

Public Administration and Constitutional Affairs Committee

Oral evidence: Propriety of governance in light of Greensill, HC 59

Tuesday 2 November 2021

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Members present: Mr William Wragg; Ronnie Cowan; Jackie Doyle-Price; Rachel Hopkins; Mr David Jones; John McDonnell; David Mundell; Tom Randall; John Stevenson.

Questions 124 - 211

Witness

[I](#): Nigel Boardman, Chair, Inquiry into the Greensill lobbying scandal.

Examination of witness

Witness: Nigel Boardman.

Q124 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. This morning the Committee is continuing to take evidence in its inquiry on propriety of governance in the light of Greensill. Today we are joined by Nigel Boardman, author of the two-part review into the development and use of supply chain finance and associated schemes related to Greensill Capital in government.

These two reports—the first examining the facts behind Mr Greensill's association with the Government, and the second proposing recommendations to the Government in light of those events—were commissioned following the collapse of Greensill Capital earlier this year. Mr Boardman, welcome. It may be superfluous, but may I ask you to introduce yourself for the record, please?

Nigel Boardman: I was responsible for the report into supply chain finance in government, particularly with reference to Greensill.

Q125 **Chair:** Thank you very much. Can I begin, please, Mr Boardman? How were you appointed to head this review?

Nigel Boardman: I was approached by the Civil Service, who asked me whether I would be available to take on the work. They then asked me a



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series of questions around conflicts of interest to make sure that I did not have inappropriate conflicts of interest.

Q126 **Chair:** In relation to that, it has been said that you have close associations with the Conservative party, which I happen to have as well. How can you reassure us of your impartiality in conducting your review?

Nigel Boardman: I left the Conservative party 20 years ago. It is not just that I stopped being a member; I left it.

Q127 **Chair:** A very straightforward answer to the question.

Part 2 of your report, focusing on recommendations, was released over a month after it was apparently submitted to the Government, I believe at the beginning of August. It was released in the middle of a major reshuffle. Do you think that is coincidental, or might the Government be accused of burying bad news?

Nigel Boardman: I would not like to speculate on what caused the timing.

Q128 **Chair:** Did you have a view on the timing of the publication? Should it have received greater attention than it might have done?

Nigel Boardman: Unfortunately, the amount of work I had to do meant that the report was later than expected. I delivered it during the parliamentary recess. My understanding was that they did not wish to release it during the parliamentary recess, but I do not know why the particular date was chosen.

Q129 **Chair:** In announcing your review, the Prime Minister said that he expected the full co-operation of all those involved. To what extent did you receive that?

Nigel Boardman: With the exception of one witness, who refused to attend, everyone else agreed to attend and co-operated.

Q130 **Chair:** Who was that witness who refused?

Nigel Boardman: A person called Lesley-Ann Nash, who had worked closely with Mr Greensill in government. Her name is in the appendix to the report as someone who did not agree to attend.

Q131 **Chair:** Was a reason given for that?

Nigel Boardman: She said she was busy.

Q132 **Chair:** How did you look upon that refusal?

Nigel Boardman: I looked into whether or not she was employed in a regulated industry and whether we could refer her to the regulator of that industry. Her particular part of her business was not regulated and, therefore, I wasn't able to do that. Therefore, I have just noted her name in the report but have taken no other action.

Q133 **Chair:** You received full co-operation from all the other witnesses?



Nigel Boardman: Yes.

Chair: Thank you very much.

Q134 **Jackie Doyle-Price:** My questions are about Lord Heywood, who obviously is not here to account for his actions. I have been uncomfortable about a lot of the comments that have been made in relation to his role here. Your report deals with the facts of the matter as best as you can describe them, but I have some quite challenging questions, if I may put them to you.

One of the critics of this report is, of course, Lord Heywood's widow, Lady Heywood. She has complained that she did not have the opportunity to contribute to your review. Could you explain why that was?

Nigel Boardman: When I was appointed, the terms of reference referred to approaching and speaking to people with first-hand knowledge of the events. Lady Heywood clearly does not have first-hand knowledge of the events. However, at the outset, I did meet her to have an interview with her so that she could outline the issues she thought I should think about.

As the review developed, and partly as a result of Lady Heywood's suggestions, it became clear to me that it would not be fair not to see Lady Heywood and to give her a chance to represent Lord Heywood. Therefore, I changed my mind as the review went on and did invite her to be interviewed. I did give her all the papers that would have been given to Lord Heywood, and had an extensive interview with her in which, with legal representation, she put forward her position. I asked her the kinds of questions I would have asked Lord Heywood.

After that, she was sent a minute of that discussion in the same way as every other interviewee was sent. She was given a chance to comment on those minutes. She was then sent extracts of the report which related to Lord Heywood, in the same way as every other person who might be criticised in the report was sent. She commented on those extracts. I took into account those of her points that I thought were fair and relevant, and adjusted the report accordingly. She had at the end, but not at the outset, the same access and rights as Lord Heywood would have had, and as everyone else had.

Q135 **Jackie Doyle-Price:** I can see from your evidence that you have endeavoured to be fair, but can I ask what it was that made you reach the conclusion that, to be fair to Lord Heywood, you should interview her, even though she did not have direct experience?

Nigel Boardman: His role was much more prominent in events than I had expected at the outset. It did not seem to me fair for someone who was so prominent in events not to have someone represent his point of view. Had he been a peripheral player, I am not sure I would have felt the same way about it.

Q136 **Jackie Doyle-Price:** Probing further, clearly you came to that view as a result of the evidence that you were being furnished with by the rest of the Whitehall machinery, from wherever it was. To what extent were you



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surprised at the references being made to Lord Heywood in answer to your questions?

Nigel Boardman: Five points arise in relation to Lord Heywood's involvement. The first is the appointment of Lex Greensill into government. For that I think it is clear from the evidence—both the contemporary evidence and subsequent interviews, including with Mr Greensill—that Lord Heywood brought Lex Greensill into government. There may have been a formal ministerial sign-off; there may not. The evidence probably points to there being a ministerial sign-off, but certainly not a ministerial drive for it, and that evidence is inconclusive.

On subsequent reappointments, the evidence is much less strong that there was any ministerial approval of Mr Greensill's appointments until you come to him being appointed as a Crown representative, when I think he was appointed. Therefore, I think that in that area, Lord Heywood was responsible for bringing Mr Greensill into government.

The second is the management of Mr Greensill's conflicts of interest. I think the evidence is that the Civil Service would have been responsible for managing those conflicts, not Ministers, and it would fall on the Civil Service to manage those conflicts.

Thirdly, there is the extraordinarily privileged position that I referred to, which Mr Greensill was given, which was access to various Departments and a No. 10 pass. Again, the evidence points to that being Civil Service, not Ministers.

Fourthly, there is the role in Mr Crothers' double-hatting. Again, there was no ministerial involvement in that decision; that was a Civil Service decision.

Fifthly, there is the citation for Mr Greensill's honour as a CBE, where there is no evidence of any ministerial involvement.

Because of those five factors—some of which I did not predict—I felt that it was only fair that Lady Heywood was given full access, to be treated as if she were Lord Heywood for the purpose of the process.

Q137 **Jackie Doyle-Price:** Hindsight throws up some very interesting questions about the issues you have highlighted. However, at the time, given a drive by the Government to make better use of private sector involvement, and looking at the manner of appointment, is it not more about a collective naivety within Whitehall about that change of culture, particularly in terms of managing conflicts? We can look at all this with hindsight, knowing what has happened to Lex Greensill subsequently, but, taking a view at the time, does this not highlight more about the procedures than it does about Lord Heywood's actual behaviour?

Nigel Boardman: Agreed. Also, I think, about Mr Greensill's degree of openness about his activities.

Q138 **Jackie Doyle-Price:** I want to come on to some observations about your



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final point—about the honour. Of course, it is part of our political culture that we reward people who give public service of their own volition, without payment, with such honours. In that respect, it is entirely understandable that Lord Heywood would wish to do that.

You provide in your report a record of events leading to that citation for the CBE. I was very taken aback by the records on page 53, which deal with May 2016. You carry the quotes of conversations from Sue Gray and John Manzoni. Frankly, it reads to me like tittle tattle—tittle tattle and covering backs, frankly—on the basis of the two interviewees who supplied you with these accounts. Why did you choose to report those direct quotes in the body of your report?

Nigel Boardman: The award of a CBE to Mr Greensill was controversial. The citation contains material inaccuracies and, as a consequence of that, I thought that it was important to set the scene as to how that had been arrived at, and that that was not a consensus decision.

Q139 **Jackie Doyle-Price:** That is one area where obviously Lord Heywood cannot answer for himself.

Nigel Boardman: Agreed.

Q140 **Chair:** Following up on that, and on the third of your five factors, you allude to the unique access afforded to Mr Greensill, darting hither and thither. In your inquiries, have you found any examples of others afforded such access, or is it genuinely unique?

Nigel Boardman: I know of no other and I did make inquiries. There is no one else who has had that degree of privilege of being appointed as supply chain finance adviser, or similar adviser, and given a pass to No. 10 to meet people interested in supply chain finance.

Q141 **Chair:** No other Crown representative?

Nigel Boardman: Crown representatives generally operate with individual companies and not across sectors nowadays. Therefore, they manage individual companies where there are strict conflict of interest controls. Under the current system, I don't think this would arise.

Q142 **Chair:** When you say "nowadays", does that encompass Mr Greensill's time or are you referring to way back when?

Nigel Boardman: There was an internal audit report on the Crown representatives, which was critical of the way in which they were managed at the time. That led to some reforms, plus a change of the senior responsible officer, which led to changes. Subsequent to that, I think it has worked.

Q143 **Mr Jones:** To what extent was your assessment of the late Lord Heywood's role affected by the interaction that you had with his widow?

Nigel Boardman: I took into account the points that she made to me. She had some perfectly fair and sensible points, which I have taken in.

Q144 **Mr Jones:** It was useful to you to have that interaction with Lady



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Heywood.

Nigel Boardman: It was, yes.

Q145 **Mr Jones:** It did affect your assessment of his role.

Nigel Boardman: It did, yes.

Q146 **Chair:** Following on from that, could I clarify that the involvement of Lady Heywood in the report only came after she threatened legal action?

Nigel Boardman: Yes, that is correct.

Q147 **David Mundell:** You recommend stronger compliance mechanisms, such as the establishment of a cross-government compliance function. Which, if any, rules or codes did you find had been broken, in either Lex Greensill's time in government, or Greensill Capital's subsequent interaction with the Government, which would justify creating such a function?

Nigel Boardman: The problem was that there were very few rules, if any, broken. Possibly the disclosure of conflicts by Mr Greensill was not as comprehensive as it should have been. Generally speaking, the problem was that the rules were not sufficiently clear. For example, on direct ministerial appointments: it wasn't clear then about what process had to be followed, and how they should then be managed and monitored. It was not so much that the rules had been broken, but the fact that these circumstances arose without the rules being broken means that the rules need to be clearer and compliance needs to follow.

Q148 **David Mundell:** Your argument is for different rules—new rules?

Nigel Boardman: For greater clarity of rules, yes.

Q149 **Ronnie Cowan:** When you say that the rules are not clear, for how long have these rules not been clear, and for how long have they potentially been abused?

Nigel Boardman: I have only looked at this episode, so I cannot give a historical survey, but I think there should be guidance—I mentioned this—which is kept up to date about what conflicts of interest require disclosure. At the moment, there isn't that.

Q150 **Ronnie Cowan:** A sort of rolling review of those rules as things change?

Nigel Boardman: Yes.

Q151 **Ronnie Cowan:** Have you recommended that?

Nigel Boardman: Yes.

Q152 **Ronnie Cowan:** I missed that bit. This compliance function: have you envisaged it to extend or simply consolidate the current regulations of the Civil Service?

Nigel Boardman: The compliance function has a cost and the Government will have to decide how much resource they should allocate



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to it. At a minimum, it seems to me that making coherent what is already there so that it operates together would be the low-cost option. In other industries, a significant amount of money is spent on compliance and that isn't so true within government.

On whether you should spend more on compliance, I would say that, overall, industries that have good compliance functions have lower costs because they have fewer mistakes and, therefore, fewer scandals, but how much resource the Government should spend on compliance is a matter of weighting.

Q153 **Ronnie Cowan:** Is this compliance for the Civil Service or for Ministers?

Nigel Boardman: My focus was on the Civil Service, because that is where most of the issues arose. I do think that Ministers raise a separate question about parliamentary democracy and how much it is appropriate to put in place extrinsic regulation. I saw that the Committee on Standards in Public Life touched on this issue in its report yesterday.

Q154 **Ronnie Cowan:** My concern here is that, quite rightly, we are looking at the Civil Service and saying things have to change—that there has to be more compliance and understanding of that compliance—but if, at the end of the day, recommendations are being made to a Minister and Ministers are not governed by the same set of regulations, they can basically do whatever they want.

Nigel Boardman: Ministers are answerable to the electorate; civil servants are not.

Q155 **Ronnie Cowan:** You do not see the need to extend this to Ministers, even just the spirit and awareness of the rules? The problem here is that Ministers make decisions and the public may not like the decisions they have made, and while it is one thing to say that they are answerable to the electorate when there is a general election, right here and now, they could potentially still be making these decisions, despite the fact that you said that civil servants should be giving them better information.

Nigel Boardman: I understand the argument you are making. I think it is a very difficult decision as to how far elected representatives should be subject to external controls, and I think that that is a debate that goes way beyond my report.

Q156 **Ronnie Cowan:** That was outwith your remit?

Nigel Boardman: In the time that I had available, I think it is difficult to see how I could make a major contribution to that discussion.

Ronnie Cowan: Was it outwith your remit?

Nigel Boardman: Nothing was formally outside my remit, in that I was given carte blanche, but I did not feel that I could make a significant contribution to that debate in the time that I had available. I also think that the Committee on Standards in Public Life has touched upon that. I was aware that that Committee was doing its work alongside the work



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that I was doing, and I think the Committee was better placed to carry that forward than I was.

Q157 **Tom Randall:** Your report recommends establishing a proper structure around the use of direct ministerial appointments and you have said that a clearer, more transparent process is needed. How far would that impinge on the appointment of certain sorts of high-profile recent examples, such as the appointments of Kate Bingham and Dido Harding? Do you think that would have had any effect on those kinds of appointments?

Nigel Boardman: I have not studied the basis of their appointments but, if I take the general point, I think Ministers need to have the power to make urgent direct appointments, but there should be a process around urgent direct appointments. Where there are non-urgent direct appointments, there could be a greater process. An emergency method of appointing someone should exist, but it should still have a process.

Q158 **Tom Randall:** Your recommendations clarify how appointment should work; they do not touch on the accountability of those appointments. Have you had any thoughts on what that accountability might look like?

Nigel Boardman: A direct ministerial appointment is accountable to the Minister who appoints them, and that Minister is accountable to Parliament.

Q159 **Tom Randall:** Do you think that there may be scope, for example, for those appointments to be accountable to Select Committees or anything of that sort?

Nigel Boardman: As a Select Committee, you can call ministerial direct appointments. I think that technically I am a ministerial direct appointment and I have been called—for which I thank you—so you can do that.

Q160 **Mr Jones:** Your report contains recommendations to strengthen the management of conflicts of interest. Does this imply that the rules are adequate but that enforcement has not been adequate?

Nigel Boardman: I don't think the rules are sufficiently clear and, in the cases that I have looked at, the enforcement was not sufficiently enforced.

Q161 **Mr Jones:** As you know, efforts have been made to recruit civil servants from the private sector, which you endorse in your recommendations. To what extent are concerns about conflicts of interest inherent in this proposed practice?

Nigel Boardman: One of my recommendations is that there should be pre-appointment rules, which exist in other jurisdictions, covering people's service before they enter the Civil Service and when they should then recuse themselves from being involved in activities with the organisations with which they were associated before they joined the Civil Service. In Mr Greensill's case, for example, he was an executive at



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Citibank selling supply chain finance into government, and he moved to being an adviser to the Government buying Citibank's services into government, and I think that that was inappropriate. I do believe there should be pre-appointment rules.

Q162 **Mr Jones:** Those who hold positions, such as non-executives or Crown representatives, usually have private sector roles at the same time. How far can questions of propriety be reconciled with that?

Nigel Boardman: In the private sector, you get non-executive directors who have other appointments and that is not a problem. I don't see, therefore, that the non-executive director role should have a problem. I sit as a non-executive director at the Department for Business, Energy and Industrial Strategy. I have occasionally had to declare an interest and then, if it becomes relevant, I recuse myself from the discussion. I would like to think the discussion was weakened by my absence but I am not sure it is material to the decision.

Q163 **Mr Jones:** That of course depends very much on your own propriety. How can that be policed?

Nigel Boardman: The Civil Service does monitor external links and makes sure, in so far as it is possible, from publicly available information, that you are recording your conflicts correctly.

Q164 **Mr Jones:** You have referred to non-executives. What about Crown representatives? You have already touched on that briefly.

Nigel Boardman: Since the Crown representative system was reformed, the Crown representatives act in a small number of large companies supplying services. They are prohibited for a period of time from working with those companies after they leave, and they will not have worked for them when they join, so they do effectively apply pre-appointment and post-appointment rules to the Crown representative function.

Q165 **Chair:** Could I take you back to the discussion you had with Mr Randall about direct ministerial appointments? We are obviously very grateful for your attendance this morning and there was no resistance whatsoever to your attendance. However, would you say that if Ministers wished to block their attendance, citing the so-called Osmotherly rules, a Select Committee might be deprived of their attendance?

Nigel Boardman: I don't think that falls within the remit of my report, even given carte blanche.

Chair: I thought I would try.

Q166 **John Stevenson:** Why do you think it is necessary for the business appointment rules to be legally enforceable?

Nigel Boardman: One of the difficulties with self-regulation that I have seen over time—which effectively is voluntary compliance—is that the good comply and the bad do not, and that that unfairly punishes the good.



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Q167 **John Stevenson:** If we are to make it legally enforceable, how would you go about doing it?

Nigel Boardman: My suggestion was that ACOBA was given the powers to enforce. I see that the Committee on Standards in Public Life has suggested it should be with the Cabinet Office. I do not feel strongly about that, provided there is an enforcement mechanism. That enforcement mechanism would probably need to have an appeal system and would then become quite a legal system, if you are imposing serious restraints, but I do think that it should exist. I don't think it is acceptable that people who choose not to comply should be allowed to get away with it.

Q168 **John Stevenson:** Would you suggest that it should be statutory rather than employment law?

Nigel Boardman: Yes.

Q169 **John Stevenson:** How, then, do you deal with Ministers?

Nigel Boardman: Ministers could, on taking up office, sign a deed of undertaking. I know they are not employees, but they could sign a deed of undertaking, which would be legally binding and give grounds for injunctions or other disciplinary process if they breach them.

Q170 **Rachel Hopkins:** Are the business appointment rules themselves fit for purpose? Or do your concerns relate mainly to their enforcement?

Nigel Boardman: Both, I think. The difficulty with the business appointment rules is partly that, when you are in the Civil Service, you do not know what job you are allowed to take when you leave. If you decide you want to leave, you do not know whether you will be able to take a job and you have to go to your future employer and say, "I have to go through this process." In the commercial world, restrictive covenants exist. They are clear. You can work out whether or not you are going to comply with them or not, and I do not know why civil servants could not be subject to contractual restrictive covenants in the same way as the private sector.

Q171 **Rachel Hopkins:** The business appointment rules apply for two years after leaving office. Do you think that is long enough?

Nigel Boardman: It would depend upon the circumstances. As I say in the report, I think that, even if we had had a five-year rule for Mr Cameron—and, in fact, I think it was just under five years since he left—I do not think it would have made people feel better about what he did. I think the time has to be appropriate to the person, and to the role they had and the function they take on.

Q172 **Rachel Hopkins:** You mentioned the private sector. In the private sector, when people leave certain jobs, they are often put on gardening leave. Do you think such a scheme should be considered for those leaving the Civil Service, if they are going into the private sector?



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Nigel Boardman: That is a difficult issue around managing public money and whether that is the right way for the Government to spend their money.

Q173 **Rachel Hopkins:** Do you have a particular view on it?

Nigel Boardman: I would say that it would be useful to have as a tool in your armoury, but that it would only be used in very exceptional circumstances, because the restrictive covenants should give you the protection that you need without having to pay.

Q174 **Chair:** What would be done about former Ministers in that context?

Nigel Boardman: Again, this deed of undertaking would put them in the same position.

Q175 **Chair:** Gardening leave would not be applicable, would it?

Nigel Boardman: Gardening leave would hardly be likely to be applicable to Ministers, I agree.

Q176 **John McDonnell:** Moving on to lobbying and transparency, you have recommended that more clarity about the purpose of meetings with non-Government third parties be included in the departmental transparency disclosures. How much detail of that is realistic in your opinion?

Nigel Boardman: We have to remember what the purpose of the transparency is: to enable third parties to decide whether they feel comfortable with that relationship or whether they wish to understand what was going on. I think some of these, like catch-up, or Brexit, or whatever, is not an adequate description. On the other hand, there has to be an element of confidentiality in those discussions.

The Civil Service is very good at summarising. It is one of its great skills, and I do not think it would have difficulty in giving the broad purpose. What I suggest is that there should be broad guidance. You should have training. That there should be a person—a senior officer—within each Department who is responsible for these transparency returns, and there should be consistency, driven by the Cabinet Office across the Government to make sure that they are done on the same basis.

Q177 **John McDonnell:** They are also quite good at obfuscation, so should there be any sanctions for Departments that fail to publish this information in a timely manner or with sufficient information? If there are sanctions, what form of sanction?

Nigel Boardman: I did not suggest sanctions. I did suggest that in the annual report there should be included the level of performance on transparency returns, and that the departmental Select Committees should hold the Permanent Secretary to account in relation to transparency returns.

Q178 **John McDonnell:** It is difficult when it is a qualitative judgment, isn't it?



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Nigel Boardman: I don't think that would prevent you from asking questions.

Q179 **John McDonnell:** You have recommended that the definition of a meeting should be extended to include the prolonged exchanges of instant messages. How confident are you that this is enforceable?

Nigel Boardman: Experience would say that most people who take senior positions do not try to evade the rules and, provided there was sufficient clarity and guidance, I believe that there would be a high level of compliance.

Q180 **John McDonnell:** Just take this example: the Government have instructed Ministers to delete WhatsApp exchanges. Is that compatible with your recommendation?

Nigel Boardman: No.

Q181 **John McDonnell:** No. Thank you. You recommended that Ministers should be discouraged from using instant messages to conduct official business. Is "discourage" too weak in that respect?

Nigel Boardman: I wondered about saying something stronger, but I can imagine, for example, that there could be a crisis—a flood in a city or something like that—when people need to speak to each other quickly. I thought it would be wrong to deny a means of communication that was appropriate in an emergency.

Q182 **John McDonnell:** By exception?

Nigel Boardman: Yes.

Q183 **John McDonnell:** Do you think this should be incorporated into the ministerial code?

Nigel Boardman: Yes, I think the ministerial code is a mixture—as the Committee on Standards in Public Life says—and it would be quite helpful if it was focused separately upon ethical behaviour and not so much on process.

Q184 **John McDonnell:** Enforced by the standards Committee?

Nigel Boardman: Enforced in the way the ministerial code is enforced?

John McDonnell: Yes.

Nigel Boardman: Yes.

Q185 **Mr Jones:** You have recommended removing some of the exemptions from the requirement to register with the Office of the Registrar for Consultant Lobbyists, but not for in-house lobbyists. Could you explain why that is?

Nigel Boardman: Yes. I say that that should be kept under review. It would be a significant increase in administration for a large number of organisations, including not-for-profit organisations, and here I must declare an interest as chair of Help for Heroes. Quite a lot of smaller



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organisations would then be subject to this. It would be worth seeing whether improving the ministerial transparency returns would be enough to give you the information that you need.

I would see this is as a step whereby, first of all, you improve the ministerial process and, if that is inadequate, you may need to consider asking employed lobbyists to register. To do so immediately might lead to a reduction in the amount of lobbying by small organisations, which would be detrimental. Therefore, I would rather we took this step by step.

Q186 Mr Jones: Of course, it would also mean that a number of large, wealthy organisations—just as much as small charities, voluntary organisations—would have the benefit of that exemption. In this particular case, we are talking about someone who at the relevant time was extremely wealthy.

Nigel Boardman: Yes. I do think that all Ministers and civil servants, whether they are employed or consultants, if they lobby, should be registered. Irrespective of their employment status, they should be registered. I also think that any person who has more than one employment and is a lobbyist should be registered. I don't think that the payment of PAYE should avoid the need for registration in those circumstances. If you apply that to Mr Cameron, both of those would have meant that Mr Cameron would have been registered.

I know that the consultant lobbyists are very keen that employed lobbyists have to register. That is a big step to take and it would be better to try a smaller step first to see if that provides adequate disclosure.

Q187 Chair: Sorry to interrupt, Mr Jones.

Could I ask on that: did you consider separate measures? You mentioned a charity with which you are involved. Did you consider if charities or not-for-profit organisations were exempt?

Nigel Boardman: I did. I think that is a possible intermediate step that you could take, but you still have small companies, social enterprises for example, which are not charities, which would be caught. You could salami-slice where you do it. I felt, if the ministerial returns were good enough, that may give you adequate information but we ought to see how those work.

Q188 Mr Jones: Clearly, I infer from what you just said, that is not something that you rule out indefinitely and you would want to see how it worked.

Nigel Boardman: Correct.

Q189 Mr Jones: While there are transparency requirements, the Office of the Registrar of Consultant Lobbyists isn't a lobbying regulator. Do you feel that there is a space for a regulator?

Nigel Boardman: Yes.

Q190 Chair: How would you envisage that?



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Nigel Boardman: At the moment, the fines for non-compliance on lobbying are very weak. I also recommended that there should be a criminal offence for deliberately deceptive lobbying. At the moment, if someone deliberately lies to the Government or a Minister about facts, that will not necessarily be a crime, whereas if you do so in a contract it would be a crime. It seems to me that it should not be possible for people to lie to the Government without it being a criminal offence in relation to lobbying. For those reasons, I think we should have a regulator who has more teeth and is able to impose severe sanctions alongside a statutory code for lobbyists, which would be enforced by the regulator.

Q191 **Mr Jones:** Is that a role that you think that the Registrar of Consultant Lobbyists could easily take on?

Nigel Boardman: Whether the registrar should be the enforcer or not I think I would need to discuss further.

Q192 **Mr Jones:** You focus on the lobbyists, but you do not comment on how Ministers should conduct themselves in relation to lobbyists. Could you elaborate on that?

Nigel Boardman: I do make the point that there should be improved transparency returns, that the definition of meetings should be widened and that transparency returns should be more frequent—I note that the Committee on Standards in Public Life suggests monthly. I think I do comment on the ministerial end of it.

I don't think that Ministers should deprive constituents and others of the ability to speak to them. They do have to be open and available. Lobbying happens to be a slightly pejorative word now, but interaction with the public by Ministers is a crucial part of their jobs, so I would not like to see that constrained or curtailed. It is just a question of making sure that it is properly recorded.

In that regard, I think there a number of factors that I think ought to be taken into account in assessing whether a meeting gets recorded. One of those is whether the person to whom you are talking is a major donor or former colleague of yours in a political party. I think those are key factors in transparency, because they go to a feeling that there could be a less than arm's length discussion.

Q193 **Mr Jones:** Do you think it is appropriate for Ministers to conduct exchanges with lobbyists, whether registered or not, by means such as WhatsApp?

Nigel Boardman: No.

Q194 **John McDonnell:** Just for clarity with regard to establishing a regulator, would that regulator only regulate those that were on the register? Or would it be lobbying overall, including in-house?

Nigel Boardman: For example, if you had a crime of lying in lobbying, you would need to have some method of enforcement. Whether that fell



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under the regulator or whether it fell under the general law would be a question for more experienced criminal lawyers than me.

Q195 **John McDonnell:** In other words, it would be applicable to everyone?

Nigel Boardman: Yes.

Q196 **Chair:** What response have you had to your recommendations from the Government?

Nigel Boardman: They have told me that they are going to consider them in the light of other publications, such as those of the Committee on Standards in Public Life that came out.

Q197 **Chair:** Did they give you a timescale for that consideration?

Nigel Boardman: No.

Q198 **Chair:** Have you received any assurances about implementation?

Nigel Boardman: I have done two earlier reports and the Government accepted all recommendations in those earlier reports, so I am batting 100% at the moment.

Chair: Not a bad record to have.

Q199 **Jackie Doyle-Price:** That is the response from the Government; what about more widely? What is your impression of how your deliberations have been received by the wider audience beyond Government?

Nigel Boardman: From what I have seen—you will have seen what I have seen—there has been very little criticism of the recommendations that I made. There has been some suggestion that they could have gone further. In particular, the consultant lobbyists have made it clear that they think employed lobbyists ought to have to register. That is one area. I think there has been some suggestion that I should have done more on the ministerial code.

Q200 **Jackie Doyle-Price:** You pre-empt my next question. What would your response be to the suggestion that what you have concluded lets Ministers off the hook and puts the blame firmly in Whitehall?

Nigel Boardman: I don't wish to go and blame, but I think when I ran through the five issues that arose under my report, it is difficult to say that Ministers carry a large part of that blame.

On the ministerial code, and if we move on the lobbying later around Mr Sunak and Mr Hancock, British Business Bank, I think what I am saying is that the rules in terms of what was a meeting are not sufficiently robust to catch things that the public would have expected them to have caught.

Q201 **Jackie Doyle-Price:** While Ministers occupy their ministerial roles, obviously they are bound by the ministerial code and the Prime Minister is the arbiter of that, but once they have left there is no sanction, is there? We have the situation whereby we can all look at what David Cameron did, in terms of his lobbying for Greensill, and we all have our



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own views about that—I don't think it is the behaviour I expect of a former Prime Minister, if I am to be brutally frank—but his answer to that would be that it was well within the rules.

That comes back to an observation you made a little earlier about rules effectively becoming processes, but what we are talking about is behaviours and the spirit of values. In that sense, how should we ensure that the behaviour of ex-Ministers is enforced?

Nigel Boardman: I think we need to split this into two parts. One is the legal framework. I think that is capable of being strengthened with deeds of undertaking signed by Ministers, which are legally enforceable and could have sanctions attached to them. Those sanctions could be loss of pension. They could be whatever else you think is appropriate—loss of honours, whatever else.

Then I think there is the point that you make about the wider moral values and culture. I would guess that seeing what has happened in relation to Mr Cameron would be a deterrent to other people following down that same path.

Q202 **Jackie Doyle-Price:** Exactly. In response to that, if we look at a more onerous regime of rules, are we putting more burden on most people who are compliant with them? Ultimately, reputational damage for anyone in public life has to be a pretty big punishment to take.

Nigel Boardman: There is always that trade-off, but I believe that there is more that should be done to restore public confidence, which is an enforceable form of sanction on Ministers and civil servants. I believe that in both areas it lags behind what the public expect and what exists in other industries.

Q203 **Jackie Doyle-Price:** I am indulging myself a little bit now. In respect of the Civil Service code, I feel very strongly that it has not kept pace with the changing culture at the centre of Whitehall and the increasing interaction between the public and private sectors. In that sense, that could be a regime that is much more driven by a process of rules because you would be dealing with employees. What is your observation about that?

Nigel Boardman: I agree with you. You are dealing with employees. We should have proper restrictive covenants. We should have pre-appointment rules. We should have proper conflict rules. We should have a compliance function that makes sure they work and there should be sanctions for breach.

Q204 **Jackie Doyle-Price:** I will move on to Ministers, which for me is much more about the behavioural and cultural, because we are looking to Ministers to give leadership in terms of how the whole of our public service regime operates. We are relying on the ministerial code for that and we are relying on individual behaviours, a willingness to engage with ACOBA and all of that. Obviously, when Ministers leave office, the Prime Minister has no sanction. We have seen Ministers currently serving in government who, in the past, have fallen foul of the ministerial code.



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I am coming to the view that the current method of enforcing the ministerial code is not necessarily enough, because it very much relies on the Prime Minister, and that is quite a lot when we are talking about a Prime Minister's own relationships with Ministers. Have you taken any view about whether enforcement of the ministerial code needs to be more robust?

Nigel Boardman: As regards ex-Ministers, I think that this deed of undertaking, given that it is a legally binding commitment, should be able to control their behaviour.

As regards Ministers in power, I come back to the earlier point that we have to be careful about how much we limit the electorate's choice by having separate sanctions. I think that is a very legitimate and fair debate but it is one that goes beyond supply chain finance and its role in government.

Q205 **Jackie Doyle-Price:** At the moment, the Prime Minister only has dismissal.

Nigel Boardman: I think it has been accepted that there should be a fuller range of sanctions.

Chair: John McDonnell, did you have a question?

Q206 **John McDonnell:** I do. Forgive me if you think this is too harsh, but the impression that has been given to a large number of people is that you resigned from the Conservative party, but you put forward that you were a Conservative candidate. You were appointed as a non-executive to the BEIS Department. You were even appointed to the British Museum by David Cameron himself, under his regime, so you have traditional strong links with the Conservative party and, as a result of that, you may not have gone far enough in the exactly the point that you have just made, which is about ministerial sanctions.

Admittedly we have been dealing with the culture within the Civil Service as much as anything on this matter, but there is a frustration now that, when these issues occur, no Minister ever resigns. You do not seem to have gone far enough on addressing the point about restoring confidence—not just in the operation of the bureaucracy, the Civil Service, but that issue of culpability at ministerial level, as well as after Ministers have resigned.

Reflecting on the reaction to your report so far, do you think it is worth your considering that matter again and going further?

Nigel Boardman: Can I take the first of your points first, which was about the conflicts? I did stand as a Conservative councillor 35 years ago. I left the Conservative party 20 years ago.

I was appointed to the British Museum when I applied to a public advert and went through an interview process. I have never met David Cameron, apart from during this process. To say that he appointed me personally is like saying that he appointed everyone to a quango personally. It was a complete arm's length merit appointment.



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For the Department for Business, Energy and Industrial Strategy appointment, again, I applied and went through an interview process with a panel and was appointed as a result of that.

Q207 **John McDonnell:** Sorry to interrupt you, but do you see that you are looked upon, or could be considered, with that history, as something of an insider?

Nigel Boardman: I understand that I have been painted as one.

In respect of your second part—whether I have been soft on Ministers—I have been through the five historical issues, and I think it is very difficult to see how you could pin more blame on Ministers, but I am happy to debate that.

In relation to Mr Sunak and Mr Hancock, what I am saying is that, under the rules as they currently exist, I don't think you can say that they broke those rules. I think the rules should be different. I don't think it is fair to say what you are saying, but I understand why it is has been painted that way.

Q208 **John McDonnell:** The test will be whether or not those rules are tightened, therefore, on the basis of your recommendations.

Nigel Boardman: Do you mean that will prove that I am an insider?

John McDonnell: The test will be whether or not your report is effective.

Nigel Boardman: That is a different point from whether it is impartial.

John McDonnell: Yes, but I put that to you that that will be the test, won't it?

Nigel Boardman: If my recommendations are not accepted, I agree, yes.

Q209 **Jackie Doyle-Price:** You have twice mentioned the actions of Mr Sunak and Mr Hancock. You have just said that the rules were not broken, but the rules should be changed. Ultimately, they were not the offenders here, were they? The offender was a former Prime Minister exploiting his contacts with them. We come back to: are we getting to the right action to deal with the problem? Ultimately, it is the behaviour of people who decide to behave badly.

Nigel Boardman: I think you have both the lobbyist and the lobbied, and what we are talking about is systems that could control both of those. In that case, Mr Cameron was the lobbyist and Mr Sunak and Mr Hancock were the lobbied. Therefore, I don't think it would be right to say that they are not involved in that, but I think, under the rules as they are at the moment, they did not break the rules. I think Mr Cameron has accepted that he was unwise in his behaviour and I have made the comments about Mr Cameron that I have made.

Q210 **Jackie Doyle-Price:** While I still have the floor, I come back to the issues to do with Lord Heywood. You have set out the facts in your



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report, but you are obviously aware of the wider public commentary. From your perspective, do you think, with the way this thing has been reported, that Lord Heywood has been seen as something of a scapegoat?

Nigel Boardman: I don't have a view on that. If you read the report, I don't think you would arrive at that conclusion.

Jackie Doyle-Price: Which is why I put the question in those terms, because you have been very factual in it. Thank you.

Q211 **Chair:** Finally from me, Mr Boardman, you produced a very comprehensive report and a set of recommendations in the second part. As I was reading it, I was struck by a narrative sense at times, with the different characters that would appear and reappear, that reminded me of a late Victorian novel by Anthony Trollope, "The Way we Live Now", in which a spiv-like speculator in Augustus Melmotte seems to gain access to all kinds of people rather in the sense of the emperor's new clothes. Notwithstanding your detailed and factual narrative, would you like to conclude this meeting by giving us a sense of how you would characterise the events in which you have become so involved in analysing?

John McDonnell: Without reference to Trollope, if we can.

Nigel Boardman: Without the length. I think that a lot of people were well-intentioned. I think the organisation assumed good intentions from everybody and therefore, where someone has ulterior intentions, the system was not very good at detecting that and coping with it. That is why I think we have to move from a self-regulatory system to one that has, first, clearer rules and, secondly, better regulation around it, with enforcement.

Jackie Doyle-Price: Beautifully put.

Chair: Mr Boardman, thank you for your attendance this morning before the Committee and to its members for posing questions.