

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

INQUIRY INTO LOBBYING

SUBMISSION RECEIVED FROM STANDARDS OF CONDUCT COMMITTEE

The National Assembly for Wales Standards of Conduct committee undertook an inquiry into lobbying and cross party groups, which was published in April 2013. The Committee were keen to look at this area as part of their on-going review of the Assembly's standards procedures. There have been no complaints regarding lobbying during the tenure of the current Standards Commissioner (or indeed since the inception of the National Assembly for Wales as far as can be ascertained).

Key considerations for the Committee as part of the inquiry were:

- the need to maintain the open culture of the Assembly and availability of its Members, so as not to fetter the democratic process;
- the need to maintain transparency to the public, decision makers and other interested parties in ascertaining what influences are brought to bear on their elected representatives. The public's right to access to information is very important;
- to avoid any temptation to introduce regulation for its own sake, and not to unnecessarily raise the burden on the public purse;
- the need to guard against complacency and ensure that the rules will remain sufficiently robust going forward – in particular in light of increased legislative powers and the outcome of the Silk Commission, including the possibility of future financial borrowing and/or tax-raising powers.

Throughout this inquiry, the Committee Chair and Commissioner for Standards engaged in an open and constructive dialogue with Public Affairs Cymru (PAC) (a membership organisation for public affairs professionals in Wales) about possible options for developing a transparent and workable system for lobbying. The Committee, Commissioner and PAC shared a desire to promote greater transparency and openness about contact between Members and those engaged in lobbying activity.

The Committee's wanted to find a satisfactory 'made-in-Wales' approach to arrangements for lobbying. We did not consider it appropriate to simply accept the status quo of current arrangements nor did we see evidence of the need to move towards legislating for a system of statutory registration at this time. The Committee agreed that it was important to have a system that gives as much transparency as possible about who professional lobbyists are meeting with, without any unnecessary burden on the public purse.

As a result of this inquiry the Committee produced guidance on lobbying (a code of practice for Assembly Members on contact with lobbyists) encouraging the recording of meetings (attached to this response). This guidance was adopted by resolution of

the Assembly in plenary and issued alongside new rules for Cross-Party Groups to form a package of advice for Assembly Members. It is the Committee's view that this will help to provide reassurance to the Welsh public about levels of openness and transparency, and the Standards Commissioner's ability to investigate any concerns that might be raised with him in the future with regard to lobbying. It is envisaged that every three years the Presiding Officer will take stock of the effectiveness of these arrangements and, if dissatisfied, invite the Standards of Conduct Committee to reconsider the question of whether statutory regulation was required.

In addition to this guidance, Public Affairs Cymru had already introduced [a Code of Conduct](#), (on which the Standards Commissioner was consulted) which all its members in the private and voluntary sector are committed. The Committee welcomed the existence of such a code, which focuses on the importance of public affairs professionals in Wales acting with honesty, transparency and integrity.

Throughout the inquiry, there were a number of issues which arose which led the Committee to decide that, at present, the issue of lobbying was best managed through guidance. These are explored below:

- ***Defining 'Lobbyist'***

The Committee wanted to ensure that there was a 'level playing field' for all those trying to engage with Assembly Members. We found some difficulties around agreeing a common definition for 'lobbyist', particularly in the context of how the 60 elected Members of the National Assembly for Wales engage on a daily basis with a wide range of representatives of Welsh civic society. PAC also raised concerns about the definition of a 'lobbyist' as lobbying activity may be carried out by in-house lobbyists and representatives of trade unions and other third sector organisations, as well as public affairs consultancies and individual commercial lobbyists.

To address these concerns, the Committee focused on *the activity of lobbying*, i.e. activity aimed at seeking to influence Members. This led to us considering a system that seeks as much as possible to cover "all those who undertake lobbying activity, on a professional basis and in a paid role." This would include in-house lobbyists, charities, trades associations and other organisations that employ staff to undertake lobbying activity, and individual lobbyists, as well as consultancies and agencies that either lobby directly on behalf of clients or advise their clients on undertaking lobbying activity.

- ***Voluntary Registration of information on lobbying activity***

The Committee explored the idea of a proportionate regime of voluntary registration for professional lobbyists, with a focus on records of meetings between lobbyists and Members being kept. We support the principle of professional lobbyists making the details of their members/employees, their clients and the areas of interest that they pursue publicly available and think it would be useful for more information to be made public by professional lobbyists about the amount of money spent in pursuit of each broad area of lobbying.

It should be stressed that the Committee respects the rights of lobbyists not to be required to provide commercially confidential information about their fees, but we believe an indication of the cost of any major events specifically aimed at Assembly Members could be declared in the interests of transparency and the public's right to know. By way of example, if a number of Assembly Members attended an event and then subsequently voted in plenary on an issue where the event organiser or their client had a strong commercial interest in the result, then that would be matter of public interest, even though individual Members might not be required to register their participation in that event in accordance with Standing Order rules and thresholds for registering interests.

The Committee was strongly of the view that no unnecessarily onerous burden, in terms of time or resources, should be placed on smaller voluntary, charitable or third sector organisations or campaigners. The Committee and Commissioner also favoured an approach that would not raise the burden on the public purse and that does not impose an unnecessary burden on Assembly Members. The Committee concluded that there are practical, administrative and resourcing issues to consider with introducing and maintaining a voluntary register, whether this was to taken on by the industry or considered as an additional function of the Assembly Commission to be paid for through public funds

In exploring the various options for developing a voluntary system of registration, it was not possible to identify a practical option that met the test of proportionality, i.e. avoiding unnecessary burdens on either lobbyists, Members or the public purse. The Committee concluded that a voluntary register was not a reasonable or proportionate response in Wales, at this time, to the concerns that have been raised about lobbying activity at UK level.

Furthermore, the Committee noted that any voluntary system of registration by professional lobbyists would not fully answer the question of how to regulate the activities in Wales of lobbyists based outside Wales, or who are not registered as a professional lobbyist. The Committee therefore considered whether there should be guidance to Members on contact with anyone they believe to be undertaking lobbying activity, to ensure that a record is kept of that meeting, who attended and what was discussed.

Scrutiny of conduct of Welsh Ministers

The Committee felt that the lobbying of Ministers, rather than individual Assembly Members, represented the greatest potential reputational risk to the Assembly going forward, particularly in the context of the Assembly gaining financial powers in the future. Although the Committee and the Commissioner have no direct powers over the First Minister, we invited him to consider the merits of reviewing the Welsh Ministerial Code, specifically to make provision for:

- publishing information about meetings between Welsh Ministers and professional lobbyists in one place, to increase levels of public transparency;
- considering whether the current process of investigating complaints against Ministers under the Welsh Ministerial Code is sufficiently robust and transparent, or if it should be revised to increase levels of public confidence

both in how complaints are handled and specifically on reporting the outcome of investigations.

**STANDARDS OF CONDUCT COMMITTEE
NATIONAL ASSEMBLY FOR WALES
JANUARY 2014**

NATIONAL ASSEMBLY FOR WALES' GUIDANCE ON LOBBYING AND ACCESS TO ASSEMBLY MEMBERS

1. This guidance is intended to supplement and complement the requirements of the National Assembly for Wales' Code of Conduct for Assembly Members.
2. An Assembly Member should not, in relation to contact with any person or organisation who lobbies, do anything which contravenes the National Assembly for Wales' Code of Conduct for Assembly Members, or any other relevant rule or resolution of the Assembly or any statutory provision.
3. A Member should not, in relation to contact with any person or organisation who lobbies, act in any way which could bring the National Assembly for Wales, or its Members generally, into disrepute.
4. The public must be assured that no person or organisation will gain better access to, or treatment by, any Member as a result of employing a professional lobbyist¹ either as a representative or to provide strategic advice. In particular, a Member should not offer or accord preferential access or treatment to professional lobbyists or their employers. Nor should professional lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from another Assembly Member or group or person within, or connected with the National Assembly for Wales.
5. Before taking any action as a result of being lobbied, a Member should be satisfied about the identity of the person or organisation who is lobbying and the motive for lobbying. An Assembly Member may choose to act in response to a professional lobbyist but it is important that the Member knows the basis on which the Member is being lobbied in order to ensure that any action the Member takes complies with the standards set out in the Code of Conduct for Assembly Members.
6. There is currently no voluntary or statutory scheme for registering professional lobbyists operating in Wales. Before agreeing to meet with a person or organisation that the Member believes may be a professional lobbyist, the Member may wish to find out whether the lobbyist is a member of a professional body registering information about who its members represent, and which has a professional code of conduct for its members. This would include public affairs bodies such as Public Affairs Cymru (PAC) and the Association of Professional Political Consultants (APPC). If the lobbyist is not a member of such a professional body, the Assembly Member must decide whether or not to meet with that individual.
7. In addition, Members should consider taking one or more of the following steps:
 - keeping a record of all meetings with persons considered to be undertaking lobbying activity;

¹ For the purposes of this guidance, a „professional lobbyist“ would include „all those who undertake lobbying activity, i.e. activity aimed at seeking to influence Members, on a professional basis and in a paid role“. This includes in-house lobbyists, charities, trades associations and other organisations that employ staff to undertake lobbying activity, individual lobbyists, as well as consultancies and agencies that either lobby directly on behalf of clients or advise their clients on undertaking lobbying activity.

- requiring the person undertaking the lobbying activity to make a record of the meeting, and provide for the Member to have access to that record at any future time should it be called for, before agreeing to meet with them,
- arranging for a member of their support staff to take notes at any meetings with persons considered to be undertaking lobbying activity.

8. The Code of Conduct for Assembly Members sets out the standards expected in relation to acceptance of hospitality, gifts and benefits. In addition to this and the statutory provisions in the Government of Wales Act 2006, Members:

- should not accept any paid work which would involve them lobbying on behalf of any person or organisation or any clients of a person or organisation;
- should not accept any paid work to provide services as a parliamentary strategist, adviser or consultant, for example advising on National Assembly for Wales affairs or on how to influence the National Assembly for Wales and its Members. (This does not prevent a Member from being remunerated for activity which may arise because of, or in relation to, membership of the Assembly, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events);
- should decline all but the most insignificant or incidental hospitality, benefit or gift if the Member is aware that it is offered by a professional lobbyist. Standards of personal conduct and general principles of conduct identified by the Committee on Standards in Public Life are set out in the Code of Conduct for Assembly Members. These include the requirement that a Member should “never accept any financial inducement as an incentive or reward for exercising parliamentary influence”, the “no paid advocacy” rule, and “not to place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.” Since the basis on which many people believe that professional lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such a source could influence a Member’s judgement in carrying out their official duties. (If a Member only becomes aware of its source after receiving hospitality, a benefit or gift, then the Member should consider reimbursing the costs of any hospitality or benefit or returning any gift.)

9. Members may participate in events for which others are charged a fee to attend. Participation, for example, in a conference or seminar for which delegates are charged a fee may be a useful means of a Member gathering a range of views on a topic. There could be some concern, however, that events falling into this category could be a means of „buying“ access to Assembly Members. It is important that there should be no grounds for such a perception. No preferential treatment should, therefore, be offered or accorded any person or organisation as a result of having made initial contact with an Assembly Members at such an event.

10. Members should not participate in any event if they are aware, or become aware, that the organisers are promoting the event on the basis that those paying to attend the event are „buying“ influence over Assembly Members or that they can expect to receive better subsequent access to, or treatment by Assembly Members, than would be accorded to any other person or organisation.

11. When agreeing to sponsor the hosting of any event, meeting or exhibition on the Assembly Estate, Members must at all times comply with the requirements of both the National Assembly for Wales Events Guidelines and the Terms and Conditions for events, which are sent to event organisers and copied to the sponsoring Member. The sponsoring Member or their representative must attend the event, exhibition or meeting, and responsibility for the event rests with the Member who is sponsoring the booking.

12. Members should ensure that staff working for them are aware of and apply these rules and guidelines when acting on a Member’s behalf or in any National Assembly for Wales connection.

Guidance agreed by Assembly resolution on 26 June 2013