

Public Administration and Constitutional Affairs Committee

Oral evidence: [Lobbying and Influence: post-legislative scrutiny of the Lobbying Act 2014 and related matters, HC 638](#)

Tuesday 1 November 2022

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Members present: Mr William Wragg (Chair); Ronnie Cowan; Jackie Doyle-Price; Mr David Jones; John McDonnell; David Mundell; Tom Randall; Lloyd Russell-Moyle; Karin Smyth; John Stevenson; Beth Winter.

Questions 1 - 54

Witness

I: Duncan Hames, Director of Policy and Programmes, Transparency International UK.

Written evidence from witnesses:

– [Transparency International UK](#)

Examination of witness

Witness: Duncan Hames.

Q1 **Chair:** Good morning and welcome to this meeting of the Public Administration and Constitutional Affairs Committee. Today, the Committee is holding its first evidence session in our inquiry on post-legislative scrutiny of part 1 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, more commonly known as the lobbying Act. This introductory session will look at the background to the Act and the regulatory framework, as well as some of the key issues that have emerged since its passage.

We are joined this morning by Duncan Hames, former Liberal Democrat Member of Parliament for Chippenham, and director of policy and programmes at Transparency International UK. Good morning, Mr Hames. I wonder if you might further introduce yourself for the record.

Duncan Hames: Good morning. Yes, I am Duncan Hames. Transparency International UK is part of the worldwide anti-corruption movement by the same name. Here in the UK, we work on a range of issues, including integrity in business conduct, money laundering and integrity in politics. As an anti-corruption campaign, we consider the interface between private interest and public interest to be an area of risk, and therefore lobbying is a subject of particular interest to us.

I should declare that I voted for this legislation, when I was here, and indeed my wife was one of the Ministers who ushered it through Parliament. In the interest of transparency, I should put that on the record. But I will give you a candid review of it this morning, I am sure.

Q2 **Chair:** The Government undertook to conduct post-legislative scrutiny of the lobbying Act in 2021. Have you had any engagement to date with the Government as part of this?

Duncan Hames: Yes, I think we have. We were invited to a roundtable by the then Minister, Julia Lopez, in January of last year, which we attended to discuss these issues. We were invited to make a written submission, which we duly made, setting out a summary of our relevant research.

Q3 **Chair:** More broadly, how confident are you that all those who should be included on the register, according to the lobbying Act, actually are?

Duncan Hames: "According to the lobbying Act" is probably doing quite a lot of work in that question. The register captures very few of those people who engage in lobbying. I consider myself to be someone who engages in lobbying in relation to the mission of the charity that I work for, but there is no place for me on this register.

Indeed, our own research and that previously done by academics McKay and Wozniak note that only 4% of those individuals who appear in Government ministerial meetings declarations are registered on the register of consultant lobbyists. There are estimates that in excess of 80% of people who register on other registers in the world are not consultant lobbyists and therefore are not required to register here. Even if everyone who is required to register here is on the register, that is only a tiny, tiny fraction of those engaged in the activity that the law is intended to bring some transparency to.

Q4 **Mr Jones:** I take the point you make in your answer but, of those who are required under the terms of the Act to register, are there any who are not so registered, or is the register a comprehensive record of those who are required under the Act to register?

Duncan Hames: That would require some effective monitoring, and the monitoring itself requires good-quality information. The principal source of information that the registrar has in order to monitor compliance with the register is the Government's own ministerial meetings data. We try to make that information more analysable. We publish a platform freely online on our website, openaccess.transparency.org.uk, which I believe saves him and others trapesing through aged PDF documents on Government websites.

Without more information published about who is meeting Ministers, it is very hard for him to effectively monitor undisclosed activity in order to identify people who should be on the register and are not. I understand that, on occasion, he has been able to correspond with people in light of those Government ministerial meetings declarations, and encourage them to duly register as consultant lobbyists.

Q5 **Chair:** Is there any particular issue with those, for example, who may be employed by legal firms? Is that a particular thing that comes under the auspices of the Act but that is not being covered?

Duncan Hames: This probably gets us on to the incidental exemption.

Q6 **Chair:** We will come on to that later on. I just wondered, in terms of the supplementary question from Mr Jones, whether there were any who really should be under the auspices of this Act and are not.

Duncan Hames: I can understand the reservations there but we do not have evidence that I can give you of lawyers, in particular, engaging in lobbying that ought to be declared but that is not.

Q7 **Lloyd Russell-Moyle:** You are saying that you do not know if there is anyone who does not fulfil the criteria of consultant lobbyists who is lobbying. The question therefore is whether the criteria of consultant lobbying are adequately defined in the legislation. If not, what are the ways in which it is deficient so that people do not need to register?

Duncan Hames: First and foremost, we have the problem that most lobbying is done by people in-house, and they are not consultant lobbyists, so they do not have to register. In terms of the usefulness of this register to the public, to a free and independent media and to accountability of Government, that is the major flaw.

Q8 **Lloyd Russell-Moyle:** In other systems where they have lobbying registers, say in the European Parliament, do they have a much broader definition of people who need to register?

Duncan Hames: Yes. The OECD has looked at 22 lobbying registers and, in 18 of them, in-house lobbyists are required to register. The lobbying register created under this Act is an outlier in that respect now. It is one of those four that the OECD looked at that would not include in-house lobbyists.

Q9 **Lloyd Russell-Moyle:** Are there any other deficiencies in the consultant lobbying definitions?

Duncan Hames: By choosing, as the legislation does, to focus only on consultant lobbyists, it creates some fuzzy boundaries where people you might think ought to be on the register can argue that they need not be. A recent case that the registrar looked at concerned lobbying through an outfit called OakNorth. The former Minister concerned was able to satisfy the registrar that any lobbying he did on behalf of OakNorth was incidental to his role and, therefore, he was not a consultant lobbyist and did not need to be on the register. That incidental exemption, as it appears in the legislation, meant that there was no consequent action to be taken by the registrar.

Q10 **Lloyd Russell-Moyle:** I do not want to go too much into incidentals, because I know another colleague will ask about that. Do you know why it was drawn so tightly, to just be consultant lobbyists, rather than as wide as possible? You could take it as wide as possible and say that all citizens who engage in any sort of lobbying should be recorded somewhere, and you could take it down to the next level to be anyone who is paid to do it. Do you have any insight as to why the consultant lobbyist was drawn so tightly?

John McDonnell: Was it effective lobbying?

Duncan Hames: Let us examine the context. There was a coalition Government. I would argue that all Governments are coalitions, one way or another, but it certainly made some of the differences of opinion more explicit. It is quite common for one Government Department to argue against what another Government Department is trying to do before it then gets presented to Parliament. This legislation was carried forward by Ministers from different political parties in different Government Departments. The process of the Cabinet write-round produces a compromise measure that the whole Government can get behind.

It would be entirely reasonable to conclude that certain Government objectives at the time worked against the explicit objectives of this legislation. For example, the Government had a “one in, two out” approach to regulation and regulatory burden. It could have proven quite impactful in terms of having to remove other pieces of regulation on the private sector to have required in-house lobbyists to register under this new register. There were competing tensions that will have produced this result, where we only have less than 4% of those engaged in lobbying identified in this register.

Q11 **Lloyd Russell-Moyle:** Do you think that was a conscious decision rather than an inadvertent overlooking?

Duncan Hames: It would have been a direct trade-off between competing priorities of the Government. Those of us who criticised it at the time, but who still voted for it—which would be some of those who brought it into law—took the view that it at least began to establish some kind of institutional framework for both regulation and transparency in this sector. Even if it was as inadequate as it has proven to be, it provides a basis for us to continue to examine this issue, as indeed this Committee is today.

Q12 **John Stevenson:** One of the requirements to join the register of consultant lobbyists is if they are eligible to pay VAT. That does mean that lots of businesses and organisations that do not pay VAT do not need to be registered. How significant an omission is that?

Duncan Hames: Given concerns in Government currently—the Government are proposing, in the National Security Bill, a foreign influence registration scheme—it probably is much more significant than it looks. Given the conversation we have just had, you can understand why that was reached for as a very intuitive exemption to avoid burden on small business and to make sure that this measure was focused where

it needed to be—on the most prolific and best access lobbyists. But, if you work for a foreign lobbying consultancy that is not registered for VAT, you are in this exemption as well. An exemption that was probably intended for one-man band lobbyists and maybe even campaigners ends up giving us less visibility of the activities of overseas entities and their attempts to influence our democratic process.

Q13 **John Stevenson:** How significant do you think that is in terms of those and the smaller one-man bands? What does the evidence suggest? Is it a lot or is it a little? Are there a lot of one-man bands? Are there a lot of international companies that are lobbying here?

Duncan Hames: There is volume and there is significance in terms of influence, and these are not necessarily the same thing. For example, our analysis of Government meetings declarations shows that the organisation that most frequently gets access to Ministers over the last decade has been BAE Systems, with, on average, multiple meetings every month for the last 10 years. Those people who work to secure that access, and who do that lobbying, are not on the register because they are in-house. Obviously, they are not a one-man band or a foreign entity. We know that there is an awful lot of lobbying that does not fall into either of those categories.

I would not suggest it was the biggest deficiency in the legislation but MPs will be voting on a measure designed to plug the hole that we have just been describing in the National Security Bill. We took part in the Home Office consultation on that. I know it has widespread support in the House but we were sceptical as to whether it would work—whether foreign agents would choose to volunteer their activity as foreign agents when that register comes in, or would take their chance on British law enforcement holding them to account in some way subsequently. But the Government are taking action because they are concerned about a deficiency that is certainly increased by that particular VAT registration exemption in this Bill.

Q14 **John Stevenson:** Taking small organisations that have registered, you do not want to overburden them with regulation etc.

Duncan Hames: No.

Q15 **John Stevenson:** Are there things we could do to help them so that the system is simplistic and they are not overly burdened with regulation that stops them lobbying effectively and transparently?

Duncan Hames: We would support proportionate exemptions from the lobbying register. We have said in our submission that it would be better if the eligibility for that was based on the amount of lobbying being done, not necessarily the size of the entity. If you were exclusively doing consultant lobbying, and you were a small business with a turnover of less than £100,000, you could still do quite a bit of lobbying and it could still be quite relevant to public interests that you are doing it. But you could be a much bigger small business that just occasionally has engagement with Ministers on one particular issue that relates to your activities, where it might not be proportionate to expect you to learn a

whole new requirement to register.

We will come on to the ministerial meetings declarations, but having good-quality ministerial meetings declarations helps fill the most significant gaps that might be created by what are common-sense and proportionate exemptions that you would want to give to small businesses or people who rarely engage in lobbying. Having good ministerial declarations makes it more possible to offer a lighter touch to those who really are not of principal concern under these arrangements.

Q16 Mr Jones: The Act requires only consultant lobbyists to register. Schedule 1 provides that a person does not, by reason of making a communication, carry on the business of a consultant lobbyist if, first, the person carries on business that "consists mainly of non-lobbying activities" and, secondly, "the making of the communication is incidental to the carrying on of those activities." That is the incidental exception that you have already referred to in this session. To what extent does this exemption allow lobbying activity to escape disclosure? To what extent is that significant?

Duncan Hames: It is hard to measure but, as you have identified, it is pretty vague, right? In the example I gave earlier that was reported in the press, many people immediately assumed that the rules had been broken because, on common sense, this looked like significant lobbying. It was only when the registrar looked into it that he accepted this assertion that it was incidental and, therefore, that, in his view, the rules had not been broken.

It must be a really difficult clause in the legislation for a regulator, or a registrar in this case, to work with. It is not easily defined. It is not easily proven or counterproven by someone exercising a regulatory function. I think you will find that he finds it distinctly unhelpful. If Parliament wants exemptions, it would be better served by having clearer ones in legislation than that.

Q17 Mr Jones: Am I correct in inferring from what you have already said that you think it is not unreasonable to have an exemption of incidental lobbying? If that is right, how would you define what is not incidental? What is the measure? Is it possible to ascertain a measure?

Duncan Hames: In our evidence, we suggested a measure of time. That should not just be time with a decision maker; that should include preparation and all the activity that supports the actual encounter of lobbying. If that was small enough, that would be a reasonable ground for an exemption.

The other thing, however, relates to who is being lobbied. One conversation with one Member of Parliament is one thing; telephone calls with a senior civil servant who used to work with you when you were a Minister is probably something else.

Q18 Mr Jones: Is it possible to provide better guidance to lobbyists who are not consultant lobbyists as to the point at which they should be considering registering?

Duncan Hames: Yes, it should be. In the context of what I have been arguing, the net does need to be cast wider in terms of bringing this activity out into the open. The guidance probably would not be around the current grey areas but would be around the new grey areas that are created having cast the net wider, which would be much less about senior representatives of businesses engaged in direct communication with senior politicians, and much more about very small businesses that are just engaging with the democratic process, almost through their directors as citizens. You do not want that boundary to be one that makes it harder for citizens to have their say in a democracy.

Q19 **Lloyd Russell-Moyle:** You are talking about widening the net but you do not want to put a burden on people to register. Could you just remind me of what the burdens are? Once you have registered—it is a process of registering—is there more work that you have to do to keep up? I am asking because my understanding is that the burden was not very high.

Duncan Hames: That is right.

Lloyd Russell-Moyle: So you would just want everyone to do it, even if they are just meeting one Minister once. You would not want any exemptions. Is there a reason why you are suggesting that there is a high enough burden that one meeting would not necessarily fall within that net?

Duncan Hames: The burden is currently very low. It does not take very much to register as a consultant.

Lloyd Russell-Moyle: You can do it on the day.

Duncan Hames: It is certainly not beyond the bounds of a one-man band small business. But, as we have argued, the scope of information provided in a lobbying register, as you see in the United States, Canada, Ireland and the European Union, is much greater than the information collected by the registrar of consultant lobbyists. What if we were to address that deficit? For example, you can find an awful lot out about the activities of Google in its lobbying of the US legislature and Executive, but it does not appear on the register of consultant lobbyists in the UK because they are not consultant lobbyists. You do not find out much about their meetings with Government here because the description of the Government meetings is incredibly bland. You are not allowed to say “general discussion” but you can get away with some pretty bland descriptions of the meetings.

In the US, they have to declare how much they spend on their lobbying activity, and consultant lobbyists need to declare the value of the fees that they have charged for their lobbying activity.

It is worth considering this regulatory burden question if you have an appetite for a lobbying register that is actually going to shed any light on lobbying for people, because that will require more information to be disclosed than is currently the case.

Q20 **Lloyd Russell-Moyle:** Is there a case that you are almost saying there need to be two levels of register—one where every single person is

basically included if they have had any form of lobbying meeting, and another one where, if you meet certain thresholds, you then have to provide more information?

Duncan Hames: Yes, that is a creative solution.

Q21 **Mr Jones:** Concerns have been expressed that large law and accountancy practices are using the incidental exemption to escape the need to register, notwithstanding that they are carrying out lobbying activity. The registrar of consultant lobbyists has said that that suggestion is, as he put it, "demonstrably false". Do you agree with him?

Duncan Hames: What I said earlier is that I have no evidence to support that assertion. I would say that is broad agreement with the registrar.

Mr Jones: If he says it is demonstrable, there must be means of demonstrating it.

Duncan Hames: Yes, he is probably relying on Government ministerial meetings declarations for that, and why should he not? It is the best information available to him. But we happen to know that they are not complete. I do not know if we want to cover that later.

Q22 **Mr Jones:** Do I infer that you do not agree with him?

Duncan Hames: No. Well, I do not support the assertion that a major problem is with law firms that ought to be registered and are not. I do not support that assertion. In that respect, I agree with the registrar. I am slightly more cautious in reaching that conclusion because I recognise the deficiencies in the information available to us.

Q23 **Ronnie Cowan:** You mentioned Google there. Who funds Transparency International?

Duncan Hames: Yes, good question. All our funders are declared in our annual report and accounts, which are freely available on our website. I have been with Transparency International for six years. When I joined, our largest single funder was the British Government. For our international work, it was the then Department for International Development. These days, we have a negligible amount of funding from the British Government. The team that I lead has funding for work on these kinds of issues from the Joseph Rowntree Charitable Trust and the Julia and Hans Rausing Trust. These are charitable foundations. We are also funded, for example on the work that we do on illicit finance, by other foundations such as Open Society Foundations.

Q24 **Ronnie Cowan:** What about private companies?

Duncan Hames: We run a business forum for which we charge a fee, and that forum is run in order to support their compliance officers in improving their procedures to prevent foreign bribery. Our business funding is probably about 10% of our turnover.

Q25 **Ronnie Cowan:** Transparency International US is funded by Google, PricewaterhouseCoopers, Lockheed Martin, Citigroup and ExxonMobil. Is there no conflict there that those same companies are funding lobbying groups to lobby on their behalf, and you are the organisation that is

investigating whether they are doing this ethically?

Duncan Hames: I am not aware of the nature of that funding and whether it presents a conflict of interest. I am sure we would be able to put you in touch with our colleagues in the US, who could talk to you about that. I know in my own organisation that our work on this subject is entirely independent of any work we do to engage with businesses to stop them paying bribes around the world, which I hope you would agree is a central part of our mission as an anti-corruption campaign.

Q26 **Beth Winter:** Listening to the evidence so far, it is quite clear that the current register is inadequate and too narrow. You have been quoted as saying that it should be extended to in-house lobbyists. What are the pros and cons of that? Would it make it too large? Are there difficulties?

Duncan Hames: It would make it a lot larger—maybe six times as large. The public were polled on this issue. Two-thirds of them thought that there was not enough information about the lobbying of Government in the public domain, and only 15% thought that we had roughly enough information. There is certainly some appetite for people to know what is being done in their name and to know about the conversations that are being had that might influence those decisions.

As I said earlier, 18 out of 22 lobbying registers include in-house lobbyists. It would definitely provide a much better picture of what lobbying was taking place. If you seek to shine a light on a certain activity but you then exempt 96% of that activity from that light, people who want to stay in the shadows reorganise the way that they do their work in such a way as to move out of the light. I do not think 4% coverage is very functional or meets the aspirations of the legislation.

Q27 **Beth Winter:** Picking up on Lloyd's point about potentially having a two-tier system so that you can capture everybody, are there best-practice models out there where that works? It does not seem too complicated to me, having listened to the evidence that has been given so far.

Duncan Hames: I would say that some of these other models are better practice—the US, Canada and Ireland. In our submissions, I think we provided a summary table—we have certainly published it—of the different characteristics of lobbying registers, the kind of information that is made available and how they apply in different countries. We should not lack the ambition to have something that is better than any of the others but it would not be difficult to look around and say, "Even if we just did the same as Ireland, we would have a much better lobbying register in this country."

Q28 **Beth Winter:** What gains are there in extending the scope of the register that could not be achieved via other means, such as transparency releases being improved, from meetings of Ministers?

Duncan Hames: This is an argument that has often been made, but the progress with improving Government ministerial meetings declarations has been very patchy. These are declarations that are typically not even tried to be made until three months after the event. In other jurisdictions that I mentioned, almost all meetings get disclosed within a month. Some

Departments are really slow to publish their declarations so, by the time this information becomes available, it is history. The Foreign Office has been particularly slow under various Ministers to publish this information. The Home Office and the Department for Education have not been particularly quick to declare this information either.

We have had this problem with the description of the meetings. In the last year, we counted about 200 ministerial meetings declared by Ministers in the Department for Business, Energy and Industrial Strategy in which the description of the meeting was either to "discuss business" or to "discuss energy". That sheds very little light on what kind of lobbying is actually happening and what positions are being lobbied for. In other registers, it is a requirement to state the name of the piece of legislation that is up for discussion in the meeting or the policy area that is being discussed.

At the moment, the alternative that we rely entirely on Government ministerial meetings declarations is not of much use to anyone because of how little information is shared in those publications. It is also the case that those declarations only cover the meetings that Ministers have, principally in their Departments, certainly with civil servants accompanying them. Say, for example, you met a Minister at a party conference, at an event organised either to raise money for your political party or to provide an opportunity for participants to share their thoughts on policy with a Minister or a shadow Minister. Those meetings do not appear in the Government declarations. It is as if the Minister takes off their ministerial hat when they are meeting people outside of the Government Department. Nothing is published about those meetings despite the fact that, in many cases, the reason people are meeting the Minister, even though they are not in the Department, is that they are the Minister. Relying on Government ministerial meetings declarations would still give us only a very select part of the picture.

Q29 Chair: Is the sluggishness in publication, notwithstanding the lack of detail, a cultural matter within Departments or just a lack of seriousness or of resource?

Duncan Hames: It is worth acknowledging that we have seen some improvements in the last six months. I should also state that this problem existed before the disruptions of Covid. In fact, if anything, some of the change in working practices since the pandemic may have increased the scope of meetings that are being declared. The ministerial code does not explicitly require telephone calls to appear in these ministerial meetings declarations but that distinction has blurred in recent years. At least some Ministers are declaring video calls that they have, which, in the past, would not have been declared. It is a work in progress. Some people are making progress.

Q30 Tom Randall: To continue on the theme of your answers to Beth Winter, at present, as I understand it, only communication with Ministers and permanent secretary-grade officials requires inclusion in the register. Do you think that is sufficient?

Duncan Hames: No. In terms of the level of seniority or autonomy of

the civil servant, it would be really helpful for permanent secretaries to take a view and advise their Ministers on what might be more appropriate. For example, in some Departments, you could have senior civil servants who have really substantial spending discretions or those who are heavily engaged in the development of new policy. There may be other civil servants who are more senior than that but are, frankly, not engaged in this space, who would not be appropriate for inclusion in the scope. Those who are doing the business of administering Government would be well placed to advise on that.

The role of special advisers has been evolving over the years, including since this legislation was tabled. All special advisers meet external parties and some of them feel that they do so with all of the authority of their Minister. Certainly the people meeting them believe that that is the case. Some special advisers are working almost exclusively on media handling, and that may not be so relevant, but some work on policy development. When I was a Parliamentary Private Secretary, one of the Ministers I supported often asked me to field meetings with external parties that were seeking to lobby her, and that was part of the support I provided to her. Those parties considered that that meeting was an opportunity for them to lobby the Government. If they were using consultant lobbyists, the fact that those lobbyists were meeting a PPS and not a Government Minister would mean that those meetings would not contribute to the question as to whether they needed to register.

Yes, the scope of who is being met should be widened, but I would invite Ministers to take advice from those who are doing the business of administering their Departments on what is proportionate there.

Q31 **Tom Randall:** I just wondered whether with, for example, civil servants you had a view on what level that should come down to in terms of meeting the threshold to trigger registration.

Duncan Hames: What I am trying to say is that the simplest answers here are not necessarily the right ones. I could say to you, "Why do we not make it all senior civil servants? It is well established and understood that these are the senior management of the Government". Actually, I am not the right person to be answering that question. There are people who would understand better in a Government Department which roles, regardless of who the postholder is, are most relevant to the question of lobbying of Government by external parties and should be included in the declarations. This is not governed by law but by the ministerial code, so it would not be unreasonable for the Government to form a view as to how to improve that.

Q32 **Tom Randall:** In some of your answers you have alluded to registers in other countries. I wondered if you have a view on, or knowledge of, how the current threshold, in terms of which level gets included in the register, compares to other registers or the situation in other countries.

Duncan Hames: In the US, for example, we definitely would not just be talking about heads of Government Departments and Government Ministers. Their register is very much focused on the work of Congress, so there is an example that would cast the net much wider. This is

obviously a very different political system. We have the Executive embedded within our legislature. That is not the case in others. I would not suggest that simply mirroring one particular system gives us the answer here.

From the public's point of view, what happens in Parliament and how Parliament makes decisions and who lobbies those decisions is every bit as relevant to them as what happens in Whitehall.

Q33 Tom Randall: You may have covered this already but, in terms of communications and the type of communications, do you think the Act currently sufficiently captures texts, WhatsApp, instant messaging and that sort of thing? I know it has been in the news quite a bit recently.

Duncan Hames: We know that it does not. We know that this is not covered by either the ministerial meetings declarations or the legislation we are discussing today. I appreciate that addressing that is not straightforward but it does matter. If we take the case of Richard Desmond's lobbying in relation to decisions about the handling of a review into a planning application that he had made in Westferry, in Docklands, he met a Government Minister at a party fundraising event at which he was on the same table as the Cabinet Minister he would have wanted to speak to.

We now know, partly because of a very helpful inquiry that was held by the Levelling Up, Housing and Communities Committee, and indeed quite candid declarations made by the Minister as part of that inquiry, that a video was shown to the Minister, who was sat next to the applicant who wanted to make this development at this event; that mobile telephone numbers were exchanged; and that text messages were used to seek the efforts of the Minister in accelerating a decision-making process, the acceleration of which was potentially financially incredibly significant to the applicant.

We have a meeting there that is not covered by ministerial meetings declarations, because it was not in the Department, and we have lobbying that was not done by a consultant lobbyist, so it was not done by anyone who had to register. We had forms of communication that, even if both of those other things had been true, would not have been covered by existing transparency disclosures. That activity, which potentially could have prevented tens of millions of pounds of community infrastructure levy being committed to a part of London with a lot of social depravation, and therefore was clearly very material, totally evades any efforts to bring transparency to lobbying.

Q34 Lloyd Russell-Moyle: You were saying that access to MPs could be significant. In other registers, is there a benefit of registering because you are getting easier access and physical access into buildings? Is there an incentive to register because it will help some of that? Is there a carrot and stick?

Duncan Hames: I am not aware of any incentives that are offered. The intention is that a good lobbying register is comprehensive. It is not just that the easier your access, the more transparent you need to be. The

intention of these rules is that, if you have access, you need to be transparent.

Q35 **John Stevenson:** The Act covers direct communication. Does this adequately capture the range of means through which lobbying takes place? If not, what is being missed and how could the Act be changed to rectify this omission?

Duncan Hames: Fundamentally, the Act does not give us a lobbying register; it gives us a register of consultant lobbyists. Whatever your means of communication, we are not really finding out about the lobbying; we are just finding out about some of the people who do it. This is a very pertinent question for designing a good lobbying register. The legislation does not give us a lobbying register. Given the scope of the register that we have, if all you want is a list of people who engage in consultant lobbying, it is not a very relevant question. If, as I hope you do, you want to shine a democratic light on lobbying, it is a very relevant question. I am sure almost everyone sat round this table knows what it means to be lobbied, whether in the way their constituents do it through their democratic freedoms or the way other interest groups do it because they are interested in the influence that you have over outcomes. It is not just done through meetings.

Q36 **John Stevenson:** How do you go about capturing that?

Duncan Hames: One way you would do it would be by recognising that there is a lot of activity that is not done by consultant lobbyists. I started this conversation by explaining that I lobby. I am lobbying for a lobbying register this morning, right? I am not a consultant lobbyist. I would argue that think-tanks lobby. They have quite a strong argument that it is right that they are not required to be registered because they are not lobbying on behalf of other persons, which is the term in the Act. What happens is that they independently, in the course of their mission to educate and inform, do research and develop policy ideas. They ask people to fund that endeavour and to fund them to promote the outcomes of that work. In traditional lobbying, the client has something that they want to lobby for and the lobbying outfit is engaged to promote the client's interests. But, if the client's interests happen to coincide with the kind of findings that the think-tank is going to produce, you do not need to hire a lobbyist; you just hire the think-tank that is going to come up with a view that is aligned to what you want. By funding the think-tank, you get the same result—perhaps even more effectively—as you would hiring the lobbyist.

Yes, you are absolutely right that we ought to think more broadly about how our democratic process is influenced and where people should be able to see who is paying for that influence.

Q37 **John Stevenson:** Is that easy to capture?

Duncan Hames: I said earlier—it was good questioning that I had from Mr Cowan—that you can see who funds all of our work, and it is freely published on our website. That is not the case for all think-tanks. It could be but some resist that very heavily.

Q38 **Ronnie Cowan:** The registrar has the power to issue fines up to £7,500 or to refer for prosecution. Is that a sufficient deterrent?

Duncan Hames: I am trying to think of a case where those fines have been issued. There might be one pending that is expected to result in a fine but, that being the case, it would probably be inappropriate for me to outline it now. If you do not issue fines, the size of fine that you can issue is not very relevant, is it? This is largely administrative and, therefore, we need to find ways to make the whole thing more inclusive.

Q39 **Ronnie Cowan:** How many cases have been referred for prosecution?

Duncan Hames: I do not know of any. I would argue that what we are trying to do here is to shine a light on the democratic process. This is something that we ought to be able to achieve by having the right culture in our democracy. To overly criminalise the matter is probably not the best way to get this to work. Rather than having something that is stigmatised—"You are on this register so does that mean I should not really be talking to you?"—do the opposite and make transparency about these kinds of conversations the norm, so it becomes counterintuitive not to be open.

That is one of my concerns about this foreign influence registration scheme. We would be much more likely to capture the foreign influence activities in our democracy if we had a comprehensive lobbying register. Moving, as Parliament seems set to, to have this secondary register of people who are basically acting as foreign agents, does not strike me as the best way to actually get people to volunteer this information. I can understand the intentions behind the measure but I am rather sceptical as to whether it is actually going to result either in prosecutions or in people volunteering information. Take the National Security Bill, for example. I very much doubt that the kind of people you want to be brought into the net by that measure will comply.

Q40 **Ronnie Cowan:** Given that, is it up to the people who are being lobbied to report this? Let us presume that there is some unscrupulous lobbyist out there or maybe foreign agents who want to influence what is happening in this place. You say they are not going to register themselves or declare that. How do we make it that this place is better at governing itself to declare the approaches in the first place?

Duncan Hames: There are two parties here: the lobbyist and the lobbied. Therefore, we have an opportunity, wherever the two are not conspiring, to bring transparency to the situation if we have both openness about the lobbying received and an obligation to be open about the lobbying conducted.

Q41 **Ronnie Cowan:** Going back to my original question, if there is maybe one fine, and no convictions or prosecutions, does the registrar have the sufficient resource to monitor compliance effectively in the first place?

Duncan Hames: I doubt that. I am sure you will ask him, but the principal deficiency is the information available to him, not his appetite to check that information or his capacity to do so. A broader, more comprehensive set of ministerial or departmental meetings declarations

would be a very valuable asset to the registrar or anyone with a job to enforce the provisions of lobbying transparency in Parliament and Government, if that was a better information set for them to work from.

One area where this would be useful is ACOBA'S recommendations. ACOBA often tells former Ministers, when they seek advice on private sector business appointments, having left Government, that it would be acceptable for them to take on this role as long as they do not meet with former Government colleagues on matters relevant to their past ministerial experience. ACOBA has no means of monitoring whether former Ministers comply with the requirements set out in those letters. One of the reasons it does not is that, if they are working in-house, they are not required to register as consultant lobbyists, and they are unlikely to be named in the Government's ministerial meetings declarations. Even if they were, the subject of those meetings would be so narrow as to not provide much of an evidence trail as to whether they were in breach of those restrictions that they have been encouraged to adopt in going through the revolving door.

Q42 Mr Jones: You made the point that we are considering two parties—the lobbyists and the lobbied. The lobbying Act was designed to work in conjunction with Government Departments' quarterly transparency returns. As a matter of fact, how well do those two processes complement each other?

Duncan Hames: You very accurately describe the intention as to how this system was meant to work. I hope I have described some of the inadequacies in Government meetings declarations, which make it hard to work as intended. There is certainly a lot of confusion. There were a series of meetings that were first declared by Liz Truss before she was Prime Minister, which were then removed from her Department's meetings declarations and then reinstated. That does not suggest that anything wrong was happening but it does demonstrate that there was a degree of uncertainty about what meetings should be declared and what should not.

An investigation was published in *The Guardian* about hospitality received by Matt Hancock from Randox. He had ministerial meetings during the day and was at a political setting in the evening where he had other meetings, and neither the hospitality nor the meetings that he had in the evening were declared. I hope that points to how the content of the ministerial meetings declarations gives us only a select view of the external engagement that is happening. That is quite a hole to depend on if, as you say, the legislation intends for the substance of lobbying to be revealed through those declarations and the identity of the lobbyists, where that is not intuitive, to be revealed by the register.

Q43 Mr Jones: In the example you have just given of the Hancock meetings, were consultant lobbyists involved?

Duncan Hames: Not to my knowledge, no.

Q44 Mr Jones: So, in that particular case, you are entirely dependent upon the departmental returns. There are no means of counter-checking,

through any other procedures, which of course would apply if there had been a consultant lobbyist involved.

Duncan Hames: You are entirely dependent on ministerial returns. The register of consultant lobbyists does not help you very much even if there was a consultant lobbyist involved because it does not require the consultant to say who they were lobbying or what they were lobbying about. It just requires them to register the fact that this is the business that they practise.

Q45 **Mr Jones:** Meetings can be held at which important matters can be discussed, and it is quite possible that there would never be any record anywhere.

Duncan Hames: Yes, I am absolutely certain of it. That is the way the boundaries have been drawn both in the ministerial code and in the legislation that you are looking at.

Q46 **John McDonnell:** I think you have just rendered the next question superfluous but I will ask it anyway. How confident can we be that all lobbying of Ministers and Permanent Secretaries has been disclosed?

Duncan Hames: Certainly not all lobbying of Ministers.

Q47 **John McDonnell:** What about permanent secretaries?

Duncan Hames: I would have more confidence that there is no ambiguity as to whether lobbying of a permanent secretary needs to be declared. But there is this approach taken where Ministers wear multiple hats. In certain contexts, the Minister is an MP. In other contexts, the Minister is a Minister of the Crown. In other contexts, the Minister is a leading figure in a political party. Their activities in each of those settings have different reporting responsibilities. As a result, you do not end up with a comprehensive picture at all.

Q48 **John McDonnell:** You keep answering the question I am about to ask. Let us go on to it, because you have raised it with regards to Matt Hancock's meetings. It is this issue about the classification of meetings as political rather than Government business. How easily are they distinguishable? Are the rules surrounding how the meetings are classified sufficiently robust and satisfactorily adhered to?

Duncan Hames: I am not sure they should be distinguished. If you are a Government Minister, people do not think you are not a Government Minister because of where they meet you.

When David Cameron was Prime Minister, he published the attendees of what was called the leader's group, which was a group of party funders who he would meet regularly. They published attendance and he was clearly meeting them in his capacity as leader of his party. It was a party-organised thing, not a Government-organised thing, but he considered, given the ambitions his Government had at the time on transparency, that the existence of these meetings and the attendance at them ought to be put into the public domain.

This is not a practice that has been sustained by his successors. I appreciate that the names of the groups change over time. We do not have anything like the same transparency over the access to Ministers that members of the Government party's policy advisory board have, or over who attends and gets the benefit of that access. They know they are offered access to senior Government Ministers. The fact that they are doing that in support of their party, as part of how a political party works—you have conversations in your political party—is by the bye. From the point of view of lobbying, they are still Government Ministers who are being given the benefit of the wisdom of these individuals in terms of what Government policy should be.

Q49 John McDonnell: You have mentioned a few international examples. In other spheres, do they have these distinctions about the nature of meetings and, as David pointed out, who is attending them? Are they classified in that way or is there a broad definition that all meetings are covered?

Duncan Hames: If you have a lobbying register, rather than a list of meetings and a register of lobbyists, you are much more likely to have a comprehensive view. I would be very happy for us to take a look at the examples we have put in our submission to the Committee and perhaps provide that additional insight into which address that issue successfully and which do not.

John McDonnell: That would be helpful. Thanks.

Q50 Mr Jones: Clearly, these meetings are all intended to exert influence of some sort over the lobbied. Should, therefore, the register extend not only to those who are lobbying Ministers, but to those who are lobbying others in positions of influence, which could potentially be any Member of Parliament—certainly, for example, shadow Cabinet members?

Duncan Hames: Yes, indeed. At the moment, with this two-part system we have, one is the register of the lobbyists, governed by legislation; the other is ministerial meetings declarations, governed by the ministerial code. The Government themselves choose to do it. When you design a system like that, you will inevitably not shine a light on lobbying of people outside of Government. Governments change. People enter Government having not been in Government and having been very extensively lobbied.

I went to the Labour party conference this year and lobbied Labour politicians. I have told you, but it is not on a register anywhere. Some people spent an awful lot of money on a big bus to promote hydrogen at that conference. I think they were actually gas producers. Lobbying of politicians happens in all political parties. Lobbying happens through the work of all-party parliamentary groups. I know the Standards Committee has done a review into those and has recommendations. You are absolutely right to say that, if we are interested in making our democratic process more transparent, we should look not only at the lobbying of Government Ministers.

Q51 **Lloyd Russell-Moyle:** You have made a distinction between a ministerial hat and a political hat that they might have. Do you also include a hat for them as a constituency MP? How do you regulate that? I know when I was shadow Environment Minister, when Keir first became leader of our party, suddenly people in my constituency came out of the woodwork who were in charge of air quality and water protection and who wanted to have conversations with me. They were genuine constituents, but they were only really talking to me because I had been appointed shadow Minister. If I had been Minister, I am sure even more would have come out of the woodwork. Do you recognise that that is also an area that might need some sort of consideration? Have you thought about it?

Duncan Hames: Yes, this came up in the debates around this legislation when it was first introduced. I would not consider it a priority; I would consider it relatively low risk. It is part of how people understand that you do your jobs and it is part of the job you do in a representative democracy.

If we were able to address all the other things we have discussed this morning, I would not lose too much sleep about that being a back door. I suspect some constituencies would be more populated with people in a position to do significant lobbying than others.

Lloyd Russell-Moyle: They might happen to be a constituent of Jenrick, in that example. Suddenly you are representing an area where lots of those people live.

Duncan Hames: When I was a Member of Parliament I was once lobbied by senior people in a business in my constituency, which was concerned that it was not going to be awarded a defence export licence for a product. I did not anticipate that was the lobbying I was going to receive, but I received that lobbying. I was lobbied. There was a clear constituency interest. There was an obvious reason why I opened my door to be lobbied by this company, and there were constituents who would be affected potentially by the outcome. I felt uncomfortable that there was nothing in the public domain about this. There was no normal practice to put that kind of conversation in the public domain. I declined, for the record, to involve myself in any advocacy in relation to that particular decision, but I still recall it to this day as one of the reasons why I tended to have external meetings in the atrium of Portcullis House where people would know that anyone walking by could overhear what was happening in the conversation, rather than having meetings in a private room. I took the view at the time—I appreciate it might not be practical for everyone in the House of Commons to take the same view—that it helped foster an environment in which the kind of conversations people had when they had access to me were ones that they were happy to have in the open.

Q52 **Beth Winter:** FOIs have been very successful in obtaining information regarding lobbying activities. Do you think they are sufficient or that they should compensate for the inadequacies of the Government's current transparency data? Should they be used?

Duncan Hames: In theory, they would be very helpful. In fact, on the platform I described, Open Access, there is a link to where you can submit a freedom of information request to try and find out more information about a meeting that has appeared in the Government declarations. We encourage people to use FOI to supplement and to improve the information that is released.

In practice, however, FOI requests are not being granted as commonly as they used to be. I think it was an Institute for Government report that recently found that, in 2020, 42% of resolvable requests were withheld in full, which compares to only 21% that were withheld back in 2005. Over the course of time, Government have become rather less forthcoming in response to freedom of information requests. Unless that were to change, there are limitations to the contribution that that can make.

Q53 **Chair:** If Ministers and senior officials were required to release details of all their meetings with external bodies, regardless of what particular hats they were wearing at any one time, would the register be required at all?

Duncan Hames: As Mr Jones pointed out, that would tell you only about what was happening in Government. Our democracy is more than the function of the Executive. I appreciate the reservations that, as policymakers, you might have about the idea of having parallel systems. That does not feel very efficient. We are very supportive of maintaining a system of the lobbied and the lobbyists both making declarations. One of the reasons for this is that it can help fill the gaps. If you want to have, as I said at the beginning, exemptions because this kind of disclosure is disproportionate for people who very rarely engage in lobbying, you might feel more confident about having those exemptions if, where the person who is lobbied is significant, some information will still enter the public domain.

Q54 **Chair:** I should emphasise that was a question posed as a devil's advocate, really. As a final reflection before this meeting closes, you have mentioned culture in one answer. When we embark on an inquiry like this, there is sometimes an interest because lobbying is seen as a dirty word by some, but it is arguably integral to the democratic process. I wanted perhaps a final reflection on the role of transparency and lobbying in creating a culture that perhaps empowers people to do these things appropriately and more openly.

Duncan Hames: One of the Nolan principles, which I am sure everyone here aspires to, is openness. I totally accept that lobbying is part of the democratic process. The exchange of information to reach decision makers is an important part of a healthy democracy. Rather than stigmatise it, having a culture of it being out in the open and conducted in a manner in which people are happy to be held to account for it, and where it is not secretive, is an important part of achieving that cultural objective. At the end of the day, this is about people's confidence in democracy—confidence that decisions are being made in the public interest and not according to other interests, and that their democratic

process serves them well. All of us—certainly all of you—have a stake in bolstering that confidence.

In 2009 David Cameron said that lobbying was the next big scandal waiting to happen. In recent years, there have been stories about lobbying every few months, which may not individually constitute a big scandal, but it erodes public trust in the democratic process. As I hope we have demonstrated this morning, there is a lot further to go in addressing that than relying on the existing ministerial code and legislation we have on the books.

Chair: Thank you very much indeed, Mr Hames, for your evidence this morning. We are very grateful for it, and if there is anything you wish to say to us additionally, do feel free to write. For the moment, thank you very much again.