

Written evidence from Unlock Democracy (LOB11)

Public Administration and Constitutional Affairs Committee Post-legislative scrutiny of the Lobbying Act 2014 and related matters inquiry

Introduction

1. Unlock Democracy campaigns on a range of democracy-related issues including: transparency and accountability of government, electoral reform, devolution, participative democracy, human rights and for a written constitution. We are a grassroots movement, owned and run by our members.

2. Unlock Democracy is submitting this evidence because Unlock Democracy's Director has relevant expertise (he was one of the Ministers responsible for the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Bill when it was taken through Parliament in 2013-14) and because Unlock Democracy believes that the present transparency arrangements are not operating effectively and do not provide timely accountability of Ministerial contacts.

This submission is made by Tom Brake, Director of Unlock Democracy for Unlock Democracy.

Trust in politics

3. Recent polling confirms that trust in politics and politicians is at an all time low, whilst concerns about cronyism and sleaze are very high.

In polling done by YouGov after Greensill, 6 out of 10 thought it was unacceptable for ex-Ministers to work for companies seeking Government contracts.¹

In polling commissioned by Unlock Democracy in December 2021, only 6% of voters thought they had the most influence over public policy decisions made by the government.

More recent polling for Unlock Democracy confirmed that only 1 person in 7 believes the political system works for them.

Addressing public concerns around the role of lobbyists and transparency of lobbyists' contacts with Ministers and senior officials is one of a number of steps needed to restore trust in politics.

Unlock Democracy makes a number of recommendations below in relation to the register of consultant lobbyists, quarterly transparency reports and think tanks that Unlock Democracy believes would be helpful in restoring trust and addressing these concerns.

¹ <https://yougov.co.uk/topics/politics/articles-reports/2021/04/23/61-think-it-unacceptable-ex-ministers-work-compani>

Register of Consultant Lobbyists

4. The Register of Consultant Lobbyists was designed to improve the transparency of contacts between consultant lobbyists and Ministers and Permanent Secretaries. Central to its effectiveness was the prompt, accurate and informative reporting by Ministers and others of their meetings with external organisations in the quarterly transparency reports.

5. However, it is clear the desire when the Bill was drafted to limit the administrative burden on consultant lobbyists has limited the usefulness of the Register. Knowing that Minister A has met consultant lobbyist B without knowing which of their clients consultant lobbyist B was advocating for, provides no transparency (unless consultant lobbyist B has a single client). The Registrar has also expressed concerns about the usefulness of the information the register provides.

Hanbury Strategy

6. The following example illustrates the problem. Hanbury Strategy, consultant lobbyists, met the Rt Hon Michael Gove MP on 6/2/2020 to discuss the Union and devolution.²

7. The entry for Hanbury Strategy and Communications Limited on the Register of Consultant lobbyists for Jan to Mar 2020 confirms the following as their clients³:

Amazon UK, Best Dressed Group Limited, Bird Rides UK Limited, Bulb Energy Ltd, Citibank, ICP London Limited, Roofoods Ltd, Starleaf Group Limited, The Design Museum, UK Finance Limited

8. It is impossible to know which of these clients Hanbury Strategy were representing at the meeting on 6/2/2020 (or whether they were representing themselves).

9. This means that, under the present reporting requirements, higher disclosure standards are enforced on in-house lobbyists (whose organisations are named in Ministerial quarterly reports) than consultant lobbyists who do not have to confirm on whose behalf they are lobbying Ministers.

Public First

10. Another example would be Public First, consultant lobbyists, who met Chloe Smith MP on 21/1/2020 to discuss constitutional issues.⁴

11. The entry for Public First on the Register of Consultant lobbyists for Jan to Mar 2020 confirms the following as their clients⁵:

Internet Association, Publishers Association and UPP Foundation

12. As with the Hanbury Strategy example, it is impossible to know which of these clients Public First were representing at the meeting on 21/1/2020 (or whether they were representing themselves).

² [Cabinet Office ministerial meetings, January to March 2020 - GOV.UK](#)

³ [Hanbury Strategy and Communications Limited](#)

⁴ [Cabinet Office ministerial meetings, January to March 2020 - GOV.UK](#)

⁵ https://registerofconsultantlobbyists.force.com/CLR_Public_Profile?id=0011o00001eg4LEAAY

13. To provide greater transparency Unlock Democracy recommends that the register of consultant lobbyists is modified so that consultant lobbyists can enter the date, purpose and details of the client or clients they were representing in meetings with Ministers or whether they were representing their own interests. Entering these details should be mandatory.

14. Unlock Democracy recommends that the Registrar be given the powers to enforce these new requirements.

15. Consultant lobbyists may raise concerns about the administrative burden of these additional requirements. However, these would still leave consultant lobbyists with the ability to lobby Ministers. In contrast, in Wales, the Welsh Ministerial code states, 'Ministers should not meet formally with professional public affairs organisations (lobbyists) seeking to influence the views or decisions of the Government'⁶.

16. If the Register is NOT modified in the way suggested above, Unlock Democracy would recommend a ban on consultant lobbying.

Quarterly Transparency reports

17. As mentioned above, the quarterly transparency reports have to be read in conjunction with the Register of Consultant Lobbyists and details of meetings between Ministers and consultant lobbyists. The quarterly transparency reports also provide information about meetings between Ministers and other external organisations (who may be represented by their in-house lobbyists).

18. Section 8.14 of the Ministerial Code sets out the quarterly transparency reporting requirements for Ministers' external meetings.

19. Cabinet Office guidance (last updated in November 2017), obtained following an FOI request, provides guidance on compiling these returns.⁷ On 20/9/22 the Cabinet Office confirmed this is the most up to date guidance. It is currently being reviewed.

20. The guidance in the first paragraph says, 'Returns should be compiled proactively over a weekly/monthly period rather than at the end of each quarter for a timely response to the Cabinet Office for sense checking.'

21. The guidance also states that: 'Minister's data should be cleared by Ministers or the Minister's PPS', 'Departments should make every effort to provide details of the purpose of the meeting', 'General discussion' should not normally be used', 'Meetings with external organisations held by Ministers in the course of visits (including visits overseas) should be included'.

A fuller definition of a meeting

⁶ [MINISTERIAL CODE](#)

⁷ [minister_and_special_adviser_quarterly_transparency_return_guidance_Updated_Nov_2017.pdf](#)

The Greensill case, where various forms of communication were used, revealed some uncertainty over what constitutes a ‘meeting’ that needs to be reported. Greater clarity is required.

22. Unlock Democracy recommends that the Cabinet Office’s revised guidance on completing the quarterly transparency returns sets out a more extensive definition of ‘meetings’ with external organisations. This should include virtual meetings. Also to avoid external organisations using phone, text, WhatsApp etc. contact with Ministers and others to avoid scrutiny, these should also be included in the definition of a ‘meeting’.

Increased transparency of the details of which part (parent company, subsidiary etc.) of an external organisation a Minister is meeting

23. Entries will often refer to meetings Ministers are holding with a company. There may be a number of entries at Companies House for a company of that name.

24. Unlock Democracy recommends that to provide greater transparency on which company Ministers or others are meeting, the company number is provided. This recommendation also applies to charities and the charity number.

Compliance with the Ministerial Code and Cabinet Office guidance

25. Unlock Democracy sampled the quarterly transparency reports from four government departments (FCDO, Cabinet Office, Treasury and Scottish Office), covering October 2019 to date.⁸

Timeliness of publication

26. This analysis of a limited sample of government departments highlighted very significant delays in publication, with the FCDO the worst performer, publishing its quarterly reports on average 268 days after the end of the relevant quarter. This compares to the best in this sample, the Cabinet Office of 110 days.

27. The FCDO’s quarterly transparency report, covering Jan to Mar 2022 has not yet been published (as at 21/9/22). The other departments have all published their Jan to Mar 2022 reports.

28. Unlock Democracy recommends that the Cabinet Office works with other government departments to ensure that, with effect from 1/1/23, all departmental quarterly reports are published no later than 40 days after the end of each quarter.

⁸ [Ministerial quarterly reports](#)

This is a realistic target if the Cabinet Office guidance, which suggests compiling the data on a weekly or monthly basis, is followed.

Usefulness of the descriptions of the purpose of meetings

29. In spite of guidance suggesting departments should make every effort to provide details of the purpose of the meeting and that 'General discussion' should not normally be used, the descriptions of meetings are normally cursory and uninformative

30. The descriptions of the purposes of meetings, as described in entries such as

- James Duddridge MP on 3/9/21 met Unilever, Borderless Alliance and Private Enterprise Federation **to discuss trade issues**⁹
- Chloe Smith MP on 11/1/21 met the Electoral Commission **to discuss elections**¹⁰
- Rt Hon Rishi Sunak MP on 18/11/21 met the Covid Recovery Commission **to discuss recovery from the Covid 19 Pandemic**¹¹
- or Alistair Jack MP on 3/10/19 met the CEO of the Scottish Whisky Association **to discuss issues affecting the Scotch whisky industry**¹²

are the equivalent of the term 'General Discussion'. The purpose often adds little or nothing to an understanding of the key subjects raised in meetings.

31. Unlock Democracy recommends that the Cabinet Office, in its soon to be revised guidance, sets out the greater level of detail expected in the purpose of meetings (listing agenda points would be sufficient - redacted if necessary), monitors the purpose of meetings descriptions and rejects submissions from departments which rely on 'General Discussion' or the equivalent in their responses.

Accuracy of the Ministerial entries

32. A further concern is the accuracy of the returns.

The FCDO quarterly report covering Jul to Sep 2021 reported a nil return from the Rt Hon Liz Truss MP (who was appointed Foreign Secretary on 15/9/21).¹³

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1058168/Meetings-July-Sept-2021a.csv/preview

¹⁰ [Cabinet Office ministerial meetings January to March 2021 - GOV.UK](#)

¹¹ [HMT ministers' meetings - GOV.UK](#)

¹² [Office of the Secretary of State for Scotland - Ministers Quarterly Return Q3 2019/20 - GOV.UK](#)

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1058168/Meetings-July-Sept-2021a.csv/preview

Yet on 25/9/21 the FCDO tweeted the following in relation to the Rt Hon Liz Truss:

*Met US President and Vice President, Permanent Members of the Security Council, Mayor of Mexico and AstraZeneca*¹⁴

33. Whilst the Cabinet Office guidance clearly states meetings with foreign governments do not normally have to be included, it also clearly states that meetings with external organisations, including meetings abroad, should be reported. Unlock Democracy would expect the meeting with AstraZeneca to be reported.

34. Further examples relate to the Rt Hon Kwasi Kwarteng MP. The BEIS quarterly report covering Jul to Sep 2021 makes no reference to a meeting between the Rt Hon Kwasi Kwarteng MP and a number of industry representatives on the 26th September 2021.¹⁵

Yet a tweet from @beisgovuk on the 26/9/21 referred to a meeting he held with, amongst others, Shell and ExxonMobil¹⁶

35. Another example would be a tweet from the Rt Hon Kwasi Kwarteng MP's account (rather than the BEIS twitter) of 15/7/21.

In the tweet he confirms he met with Tokamak Energy on July 15th 2021¹⁷

There is no mention of this meeting in the Jul to Sep 2021 BEIS quarterly report of ministerial meetings.¹⁸

36. Unlock Democracy is concerned at the ease with which examples of meetings missing from the quarterly reports can be found. Omissions hinder the transparency of government and increase mistrust. It is Ministers' or Ministers' PPS's responsibility to ensure the details submitted are correct and contain the appropriate level of information.

37. Unlock Democracy recommends that Ministers' diaries, suitably redacted where necessary, are published as a cross-check to the quarterly transparency reports.

Format and searchability of the quarterly transparency reports

38. Their format and location within individual departments is very user unfriendly, making them very hard to interrogate, particularly when trying to build a picture of who has the best access, or little or no access, to government across all government departments.

39. Unlock Democracy recommends that details of all Ministers' and others' meetings should be entered into a searchable public database. A common database used by all government departments could reduce the cost of processing and holding this data. This database could also assist the government in

¹⁴ <https://twitter.com/FCDOGovUK/status/1441696774419271683>

¹⁵ [BEIS ministerial meetings, July to September 2021 - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/beis-ministerial-meetings-july-to-september-2021.pdf)

¹⁶ <https://twitter.com/beisgovuk/status/1442228696824303619?s=20&t=zrvBPkXkekVNHVNJEpfmMA>

¹⁷ https://twitter.com/KwasiKwarteng/status/1415721513420996610?s=20&t=KoxTp2Be0hKGs0mBG3_xvg

¹⁸ [BEIS ministerial meetings, July to September 2021 - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/beis-ministerial-meetings-july-to-september-2021.pdf)

understanding which organisations are lobbying which government departments and why.

Think tanks

40. In the quarterly transparency reports, Ministers report their meetings with think tanks as they are external organisations.

41. The Rt Hon Jacob Rees Mogg MP reported meetings with: the IEA on 2/3/22 on Regulations and Brexit opportunities, the Taxpayers' Alliance also on 2/3/22 on the Minister's portfolio and the ASI on the 15/3/22 on the future shape of civil service.¹⁹

42. For some think tanks relatively little is known about their sources of funding. The names of large corporate or individual donors are rarely available.

43. This means there could be a disparity between the reporting requirements of consultant lobbyists, who are required to reveal which clients fund them, and think tanks. Nigel Boardman in his report of August 2021 into Greensill highlighted his concerns about think tanks and lobbying, referring to 'significant scope for malpractice'.²⁰

44. Some of the activities of think tanks are very similar to that of consultant lobbyists. The criteria for consultant lobbying, as defined by the Registrar of Consultant Lobbyists, are set out below:

Organisations and individuals are considered to be carrying out the business of consultant lobbying if they fulfil these three tests:

1) They make oral, written or electronic communications personally to a Minister of the Crown or Permanent Secretary (or equivalents specified in the Act), relating to:

a) the development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation

b) the development, adoption or modification of any other policy of the government

c) the taking of any steps by the government in relation to any contract, agreement, grant, financial assistance, licence or authorisation; or

d) the exercise of any other function of the government.

¹⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1090440/Cabinet_Office_ministerial_meetings_January_to_March_2022.csv/preview

²⁰

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018176/A_report_by_Nigel_Boardman_into_the_Development_and_Use_of_Supply_Chain_Finance_and_associated_schemes_related_to_Greensill_Capital_in_Government_-_Recommendations_and_Suggestions.pdf

45. What cannot currently be established is whether the extra condition for consultant lobbying to be taking place is fulfilled (which would be the potential malpractice Mr Boardman refers to):

2) The communication is made in the course of a business and in return for payment on behalf of a client, or payment is received with the expectation that the communication will be made at a later date.

This is because the main funder (or funders) of many think tanks is not known.

46. This is an obstacle to transparency. For instance, if think tank A has as its main funder (or a significant funder) a company or individual with an interest in de-regulation and think tank A raises de-regulation with a Minister, the Minister and the public should be made aware of the contribution the funder is making to the think tank. This would not be an indication of malpractice, but would allow further enquiries to be made about the relationship between the think tank and the funder if deemed appropriate.

47. Unlock Democracy recommends the Government conducts an immediate review of the financial reporting requirements for think tanks with the objective of requiring them to publish details of their main funders (including foreign donors) by 1/10/23 and to update those records regularly thereafter. The government might choose to adopt the donation threshold and rules about overseas donations that apply to political parties.

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