – just the names of lobbyists and clients – is not sufficient to allow public scrutiny of influence on public policy.

Consequently, we support PASC's view that: "In the current climate of public mistrust, voluntary self-regulation of lobbying activity risks being little better than the Emperor's new clothes."

Current political climate

Over the last 6 weeks the political landscape has radically changed through the expenses scandal. One of the overarching themes to come out of the crisis is that self-regulation of political affairs is no longer publicly acceptable.

The crisis of public trust that now faces our elected representatives demands that action is taken to ensure real transparency. As Gordon Brown said in June: "The future is .. how can we open up areas of public life that have been too secretive. In the

dark recesses of power, too much information is withheld when the public should have that information.” David Cameron has talked about the need for “transparency and accountability” and ways to “open up the legislative process to outsiders”.

It is now widely understood that transparency is the way to increase accountability, and the introduction of a mandatory register would be a significant step in helping to restore public trust. With such a measure, the public would be able to see:

- Who is lobbying whom: the names of lobbyists and their clients or employers, as well as the public officials being lobbied;
- The area of public policy being lobbied on, including the specific (proposed) legislation, regulation, policy, contract or grant;
- Information on the so-called ‘revolving door’ between politics and the lobbying industry;
- How much money is being spent on lobbying activity: this would allow the public to judge the significance of the lobbying activity taking place. Financial disclosure is a requirement of the system of registration in the US, but was not included in PASC’s recommendations.

Reframing of the PASC report by the Working Party

ALT is concerned that the representative bodies of the lobbying industry continue to oppose such transparency reforms. The Working Party’s Issues Paper proposes instead a continuation of self-regulation, albeit in a slightly different form. ALT believes that self-regulation has failed to increase transparency in lobbying, a point made explicitly in the PASC report:

“We do not believe that transparency requirements are ever likely to be enforceable through self-regulation.”

The PASC recommendation for a single umbrella group – the subject of the Working Party’s Issues Paper – was in fact made in relation to the “ethical behaviour” of lobbyists, not transparency:

“There may, however, be a role for a self-regulatory organisation in promoting ethical behaviour by those involved in lobbying.”

To include transparency in the remit of the proposed Public Affairs Council is to reframe the PASC report, and it is therefore a surprise to find that the Working Party has chosen to discuss transparency measures in such depth in its paper. The stated terms of reference of the Working Party are:

To consider the following recommendation in the recent report on lobbying by the Public Administration Select Committee: “...*establish a single umbrella organisation with both corporate and individual membership, in order to be able to cover all those who are involved in lobbying as a substantial part of their work*” and related matters, and to make recommendations.

ALT also contests the Working Party’s stated central “*assumption – which seems to a degree to be reflected in the PASC report itself – that if a workable and effective system of self-regulation can be established for the industry, that would be both more immediately operable and preferable to a statutory system of control*”.

We have explained above why we believe self-regulation can never deliver transparency. However, ALT also has serious misgivings with some of the specific proposals put forward by the Working Party.

Flawed and inadequate means of achieving coverage

Point 8 of the Issues Paper deals with ‘mechanisms for achieving universality,’ that is making sure that a system of regulation covers the activities of *all* lobbyists. The Working Party rightly identifies universality as a key issue. It acknowledges that “there are thousands of lobbyists outside the existing [self-] regulatory net”, and asks: “How will they be convinced to join a new system?”

It states that universality is dependent on there being effective sanctions or incentives. It proposes three possible sanctions:

- The introduction by the Houses of Parliament and the Cabinet Office of a “kitemark”, which demonstrates that lobbyists have met the standards set out by the proposed Public Affairs Council (PAC). Such a kitemark would be “desirable” rather than obligatory;
- The introduction of a system in which a kitemark is essential to lobby;
- Restrictions on access by the Houses of Parliament to anyone outside of self-regulation.

It goes on to state that: “Organisations not kitemarked could be presumed not to be compliant with [ethical] standards. Those seeking to use the services of a lobbyist could be guided accordingly.”

However, at the same time, the Working Party’s favoured route to joining the proposed PAC is via affiliated member organisations, and “at least initially, via the existing [self-] regulatory bodies,” the APPC, PRCA and CIPR.

This is a fundamentally flawed approach. First, there is a cost associated with becoming a member of the existing self-regulatory bodies. For example, annual membership of the CIPR costs £210, plus a one-off admission fee of £50. For sanctions, such as restrictions on access, to apply to a lobbyist who refuses to – or cannot – pay this fee is ludicrous, not to mention undemocratic. The Working Party’s proposals favour those with greater resources, and risk excluding smaller, less well funded lobbying groups from approaching public officials.

The alternative, identified by the Working Party, would be to allow direct membership of PAC. However, it believes that: “permitting direct membership of the PAC would immensely complicate the task of establishing the Council, including the question of... funding.” For any system of regulation to be effective requires resources, for example, for monitoring compliance. However, it is obvious that the Working Party’s proposed source of funding, through paid membership and accreditation, is undemocratic.

This crucial point aside, the Working Party underestimates, in our view, the immense challenge of ensuring that the 9 out of 10 in-house lobbyists not currently members of the CIPR sign up to self-regulation under PAC. ALT disagrees with the claim that: “Those in consultancies tend to be the particular target of media and parliamentary

concern.”

This runs counter to PASC’s view: “The regulation of multi-client public affairs consultants was in reality an issue of secondary importance. Large corporate interests tend to be the focus of public concern; but these generally use in-house teams for important campaigns.”

Ensuring that in-house lobbyists, which outnumber lobbying consultants by 4 to 1, sign up in significant numbers to a system of self-regulation is a considerable challenge, especially given the requirement under these proposals to have to pay for the privilege.

The landscape of lobbying activity in the UK is very broad. It includes in-house and consultant lobbyists, law and accountancy firms, management consultants, charities, think tanks. This means that a system that relies on membership of PAC through affiliated member organisations will fail to achieve universality.

Conclusion

ALT strongly agrees with the view of Professor A.P. Pross, an advisor to PASC:

“Only government has the authority to require lobbyists to divulge information. Only government can require officials to report the failure of lobbyists to comply with the rules. Only government can investigate such failures and prosecute breaches of the rules. Only government can impose sanctions such as the denial of access ... Professional organisations, even with government encouragement, find it difficult to effectively discipline their members.”

ALT supports the creation of a single Public Affairs Council, but its role should be to ensure standards. Transparency in lobbying, especially given the current climate, cannot be left to the industry. The very real crisis in Parliamentary democracy demands the introduction of a mandatory register of lobbying activity provided for in statute, which is independently managed and enforced. Only this will allow adequate scrutiny of the relationship between public officials and those that seek to influence them.