

# **STANDARDS COMMITTEE**

Wednesday 14 March 2001  
*(Morning)*

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## STANDARDS COMMITTEE

### 4<sup>th</sup> Meeting 2001, Session 1

#### CONVENER

\*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

#### DEPUTY CONVENER

\*Tricia Marwick (Mid Scotland and Fife) (SNP)

#### COMMITTEE MEMBERS

\*Lord James Douglas-Hamilton (Lothians) (Con)

\*Patricia Ferguson (Glasgow Maryhill) (Lab)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Mr Kenneth Macintosh (Eastwood) (Lab)

\*Kay Ullrich (West of Scotland) (SNP)

\*attended

#### WITNESSES

Jeremy Balfour (Evangelical Alliance and Scottish Civic Forum)

David Bleiman (Scottish Trades Union Congress)

Alan Boyd (Association for Scottish Public Affairs)

Fiona Callison (Association of Professional Political Consultants in Scotland)

Angela Casey (Association for Scottish Public Affairs)

George Edwards (Association of Professional Political Consultants in Scotland)

Rozanne Foyer (Scottish Trades Union Congress)

Tim Hopkins (Equality Network and Scottish Civic Forum)

Liam Jarnecki (National Union of Students Scotland and Scottish Civic Forum)

Robbie MacDuff (Association of Professional Political Consultants in Scotland)

Lynne Raeside (Royal Institution of Chartered Surveyors and Scottish Civic Forum)

Tracey White (Scottish Trades Union Congress)

Debbie Wilkie (Scottish Civic Forum)

#### CLERK TO THE COMMITTEE

Sam Jones

#### SENIOR ASSISTANT CLERK

Jim Johnston

#### LOCATION

The Hub



## Scottish Parliament

### Standards Committee

*Wednesday 14 March 2001*

*(Morning)*

[THE CONVENER *opened the meeting at 10:06*]

**The Convener (Mr Mike Rumbles):** Good morning and welcome to the fourth meeting this year of the Standards Committee. I ask everyone to ensure that their mobile phones are switched off because, in this building, they can cause problems for the broadcasters.

Before we start, I apologise to the witnesses for the fact that there are no blinds on the windows and the sunlight is streaming through.

## Lobbying

**The Convener:** Our main business today is our inquiry into lobbying, and this is our second oral evidence-taking session. I welcome David Bleiman, Rozanne Foyer and Tracey White from the Scottish Trades Union Congress, who are our first witnesses this morning. I invite you to make a short opening statement before we move on to questions, which, of course, is the part that we are interested in.

**David Bleiman (Scottish Trades Union Congress):** We will introduce ourselves first. I am the vice-president of the STUC—that is, I am one of the lay officers of the congress.

**Tracey White (Scottish Trades Union Congress):** I am an assistant secretary with the STUC. My primary responsibilities are for policy matters in relation to the economy and employment.

**Rozanne Foyer (Scottish Trades Union Congress):** I am also an assistant secretary with the STUC, involved in equality and social justice matters. I work on policy and campaigns.

**David Bleiman:** The Scottish Trades Union Congress is the single trade union centre in Scotland. It was founded in 1897. It is not politically affiliated, although some—but not all—trade unions are affiliated politically. We represent more than 620,000 trade union members and we represent workers and their families in Scotland. We are democratically based. We make policy at an annual congress and we have a general council that meets through the year to oversee the implementation of that policy. Our membership comes from all walks of life and includes professionals and manual workers from the public sector and the private sector and from all parts of Scotland. We have 46 affiliated unions.

The STUC engages in a wide spectrum of activity that might loosely be described as lobbying. That includes both responsive lobbying, such as coming to give evidence to the committee—this is only one of a number of occasions on which committees have invited us to give evidence—and more proactive lobbying, which ranges from a phone call or e-mail to an MSP on a particular issue on which we want to comment, to hosting a reception that might be associated with one of our events for quite a number of MSPs from all parties.

We certainly regard the political—with a small p—lobbying role of the STUC as a distinctive service that we can offer. I hope that this does not sound pompous, but we think that we can offer that service to Scotland and to the new politics. Because the STUC represents so many workers

and their families and so many different unions with their different specialist interests, the process of discussing important issues within the STUC, and all the consultation and sometimes fierce debate that we go through, can be part of consensus building within the new politics in Scotland. We see the STUC as an important social partner for the Parliament, the Executive and Scotland. We are not just another lobbying organisation.

**The Convener:** I would like to move to questions. Do you want to add anything to your statement first?

**David Bleiman:** I will just add that the new politics is challenging. It places significant demands on us and represents a different way of working. We are trying to respond to that challenge.

**The Convener:** I agree: the new politics is challenging for us all.

**Kay Ullrich (West of Scotland) (SNP):** I should say at the outset that I am a member of Unison.

I thank the witnesses for coming along today. You did not provide a written submission, so the questions will be very important today. It seems that you are describing yourselves as loose lobbyists—if you will excuse the expression. You describe the kind of lobbying that you do as a “service”. Could you expand on that? A service to whom? To your members? To parliamentarians?

**David Bleiman:** To both really. When a particular policy issue comes up, we seek to bring together the relevant affiliated unions whose members are in the sector that is involved or have an interest in the policy in question. We try to bring those groups of people together and thereby add value to what an individual trade union could do by making representations. In doing that, we also provide a service to the Parliament—I do not know whether it is right to describe what we do in that way, but it certainly assists in the consultation process if that degree of co-ordination and consultation has happened before people come along to talk to MSPs.

**Kay Ullrich:** What about briefings to individual members of Parliament?

**David Bleiman:** We seek to give briefings as appropriate. In the past, we were consulted much less: Westminster was much less accessible than the Scottish Parliament is. In the past, we perhaps had the luxury of engaging in oppositional politics, whereas now we are asked for constructive views. The onus is on us to ensure that what we have to say is well researched and authoritative, and that we are not simply position-mongering. That is a challenge that we hope to respond to.

**Kay Ullrich:** Does the STUC operate any kind

of voluntary code on good practice for lobbying the Scottish Parliament?

**David Bleiman:** No, we do not. The nearest that we come to such a code is in our developing custom and practice, whereby we try to co-ordinate the affiliated unions so that, wherever possible, we adopt a group approach under the umbrella of the STUC, rather than firing off in different directions when that can be avoided.

**Kay Ullrich:** But you have no voluntary code?

**David Bleiman:** At present, we have no code.

**Kay Ullrich:** Would there be any benefit in having a code?

**David Bleiman:** We agree with what we understand to be the basic concept in the code of conduct for MSPs. We consider the main onus to be on the MSPs, because there are many voluntary organisations, some of which have few resources and some of which are very small. It would seem impracticable to have a code that covered every organisation or individual who might lobby. The danger exists that a code might impede the access to and openness of the Parliament.

**Kay Ullrich:** In what ways could a code impede access and openness?

10:15

**David Bleiman:** If a small voluntary organisation such as a parent-teacher association or a tenants group wants to talk to an MSP, it might be a one-off activity and the first time that the group has done it. If those people felt that they had to follow a code of practice before they could do that—

**Kay Ullrich:** I was talking about the STUC—not a small organisation—having a code of practice.

**David Bleiman:** If it were suggested to us that we should consider a code of practice, I am sure that we would be happy to do that. We do not have a code of practice at present.

**Rozanne Foyer:** We do not have a formal code of practice, but we have standards by which we abide. Anything that we say to MSPs—whether on a cross-party basis or to people with roles on committees, for example—complies with our policies, which have been fully debated.

If we are dealing with a particular issue, we try as far as possible to find people from the front line of the trade union movement to talk about the issue. We try to bring people from our grass roots to groups such as this committee. For example, for a race issue, we would try to involve members of our black workers network. On an industrial issue, we would try to find stewards with relevant experience. We try to be representative in our policies and the people who argue our case.

**Kay Ullrich:** Can you give me any examples of good lobbying practice?

**Rozanne Foyer:** We see ourselves as a model of good practice, because we go to great lengths to ensure that we represent the views of our members. We would be concerned if massive amounts of access were given to people just because of the amount of money that they had or because they could buy expertise—we would have problems with such practices. We hope that the Parliament will ensure that smaller groups that lack such funds have nice, clear and open ways of accessing the Parliament.

**Kay Ullrich:** I think that we share your views on that.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** Do you make a distinction between the small organisations that you mention in your evidence and the commercial organisations that lobby and influence for profit and have a client base?

**David Bleiman:** Yes. They are chalk and cheese. MSPs should be open to hearing the views of any organisation—whether it is like the STUC and has a large membership base, or whether it is small—and any individual. Purchasing such expertise or advocacy should not be necessary. Some professional lobbyists would argue that they do not do advocacy and that what they provide for their fee is advice on parliamentary processes. We hope that the Parliament will be sufficiently informative to allow people to find out about such matters without paying a fee.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** Before I ask a question, I should put it on record that, although I do not have a registrable interest in today's proceedings, I am—like most people around the table, I suspect—a member of a trade union. I also used to work for the STUC, although that was some years ago now.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** You were part of the escape committee.

**Patricia Ferguson:** Yes, Frank McAveety is right that I was part of the escape committee—so it is nice to be able to grill former colleagues.

I realise that this is not necessarily applicable to the STUC's situation, but I want to ask the question because you represent the wide swathe of the trade union movement. Would it be helpful to those who lobby or those of us who are lobbied if there were a register of lobbyists? We have received evidence that either a voluntary or a statutory register of lobbyists might be of use to us. As part of our deliberations, we need to decide whether we want to go down that road. Would that kind of registration be a help or a hindrance to trade unions?

**Tracey White:** Our concern is that a register might cut across the current accessibility of the Parliament. David Bleiman has already referred to the wide spectrum of organisations that legitimately want to have—and should have—access to the Parliament and to parliamentarians. It is difficult to see how a register could do anything other than cut across the Parliament's accessibility. If organisations had to go through a procedure in the first instance whenever they wanted to raise an issue with an MSP or group of MSPs, that could be problematic.

In some regards, the question depends on the definition of lobbying. If I write personally—never mind in my professional capacity—to my MSP about an issue, I am, in effect, lobbying. If there were to be a register, careful thought would need to be given to the definition of lobbying and to what the appropriate level was for that register to come into play.

**Lord James Douglas-Hamilton (Lothians) (Con):** Perhaps I should say that I am a non-practising member of the Faculty of Advocates—although I do not think that it is yet a trade union.

**Tracey White:** It is not affiliated yet.

**Lord James Douglas-Hamilton:** Could the STUC live with a registration of commercial lobbyists? Would that interfere with access in any way?

**David Bleiman:** We could certainly live with the concept that fee-based organisations that provide a professional lobbying or advocacy service should be registered or regulated in some way. I am not sure whether your use of the term “commercial lobbyists” includes small businesses and so on. We would not see that as appropriate.

**Lord James Douglas-Hamilton:** You also mentioned that you would consider a voluntary code, if that were necessary. Is that something that, in principle, you could live with?

**David Bleiman:** Do you mean: should we as a lobbying organisation have a code for lobbyists?

**Lord James Douglas-Hamilton:** Yes.

**David Bleiman:** I think so. I have been deliberating over the question that Kay Ullrich asked. One of the reasons why we do not have a code at the moment is that it would not occur to us to do some of the things that might be unethical. For example, the STUC has never found it necessary to think of paying money to someone to ask a parliamentary question. At Westminster, there were always MPs who were happy to ask questions that the STUC wanted to be asked. The STUC simply does not have the resources to give excessive hospitality—Pat Ferguson will remember the STUC's financial situation, which has not got any better. We have never been in a

position to consider things that large businesses might be able to afford.

However—I am thinking aloud here—there would be no difficulty for us to codify our existing good practice.

**Lord James Douglas-Hamilton:** Would it be correct to say that a voluntary code might have virtually no effect on you, because your actions would, as a matter of common sense, comply with the code in any case?

**David Bleiman:** That is right, although we have the structures to be able to deliberate on and approve a voluntary code and ensure that we implement it.

On an earlier point, we concede that there could be difficulties for small organisations—such as a trade union branch of one of our affiliates—if a local issue came up and they wanted to contact their MSP. Difficulties might result from whether that branch had signed up to a code of practice. However, at the overarching STUC level, such a code would not cause us a problem.

**Patricia Ferguson:** I was struck by something that David Bleiman said. I am not sure whether it was a deliberate use of the word, but he mentioned that the STUC was trying to rise to the “challenge” of the openness and accessibility of the new politics in Scotland. Given what he said about the STUC’s financial situation, is the openness and accessibility of Parliament not just a problem but a major challenge to an organisation that, although it is not small, is not wealthy? Do you find it difficult to keep up? Do you have any comments that might help us in a wider sense?

**David Bleiman:** There is an enormous challenge. One must not underestimate the extent to which we all—especially voluntary organisations of all kinds—became trained for many decades in a form of oppositional politics in which we responded with press releases, for example, to the policies of the Government of the day. Openness to a new kind of politics, in which what we say might be listened to and might have a constructive input into legislation, involves a whole new way of working. We used to have a fairly elaborate subject committee structure, but we stripped that out to free up resources to be more responsive and proactive within the new politics. We are in the process of dealing with the new situation.

Rozanne Foyer might want to say something more about the maintenance of what we describe as the equalities committees. We are aware of the need to represent the full diversity of our membership. Groups that are disadvantaged might not otherwise have a voice.

**Rozanne Foyer:** David Bleiman said everything that is necessary on that subject.

On the sheer level of access, we are almost victims of our own success. I think that every organisation in Scotland that deals with Parliament would echo our welcome of the access that we have. However, the sheer number of consultation documents, opportunities to give evidence and cross-party groups in which we have an interest sometimes makes it difficult to respond and to do the homework that we would wish to. We struggle with that resource issue daily. We see our job as primarily to represent to Parliament the views of working people in Scotland.

**Tracey White:** I am sure that we are not the first organisation to talk to the committee about time scales within which Parliament looks for a response to consultation. The consultation on which the committee is engaged at the moment has a reasonable response period, but not all committee inquiries have the luxury of sufficient time for responses. The parliamentary committees should perhaps look more generally at that.

**Mr Kenneth Macintosh (Eastwood) (Lab):** On much the same point, I think that David Bleiman said that it is up to MSPs to regulate the behaviour of lobbyists, but he also suggested that we could take some positive action to ensure access for smaller groups. That might be a productive step. This might be asking a bit much today, but would you go beyond that and say what steps we could take to encourage access? Bigger, professional or commercial lobbying organisations have the resources to be able to put together a case and present it through lectures, for example. Smaller groups find that difficult. Are there constructive steps that we could take to make it easier for smaller groups to reach us?

10:30

**Rozanne Foyer:** When the Parliament was established, there was a lot of talk about committees going out to communities and about how the mechanics of that might work. Some disadvantaged groups in Scotland simply will not make it along to the Parliament. Given the way in which the format has developed, those groups are not up for giving evidence to committees or for writing lots of letters and following the traditional forms of lobbying by answering consultation documents, for example. They are not even up for submitting petitions to the Public Petitions Committee.

There is room for the Parliament to be a bit more proactive and to consider conducting the sort of research in which members could go out and talk to people where they live. For example, there is room for the reporters who examine different issues for the Equal Opportunities Committee to conduct some proactive research by going out and getting people’s views.



On the key principles of regulation, we believe that the Parliament needs to ensure that organisations do not have to have the money to hire people in order to lobby successfully. We at the STUC are struggling—and lobbying is our job—and other groups will have a much harder time than us, even though they might be representative and have valid points to make. If the Parliament is to come up with a code, it must consider those issues. It must also examine how to enforce equality of access across Scotland.

**Mr Macintosh:** I do not want to put words in your mouth, but you seem to be saying that, although we might find it difficult to find an acceptable form of regulation or registration—and you seem to be arguing that such regulation or registration would be a hurdle at whatever level it might be set—it is more important to be proactive in ensuring access for less affluent groups.

**Rozanne Foyer:** Yes.

**David Bleiman:** Yes.

**Mr Macintosh:** Ah—I did put words in your mouth.

**Mr McAveety:** What has been said might explain why an organisation such as the STUC finds it difficult to keep pace. A lobbying company might say, “We’ll fill this space”, whereas other organisations—even the STUC, with all its experience—do not have the resources to do that. That is an interesting point.

The STUC had a critical role in shaping and developing the debate about the Parliament. I have noticed that many other organisations may not have always been as committed to the Parliament as the STUC has been. In a sense, those organisations are cautious about their relationship with the Parliament and about how they lobby and try to influence members.

The real debate is about the code of conduct for MSPs, which we are considering from the point of view of organisations. Having read the code of conduct—if you have been sad enough to do so—do you think that we should beef up its provisions or enhance its standards, in order to make it more transparent, given that the public believe that transparency is important?

**David Bleiman:** I will respond to that question, although my colleagues may have something to add. Broadly speaking, I believe that the code of conduct looked fine. I was struck—this is my view, not the STUC’s—by where the line is drawn in relation to what constitutes incidental or insignificant hospitality. Although the STUC does not have huge resources, we occasionally hold receptions at which we may provide sandwiches or a glass of wine. That creates an environment in which we can talk to MSPs, although we do not

use those occasions to purchase anything with sandwiches or a glass of wine. If you have been to an STUC reception, you will appreciate that point.

The code does not make it clear where the level has been set. Perhaps the onus is on the MSP to judge what constitutes incidental hospitality, which is okay, and what constitutes bribery and corruption. We are looking for realism in the way in which people within Scotland relate to one another, as that will enable us to facilitate dialogue.

**The Convener:** Just before I bring Frank McAveety back in, I should point out that the code of conduct limits declarable interests to £250 for MSPs—that is a lot of sandwiches.

**Tracey White:** If I may, I would like to add to David Bleiman’s answer, although I am reluctant to admit to having read the code of conduct, now that Frank McAveety has said that I am sad for doing so.

What has been put down on paper makes sense, but it does not address the other side of the coin, which we discussed earlier. The question is about barriers to access. It is not about how MSPs should be proactive in engaging with the wider community, rather than with only those people who approach them in the first instance. That is crucial to properly informed public policy making, and perhaps the code should outline some principles at the beginning of the section that deals with lobbying to address those issues.

**The Convener:** Frank, do you want to come back in?

**Mr McAveety:** No—I am okay.

**The Convener:** Do members have any other questions?

**Mr McAveety:** The STUC might be skint, but individual trade unions are very good with their expense accounts.

**The Convener:** Do you think that there remains a perception among the public that commercial lobbying companies have privileged access to MSPs?

**David Bleiman:** That is not the STUC’s perception. We are aware that we do not need to use lobbying companies—

**The Convener:** So, as far as you are concerned, that perception does not exist.

**David Bleiman:** Members of the public who pick up their perceptions of the Scottish Parliament from the media might have a different view but, as a result of our experience, which informs our view, we do not have that perception.

**Tracey White:** The issue that the Parliament

must address is whether people who can afford to pay professional lobbyists have enhanced access, rather than whether the lobbyists themselves have enhanced access.

**Lord James Douglas-Hamilton:** My question is simple. Is it correct to say that you are lobbyists, although you are not commercial lobbyists?

**David Bleiman:** Yes, that is reasonable.

**Tracey White:** You could say the same about anyone who telephones or e-mails their MSP.

**David Bleiman:** In order to be helpful, I would like to go back to an earlier question. I have been reflecting on the point about whether there should be a register of lobbying organisations. For example, when committees consult groups—of course, that is a different way of looking at the issue—we would like the STUC always to be on the list of consultees.

On the other hand, coming to the Parliament to lobby MSPs should not be restricted to people who are on an approved list. The STUC has been engaged in lobbying politicians for the past 100 years and will be engaged in that activity for the next 100 years. However, we are aware that ad hoc, unofficial groups spring up and, although we do not want them to be treated as the official representatives of the Scottish labour movement, for example, politicians must listen to them, bearing in mind the fact that those groups may not be representative or that they may represent only an ad hoc, unofficial campaign. It would be a big mistake to say that MSPs should not listen to those people because they are not on a list of approved lobbyists.

**Rozanne Foyer:** On your previous question, convener, I work with many people who are not active or senior in the trade union movement, because I work within the equalities structures in the STUC. It would be fair to say that, among those people, there is a perception that those with expertise, such as professional lobbyists, gain more access to the Parliament.

The STUC could be used as a tool, in partnership with the Parliament, to give greater access to people at grass-roots level. For example, on several occasions, cross-party groups of MSPs—perhaps representing different committees—have attended equality conferences. People have been able to question those MSPs face to face and to lobby them. The STUC can be used as a tool to facilitate access to a wide range of people and to allow a wide body of people to give their views.

**Kay Ullrich:** I will make a quick comment that Rozanne Foyer might find helpful. I am a member of the Equal Opportunities Committee, which has been going out to areas. One of our problems is

that the people whom we go out to see want to give us hospitality—it is almost embarrassing. The boot is on the other foot—they feel that they must provide us with food and sustenance when we visit them. I think that that is just good Scottish manners.

**Rozanne Foyer:** Absolutely.

**The Convener:** As there are no further questions, I thank the witnesses for giving evidence to the committee. They are more than welcome to stay to listen to the other evidence that we will hear this morning.

I adjourn the meeting for a few minutes.

10:40

*Meeting adjourned.*

10:49

*On resuming—*

**The Convener:** I welcome Angela Casey and Alan Boyd, who are here to represent the Association for Scottish Public Affairs. Before I throw open the meeting to questions from committee members, I invite Angela Casey to make a short opening statement.

**Angela Casey (Association for Scottish Public Affairs):** I am the convener of the Association for Scottish Public Affairs, which, you will be pleased to know, we call ASPA for short. I am also the managing director of the public relations company Countrywide Porter Novelli. Before I began working in Edinburgh, I was a professional PR and public affairs consultant at Westminster and in Brussels.

By my side is Alan Boyd, who is the former convener of ASPA and a director of the legal firm McGrigor Donald. He is director of McGrigor Donald Public Policy and a past president of the Law Society of Scotland.

ASPA represents the interests and regulates the advocacy or lobbying activity of public affairs professionals in Scotland. We are the only solely Scotland-based body and have 50 members from in-house public affairs departments, trade unions, professional public affairs consultants, the voluntary and charitable sector, legal companies that give public policy advice, information companies, trade associations and public sector communications departments.

ASPA believes that the industry can regulate itself. Our code of conduct was drawn up for that purpose. The code is relevant to anyone from the above organisations who might have dealings with Parliament. Its basis is openness, honesty and integrity.

We would like to reaffirm what the committee has already recognised and what the Committee on Standards in Public Life has also said: that the democratic right to make representations to Government is fundamental to the proper conduct of public policy.

We welcome the inquiry and debate. It is only right that the committee should have as much information as possible before it decides a way forward for public policy representation in Scotland.

ASPA believes in openness and co-operation. We will continue to work with the Parliament and the committee whatever decision they take. We also have close working relationships with the Association of Professional Political Consultants in Scotland, the Institute of Public Relations and the Scottish Public Relations Consultants Association. We will continue to communicate with them on our voluntary codes and a way forward for the industry.

**Tricia Marwick:** You said in your submission that you have over 50 members from the various organisations that you outlined. In the evidence that the Stirling media research institute gave us at our previous meeting, they said that you have 25 members. Have you been on a membership drive since then or do you indeed have 50 members?

**Angela Casey:** We are renewing our membership this month, so the actual figures will be available after that. When we first started, we had 50 members signed up and there were probably more than 50 who were interested. I cannot give you an exact figure.

**Tricia Marwick:** Is it closer to 50 or closer to 25?

**Angela Casey:** It will be somewhere in between.

**Tricia Marwick:** How many public affairs companies or organisations do you think there are in Scotland?

**Alan Boyd (Association for Scottish Public Affairs):** What do you mean by public affairs companies? Are you talking about organisations that are operate exclusively in that area of work or about other professional providers?

**Tricia Marwick:** I will rephrase the question. How many companies do you think there are that are engaged by clients, who pay money to them, for their services to lobby, advise or influence the Scottish Parliament?

**Angela Casey:** There is probably a handful of companies that exist solely for that purpose. If you mean companies whose work might include an element of advice, briefing or research on public policy issues, there are probably an awful lot

more.

**Tricia Marwick:** How many more? Are we talking about 100, 200 or more?

**Angela Casey:** No. There might be another 20.

**Alan Boyd:** There are possibly several dozen. We must accept that most of the major legal practices in Scotland advise clients on aspects of Parliament-related work.

**Tricia Marwick:** So you think that there are about 40 companies in Scotland that operate in such a way, but you have 50 members from that sector and others. Does your organisation represent 100 per cent of the sector?

**Alan Boyd:** ASPA is a broad church, to put it another way. Our members comprise not only professional public affairs consultants but individuals, public sector representatives and voluntary representatives. ASPA's 40 or 50 members cut across the range of interests that the Scottish Parliament might become involved with. The reason for setting up ASPA was to avoid any suggestion of exclusivity. That is why we started by organising public meetings in the Convention of Scottish Local Authorities headquarters, the first of which was attended by almost 100 people who represented all interests. Some of those people are now MSPs, incidentally.

**Tricia Marwick:** I will rephrase the question as I want to try to tie you down. What percentage of the organisations in Scotland that are engaged by clients to lobby and influence the Scottish Parliament are part of your organisation?

**Alan Boyd:** I am not seeking to avoid the question, but I honestly do not know how many organisations or individuals seek to lobby, influence or brief members of Parliament. However, in the Scottish context, it would be fair to say that the 40 or 50 ASPA members are a relatively small percentage of the people who are concerned with the business of the Parliament.

**Tricia Marwick:** I was trying to establish how representative you are of the commercial lobbying organisations. That leads me to my next question, which concerns the voluntary code of practice that you suggest is the way forward. A voluntary code of practice is useful only if the vast majority of relevant organisations sign up to it. There must be many companies, however, who work as individual organisations and simply do not sign up to any code of practice.

**Alan Boyd:** That must be correct.

**Tricia Marwick:** You say that the ASPA approach to the code of practice is to name and shame companies that do not meet your standards. Since your organisation was set up in August 1998, have you named and shamed

anyone?

**Alan Boyd:** No. We have had no need to.

**Tricia Marwick:** How do you monitor the organisations that are signed up to ASPA? How do you ensure that their actions conform to the code of conduct?

**Alan Boyd:** We would never seek to interfere in the day-to-day business of our members. Bearing in mind that some of them are in the public sector, there is no way that we could do so, even if we wanted to. The code is voluntary. People who apply for membership of ASPA agree, when submitting their membership application, to be bound by the rules and constitution of ASPA. We rely on our members to keep us advised of breaches of the code of conduct. As the code and the constitution of the organisation are publicly available, it would be right and proper for MSPs, officials and members of the Scottish Executive who felt that there had been breaches to report them to us. The philosophy behind ASPA is one of openness and transparency.

**Angela Casey:** We like to think that, just as we are aware of the MSPs' code of conduct, MSPs are aware of ours. Indeed, on occasion, staff of MSPs have contacted us to talk about whether there was a breach of the code or simply to discuss matters arising from a meeting. The Standards Committee could aid the efficacy of the code of conduct by encouraging communication between us and the Scottish Parliament.

**Tricia Marwick:** When members of MSPs' staff contacted you with concerns about a meeting, did you hold an investigation into whether the company had breached the voluntary code?

11:00

**Angela Casey:** If someone alerted us to something that was happening or informed us of their concerns about a meeting, we would investigate the meeting.

**Tricia Marwick:** You said that MSPs' staff had contacted you. I want to know what action you took.

**Angela Casey:** In those instances, we contacted people involved in the meetings to find out what the situation was.

**Tricia Marwick:** Did you hold an independent investigation?

**Angela Casey:** We talked to people. We have not yet had to set up a formal investigation as there has not yet been a breach of the code.

**Tricia Marwick:** How could someone be named and shamed if there is no proper inquiry mechanism in place?

**Angela Casey:** I said that, in the instances that we are talking about, we did not need to have a proper inquiry.

**Tricia Marwick:** In the Scottish Parliament, we have a code of conduct and a Standards Committee. People are well aware of the code of conduct and a few complaints about MSPs' conduct have been investigated. I want to know what your investigatory process is. Has it ever been enacted? Certainly, you have never named and shamed anybody.

**Alan Boyd:** As we have received no complaints about breaches of the code of conduct or a lack of propriety on the part of ASPA members, we have never had to conduct an inquiry. However, ASPA's constitution, which all members have signed, makes it clear that the committee has the power to expel members who do not act in the interests of the association. If the undertaking to abide by the code of conduct were breached, that would be seen as a failure to act in the interests of the association.

A mechanism is in place, but we have not had to use it because we have had no complaints. Long may that continue.

**Tricia Marwick:** Derek Draper, the former lobbyist who was involved in the so-called cash for access affair at Westminster, gave evidence to the Neill committee. He said:

"The truth is that you are not going to get companies that are incredibly competitive and ridden with personal difficulties to regulate themselves properly."

**Alan Boyd:** My answer to that is that I would not want to be guided by Derek Draper on any question of propriety.

**Tricia Marwick:** Is it possible for companies that are in competition with one other to regulate themselves properly?

**Alan Boyd:** That would be a matter for the Scottish Parliament to judge.

**Tricia Marwick:** I am asking for your opinion on whether it is possible for companies in an incredibly competitive industry to regulate themselves properly.

**Alan Boyd:** It should be possible, provided that there are adequate sanctions. Regulation without sanctions does not work. Membership of other, more traditional professions, such as the legal and medical professions, is covered by statute or by other regulations and those professional bodies have the power to expel members and to prevent people from continuing in their profession. As we are dealing with a looser grouping, the situation is different.

**The Convener:** If someone has a complaint against an ASPA member, who should they

complain to? Your voluntary code does not make that clear.

**Angela Casey:** They would complain to the ASPA committee, which would investigate the matter.

**Kay Ullrich:** Are the organisations that can afford to pay for the services of commercial lobbyists likely to have more influence in the decision-making process?

**Alan Boyd:** I would not say that they would have more influence. Some of the organisations that—perhaps quite rightly—have the greatest influence with Parliament are COSLA and the STUC. Furthermore, some charities and other voluntary bodies have huge influence and tremendous lobbying potential—and I need mention only Greenpeace, animal rights organisations and campaigning organisations such as Oxfam in Scotland. Professional lobbyists can help clients—and perhaps commercial clients—to focus their arguments better for Parliament and its members. I do not think that money necessarily gets access for clients, but it can buy them focused professional advice that enables them to bring the issues into sharper focus, which can only help everyone in the policy process.

**Kay Ullrich:** I am a bit bewildered. You seem to be saying that it is not worth employing a commercial lobbyist because all the organisations that you have trotted out have much more influence. If that is so, would it not be better to pay Greenpeace or the STUC to do your lobbying?

**Alan Boyd:** Well, you might be better off paying Greenpeace if you want to hijack an oil rig.

**Kay Ullrich:** I am only taking Greenpeace as an example because you used its name.

**Alan Boyd:** People who instruct public affairs consultants typically feel that they have concerns or issues that they want to bring to the attention of MSPs. Such concerns or issues might relate to legislation before the Parliament or to consultative documents where the Parliament is actively seeking the views of the public and business on particular matters. All I am saying is that, as in any other sphere, if people do not have the adequate in-house resources, buying in professional advice must help. It will not give clients any greater access, but it will help them to focus their arguments and enable them to brief MSPs better.

**Kay Ullrich:** Are your customers aware that they are not paying money for you to lobby Parliament, but for the other services that you have mentioned?

**Alan Boyd:** Clients of professional firms generally pay for advice—

**Kay Ullrich:** So they do not hire you to lobby

Parliament.

**Alan Boyd:** Certainly not.

**Kay Ullrich:** You are not lobbyists.

**Alan Boyd:** Our submission—and this discussion—makes it clear that we have accepted a somewhat wider definition of lobbying than direct one-to-one relationships between the lobbyist and the member of the Parliament or the parliamentary official involved. My understanding is that the definition of lobbying includes the general provision of advice relating to political policy formation.

**Mr McAveety:** One of the key objectives of any lobbying or advocacy company is to get its message across, and so far I am quite confused about what your message is. Both of you have made potentially contradictory statements. It was said that complaints or issues about conduct were raised which you sort of examined. However, you also said that there have been no complaints. Could you help me with the distinction between the two statements?

**Angela Casey:** The incidents that you refer to were not complaints, as I said. People rang me up to talk about a meeting or meetings that were taking place just to clarify who was meeting and why. They would have become complaints if the initial inquiry had brought to light anything wrong.

**Mr McAveety:** Do you provide people who call you up to express such concerns with a copy of the complaints procedure?

**Angela Casey:** No, because at that point it is purely an inquiry, not a complaint.

**Mr McAveety:** When would an inquiry become a complaint?

**Angela Casey:** It would become a complaint if the initial inquiry made it clear that something wrong was happening.

**Mr McAveety:** Have any organisations that are ASPA members been complained about in the recent past?

**Angela Casey:** No.

**Mr McAveety:** Were any organisations involved in the most recent celebrated cases ever members of your organisation?

**Alan Boyd:** Beattie Media was involved with us during the formative stages, if that is what is in the back of your mind. However, that particular division of Beattie Media—and we must point out that it was a separate division of Beattie Media—wound itself up pretty shortly after anything happened, by which time the company was no longer a member of ASPA anyway.

**Mr McAveety:** Could Beattie Media have

become a member of another organisation?

**Alan Boyd:** I do not know.

**Mr McAveety:** But it could have.

**Alan Boyd:** It could have, but I would suggest that if it had wound up its public affairs division, there would be no point in its being a member of a public affairs organisation.

**Mr McAveety:** What is the difference between ASPA and other organisations such as APPCS?

**Angela Casey:** If you examine the submissions of the two organisations, you will find that they are very different. ASPA was set up solely in Scotland for people from different organisations and backgrounds who were going to deal with the Parliament in any way. You will need to ask the APPC about its set-up and background; however, it represents purely public affairs consultancies, whereas our membership includes members of charities and public bodies such as COSLA.

**Lord James Douglas-Hamilton:** Would you advocate extending the voluntary code beyond commercial lobbyists?

**Angela Casey:** Our voluntary code extends beyond lobbyists and indeed covers all bodies that wish to sign up.

**Lord James Douglas-Hamilton:** Is there any need for the Parliament to have a voluntary code that extended beyond commercial lobbyists?

**Angela Casey:** That is something for the Parliament to decide. However, if I were asked for my opinion, I would say that a voluntary code or code of any sort should cover anyone who deals with the Parliament. We are talking not just about consultancies, but about organisations that are pulled together purely to lobby on one issue and which are, in that sense, professional consultants.

**Lord James Douglas-Hamilton:** But do you not accept that charities and voluntary organisations are a rather different category from very much larger bodies?

**Alan Boyd:** I have a little difficulty with that idea, because those organisations are as capable as anyone else of influencing the policy process.

**Lord James Douglas-Hamilton:** From everything that you have said and written, am I right in thinking that you have no difficulty with the principle of registration and are quite happy for it to be introduced?

**Angela Casey:** Two weeks ago, the Scottish Council for Voluntary Organisations made a couple of valid points suggesting that registration might stop some smaller organisations and even individuals in their sector from approaching Parliament. That would be a bad thing.

**Patricia Ferguson:** I am sorry to go back to a question that was almost asked by a colleague earlier. However, I am sure that you appreciate that the event was very significant and has influenced all of us on this topic. You were asked earlier about Beattie Media's possible membership of your association. Was Beattie Media a member of ASPA at the time of the events that we later investigated, bearing in mind the fact that they happened some time before that investigation? Furthermore, was the company still a member at the outset of the investigation?

**Alan Boyd:** From memory, I think that the answer is yes, it was a member at the start, but by the end it was not, for the reasons that I explained to Mr McAveety. Apart from anything else, it no longer existed as a public affairs organisation.

**Patricia Ferguson:** Did your organisation consider action against that company in the light of the circumstances that were uncovered?

**Alan Boyd:** No complaint had been made against the company. At the same time, we were aware that parliamentary investigations were being carried out. It would have been wrong to run a parallel investigation when the Parliament was carrying out its investigation.

11:15

**Patricia Ferguson:** From whom do you expect complaints to come?

**Alan Boyd:** The answer is perfectly straightforward: anyone who has a ground for complaint, be it a member of the Parliament, an official, a clerk, or a member of the Scottish Executive. If there is any question of misconduct, the complaint should be made and it should be investigated.

**Patricia Ferguson:** This brings us back to one of the difficulties that we have in coming to our conclusions about this inquiry, which is that, as you have said, very often the companies that are part of your organisation are acting on behalf of someone else. We do not always have contact with members of your organisation. We may have contact with the people that they are being paid to represent, which is what happens more often than not, but they are acting on advice that is given by people who are members of your organisation, so it might be difficult for us to know that there are grounds for a complaint against one of your members. How would you make your procedure more open and transparent?

**Angela Casey:** Most members of our association are charity and public sector people and in-house public affairs professionals, who obviously will be very open and clear about who they are. In the unlikely event that one of the few

consultancies that are members of ASPA approached the Parliament, it is highly unlikely that they would do so on behalf of a third party and either not declare that that was what they were doing, or do it without that person being with them.

You as MSPs will know that the incidence of a public affairs consultant, or a professional lobbyist in your definition, approaching a member of Parliament in any legislature and saying that they are representing a third party is very rare these days. What tends to happen much more is that consultancies are employed to give advice to clients about how they themselves can do the lobbying. You will find that in most cases it is the client who is the lobbyist, not the consultancy.

**Patricia Ferguson:** With respect, that is my point: how would we know that the advice that they have been given by people in your organisation gave us grounds for complaint, because we would not be dealing directly with them?

**Alan Boyd:** That opens up yet another complex area, because in our democratic society, anyone has the right to take advice from a professional person, and they need not disclose that they have taken that advice. Indeed, that is one of the fundamental bases on which the legal profession operates. Someone is quite entitled to consult me as a lawyer, get advice and apply that advice. Of course, the person who is at the receiving end at the end of the day has no recourse against my acting as a lawyer. That raises difficult questions, because in matters of public policy, people equally have a right to take professional advice and guidance, which brings us to an area that has not been considered by the committee, at least not in the evidence that I have read.

How does the right to take advice and its impact sit with certain aspects of the Human Rights Act 1998? That is an important question, because, for example, article 8 of the European convention on human rights states:

"Everyone has the right to respect for his private and family life, his home and his correspondence."

The court has held that that right extends to business property and correspondence. You can see immediately how that could relate to the considerations that are before the committee.

There are other articles that are probably relevant in this context. Article 10 of the convention, on the freedom of expression, includes the

"freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."

Article 11 deals with the freedom of assembly and association and article 17 is a prohibition of abuse

of rights, which effectively prevents public authorities from otherwise restricting any of the rights that are available under the convention. Those articles appear to sit beside some of the issues that the committee is considering and require to be taken into account in examining the registration and regulation of lobbyists.

I apologise for the fact that that answer was rather long-winded. In response to Patricia Ferguson's point, I have to say that people are entitled to take professional advice. If that advice is of a poor quality, negligent or recommends a wrong course of action, the recourse lies with the client who has been badly advised to take a wrong course of conduct.

**The Convener:** Let us return to a point that I would like you to clarify for the record, following Patricia Ferguson's line of questioning. How do you publish your membership list? How would anyone know that an organisation such as Beattie Media was a member of ASPA? How would they know to complain to your organisation?

**Angela Casey:** Members of ASPA are expected to declare that they are members of ASPA. We often ask them to use our logo on their letterhead or to make it obvious that they are members. We would be quite happy—at a later date, when we have records of our recent membership details—to publish a list of our members if that would be of use.

**The Convener:** So there is no formal mechanism.

**Angela Casey:** Not at the moment. However, we are not hiding our membership. It is generally assumed that members will declare their membership and talk about it.

**The Convener:** I am conscious that I put Patricia Ferguson off. Do you want to continue your questioning, Patricia?

**Patricia Ferguson:** No. Mr Boyd explained very well the difficulties that we face.

**Mr McAveety:** Do you have a copy of your complaints procedure?

**Alan Boyd:** We have a copy of our constitution, which contains the relevant paragraph. I would be happy to leave a copy with you.

**Angela Casey:** We did not submit our constitution, but we submitted our code of conduct.

**Alan Boyd:** I would be happy to leave a copy of our constitution for the committee.

**Mr McAveety:** If a member of the public wanted to make a complaint about one of your members, how would they find out about your membership? Every other public body has to have open and

transparent complaints procedures.

**Angela Casey:** From the outset, ASPA has never tried to hide anything. We are not about any kind of subterfuge or not telling anyone what we are doing. We set up our organisation in a spirit of complete openness, and we have never tried to hide who our members are. The point of someone's being a member of ASPA is that they are public about the way in which they behave.

**Alan Boyd:** We have a modest budget. Part of the reason for that is that we want to encourage the spirit of openness and broad membership. We have to keep the subscription low because, although we operate differential subscriptions, certain individuals and charitable bodies can afford to pay only a modest amount. In a perfect world, we would have a website and our membership would be displayed there.

**Mr McAveety:** Or even a piece of A4 paper. I do not buy the line that advertising your membership is too costly. It could be included on a piece of A4 paper at the end of your membership application form, or the information could be made available every time you lobby.

**Angela Casey:** We produced a newsletter, a while ago, in which our membership was published. We have not, at any point, tried not to tell people about our membership.

**Tricia Marwick:** Four of the committee members were involved in the lobbygate inquiry, but none of us knew that Beattie Media was a member of ASPA. That bears out the point that Patricia Ferguson was trying to make. We simply did not know that Beattie Media was a member of your organisation. I would have thought that that information would have percolated down to us.

ASPA was formed in 1998, following discussions with various people. It was set up in the wake of all the sleaze allegations at Westminster and elsewhere, to self-regulate, to operate a voluntary code of conduct and to see off any future regulation that the Scottish Parliament might introduce.

**Alan Boyd:** I would couch that in different terms. When ASPA was set up, we were aware of the background at Westminster. We were equally aware of the culture surrounding the establishment of the Scottish Parliament—the open, transparent and participative nature of the Parliament. Quite simply, ASPA was an attempt to replicate that culture among those who would be interested in influencing, lobbying and canvassing the Parliament. ASPA intended to ensure that its members, at least, subscribed to those important and basic principles in undertaking that work.

**Tricia Marwick:** Yet, within months of the Scottish Parliament's opening, a member of your

organisation was involved in the first serious inquiry of the Standards Committee.

**Alan Boyd:** Yes.

**Tricia Marwick:** So you patently failed to achieve what you tried to achieve.

**Alan Boyd:** No, we did not fail. No complaint was made. Although there was an inquiry, it found no specific matter of misconduct. You may correct me if I am wrong, but I was not aware that the inquiry covered that ground.

The important point is that the constitution and the code of conduct existed, had a complaint been made. If a finding of misconduct had been established against Beattie Media, and had the company been a member, we would have taken action of our own accord. There was no question of our not doing that.

**Tricia Marwick:** Two of the people who were involved with Beattie Media gave evidence to the Standards Committee that they acted foolishly and as they should not have done. There was evidence from their own mouths that they suggested that they could do things that they could not.

**Alan Boyd:** That may be true. However, as I advised the committee earlier, by the time that the Parliament's investigation had run its course, Beattie Media was no longer a member of ASPA. We therefore had no jurisdiction to intervene in the matter. We certainly would not have interfered while the Parliament was running its investigation—that would have been quite wrong.

**Tricia Marwick:** Did your voluntary code pick up any concerns over Beattie Media before the inquiry took place?

**Alan Boyd:** No.

**Tricia Marwick:** Thank you.

**Mr Macintosh:** I have a practical question. If we were to introduce a registration or regulation scheme, we would have to establish a threshold for commercial or professional payments. If we set a threshold at a company spending £5,000 on lobbying activity, would that affect all your members in all their work?

**Angela Casey:** Do you mean in-house departments, charities, trade unions—

**Mr Macintosh:** Yes. Every one of them.

**Angela Casey:** It is difficult to determine how much someone is spending on lobbying, if it is an in-house department.

**Mr Macintosh:** If we start a registration scheme for any organisation that spends more than a set threshold of, say, £5,000 on lobbying the Scottish Parliament, would that affect all your members or



only a few? Would it affect the charities?

11:30

**Angela Casey:** It would affect very few organisations.

**Alan Boyd:** It would depend on how lobbying was defined. If you are talking about a £5,000 payment to a lobbyist to go and actively lobby on behalf of a client, Angela is right to say that very few, if any, organisations would be affected. On the other hand, if you are talking about the £5,000 being spent on general professional advice on public policy matters, a lot of organisations would be affected. Every major public limited company based in Scotland will have a public affairs department, which will require resources. A major part of the work of that department will be to brief the organisation, its board and its management on matters of political policy that impact on the plc.

**Mr Macintosh:** I will give you a rough idea of how I think this might work. If an independent company bought the services of a professional consultancy and the bill came to more than £5,000, that would have to be declared. If the company had an in-house public relations facility or if it employed a parliamentary officer, and if salaries came to more than £5,000, that would have to be declared. If the company employed a PR officer who did not spend all their time but perhaps half their time at the Parliament, and if their salary was more than £10,000, that would have to be declared. It would be possible to work out the resources going into that activity, and I am trying to find out whom that would affect.

I do not think that it would affect any of the small charitable organisations. All those organisations, tenants' groups and so on, would not even come close to that figure of £5,000 and would not be bothered by it. However, I imagine that anyone with a commercial interest would be affected and would have to declare their spending. It would then be out in the open. Even an organisation such as the STUC would have to declare that it employed a staff of perhaps six, three of whom spent a great deal of their time lobbying the Scottish Parliament. I would like to know how you feel about that, what you feel about the figure of £5,000 for a threshold, and how that would impact on your members.

**Alan Boyd:** The system that you have just described would inevitably catch—if that is the right word—a lot of people and organisations. Following the argument through, however, I have difficulty in understanding how the system would be monitored and enforced. Notwithstanding the human rights implications that I mentioned earlier, I have difficulty in seeing how theory would be translated into practice and how that practice

would be enforced.

**Mr Macintosh:** I am trying to get a definition of commercial or professional activity as opposed to all the voluntary and individual access to Parliament. We do not want to discourage any type of activity, professional or otherwise, but we want to identify activity that is commercial and professional and that, therefore, may be more influential in some ways.

**Alan Boyd:** I hope that it would not be.

**Mr Macintosh:** We heard evidence earlier from the STUC. The voices of a lot of people in Scotland are not heard, whereas the big companies have no difficulty in making their voices heard. We are trying to distinguish between the two.

Would you accept that £5,000 is a realistic threshold?

**Alan Boyd:** For the purposes of this debate, yes. Such a threshold would catch both in-house paid professionals and consultancies.

**The Convener:** I would like to go back to Tricia Marwick's line of questioning. You are in favour of self-regulation and you have a code of conduct. We are considering whether there should be more formalised regulation and whether we should consider only MSPs as at present or all other organisations as well.

During the Standards Committee's first investigation into lobbying, the committee received no complaint. You said that your organisation received no complaint either. However, the Standards Committee of the Scottish Parliament responded to the information that was placed before it and acted proactively. We had no remit to investigate Beattie Media, but you did.

**Alan Boyd:** I suspect that I will give you the same answer as before but with different words. No complaint was made. Had Beattie Media been a member of ASPA at the time of the parliamentary process, and had there been, as a result of that process, a finding that gave rise to concern that the code of conduct had been breached, it would have been called to account. I should not use the name of a particular organisation: any organisation in that position would have been called to account to the committee of ASPA.

**The Convener:** Information was brought to your attention and you must have been aware that there was a problem, but you decided not to investigate and to wait until the Scottish Parliament investigation was over. That investigation finished, and Beattie Media was no longer a member of your organisation.

In response to previous questions, you said that

you had never received complaints, but have you ever been proactive in investigating problems that have been brought to your attention?

**Angela Casey:** Yes.

**The Convener:** Can you give me an example?

**Angela Casey:** I cannot talk about the specific people involved because I have not had clearance to do so.

**The Convener:** I understand.

**Angela Casey:** Nothing wrong happened. On two occasions, MSPs' staff have telephoned and asked me to investigate a meeting to see whether what was happening was being done correctly. In both instances, the initial investigation—which was not formal at that point, because it had been started not by a formal complaint but merely by an informal conversation—showed that everything was being done openly and quite fairly and correctly.

**Lord James Douglas-Hamilton:** The question over Beattie Media was whether it was seeking to use disproportionate influence. The fact that it wound up the particular branch shortly afterwards perhaps indicates that a question mark remains.

**The Convener:** I thank everyone for their questions, and I especially thank the witnesses for their answers. We will take a short break, but if the witnesses would like to stay to listen to the next witnesses' evidence, you are more than welcome.

11:37

*Meeting adjourned.*

11:45

*On resuming—*

**The Convener:** Welcome back. Our next witnesses are from the Association of Professional Political Consultants in Scotland. I welcome George Edwards, Robbie MacDuff and Fiona Callison, and invite them to make a short statement before we ask questions.

**George Edwards (Association of Professional Political Consultants in Scotland):** Thank you. I shall first introduce myself and my colleagues. Robbie MacDuff is secretary of the APPCS and managing director of Strategy in Scotland; Fiona Callison is general manager of AUGUST.ONE Communications; and I am chairman of the APPCS, and chairman in Scotland of GPC International. We thank the committee for inviting us to give oral evidence. As you may recall, convener, we wrote to you in November 1999, indicating that we would be pleased to come before the committee, and we are grateful for the opportunity to do so.

As time is short, I will not dwell on the detail of our written submission, much of which we are sure will be covered by the indicative questions forwarded to us by Dr Jones. The APPC UK was established in 1994 and we launched the APPCS in June 2000. The current membership is eight companies: APCO (Scotland); AUGUST.ONE Communications; Citigate Public Affairs; GJW Scotland; GPC Scotland; PPS; Strategy in Scotland, Government and Media Relations; and Weber Shandwick Worldwide. To pre-empt a possible question, I should add that none of those companies is a member of ASPA.

The APPC produces a register of members on a six-monthly basis. It is lodged with the UK Cabinet Office and the register of members' interests at Westminster. In our written submission, we have suggested a number of registration points in the Scottish Executive and the Parliament. I have a copy of the register with me, which I should be pleased to leave for the committee.

The core provisions of the APPC code of conduct are transparency; a ban on misrepresentation; a ban on the abuse of institutions; and a ban on financial relationships between elected political opinion formers at Government level and public affairs consultancies. Our code of conduct has been lodged with the committee. It binds member firms, their staff and non-executive consultants. All staff are required to sign the code and its provisions form part of individual contracts of employment. It establishes clear ethical guidelines and all members publish a full list of clients in the register.

In our evidence, we attempt to explain that the definitions of lobbyist and lobbying in their popular context need to be re-examined to understand the complexity of political communications strategies and the strategies of those undertaking to advise on and provide such services. For brevity, we refer you to paragraphs 2.1 to 2.4 in our submission. In our evidence, we have argued that we believe that the APPC code and voluntary regulation provide a sensible, effective and transparent system to ensure ethical communications between public affairs consultancies, their clients and those who are lobbied. We know that you will wish to draw out our thinking in more detail on that and on other issues.

**Mr McAveety:** Your original response to the Neill committee was to favour statutory regulation, and that has changed. Has it changed solely in Scotland? Do you have the same position for Westminster?

**Robbie MacDuff (Association of Professional Political Consultants in Scotland):** In paragraph 3.1 of our submission, we mention that point. Originally, in front of Neill, the view was that statutory regulation could be supported. Based on

evidence from institutions around the world since then—I know that you have had other evidence on this—the APPC has come to the conclusion that statutory systems have not worked effectively. However, if there were a political will to introduce a statutory register for public affairs consultancies, we would comply with that. Indeed, we believe that our voluntary code goes some way down that line, as we publish the names of our members, our employees and our clients. At this stage, we have not seen that political will in the UK. We therefore argue that an effective voluntary code, such as ours, is the best way forward at the moment. We believe that some previous discussions suggested clear barriers to democracy and to people's ability to make contact with the Scottish Parliament and the Scottish Executive.

**Mr McAveety:** What would you do at Westminster?

**Robbie MacDuff:** The position in our evidence is consistent with the APPC UK position.

**Mr McAveety:** Which is?

**Robbie MacDuff:** Which is for a voluntary code.

**Mr McAveety:** Is that your position now at Westminster?

**Robbie MacDuff:** It is.

**Mr McAveety:** The argument that you have used is that the Scottish Parliament is constructed differently in regard to accountability, transparency and openness, and is a relatively new Parliament, compared with the hundreds of years of Westminster. Why do you then go back on that?

**Robbie MacDuff:** We believe that we are fulfilling the needs of transparency and accountability by the voluntary code system. We have established a system that we believe covers public affairs consultancies.

**Mr McAveety:** Your document says that you have demonstrated that there are teeth. Who has been bitten?

**George Edwards:** Someone mentioned the Derek Draper affair, which is quite a good example.

**Mr McAveety:** He was mauled, but I do not know whether he was bitten.

**George Edwards:** As a result of allegations made in Sunday newspapers at the time, two APPC member companies in London were suspended immediately. Derek Draper himself was suspended. An independent inquiry was carried out into the internal affairs of the two consultancies that were suspended and, as a result of that inquiry, certain changes were made. It was a thorough and stringent audit and I am told by those who went through it that it was not a

pleasant experience. However, as a result of that inquiry, the companies were eventually reinstated into membership of the APPC, subject to those changes having been satisfactorily made. Mr Draper himself was dismissed, which was the ultimate sanction and which may have influenced the remarks that he subsequently made.

**Robbie MacDuff:** That process required the input of the former head of the home civil service at Westminster and of a QC, and it took about 14 days to inquire, report and publish the report, and action was taken. We believe that the system that we have in place has been shown to work effectively. It has not yet been shown to work in Scotland because we have not had a complaint against a member of the APPC in Scotland.

**Mr McAveety:** Which leads us to our earlier engagement with another organisation. What is your complaints procedure like? Is it on the web? Is it on A4? Is it there?

**Robbie MacDuff:** We have circulated the complaints procedure for the APPC, which is on one side of A4.

**Mr McAveety:** How much would that be?

**Robbie MacDuff:** How much would it be?

**Mr McAveety:** Is it a costly exercise?

**Robbie MacDuff:** No, it is not a costly exercise.

**Mr McAveety:** How much would a web page be for a modern communication organisation?

**Robbie MacDuff:** I do not know the cost of our website, because we buy in without paying any costs to the APPC UK website. However, I could write to the committee with that information or I could ask the secretary of the APPC to write to you. Our code—

**Mr McAveety:** Would it be excessive?

**Robbie MacDuff:** We do not believe that it is excessive, but we have membership fees, which we are happy to circulate, including what consultancies pay the APPC for administration.

We wish to make a number of key points about our code of conduct and disciplinary procedure. First, any member of the public can make a complaint. Secondly, if I, as the managing director of Strategy in Scotland, asked any member of my team to act in a way that breached our code of conduct—which is, of course, written into all our contracts of employment—that member of my team could make a complaint to the APPC management committee against me, and I would also be subjected to disciplinary procedures. There are therefore two elements of check.

Thirdly, there is bound to be media inquiry. Fourthly, and as George Edwards has already

mentioned, we identified in our submission possible registration points in the Scottish Parliament, one of which would be the Scottish Parliament information centre.

**George Edwards:** In addition, our companies all have compliance officers. It is necessary for every member to go through a quite complex compliance audit every 12 months. That has to be signed off, and is an essential part of our procedure.

**Fiona Callison (Association of Professional Political Consultants in Scotland):** When we put in a tender to a prospective client, not only would we declare our membership of the APPC in that declaration, but we would probably be happy to make available to it—my own company does it as a matter of course—the complaints procedure. There is that transparency for people who buy services from APPC members: they know what they are letting themselves in for, as well as the scrutiny that we will be subjected to on their behalf.

**Mr McAveety:** Do you view those procedures and criteria as a bare minimum for how organisations such as yours should operate?

**Robbie MacDuff:** For public affairs consultancies, we believe that they set a good standard and set best practice as we recognise it at this stage. However, the procedures have to be read alongside some of the other issues, which George Edwards mentioned. For APPC members, there must not and cannot be any financial relationship between legislators and lobbyists, for example, and legislators cannot be lobbyists. That sets ours aside from other voluntary codes. That is why, although we have said that we are happy for best practice to be worked towards, we stated in our submission that our code should not be diminished to facilitate convergence with other voluntary codes.

**The Convener:** I will ask you the same question that I have asked the other witnesses. I understand your complaints procedure, which is set out in the papers, but are you proactive? If your organisation identifies a problem, do you proactively investigate that problem, rather than just sitting back and waiting for a complaint?

**Robbie MacDuff:** The issues around what was known as Drapergate identify the answer to that question. The inquiry that APPC UK conducted on that was instigated by the story in *The Observer*. The APPC never received a formal complaint, but it acted immediately on an allegation that appeared in the public domain.

**Tricia Marwick:** You have already said that the identity of the clients for which the consultancies provide public affairs services is published. I therefore take it that you have no problem with complying with the European convention on

human rights.

**Robbie MacDuff:** In our discussions with clients, or rather potential clients, we make it quite clear, when we are negotiating the possibility of working with them, that we will publish their name as soon as we sign a contract and receive moneys from them. If a client does not wish then to take the relationship forward, we walk away from that potential client. We make that clear from the outset.

We have not looked into the detail of the European convention on human rights. I should point out that no firms of lawyers are members of the APPC, because they will not disclose their clients. We have not sought legal advice on that.

**Tricia Marwick:** In your written submission, you quote from the survey that we had carried out on MSPs and contact with professional lobby companies. It had been made clear to 87 per cent of MSPs on whose behalf the firms were acting. That still leaves the 13 per cent of cases in which companies did not disclose to MSPs the fact that they were acting on behalf of another body. Do you have any comment on that?

**Robbie MacDuff:** I would not suggest that we represent 100 per cent of the industry. We represent public affairs consultancies. We wish to extend our membership—that is one of the reasons why we argued with APPC UK. To have a minimum income threshold before a consultant could become a member was nonsensical because that did not define ethical practice.

In addition, we were very conscious that there are many one-person operators throughout Scotland, in places such as Aberdeen and Dundee. We would encourage them to sign up to best practice. APPC UK agreed with our arguments and the £100,000 income threshold was abolished, although we still require a one-year trading history. We wish to grow our membership and develop best practice, but we do not represent 100 per cent of the industry.

12:00

**Tricia Marwick:** I understand that you do not, but what percentage of the industry in Scotland do you think you represent?

**Robbie MacDuff:** APPC UK has 26 signed members and represents 70 per cent of the industry. In Scotland, we have not done a survey and we do not have any figures, but we represent a sizeable proportion. There are, of course, a large number of public relations companies in Scotland that also provide Government relations advice and public affairs work. An increasing number of law firms, management consultancies and other consultancies do the same. We have identified in paragraph 2.4 of our submission the difficulties in

narrowly defining lobbying. We believe that many people seek to develop political communications strategies, on their own behalf or for other people, who are not caught up in the popular definition of lobbying.

**Tricia Marwick:** When was the APPCS set up in Scotland?

**George Edwards:** In June 2000.

**Tricia Marwick:** Since June 2000, have you done any background research on how many companies are currently offering the services in Scotland? Presumably, you are not looking to increase your own base of representation.

**Robbie MacDuff:** We have not done any formal surveys. However, we know companies by word of mouth that provide both public relations advice and a small amount of Government relations advice.

Indeed, we have done something very proactive. At the end of last year, we had a training programme on the code of conduct. We sent invitations to a number of consultancies that are not members of the APPC, including single-person operators that work only for charities and voluntary organisations. Those consultancies attended the induction and were given a full explanation of the subscription fees for membership, our code of conduct and membership rules. They were encouraged to come back to us if they felt that they wished to join the APPC. We have therefore done something, but this year and next year, we intend to have a programme to increase membership.

**Tricia Marwick:** Do you agree that, for a voluntary code of conduct to work in the climate in Scotland, every commercial lobbying organisation would need to be signed up to it? We have had evidence from two umbrella organisations—the APPCS and another one—and it is clear that many public affairs commercial organisations out there simply do not come anywhere near you or the previous witnesses. What on earth would be the use to MSPs of a voluntary code of which many organisations simply are not part?

**Robbie MacDuff:** As I have said, the APPC code covers public affairs consultancies only. We take on board your concerns and suggest that, if the committee were to look at a set of core principles whereby organisations would need to sign up to demonstrable examples of ethical activity, behaviour, transparency and accountability, that might go some way to improving the system. It is important that people operate within the spirit of some form of voluntary regulation rather than legislation.

Let me just conclude that point. From looking around the world, we have found that where, for

example, statutory regulation is passed, people try to find ways round it. That is not a particularly healthy way of proceeding.

**Tricia Marwick:** I want to take you back a point. You said that the Scottish Parliament could perhaps draw up some core principles that everybody could sign up to. If we went to the bother of drawing up the core principles, surely it would make sense to go the half-inch further and have a registration system to which everybody would have to sign up, with everybody having to agree to adhere to the core principles.

**George Edwards:** We have two particular concerns about a registration system, which we have mentioned before. One is the risk of appearing to present a situation where certain people are privileged and others are not. The other is the point that was made earlier today, about raising additional barriers that might inhibit communication in both directions.

**Tricia Marwick:** I suggest that that is a slightly bogus argument. It is quite clear that the Scottish Parliament is committed to openness and transparency. No member of the committee would seek to put barriers in people's way. We are looking at ways and methods of ensuring that we do not follow the Westminster system. From my point of view, there is a clear distinction between a small organisation that lobbies an MSP and, frankly, the commercial lobbying organisations whose clients pay them for those services.

**Robbie MacDuff:** The industry might be slightly more complex than we have been led to understand by much of the discussion that has taken place in the public domain—usually through the media. For example, I began in a public affairs consultancy in 1989 in London, so I have witnessed some of the bad practices that the industry has tried to tighten up. Before that, as someone who worked in the House of Commons, I was actually lobbied by Friends of the Earth, which was working in partnership with the private sector to promote equipment that would reduce environmental pollution.

If the Parliament takes the Canadian approach and has a register with exemptions, how will it define where commercial lobbying begins and ends? Some would argue that trade associations are huge commercial lobbyists that are enormously funded by their members and have a great influence over decision makers as they are large associations that present strong voices for very large industries.

We are trying to make the point—I hope that we are articulating it well—that creating some form of register might introduce an enormous bureaucracy, which would certainly have cost implications. We believe that the register would

discourage people from making representations.

Nor would the register take into account the responsibility of those who are lobbied. For example, if an MSP received a letter from an organisation that was not registered on the statutory register, should the MSP accept the correspondence as a bona fide verifiable piece of lobbying or representation?

It seems to me that there needs to be a balance between the responsibilities of those who are lobbying and those who are being lobbied. Obviously, that means transparency, accountability and maturity on both sides.

On the reference to Westminster, of course it is absolutely right to find Scottish solutions, but it is also right to take evidence from around the world. Only three weeks ago, the rapporteur for the EU Economic and Social Committee, which was looking at the white paper on governance, identified that that committee was not going to go down that route. That was after three investigations at a European level on whether statutory codes were needed.

We believe that those issues need to be brought forward. Of course, the committee has the responsibility of looking at those different examples; we can only report on hearsay.

**Kay Ullrich:** You mentioned the Parliament's aims of openness, accountability and accessibility. How do you think we are doing in meeting those aims?

**George Edwards:** My personal view—this is not a collective view, although I would be interested in what my comrades have to say—is that the Parliament is doing extremely well. I really think that. Access is easy. The general feeling is that good progress is being made.

**Kay Ullrich:** If it is so open and accessible, why do people pay you money to access it?

**George Edwards:** One of our major clients expressed the position rather well a few weeks ago. He said that his company regarded us as its translators in Scotland. We advise the company on policy-making processes in Scotland. We monitor, interpret and analyse the situation. On the basis of that information, developed from studying government at all levels in Scotland, Westminster and Europe, we provide strategic advice to the client, which is a well-known British company. Through that advice, we help clients to do business in Scotland.

**Kay Ullrich:** Do you lobby directly—face to face—on that company's behalf?

**George Edwards:** We do not.

**Kay Ullrich:** Therefore, like the previous group from which we took evidence, you say that your

service is to provide information. Does your company do face-to-face lobbying?

**George Edwards:** In the four years that I have been chairman of the company that I work for, I doubt whether we have done that on more than two or three occasions. It is very unusual.

**Fiona Callison:** It is extremely unusual. Before joining AUGUST.ONE Communications in July last year, I was with Weber Shandwick Worldwide. Even given the client base there, I do not recall any occasion on which I did face-to-face lobbying on my own. I may have accompanied a client to a meeting and acted as a secretariat service at that meeting, providing the contact report thereafter. I would have made it clear to the MSP concerned that my role was as a consultant, not as a direct member, and would have asked again, after having declared it before the meeting, whether he or she consented to my being present at the meeting. An open declaration is made.

Those were rare occurrences. Even given the accompanying role, I never represented the client on my own. However, such representation is part of the product and service offering. Based on the observations that I have made, I must say that it is not something of which clients are taking advantage. They are much more interested in internal strategic advice that will allow them to make their own representations, which, in my case, are more likely to be to the Scottish Executive than to the Scottish Parliament.

**Robbie MacDuff:** Our code of conduct does not prohibit advocacy. However, George Edwards and Fiona Callison are right—that forms a small part of the service that we provide. It would not be good practice for us to attend a meeting with an MSP, for example, without the client's contacting that MSP to obtain approval by asking whether it was appropriate for their consultant to be at the meeting, too.

I will return to Kay Ullrich's point about openness and transparency. My view is that the Scottish Parliament is engaging extraordinarily well with the wider community. Having gone through the Westminster process for a long time, I welcome that and am pleased to see it.

However, the STUC made a valid point, of which I can give a practical example. One third of Strategy in Scotland's client base in Scotland comes from the charitable, voluntary, trade union and local council sectors. They are swamped with consultation papers, and use us to steer them, through guidance on consultations, such as whether papers are worth responding to or the extent to which the bodies must respond. We often comment on their draft responses and occasionally draft a response for them. We are used as research sounding boards, if you like, by

sectors other than the commercial sector.

**Kay Ullrich:** So you are hired by the non-commercial sector.

**Robbie MacDuff:** Absolutely.

**Kay Ullrich:** You were in the room while the previous witnesses gave evidence. Would you go along with the statement that to lobby successfully, people would be better approaching the STUC or Greenpeace? I felt that the witnesses were not selling themselves particularly well.

**Fiona Callison:** It is a question of horses for courses. I do a lot of communications consultancy, as well as political consultancy. Mine is a hybrid consultancy. The National Trust for Scotland, which is a charity, asked me for political advice as part of the communications mix. Its representatives have been given that political advice, but they will make the representation on their own, because they know the complexity of their organisation far better than I can know it, and they will take a far more enthusiastic and responsive approach.

**Robbie MacDuff:** To answer the question slightly more fully, I will say that success also depends on the professionalism of the message. It is absolutely wrong to say that people who work for charities and voluntary organisations are not professionals, because of course they are; they are enormously talented and enormously able to communicate. I would move away from the distinction between a professional and a voluntary or charity organisation.

**Kay Ullrich:** I do not get mixed up in that.

**Robbie MacDuff:** Absolutely. Some will use external consultancies as a sounding board and as an additional resource to an in-house team. We have a mix of clients and a mix of relationships: sometimes involvement is for one project only; sometimes there is a retainer for a year; and sometimes involvement is on a one-off issue, for example, to go in and work out a political communications strategy for a charity and then walk away, after which the charity undertakes the work itself. We might be brought back in 12 months down the line for a review.

**Fiona Callison:** I work with a third sector organisation—a local economic development company in Glasgow that has charitable status—on communications. When that organisation brought me in, its question was, “Can you blast us out of the analysis paralysis that we are in? We know our business inside out, but we are not sure how to represent it.”

**Kay Ullrich:** I should make it clear on behalf of the committee that we are not looking at the distinction between professional and amateur. The amount of expertise and professionalism in the

voluntary sector is a resource that MSPs use constantly.

**Robbie MacDuff:** The other issue is that one can never make a good case out of a bad case. We have a responsibility in relation to misrepresentation. If a potential client comes our way and we believe that to support their case is wrong and unethical, or that their goal is not achievable, we will say so. Another issue that I know has been raised in previous evidence is that our code of conduct does not allow us to work for clients who have vying messages—we cannot work at the same time for two clients whose interests are in conflict with one another.

12:15

**The Convener:** Are organisations that can afford the services of commercial—rather than professional—lobbyists likely to have more influence on the decision-making process because they use commercial lobbyists?

**Fiona Callison:** There is not a correlation between the ability to pay a large fee and the ability to influence the process. At the end of the day, influence will be gained by the merits of the case that an organisation develops. A number of organisations that would not consider it an appropriate use of resources to buy a commercial lobbyist's time or expertise will be able to influence the process because they have a particularly good case in relation to legislation that is going through Parliament, or because they have a particular policy issue that they want to raise. Political consultants are not absolutely necessary to the process, but using us is often a pragmatic solution for an organisation.

**The Convener:** People understand why a charity or other organisation would have a professional lobbyist, and why they would pay a lobbyist a salary to promote that organisation, but what do you say to people who feel that it is wrong to pay a commercial organisation that has no interest in a particular subject, and which is involved simply for the money?

**Robbie MacDuff:** Anybody who comes to us to ask whether we can provide a service knows that they are buying a professional service, just as they would use any other kind of professional.

**The Convener:** I refer not to professionalism so much as to the idea of paying money for you to fight a cause in which you are not engaged.

**Robbie MacDuff:** Each company will operate in its own way. I have an opt-out clause in my mind in relation to certain clients that I will not work with, and I am happy to share that with the committee if members push me on it. That is a personal ethical position, and it is right to adopt such an approach when running a business. After all, to be

successful we must have a good reputation. My colleagues must also have good reputations. Reputation means a lot in our industry.

**The Convener:** Thank you. I am conscious that Ken Macintosh has been waiting to ask questions.

**Mr Macintosh:** I have a couple of points, the first of which is for clarification. I note that you quote Professor Justin Greenwood in your evidence. As a committee, we should write to Professor Greenwood, because we would be interested to hear his views directly. Did Professor Greenwood's work compare the situation in Scotland to that abroad?

**Robbie MacDuff:** No. He looked specifically at processes in the European Union. However, he has close contacts with other academics and professors, particularly in Australia, Canada, the United States and Israel.

**Mr Macintosh:** Does he conclude that the regulatory regimes in those countries are not especially effective and that they have major weaknesses?

**Robbie MacDuff:** I would not like to speak on his behalf, but that is the information that he has imparted to us. He told us that Australia abolished its statutory regime in 1996 after 12 years.

**Mr Macintosh:** Was that because it was not working?

**Robbie MacDuff:** It was demonstrably not working.

**Mr Macintosh:** Why was it not working?

**Robbie MacDuff:** The Australian Government cited the fact that it had changed its conduct towards wider society. For that reason, and because the political consultation industry was acting responsibly, the Government did not think that the statutory code was necessary. However, I do not have the full information in front of me.

**Mr Macintosh:** Earlier, I asked ASPA about a threshold. Do you declare the fees that are paid by companies on whose behalf you lobby?

**George Edwards:** No, we do not. There would be no situation in which individual fees would be disclosed, although figures are obviously available in our annual reports.

**Mr Macintosh:** We are wrestling with the issue of distinguishing between people who lobby on behalf of commercial interests and those who lobby on behalf of social interests. If there were a threshold of say, £5,000, and if companies had to declare it every time a company paid more than that, what impact would that have on the work that you do? I am not sure that the exact sum would have to be declared.

**George Edwards:** Two things come to my mind—I am sure that my colleagues will have further comments. The first is that we would have to seek the permission of our clients to disclose the fee. They might be reluctant to give that permission. The second is that, as I said, we have fairly complex arrangements with our clients and only an element of the fee might be categorised as relating to lobbying. There would therefore be an element of bureaucracy in sorting that out.

**Fiona Callison:** That is true.

**Robbie MacDuff:** A number of members of the APPCS provide work, especially for charities and voluntary organisations, on a pro bono level. Does that mean that the hours that my team worked while providing a service that did not have a fee attached would have to be costed at an ordinary commercial rate? Such issues would have to be dealt with in much more detail if we were to go down the road of having such a threshold.

Some clients might employ us for a month at a cost of less than £5,000. Those clients would receive advice on a Government relations programme, but their fees would be below the threshold and therefore not declared. We would therefore question the value of the registration.

**Fiona Callison:** The practicalities of auditing such a system might be difficult. My company takes a public relations/corporate affairs approach. We do a lot of media relations—as well as offering political consultancy—as part of an overall package. Separating the hours that are charged for purely political activity might be quite difficult. Without wishing to cast aspersions on anybody's character, I can envisage some companies being slightly devious in pushing more and more of the fees into the PR side, to avoid reaching the threshold.

**Mr Macintosh:** A system of declaring donations to political parties has been introduced to make the process more transparent. The level in that system is set at £5,000. For donations above that amount, I do not think that it is necessary to specify the exact amount, although I am not sure.

Would your business collapse overnight if there were any kind of threshold above which fees must be declared? Would that scare clients away? What would be the impact on your professional work?

**George Edwards:** I do not think that that would scare clients away, although it would make life a little more difficult. However, I dare say that if such a system were introduced, we would learn to live with it.

**Robbie MacDuff:** It would probably not scare clients away because we would have to argue with them in the same way that we argue with them over the voluntary code. At the moment, we say



that we will list them; they either come to us or walk away from us on that basis. Companies do not restrict their activity to Scotland, so how would we equate how I might use my time for the company or organisation south of the border with what I do north of the border? There must be some transparency, clarity and equality between systems.

**Mr Macintosh:** Is your investigative system able to catch any wrongdoing? In other words, are you effective policemen of your system?

**Robbie MacDuff:** We believe that we are, but systems always need to be reviewed and, most probably, they always need to be improved. Post-Drapergate, the compliance procedure was enhanced, which means that not only did our member companies have to sign the code and the compliance form, but that every year they have to submit an explanation of the process of compliance. As a result, our system has improved.

**George Edwards:** An additional benefit of the system is that there is an external element to the process with our professional practices panel which makes the process much more stringent.

**Lord James Douglas-Hamilton:** Paragraph 3.9 of your submission states:

"In Scotland, Beattie Media's potential commercial relationship with a member company of APPC might have survived "Lobbygate" if that company had not been a member of the APPC. Instead, the commercial relationship was very publicly and very immediately severed with Beattie Media, which, allegedly, operated outwith the ethical requirements of the APPC Code of Conduct."

Which ethical requirements might allegedly have been breached?

**Robbie MacDuff:** That would be the requirement on misrepresentation. Our code prohibits us from selling access to potential clients. We say "allegedly" because I have seen the footage and the report.

**Lord James Douglas-Hamilton:** Would it be easy to formulate a voluntary code that was acceptable to everyone?

**George Edwards:** We believe that it would be very difficult to achieve a single voluntary code. One solution might be to establish core principles and to work within a series of voluntary codes that relate to particular organisations. As Robbie MacDuff said, the APPCS would be reluctant to dilute its own code.

**Lord James Douglas-Hamilton:** Is there any particular reason why you have a biannual register?

**Robbie MacDuff:** Because clients come and go, we felt from the outset that an annual register might not properly reflect and record our changing client base throughout a 12-month period.

**Tricia Marwick:** Earlier, Robbie MacDuff said that the APPCS tried to ensure that it did not have two sets of clients that had conflicting interests. How do you achieve that?

**Robbie MacDuff:** We do that in two ways. First, there are areas of obvious conflict. For example, if Boots the Chemists were one of our clients and Superdrug Stores approached us, we would have to tell Superdrug that we represented Boots the Chemists. Secondly, we might have to ask the inquiring potential new business opportunity—especially any business from the telecommunications field—whether there was a conflict of interests between their commercial business aspirations and those of our current clients. They would then tell us whether such a conflict existed. If it did, we would have to walk away from the new business opportunity.

12:30

**Tricia Marwick:** Many of my questions to you and to the previous witnesses were about how representative you are of the commercial industry in Scotland. I recognise that many organisations are not part of the APPCS.

I have in front of me a quotation that was taken from a website. I am not suggesting that the company is involved with the APPCS or with the Association for Scottish Public Affairs; I suspect that it is involved with neither. The company is a large legal firm in Scotland and it has its own public affairs section. The website says that, as a division of that particular legal company, the public affairs section shares with it "an extensive client base". Does that represent a conflict of interests?

**Robbie MacDuff:** Yes. We believe that the emergence of public affairs divisions within law firms in Scotland must be addressed. As I said, the company to which you refer to would not be able to become a member of the APPCS, because it would not disclose its client base and therefore could not sign up to our voluntary code.

**Tricia Marwick:** That is my point—voluntary codes are effective only when there is an almost 100 per cent sign-up rate.

I will move on, as I wish to put another question to you. You talk about voluntary codes and ethical standards, but we are now a year and a bit on from lobbygate, and the website to which I referred includes the statement that:

"Effective participation is crucially dependent on community with key decision makers at the right time and in the right manner. Our skills and experience qualify us to take the lead for you in this process."

That statement flies in the face of all the evidence that we have heard today about companies not taking the lead and allowing clients to speak for themselves. My point is that many

companies will never be eligible to sign up to your voluntary code, although they will still be operating.

**Robbie MacDuff:** With all due respect, the committee might want to take up that matter with the Law Society of Scotland, which might want to consider how its own code could deal with it. As I said, unless companies disclose their client base, they cannot become members of the APPCS. It is for the Law Society to tackle the matter that Tricia Marwick raised.

**The Convener:** I am conscious that we are behind time, but I wish to ask a question. Your submission referred to cross-party groups in the Scottish Parliament. What role do they play in the lobbying process?

**Fiona Callison:** We are not aware that any of our members run secretariat services for all-party groups so, in responding, I will draw on my previous experience.

When I did in-house work, I spent five years with Railtrack, which had a Westminster all-party group on the modernisation of the west coast main line. In retrospect, as a business manager at Railtrack, I rather regretted that expenditure; I do not think that we gained a tremendous amount for it. The group was designed to facilitate interaction among MPs whose constituencies were in a wide corridor in England and Scotland and who might not otherwise have had an opportunity to group their interest together. However, we did not get the level of participation that we wanted.

In the Scottish context, I suppose that it would not be particularly harmful, nor would it be a bad thing if a cross-party group were accessible and transparent about who was running it and if it gave everybody equal access to membership and to participation in its meetings. The problem is that, as soon as a commercial organisation such as AUGUST.ONE starts to run the secretariat service, the group could lose the transparency about who is behind it or funding it. If I was working on behalf of Railtrack or another large organisation and running such a group, it might be more difficult for members of the group to understand that relationship. No matter how much one proactively declares such a relationship, it might be difficult to get that across.

Equally, there is always a danger that, through intent or incompetence, a commercial organisation might not make the group quite as accessible to competitors or to competitors' clients. That risk would exist if a lobbying firm ran the secretariat facility. However, most of us would walk away from that kind of work.

**Robbie MacDuff:** The APPC UK intends to re-examine the all-party system at Westminster. We are obviously pleased that the Standards

Committee endorses the establishment of cross-party groups. My view is that public affairs consultancies should not be the secretariat, but we have not concluded discussions on that within our organisation.

We think that cross-party groups are important in identifying issues in public policy process that need to be discussed openly, transparently and democratically. We therefore welcome the establishment of cross-party groups. However, we should be able to ensure full transparency concerning where the secretariat is coming from and how the secretariat has been agreed.

**The Convener:** Thank you very much for coming to give evidence to us today. We will take a short break before we welcome our final group of witnesses.

12:35

*Meeting adjourned.*

12:39

*On resuming—*

**The Convener:** Our final witnesses are from the Scottish Civic Forum. I welcome Debbie Wilkie, Jeremy Balfour, Tim Hopkins, Liam Jarnecki and Lynne Raeside to this morning's meeting. I invite the witnesses to make a brief statement before we start our questioning.

**Debbie Wilkie (Scottish Civic Forum):** Thank you very much. We welcome the opportunity to speak to the committee today. I shall say a few words about the forum, which might be new to some members.

The Scottish Civic Forum has been established to help to promote greater civic participation in public policy development. Our members come from throughout civic society and they range from representatives of small community groups to professional institutions and from trade unions to business associations. Those from the forum who are with me today give a good indication of the different types of organisations that are involved in forum activities. Part of our value is in promoting constructive dialogue throughout civic society, therefore we also engage with organisations that are not members of the forum. For instance, we discuss potentially controversial or difficult issues and will deliberately bring into discussions people who have different perspectives. We did that recently in relation to the "Parents and Children" white paper, and we produced a document that we passed on to the Executive, which will also go to the relevant parliamentary committee.

The forum does not regard itself as a lobbying organisation, except in relation to the implementation of the consultative steering

group's principles of openness, accessibility, accountability and so on. Its role is really to support civic society's input, through convening public dialogues and policy forums, providing advice on drafting consultation responses and keeping members up to date about what is going on.

The forum is at an early stage of development, having had funding for less than a year. We recently secured funding from the Joseph Rowntree Foundation to carry out an audit of democratic participation. That audit will consider how the CSG principles are being implemented. The project will assess how well civic society is gearing itself up to take advantage of the new opportunities that are presented by the Parliament and it will examine the practical effectiveness of the steps that are being taken by the Parliament and the Executive to make them more open and participative. When that work is more advanced, the forum might have a more informed opinion to offer on some of the issues that might be raised today.

In connection with today's session, we invited our members to offer descriptions of their lobbying experience and a number of us met to discuss those experiences. I hope that the committee has the paper that we circulated yesterday, which records some of the key issues. Those who are with me today have a range of experience and are happy to participate in the discussion.

**Mr Macintosh:** Thank you for your statement and for the paper that you submitted. I will pick up on a point on the last page of the paper, which states:

"Transparency about the lobbying that takes place is essential."

You might need to do further work to answer my question, but do you think that the current lobbying of the Parliament is transparent?

**Debbie Wilkie:** In the spirit of our organisation, which is that I should not represent everybody, I ask my colleagues to respond.

**Tim Hopkins (Equality Network and Scottish Civic Forum):** Lobbying of the Parliament could be more transparent. Quite often, at the end of the stage 1 report on a bill, there is a list of organisations that have submitted written evidence, but the evidence itself is not included. It is not easy to find out what people have said. Some of the evidence is included, but often evidence is not included. It would be nice if the Parliament published every piece of written evidence that was submitted. It would also be good practice for the people who submitted evidence to publish it.

**Jeremy Balfour (Evangelical Alliance and Scottish Civic Forum):** I agree. I do not quite understand why, in consultation papers from the Executive and the Parliament, the option is given for evidence not to be published if those who submit it do not want it to be made public. If somebody submits evidence to the Parliament or the Executive, it should be open for everybody to see where that person is coming from and what opinions they have reached.

**Mr Macintosh:** In fairness, I suspect that such evidence is available to those who ask for it, but I am not entirely sure. Perhaps the committee could examine that.

Your paper goes on to say that

"the overall view, with one minority view"—

which is interesting—is that you do not want a statutory scheme of registration. That is fairly overwhelming, given the number of members that your organisation has. Does that mean that a scheme would be a barrier? Can you expand on that, especially in the light of any of this morning's evidence?

**Debbie Wilkie:** There are one or two reasons for the view. We are concerned that any form of registration might impute status to particular organisations that would give them greater strength than others would have. We are also concerned that—if we consider lobbying in the broadest sense—the small and less-organised organisations might be penalised if, for example, they had not notified somebody that they had written a letter to or sought a meeting with an MSP. We are concerned about those two barriers.

**Lynne Raeside (Royal Institution of Chartered Surveyors and Scottish Civic Forum):** The other problem that we discussed is definition. We have heard from some witnesses about the possibility of introducing a threshold. However, there will always be people at the edges of the threshold. Where do we set that threshold? It might be easier not to have any form of statutory registration in the first place.

**Mr Macintosh:** It is interesting to hear you saying that, given that the RICS is a professional body. If the threshold were set high—£5,000, for the sake of discussion—would such a threshold distinguish between commercial interests and others?

**Jeremy Balfour:** Let us take the example of two organisations that are represented here. I am a paid parliamentary officer for the Evangelical Alliance; I get a salary every month. Tim Hopkins works voluntarily for the Equality Network. We both do similar work and examine similar legislation although, obviously, we come at it from different perspectives. In some ways, Tim Hopkins

has been as effective as I have in talking to MSPs and writing papers. Would I be included in a register because I am paid a salary, but Tim's organisation not included, because he does not take a salary? That would be disadvantageous to both organisations.

If a threshold was set, I would want it to be fairly high, but I still question whether that would solve the problem. I presume that the reason for a register is openness—to make sure that nothing goes on of which the public is unaware. I think that we all thought that it was debatable whether a register would solve that problem.

12:45

**Lynne Raeside:** Great emphasis has been placed on cash resources. While cash resources are obviously important and will allow more work to be done, it must be remembered that many organisations that do not have many cash resources are influential. How would those organisations, which can and do influence policy, be caught? I think that we should not be too focused on the issue of cash.

**Mr Macintosh:** I apologise, but my colleague Tricia Marwick was bleeped to go to another meeting.

Earlier, representatives from the STUC said that, possibly, the problem that the Parliament faces is not the undue influence of commercial and professional lobbying organisations but the difficulty that is involved in ensuring that the poorest and weakest members of society have their voices heard in the Scottish Parliament. They mentioned doing something to help that in the way of positive action. Have you any ideas for us about that? Is the existing practice working effectively, or—without castigating my Westminster colleagues—are we following the old Westminster way, whereby Parliament became slightly dislocated from the public?

**Debbie Wilkie:** We have not yet done structured research into that, although that might come out in the Rowntree project. The informal feedback that we have had from a number of areas is that there is much more opportunity for engagement with the new systems, although there is a danger of an overload of consultation documents. Perhaps the Scottish Civic Forum can support the process by providing the opportunity for organisations getting together to discuss the issues and by feeding the outcome of those discussions into the system. Obviously, however, we would not be the only mechanism for doing that and we would never want to say that we were.

**Tim Hopkins:** A number of steps could be taken. There could be proactive targeting of voices that are not being heard. A couple of weeks ago, I

went to a good meeting that was organised by the Social Justice Committee. A great diversity of organisations and people were represented, but there were not many homeless people or marginalised people. It would be useful if the Social Justice Committee conducted an exercise that would target those whose voices are not being heard.

Another way of doing that is to give support to organisations like us. The Equality Network is an infrastructure body within the lesbian, gay, bisexual and transgender sector. We try hard to ensure that all the tiny organisations in Scotland have a say, both through us and directly, by helping people to come along to give evidence. There is an argument that there should be more help for that. We have few resources—the Scottish Executive might consider putting resources into ensuring that marginalised voices are heard, perhaps through infrastructure bodies and the Scottish Civic Forum.

**Mr Macintosh:** Are you lobbying us? [*Laughter.*]

**Debbie Wilkie:** On a non-commercial basis.

**Mr McAveety:** If the moves that we have been discussing mean that those of us who support the Executive no longer get abuse about whether the British Potato Council should have been consulted on section 28, I will be delighted.

There is schizophrenia on this matter. There is an access issue, which is important for the principles of the Parliament and for those organisations that do not have access to big cash to use the expertise—or assumed expertise—of others in the process of advocacy and lobbying. The perverse thing is that the submissions from the lobbying companies have used your noble concern about access to argue against regulation. It is important that we know who is being lobbied, why they are being lobbied and what the outcomes are. Are you being used?

**Liam Jarnecki (National Union of Students Scotland and Scottish Civic Forum):** We have not been lobbied in that sense. There is an issue to do with regulation. To an extent, all the organisations gathered here do exactly what it says on the tin. When the National Union of Students comes to see an MSP, it is clear whom it represents. In the commercial world, it is not quite so clear. You are right to emphasise that difference. I am not sure that we are being used, but I am concerned about that. We are not playing the same game.

**Mr McAveety:** I do not know the views of other members, but what do we do for members who, in principle, would like to regulate but recognise the concerns raised by your sector? Heaven forfend that, even on this issue, there is a third way.

**The Convener:** Are we talking about fox hunting?

**Liam Jarnecki:** Correct me if I am wrong, but we have come out specifically against regulation within our sector. If the issue were regulation of people in the commercial world—lobbying for hire—we would not necessarily come to the same conclusion.

**Jeremy Balfour:** How you define that could be quite hard going. That is your task; it is not for me to do that for you. Defining what a commercial lobbying organisation is and what the National Union of Students or Evangelical Alliance Scotland are, for example, could be quite a hard task. The three of us who are here are paid for what we do, and we hope that we are doing it in a professional way. We hope that we have some influence, when we talk to the MSPs, in highlighting some of our concerns. Drawing the distinction is difficult.

If you went down the road of regulation, none of us would oppose being regulated. We are just slightly concerned about the bureaucracy of that. We would register. We have nothing to hide. None of our organisations do.

**Tim Hopkins:** I think that that is true. If a threshold is set at £5,000, the Equality Network would not be affected—our total income for a year is about £4,000. If there was a register anyway, we might well want to register to make what we were doing more transparent.

Our real concern is about some of the smaller organisations. One of the organisations that gave evidence on section 28 to the Equal Opportunities Committee along with the Equality Network was Parents Enquiry. It is the only support group in Scotland for parents of lesbian, gay, bisexual and transgender children, and has real expertise in that area, but it is run by two people with no funding. They run it from their own telephone, and even pay the phone bill out of their own pockets. Anything that costs money, even if it is only £50 to join a professional body, and anything that takes two hours, for example, to fill in a registration form or to carry out an assessment on how much money is being spent, would be too much. It would probably mean that such organisations would have to tell us, "We can't come. It's too much for us." That is our real concern.

Either there needs to be a cut-off, and we then have to consider the issues of definition that Jeremy Balfour discussed, or the scheme has to be very lightweight. Even then, it would have to be accepted that some organisations with valuable input to give will not be registered under the scheme.

**Lord James Douglas-Hamilton:** In your written submission, you say:

"If a scheme is to be introduced this should be a light touch voluntary scheme to secure greater transparency."

If there is to be a voluntary code, should that cover you and your interest? Could you live with that?

**Debbie Wilkie:** I think that people could probably live with a voluntary code. We would then ask what would happen were the code to be breached. That would have implications. If a very small organisation had breached the code, we would not want there to be any kind of financial penalty.

We discussed what might be a suitable form of registration to secure transparency. Our thought was that people with whom MSPs and the Parliament had contact in a given year could be asked to complete a tick-box form indicating which of the pieces of business that had come before the Parliament they had been involved in. They could state at the top of the form who they were and whom they represented. They could be asked to complete that voluntarily. The form might not be comprehensive, but those who did not complete it could be listed on the website. There would at least be some element of a move towards greater transparency, but without it presenting smaller organisations with a huge bureaucratic task.

**Lord James Douglas-Hamilton:** You clearly would prefer not to have statutory regulation, but could you live with a form of registration, which is a lesser option?

**Jeremy Balfour:** That depends on what would be included under that registration. If I happen to be walking up the Mound from the station one day with an MSP, do I have to record that meeting, as well as every e-mail and letter that I write? For a charity of our size, that would become almost impossible to record. It depends on what you are asking us to do. Is it simply a matter of saying that our organisation has talked to MSPs on certain issues? If so, we would be happy to state that. If it went beyond that, the smaller organisations could struggle. We do not have sufficient secretarial back-up to provide the more detailed information.

**Lord James Douglas-Hamilton:** The clerk might enlighten us on this, but it is my understanding that registration involves a list, rather than a very detailed questionnaire. If the committee were minded to go down that path, it would be a simple process.

**The Convener:** It would depend on what the process was. It can be a complicated or a simple process of registration. That would be for the committee to decide.

**Jeremy Balfour:** What would happen to an organisation that did not register? Would all letters from people who had not registered be excluded? If not, what is the advantage of registering? There

might be a problem there.

**The Convener:** If there are no further questions, I thank the witnesses very much for coming along. We have found your evidence very useful, and I hope that you have also found it useful to come to the committee.

That concludes our evidence-taking session on lobbying for today. At our next meeting, we will consider an issues paper from the clerks, summarising the main themes that have emerged in this and the previous evidence-taking session.

*Meeting closed at 13:00.*

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