House of Commons

Public Administration and Constitutional Affairs Committee

Lobbying and Influence: post-legislative scrutiny of the Lobbying Act 2014 and related matters

Fourth Report of Session 2023–24

Report, together with formal minutes relating to the report

Ordered by the House of Commons to be printed 30 April 2024

HC 203
Published on 2 May 2024
by authority of the House of Commons

Public Administration and Constitutional Affairs Committee

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Summary

Following the collapse of the financial services firm Greensill Capital, reports emerged about the efforts of its representatives to lobby ministers and senior officials. This lobbying activity was found not to have breached the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. We considered matters arising from the Greensill saga in our 4th report of Session 2022-23 (HC 888) and had originally intended to include lobbying within that inquiry. However, the Government announced that it was conducting post-legislative scrutiny of Part One of the Lobbying Act, following which it would write to us with its view on the aspects of the Act that were working as intended and those that need revision. Rather than delay our other Greensill-related work, we opted to consider the Lobbying Act and associated matters in a separate inquiry.

Part One of the Lobbying Act is narrow in scope. It establishes the Register of Consultant Lobbyists and the Registrar of Consultant Lobbyists to oversee it and was not intended to regulate lobbying activity but only to ensure a degree of transparency. It is designed to work in conjunction with the Government's quarterly departmental transparency releases, which list the meetings with outside bodies held by ministers and Permanent Secretaries as well as any gifts or hospitality they have received. As the releases would include any consultant lobbyists with whom meetings have been held or gifts or hospitality received, rather than the clients on whose behalf the consultant lobbyists were working, consultant lobbyists are required to list their clients in entries in the Register. Transparency of lobbying is consequently dependent not only on the Act but on the Government's transparency releases. We found significant concerns about these. Because they are published in arrears, the information contained in them can be months old. Furthermore, they include only the most senior officials in each department. Neither are Special Advisers' meetings included in the releases. And they exclude contact with lobbyists via 'Non-Corporate Communication Channels' such as WhatsApp. Moreover, despite their limited scope, they are frequently late, have missing information, and often include too little information to be useful. The information is also widely dispersed, with each department publishing its own releases making it hard to establish an overall picture of lobbying activity. The report recommends more frequent and more comprehensive releases. They should be published monthly rather than quarterly and include a greater range of officials and Special Advisers. Contact made via WhatsApp and other instant messaging platforms should be included. And a named official should become accountable for the timeliness and quality of releases.

Despite calls for the Act to be extended to cover all lobbying activity, we recommend maintaining its limited focus on consultant lobbyists. Such calls, we conclude, are the product of frustration with the limitations of the Government's quarterly transparency declarations. However, should these go unaddressed, the case for a register of all lobbying activity should be revisited. Nonetheless, the Act requires too little information to be disclosed to ensure proper transparency. Exemptions for those not eligible to pay VAT or for those whose lobbying is deemed 'incidental' provide significant loopholes and should be revoked. The Act also makes no provision for the incapacity of the Registrar. Yet, despite the clear need for it, the Government has ruled out the possibility of amending the Act for the foreseeable future. Outside the terms of the Act, we also

recommend that the frontbench members of non-governing parties voluntarily disclose the meetings they have with lobbyists on the same basis as ministers are required to do and that ministers should only meet with those subscribing to one of the recognised lobbying codes of conduct.

1 Introduction

1. The inquiry which has led to this Report was prompted by the collapse of financial services firm Greensill Capital. Greensill Capital held a Government contract to deliver the Pharmaceutical Early Payment Scheme ("PEPS") and was an approved lender of loans to business underwritten by Government during the COVID-19 pandemic response.[1] Following its collapse, reports emerged about the lobbying activities of some of its employees, including former Prime Minister and current Foreign Secretary, the Rt Hon Lord Cameron of Chipping Norton, particularly in relation to the firm's attempts to access the Covid Corporate Financing Facility ("CCFF"), a Government scheme to provide liquidity to large firms during the pandemic. This lobbying activity was found not to be in breach of the law regulating lobbying, Part One of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014, generally referred to as the Lobbying Act ("the Act").[2] Following this, the Government confirmed that it was conducting post-legislative scrutiny of Part One of the Act,[3] following which, it would write to us with its views on the suitability of the legislation.[4]

The Lobbying Act

2. The Lobbying Act was passed under the Coalition Government in 2014. It followed a 'sting' by Channel 4's current affairs programme Dispatches in 2010 in which several former ministers, all about to step down as MPs, appeared to accept offers to conduct paid lobbying on behalf of a fictitious lobbying firm. The then Labour Government initially rejected proposals to regulate lobbying, but, following the scandal, it committed to doing so.[5] However, it had not done so by the time of its General Election defeat in 2010. Then Opposition Leader the Rt Hon David Cameron had made much of the need to "rebuild trust in politics" and called lobbying "the next big scandal", and it was his Coalition Government that was to introduce legislation in this area.[6]

3. The main provisions of Part One of the Act are to establish the Register of Consultant Lobbyists ("the Register") and the post of the Registrar of Consultant Lobbyists ("the Registrar") to oversee it. In this respect, the Lobbying Act is limited in its focus. It was not designed to apply to the lobbying sector as a whole nor to regulate lobbying activity. Rather than extensively regulating lobbying activity itself, the Act starts from the premise that lobbying is a crucial part of the democratic process. Therefore, the Act is primarily designed to ensure its transparency rather than regulate the way it is conducted. Furthermore, it is far from comprehensive. It focuses on only one part of the lobbying sector, "consultant lobbying", and does not regulate either most lobbying activity, which is undertaken by those who are not "consultant lobbyists", or the conduct of those in office who are subject to lobbying, which is regulated by means of other, largely non-statutory measures (for example, through the Ministerial or Civil Service Codes, or the Business Appointment

1 The schemes were the Coronavirus Business Interruption Loan Scheme (CBILS) and the Coronavirus Large Business Interruption Loan Scheme (CLBILS)

2 ORCL Summary of Investigation - Rt Hon David Cameron 19 October 2021

3 It should be emphasised that this post-legislative scrutiny process is of Part One of the Lobbying Act, that relates to consultant lobbying and the Register of Consultant Lobbyists. References to the Lobbying Act in this report are to Part One of the Act only. Part Two covers non-party campaigning and is beyond the scope of this inquiry.

4 HC Deb 14 April 2021, c331

5 E. Uberoi The register of consultant lobbyists House of Commons Library Briefing Paper Number 07175, 22 January 2016, p.4

6 "Eight awkward David Cameron quotes on lobbying" Spectator 12 April 2021

Rules which regulate the lobbying activity of former ministers and officials).[7] The Act defines a "consulting lobbyist" as someone who "[i]n the course of business and in return for payment, […] makes communications […] on behalf of another person or persons" to Ministers of the Crown or Permanent Secretaries.[8] Those who meet this definition are required to submit their details, along with a list of the clients on whose behalf they have conducted consultant lobbying activities, for inclusion in the Register. Significantly, the Act was designed to work in conjunction with other transparency measures, in particular the quarterly departmental transparency releases about Ministers' and senior officials' meetings, gifts, and hospitality, and not as standalone legislation.

Conduct of this inquiry

4. The Government's post-legislative scrutiny process began in advance of the furore over Greensill Capital's lobbying activity. It was initiated in response to the Group of States against Corruption ("GRECO"), a Council of Europe initiative to monitor states' compliance with anti-corruption standards, before the Greensill story broke.[9] Workshops with stakeholders were held in early 2021. The process was then expanded to take into account Nigel Boardman's government-commissioned investigation into Greensill Capital's interactions with Government and the Committee on Standards in Public Life's ("CSPL") landscape review.[10] The terms of reference for our inquiry into Propriety of Governance in Light of Greensill had originally included issues raised by Greensill's lobbying. But, with the Cabinet Office's post-legislative scrutiny process ongoing, rather than delay our other Greensill-related work, we decided to deal with the Lobbying Act in a dedicated inquiry.[11] We issued fresh terms of reference on 25 July 2022, but also incorporated any relevant written evidence we received in our inquiry into Propriety of Governance in Light of Greensill.[12] We began our evidence gathering in November 2022, before pausing to wait for the Government's memorandum outlining the results of its post-legislative scrutiny of the Lobbying Act. After finally receiving that memorandum in July 2023 (that formed part of the Command Paper ("the Command Paper") in which it gave a consolidated response to our report on Propriety of Governance in Light of Greensill, Nigel Boardman's report on Greensill, and the CSPL's landscape review)[13] we invited a further round of written evidence before a final hearing with the Government.

5. In the course of the inquiry, we received 18 written submissions and held four oral evidence sessions. We would like to thank all those who contributed.

Post-legislative scrutiny

6. The Government approach to post-legislative scrutiny was set out in a 2008 Command Paper, following a consultation by the Law Commission.[14] The Command

7 Cabinet Office Ministerial Code December 2022; Civil Service The Civil Service Code March 2015; Civil Service Civil Service Management Code November 2016; Cabinet Office Business Appointment Rules for Ministers November 2016; Cabinet Office Business Appointment Rules for Crown Servants December 2016

8 Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, s2.1

9 Cabinet Office Minister of State to Executive Secretary, GRECO Secretariat 24 July 2020

10 Q203 (Alex Burghart MP)

11 PACAC Propriety of Governance in Light of Greensill 4th Report of Session 2022–23 HC 888, para.9

12 Call for Evidence - Committees - UK Parliament

13 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023

14 Office of the Leader of the House of Commons Post-Legislative Scrutiny—the Government's Approach Cm 7320 2008

Paper stresses that the purpose of post-legislative scrutiny should be to consider the legislation's effectiveness in its own terms—whether it is achieving its stated aims—rather than revisiting debates about the validity of those aims that were held during its passage. We have largely adhered to that. However, given that the Act was designed to supplement the Government's transparency releases on meetings held with, and gifts or hospitality received from, third party organisations, any consideration of the Act without an accompanying consideration of the system of transparency releases would be both illogical and futile.

7. The Government's Command Paper appeared to dismiss any changes to the Act for the foreseeable future.[15] In evidence to us, the Minister confirmed that that was the case.[16] We accept that changes can be made to improve the overall transparency of lobbying that do not require changes to primary legislation—we are pleased that the Government has committed to a number of changes that will improve the system of transparency releases, for example. However, to undertake post-legislative scrutiny of an Act whilst having already ruled out changes to it clearly undermines the process, especially as it is clear that changes to the Act should be made.

15 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.22

16 Q248 (Alex Burghart MP)

2 Government Transparency Releases

8. As we noted in the previous chapter, it is the Government's departmental transparency releases, and not the Lobbying Act, that are the primary mechanism for making lobbying transparent. Currently, Ministers and Permanent Secretaries are required to release details of their meetings with outside parties, and any gifts or hospitality they have received from them, every quarter. This means that consultant lobbyists, rather than those on whose behalf they are lobbying, are included in the transparency releases. Part One of the Act was designed to fill the transparency lacuna that the practice of hiring dedicated lobbying firms created by requiring consultant lobbyists to disclose in the Register the clients on whose behalf they have contacted Government Ministers or senior officials. It is clear then that the effectiveness of the Act is inextricably linked to the effectiveness of this transparency regime. The evidence we received highlighted significant concerns. These included the limited scope of the releases, their timeliness, the inadequacy of the descriptions of meetings that took place, missing data, and their inaccessible format. Many of these concerns were reiterated in the reports of Nigel Boardman and the CSPL.[17] Refreshingly, in its Command Paper, the Government acknowledged improvements were needed.[18]

Consolidated transparency releases

9. Currently, all departments and agencies are responsible for compiling their own transparency publications, which they then publish individually in their respective parts of the gov.uk website**.** This means that no single, overall picture of government interaction with third parties is available.[19] Some of the campaign groups called for consolidated transparency releases covering the whole of government.[20] In its landscape review, the CSPL agreed. In its view, a single, whole-of-government publication would make it far easier to see the scale of lobbying by individual actors and, also of note, make any discrepancies in the quality or timeliness of the transparency releases more visible (we address this in more detail below).[21]

10. In its Command Paper, the Government said that work on producing an integrated platform for transparency releases for the whole of government has already commenced. Whilst this is welcome, no timeline for its implementation was given. In oral evidence, the Minister said he hoped it would be operational in a year (so, October 2024) but it was not at a stage where he could give a definite commitment.[22] He elaborated on progress on to date:

> We are currently undertaking practical policy and digital work to prepare. We have engaged the services of the Government Digital Service, which

17 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021; CSPL Upholding Standards in Public Life 2021

18 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, chapter 3

19 Transparency International UK does consolidate the various individual publications into a single database.

20 E.g. Transparency International UK (LOB0010), para.3.2; Unlock Democracy (LOB0011), para.39; Spotlight on Corruption (LOB0013), p.5

21 CSPL Upholding Standards in Public Life 2021, para.6.12

22 Q207 (Alex Burghart)

> will help us build the thing. It is not an entirely straightforward process, because we are building something in the centre that has to interact with all existing departmental systems, but the work is under way.[23]

11. **If transparency is the Government's main mechanism for ensuring the integrity of the process by which Government is lobbied, clearly the information it releases on who has been lobbied by whom should be as accessible and easy to navigate as possible. A single, integrated platform that includes the transparency data for the whole of government is an important step towards that. We welcome the Government's commitment to producing an integrated platform for transparency data. We will be watching closely the system's progress towards completion and its impact once it is operational. Given we are in the final months of this Parliament, it will be the responsibility of our successor committee to consider the impact of the integrated platform and we encourage it do so.**

More frequent transparency releases

12. We heard calls for the transparency releases, currently published quarterly in arrears, to be made more frequent.[24] The timeliness of the transparency data is important: if policy is being developed, it is important to see who is trying to influence that whilst the process is ongoing rather than only several months later, once decisions have been taken, public money spent, or legislation passed. Even making the generous assumption that the transparency releases are produced on time (which, as we discuss in more detail below, is all too often not the case), with quarterly publication, the details of a meeting that took place or a gift received will be several months old by the time they are made public.

13. The Government recognised the desire for more frequent publication of its transparency releases. In its Command Paper, it said that, following the introduction of the integrated transparency platform, it would "look to move departments' transparency publications from quarterly to a monthly basis".[25] When we pressed the Minister on the extent to which that constituted a firm commitment, it became apparent that it was not, but was rather something that would be considered:

> It is a guarantee that we will look into it. Seriously, once we have built the system—once it is up and running and we know it is fit for purpose—timeliness is one of the things that we will be considering.[26]

14. Given that a move to monthly publication would not require any changes to the information collected, we asked why this could not be done immediately, rather than waiting for the integrated transparency platform to become operational. But we were told that it would prove too resource-intensive to move to more frequent publication before the implementation of the integrated platform:

> At the moment, we have a system whereby each Department will prepare its releases and returns; they come to the Cabinet Office for checking, in order to ensure that they are of the appropriate standard; and then they are compiled and released quarterly. If we were to do that every month, it would

23 Q207 (Alex Burghart)
24 E.g. openDemocracy (LOB0004), p.1
25 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.18
26 Q212 (Alex Burghart)

> be a bigger job for everyone involved. To be clear, neither the Cabinet Office nor any individual Department feels that it has enough resource to be able to do that more intensive and laborious work every month, but once we have an integrated platform, that will obviously free up some capacity. At that stage, we will look into speeding the whole process up.[27]

15. ***If the Government's transparency releases are to provide the public assurance they are designed to, timeliness is important. Yet with quarterly publication, the information may be several months old by the time it is released. We accept the Government's case that a move to monthly publication is dependent on the implementation of the integrated transparency platform. The Government has said it will consider, though did not commit to, more frequent publication once the integrated transparency platform is operational. We also acknowledge the Government's sensible caution about when this integrated transparency platform will be ready. However, once the platform is operational, we expect the Government to move swiftly from quarterly to monthly transparency publication.***

Inclusion of officials and Special Advisers

16. The transparency releases have to date been limited to the meetings, gifts and hospitality of Ministers and Permanent Secretaries. We heard concerns that this is too limited and ignores the significant roles officials below the level of Permanent Secretary might play and the influence they can wield.

17. Duncan Hames of Transparency International UK, himself a former Parliamentary Private Secretary ("PPS") to a Government Minister, took a pragmatic view about the level at which officials should be included in the transparency releases. His view is that it is the nature of the work being conducted and, consequently, the nature of the meetings held, rather than the grade of the official, that should be the determining factor. His view is that Ministers should, on advice from the Permanent Secretary, decide the relevant officials to include in the transparency releases for their department.[28] Others were more specific: the two professional bodies for the lobbying industry both felt that Directors General should be brought within the scope of the transparency releases, for example.[29] The CSPL recommended that Director General and Director grades be included in the transparency releases.[30]

18. The Government has acknowledged that officials beyond just Permanent Secretaries should be included in the scope. It has committed to extending the transparency releases to cover Directors General as well as Financial and Commercial Directors and Senior Responsible Owners ("SROs") for all projects within the Government's Major Projects Portfolio, recognising that these are the officials most likely to be subject to lobbying by external bodies.

19. The other notable group that is, at least partially, omitted from the transparency releases is Special Advisers ("Spads"). While Spads are required to disclose gifts and hospitality received, only their meetings with media proprietors, executives, and editors

27 Q211 (Alex Burghart)
28 Q30 (Duncan Hames, Transparency International UK)
29 Q65 (Jon Gerlis, CIPR), (Liam Herbert, PRCA)
30 CSPL Upholding Standards in Public Life 2021, para.6.15

are published.[31] The evidence we received suggested a considerable degree of disquiet about this partial exclusion of Spads from the transparency releases.[32] The CSPL also noted their exclusion and recommended that all their meetings should be included in the transparency releases.[33]

20. The Government maintains that the current level of disclosure relating to Spads remains appropriate. Spads, the Government maintains, cannot authorise public expenditure nor exercise any statutory powers, as Ministers or senior officials (under the Carltona Principle) can, and therefore do not need to disclose meetings.[34] However, Spads, the Minister argued, do often have frontline responsibility for media relations—hence the disclosure of their meetings with media proprietors, executives and editors—but do not have the same level of responsibility for policy formulation.[35] This, however, clearly ignores the significant role that Spads can play in the development of policy.

21. **The Government's proposed extension of the transparency releases to include Directors General and other key posts is welcome. However, we remain unconvinced by the Government's defence of the current level of disclosure of Spads' meetings. It is true that, as the Government argues, Spads frequently play a significant role in managing the media. Yet it is also clear that they often play a significant role in formulating policy and have a closeness to their Minister that few officials have. That any gifts or hospitality they receive are included in the transparency releases is clear acknowledgement of that influence; therefore to maintain that their meetings should not be disclosed, beyond those with very senior media figures, appears inconsistent. Moreover, perception is key in establishing and maintaining trust in the integrity of the decision-making process. The evidence we have received suggests that there is genuine concern about the continued omission of Spads' meetings from the transparency releases and references to the applicability of the Carltona Principle manifestly do not address this.**

22. ***Despite the Government's argument to the contrary, the omission of Spads' meetings, other than those with senior media figures, from the departmental transparency releases is clearly anomalous. Furthermore, it undermines public confidence in the integrity of the lobbying process. The Government should include Spads' meetings in the departmental transparency releases on the same basis as those of Ministers and senior civil servants.***

Non-government parties

23. The development of policy is not only conducted in government: particularly following a change of government, much of the policy a government implements—at least early in a new Parliament—will have been developed in Opposition. Preceding an election, especially one at which a change of government is anticipated, lobbying will focus not only on the Government but also on the Opposition. Currently, shadow ministers are only required to make declarations as Members of Parliament in the Register of Members' Interests.

31 Cabinet Office Code of Conduct for Special Advisers December 2016, para.15
32 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.2; Spotlight on Corruption (LOB0019), para.9; Q64 (Jon Gerlis, CIPR); Q65 (Liam Herbert, PRCA)
33 CSPL Upholding Standards in Public Life 2021, para.6.15
34 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, para.3.5
35 Q229 (Alex Burghart)

Consequently, we considered whether similar transparency disclosure requirements to those Ministers are subject to should be in place for frontbench spokespersons from non-government parties as well.

24. The current regime is managed by Government departments and could not therefore be extended to cover shadow ministers or spokespeople for other non-government parties. We did, however, hear about the transparency regime for lobbying at European level.[36] Until 2023, Members of the European Parliament ("MEPs") in key roles such as Committee Chairs, Rapporteurs, and Shadow Rapporteurs were required to disclose meetings they held with external actors. Other MEPs could do so voluntarily. But in September 2023, alongside other measures designed to improve transparency and integrity, the European Parliament introduced the requirement that all MEPs should publish their external meetings.[37] MEPs should now publish details of their meetings on their Parliamentary web pages.

25. ***We would encourage those in positions in which they may be subject to lobbying, such as shadow ministers and other frontbenchers from non-government parties, to routinely publish details of the meetings they hold with outside bodies on their webpages in a timely manner. Alternatively, the House of Commons could resolve to require that MPs, or those who hold certain positions within their parties, publish details of their meetings with lobbyists.***

Accuracy and timeliness of transparency releases

26. We noted above the importance of the transparency releases being produced in a timely manner and the calls for monthly, rather than quarterly, publication. This is heightened by the regularity with which even the quarterly releases are currently late. This lateness is symptomatic of wider concerns about the quality of the transparency data expressed by some of those who submitted evidence, as well as by both Boardman and the CSPL.[38]

27. Transparency International UK noted that there were significant gaps in the transparency data. As of August 2022, they found "an information black hole" of 10 missing quarterly releases across seven different departments.[39] Concerns were also raised about missing information within the quarterly releases. Unlock Democracy noted that Ministers' meetings with company representatives that were announced through official Government social media accounts were missing from the subsequent transparency releases.[40] OpenDemocracy also noted several meetings which various Ministers had held with third parties that were not included in transparency releases.[41]

28. In some cases, meetings are classified as 'political' rather than ministerial. This means they should not impact on ministers' ministerial role, would have taken place without officials present and would not be included in the transparency releases. However,

36 Qq149–201

37 European Parliament Parliament strengthens rules on integrity, transparency and accountability 13 September 2023

38 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021, p.20; CSPL Upholding Standards in Public Life 2021, para.6.6

39 Transparency International UK (LOB0010), paras 4.6–4.7

40 Unlock Democracy (LOB0011), paras 32–37

41 openDemocracy (LOB0004), p.3–4

we heard concerns that such meetings might be a means by which lobbying could go undisclosed. For example, OpenDemocracy noted that, in one month, one in five of the Rt Hon Rishi Sunak's meetings were classified as 'political', and consequently undisclosed, during his time as Chancellor of the Exchequer.[42]

29. A further complaint was that, even when meetings are included in the transparency releases, the accompanying descriptions are too cursory to provide any clarity about their purpose. Transparency International UK noted the frequency of meetings held "to discuss business", for example.[43] Whilst this may be strictly accurate, it is clearly too general to be of any use in delivering meaningful transparency. In response to both the CSPL and Nigel Boardman, whose reports both recommended that this issue be addressed, the Government undertook to prepare new guidance requiring that meeting descriptions should include "relevant and instructive information".[44]

30. ***For the transparency declarations to be "relevant and instructive", we would expect the descriptions of the meetings to include, at a minimum, details of the policy area and any specific regulations, legislation, or funding under discussion.***

31. Whilst new guidance requiring more thorough descriptions of meetings is welcome, issues with late or missing data raise questions about the broader assurance for the production of the transparency releases. Departments are responsible for their own transparency releases, with the Cabinet Office providing framework guidance and assurance, checking departmental releases before returning them for release.[45] In the report from his Greensill inquiry, Nigel Boardman recommended the Government establish a Compliance Function, led from the Cabinet Office, to provide a greater degree of consistency and coordination across government. Compliance professionals would have dual reporting responsibilities: 'vertically' to their Departmental Permanent Secretary and 'horizontally' to the Head of Function, based in the Cabinet Office. Boardman recommended that the Compliance Function's responsibilities include fulfilling the Government's transparency obligations.[46] We considered whether there should be a Compliance Function in our report on *Propriety of Governance in Light of Greensill*, ultimately recommending against establishing one on the grounds that compliance roles are important parts of the work of a number of existing Functions.[47] However, with the move towards a single transparency publication for the whole of government, we think there should also be a single point of accountability for it.

32. ***We recommend that the introduction of the integrated transparency platform, with a single transparency publication for the whole of government, be accompanied by the introduction of a single point of accountability for the quality of that publication. There should be a single Senior Responsible Owner for transparency publication whose role is to ensure the information contained is both comprehensive and timely. The Head of the Propriety and Ethics Team in the Cabinet Office, or someone of at least equivalent seniority, should be the Senior Responsible Owner for the integrated transparency platform.***

42 openDemocracy (LOB0004), p.4
43 Transparency International UK (LOB0010), para.4.10
44 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.17
45 Q211, Q215 (Alex Burghart MP)
46 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021, p.8
47 PACAC Propriety of Governance in Light of Greensill 4th Report of Session 2022–23 HC 888, paras 19–20

Instant messaging

33. The omission of much 'informal lobbying' from the transparency releases is conspicuous. In particular, the transparency regime relating to texts, WhatsApps and other instant messaging platforms—Non-Corporate Communication Channels ("NCCCs")—is one we have considered earlier in this Parliament.[48] The exchange of instant messages between former Prime Minister the Rt Hon Lord Cameron and Ministers and officials at the HM Treasury and Department for Health and Social Care was a prominent part of the Greensill saga and has been an issue in other notable instances, including planning approval for the Westferry development in East London,[49] and the refurbishment of the Prime Ministerial accommodation in Downing Street.[50]

34. Cabinet Secretary Simon Case has previously told us that the position regarding NCCCs is clear:

> Government business is Government business however it is conducted and by whatever means of communication.[51]

Nonetheless, new guidance was issued in 2023 to clarify the position on use and retention of NCCCs. However, under this, an exchange of messages by means of NCCCs between a Minister and a third party is not deemed as sufficient contact to be included in the departmental transparency releases. The Government maintains that an exchange of messages between a Minister or Permanent Secretary and a third party does not, in itself, constitute evidence of lobbying and, along with 'impromptu' phone calls or letters, need not be included in the transparency releases.[52] Only if that exchange of messages led to a subsequent meeting would the contact require inclusion.[53] In contrast, contact that a consultant lobbyist makes with Ministers or officials through an NCCC *is* deemed sufficient to require an entry in the Register.[54]

35. The ongoing public inquiry into the Government's COVID-19 response highlights the ubiquity of WhatsApp and other NCCCs in government. A huge volume of messages has been released to the inquiry or, in some cases, has gone missing. The Institute for Government has commented that it would be unwise and unpractical to ban Ministers and Officials from communicating by means of NCCCs.[55] While we heard no calls for such a ban, we do note the comments of a former Director of GCHQ, Sir David Ormand, that their use is entirely unsuited to proper policy making.[56] However, evidence submitted to our inquiry revealed clear concern that the lack of disclosure could allow significant lobbying efforts to take place outside the transparency requirements.[57]

48 E.g. Oral evidence: The work of the Cabinet Office HC 118 26 April 2021, Qq753–759;
49 "In full: Robert Jenrick's texts to Richard Desmond" BBC News 24 June 2020
50 "Downing Street refurbishment: What is the row about?" BBC News 7 January 2022
51 PACAC Oral evidence: The work of the Cabinet Office HC 118 26 April 2021, Q754
52 Such exchanges *might* need to be formally recorded. However, that would not routinely lead to their publication. See Cabinet Office Using Non-Corporate Communication Channels 30 March 2023
53 Q240 (Eirian Walsh Atkins)
54 OCRL Guidance on registration and quarterly information returns July 2023, p.4
55 T. Durrant et al WhatsApp in government How ministers and officials should use messaging apps – and how they shouldn't Institute for Government March 2022, p.14
56 SSTG0026, p.2
57 E.g. Transparency International UK (LOB0010), para.4.8; Unlock Democracy (LOB0011), para.22; Chartered Institute of Public Relations (CIPR) (LOB0012), p.2; Spotlight on Corruption (LOB0013), p.6; Dr Ben Worthy (LOB0020), p.2

36. Nigel Boardman argues that "extended interchange of messages on an instant messaging platform can serve as effective a lobbying device as a physical meeting".[58] Where such an exchange would have constituted a meeting had it taken place in person, he recommends that it should be included in the transparency releases. The CSPL agreed that significant efforts to lobby government can take place through NCCCs. It recommended extending the transparency releases to include exchanges by means of NCCCs where "the representations are serious, premeditated and credible, or are given substantive consideration by ministers, special advisers or senior civil servants".[59] The application of such principles would likely have required the disclosure of Greensill Capital's interaction with Ministers and officials.

37. ***If WhatsApp and other Non-Corporate Communication Channels ("NCCCs") are to be used in government and, in particular, if they are to be used to communicate with third parties, then they should be subject to the same disclosure regime as other forms of contact. Where exchanges by means of NCCCs are in place of a face-to-face meeting or prompt significant consideration in government, they warrant inclusion in the government transparency releases. If an appropriate transparency regime cannot be found that can command public confidence, which we consider the current arrangements do not, the use of any NCCCs should be blocked on official devices.***

58 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021, p.21

59 CSPL Upholding Standards in Public Life 2021, para.6.20

3 The Lobbying Act Part One

38. Discussing post-legislative scrutiny of the Lobbying Act in 2021, then Minister for Devolution and the Constitution Chloe Smith MP told the House that the Government thought the Act "operates effectively".[60] This was not, however, a view shared by many of those submitting evidence to our inquiry. For instance, the Chartered Institute of Public Relations ("CIPR"), one of the main professional bodies representing the lobbying industry, does not consider the Act "fit for purpose".[61] Unlock Democracy went as far as to suggest that, without reform to the Act, consultant lobbying should simply be banned.[62]

39. In evidence to us, there were areas where the current Minister, Alex Burghart MP, acknowledged the Act required reform, which we discuss in more detail below. However, he also ruled out any changes to the Act requiring primary legislation for the time being. We have noted that the Government has committed to valuable changes to the transparency releases that do not require primary legislation and has committed to using secondary legislation to make others.[63] However, as we go on to discuss in this Chapter, there are deficiencies in the Act that cannot be resolved without it. Both Boardman and the CSPL recommended changes to the Act and the Registrar said that the Government's unwillingness to consider changes to the Act:

> … misses a number of opportunities to support effective transparency in consultant lobbying.[64]

It is disappointing that there are not plans to address these issues.

40. ***To embark on a process of post-legislative scrutiny whilst ruling out changes to the legislation concerned, even where the Government acknowledges such changes are required, risks negating the validity of the whole exercise. Regardless of any non-legislative improvements that result from the process, and no matter how welcome they might be, it is contrary to the principles of effective government to conduct post-legislative scrutiny without being open to the possibility of its outcome requiring legislative change.***

Scope of the Act

41. Perhaps the most frequent complaint we heard about the Act related to its limited scope. Consultant lobbyists comprise only a tiny fraction of the total volume of lobbying activity—the CSPL estimated between 5% and 15%, though other estimates are as low as 1%[65]—most of which is conducted by in-house teams lobbying on behalf of their employer. Despite this, only consultant lobbyists are required to register. Transparency International UK contrasted the Act's focus on consultant lobbyists with other lobbying registers that require all those engaging in lobbying to register rather than only consultant lobbyists:

60 HC Deb 14 April 2021, c331
61 Chartered Institute of Public Relations (CIPR) (LOB0012), para. 8
62 Unlock Democracy (LOB0011), para.16
63 For instance, requiring the disclosure of the subject matter and the 'ultimate beneficiaries' of consultant lobbying. Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.21–22
64 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0017), p.1
65 CSPL Upholding Standards in Public Life 2021, para.6.22; P. Parvin 'UK lobbying rules explained: why no one seems to be in legal trouble' The Conversation 27 April 2021

> Elsewhere in the world, statutory lobbying registers require those lobbying officials to declare their intentions and interactions, giving the public a clearer insight into who, how and why people and businesses are seeking to curry favour and change policy or laws. The UK falls far behind its peers on this front, leaving the British public unable to scrutinise their own government. Significant change is needed to ensure we remain a modern, open and trusted democracy.[66]

42. The two professional bodies for the sector were amongst those calling for the inclusion of all those engaging in lobbying activity in a statutory register, with a statutory Registrar of Lobbying to oversee it, in place of the Registrar of Consultant Lobbying.[67] The Public Relations and Communications Association ("PRCA") noted that such a scheme would have required the Rt Hon Lord Cameron to declare his lobbying of Ministers and officials on behalf of Greensill Capital which prompted this inquiry.[68]

43. The focus on broadening the Lobbying Act to include all lobbying activity is understandable. The Act remains the only statutory component of the framework of rules, guidance and codes that regulate lobbying activity. Where there is a lack of trust in the transparency and integrity of lobbying, it is natural to seek resolutions with the force of law. However, as we have noted, the Act was not designed to be the primary means for ensuring the integrity of the lobbying process. That function lies with the quarterly government transparency releases, with the Act merely designed to resolve the transparency lacuna around hired lobbying firms. It was evident that much of the support for a comprehensive lobbying register was a product of the clear shortcomings with the transparency releases.[69] It is true that an encompassing Register for lobbying would have required the declaration of the Greensill Capital's lobbying of Government. But so too should an effective system of transparency releases. Moreover, the CSPL noted that merely duplicating the work that should be done by means of the Government's transparency releases would remove much of the incentive to improve their quality.[70]

44. ***The purpose of post-legislative scrutiny is to judge the extent to which legislation is achieving its stated aims, rather than to revisit those aims and to reopen debates that should have been had at second reading. To expand the Register of Consultant Lobbyists to encompass all those conducting lobbying activity would be to fundamentally change the purpose of the Act from one designed to address the gap in the Government's transparency releases created by the use of consultant lobbyists to one designed to duplicate or replace them. It would require the Office of the Registrar for Consultant Lobbyists to be replaced with a new body with a very different remit and powers. As such, in our view it would be beyond the scope of post-legislative scrutiny and this inquiry.***

45. ***We recognise the level of frustration with the narrow scope of the Act. However, that frustration appears to be in large part a reaction to the inadequacies of the Government's own transparency releases. The Government has committed to improve these. Given a General Election will take place within months of the publication of this report, it will***

66 E.g. Transparency International UK (LOB0010), para.4.13

67 Public Relations and Communication Association (PRCA) (LOB0008), p.1; Chartered Institute of Public Relations (CIPR) (LOB0012), para.7

68 Public Relations and Communication Association (PRCA) (PGG12), p.4

69 E.g. Q145 (Harry Rich). There was also some support for a statutory code of conduct to be part of the registration requirements. We discuss this further below.

70 CSPL Upholding Standards in Public Life 2021, para 6.28

be our successor Committee that will be in a position to evaluate how far these changes have addressed the concerns we have heard. We would encourage it to do so. Should the Government's transparency releases continue to prove inadequate, the case for a statutory register of all lobbying activity should be reconsidered.

Declarations in the Register

46. Those who have engaged in consultant lobbying are required by the Act to make quarterly entries in the Register. Along with some basic information about the company—registered address and any directors, for example, and whether it is a signatory to any code of conduct—the entry in the Register simply requires consultant lobbyists to declare the clients on whose behalf they have lobbied in that quarter. No details of the actual lobbying that took place—who was lobbied or what they were lobbied about, for example—is required. As such, Duncan Hames of Transparency International UK told us that:

> Fundamentally, the Act does not give us a lobbying register; it gives us a register of consultant lobbyists.[71]

47. However, we are also conscious of the potential regulatory burden that greater reporting requirements might entail. The evidence we heard about the European register and those in other countries suggested that that could become an issue. Matti Van Hecke of the European Public Affairs Consultancies' Association ("EPACA"), the professional association for European level lobbyists, noted the "challenge" of complying with growing demands for details of lobbying activity:

> … there is a growing feeling that the information that is being requested is not always proportionate to what is being done with that information. There is no issue with being transparent, but it is always interesting to know how this extra information contributes to transparency and enhances transparency.[72]

Similarly, Maria Rosa Rotondo of the Public Affairs Community of Europe ("PACE"), an umbrella group representing professional associations across Europe, noted the increasing demands for financial details of lobbying activity to be disclosed in lobbying registers (including at European level). Focussing on such detail risks drawing an at best superficial link between the cost of lobbying activity and influence, when there are examples of lobbying which did not cost a lot proving particularly effective. It also tends to penalise consultancies.[73]

48. Clearly any disclosure requirements have to be proportionate. Yet there was widespread feeling that the current disclosure requirements are inadequate. The PRCA, who warned of the regulatory burden of excessive disclosure requirements,[74] also noted that its members voluntarily disclose more information in its Public Affairs Register than they are required to in the statutory Register.[75] Both Boardman and the CSPL recommended extending the detail required of consultant lobbyists in their declarations to include the subject matter of the lobbying activity and who in government was lobbied. The CSPL also

71 Q60 (Duncan Hames, Transparency International UK)
72 Q161 (Matti Van Hecke, EPACA)
73 Q162 (Maria Rosa Rotondo, PACE)
74 Public Relations and Communications Association (PRCA) (LOB0021), p.3
75 Public Relations and Communication Association (PRCA) (PGG12), p.4

recommended adding the date on which contact took place.[76] Nigel Boardman also called for the inclusion of the 'ultimate beneficiary' of lobbying to be included in the register in cases where an intermediary is the consultant lobbyist's client, which we are pleased that the Government has undertaken to implement.[77]

49. In its Command Paper, the Government accepted "in principle" that the Register should include the subject of consultant lobbying as well as the client.[78] However, it rejected extending the requirements to include either the individual dates on which of lobbying took place or the details of the individual who was lobbied. That information, it argued, is already included in the departmental transparency releases. As such, to extend the Register's declaration requirements further would be an unnecessary regulatory burden:

> … this is about trying to strike a proportionate balance. From 2014 onwards, we were very keen to try to make light-touch, effective regulation. I completely understand that there are other experts out there who would like more heavy-handed regulation, but we have chosen a different route.[79]

50. Despite the Government's assurances that relevant information is included in the transparency releases, the Registrar also told us that the declarations in the Register contain too little information. He explained that a significant amount of work conducted by the Office of the Registrar of Consultant Lobbyists is cross-checking entries in the Register with the government's transparency releases, a task made harder due to the limited information in the declarations in the Register:

> … the fact that my Office only knows clients' names and not who was lobbied makes cross-checking very hard and hinders my compliance activity. As a result, my Office spends an inordinate amount of time checking limited data and then making enquiries of ministers' private offices, who struggle to respond in a timely or complete way.[80]

He called for the Register to more closely reflect the information in the transparency releases.

51. ***The current requirement for consultant lobbyists only to declare in the Register the identity of their clients is inadequate. We do not recommend including, as some registers require, the disclosure of the financial details of lobbying contracts. However, the purpose of the Register is to fill the gap in the Government transparency releases created by the use of hired consultant lobbyists. The amount of information that should be included in declarations in the Register of Consultant Lobbyists should therefore be sensibly proportionate to its purpose, and, as such, should reflect the information contained in the transparency releases. The Register should contain not only a list of clients, as it currently does, but also the subject of lobbying, dates of lobbying, and the medium through which lobbying took place.***

76 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021, p.23; CSPL Upholding Standards in Public Life 2021, para.6.32.

77 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.22

78 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.21

79 Q249 (Alex Burghart MP)

80 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.2

52. ***The Register currently requires declarations of contact made by consultant lobbyists with Ministers and Permanent Secretaries. In line with the Government's proposed extension of the transparency releases to include Directors General, Departmental Financial and Commercial Directors, and Senior Responsible Owners for Major Projects, as well as our recommendation that they include Ministerial Special Advisers, declarations in the Register should be extended to include lobbying of these groups.***

Exemptions

53. We have noted the limited scope of the statutory Register, with only those engaged in consultant lobbying activity required to register and make declarations whilst those who lobby on behalf of their employer are not. However, there are also exemptions relating to 'incidental lobbying' and for those not eligible to pay VAT that permit some consultant lobbying activity to go undeclared.

54. The requirement that only those consultant lobbyists eligible to pay VAT—those with a turnover of £85,000 or more, rising to £90,000 from April this year—need to register was aimed at reducing the regulatory burden on small business.[81] However, the view of both the professional associations and of the Registrar was that the VAT exemption is a blunt instrument which allows significant consultant lobbying activity to go undeclared. The Registrar noted that:

> You can do an awful lot of good consultant lobbying for much less than that threshold [… .] There is no reason to assume that people who are billing more than £85,000 a year are a completely different category from those who might be billing £75,000, so it is bound to be a continuum. If there are people that we know of who are registered, who are lobbying and who are above the VAT threshold, it seems to me a rational conclusion that there are people who might be billing £50,000, £60,000 or £70,000 a year.[82]

55. The CIPR told us that there were instances of consultant lobbyists billing their clients across financial years to remain below the threshold and avoid registering and making subsequent declarations.[83] The Registrar also noted that VAT is only charged on companies registered in the UK so consultant lobbying activity by firms or individuals registered overseas would be exempted from registration.[84] Furthermore, a consultant lobbyist working entirely on behalf of companies registered overseas could be exempted from VAT and so exempted from registering and making declarations in the Register. This was recently cited in the Registrar's investigation into the lobbying activity of former Minister Brooks Newmark on behalf of Worldlink Resources. Mr Newmark was found not to have breached the Lobbying Act as neither he, his company, *nor those on whose behalf he lobbied*, were required to register for VAT.[85] Duncan Hames of Transparency International UK contrasted the exemption of overseas firms from the Register with the measures being taken in the National Security Bill 2023 designed explicitly to address

81 Q118 (Harry Rich)
82 Q119 (Harry Rich)
83 Q59 (Jon Gerlis, CIPR)
84 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.3
85 ORCL Summary of investigation – Brooks Newmark & Co Ltd 13th February 2024)

the threat of attempts by foreign powers to intervene in UK domestic politics.[86] Given this, the exemption of foreign-based lobbyists (or those working only for foreign-based interests) from the Register would appear to be a significant omission.

56. Other means of easing the burden of compliance on the smallest lobbying operations were mooted. A minimum turnover threshold (set rather lower than the current VAT threshold) was one, as was a threshold relating to the volume of activity.[87] The smallest firms might also be offered a reduction on the £1,000 registration fee.

57. ***The desire to avoid onerous bureaucratic burdens on small or sole operator lobbyists is laudable. However, it is important that concerns about regulatory burden, which will already be lower on smaller operations undertaking less work, do not undermine the primary purpose of the Act, which is to ensure transparency in consultant lobbying. There are other ways of mitigating the regulatory burden on small firms that do not present such a sizeable loophole to allow lobbying to go undisclosed. To that end, the exemption from registration for consultant lobbyists who do not pay VAT should be removed.***

58. The 'incidental lobbying exemption' applies where:

> (a) the person carries on a business which consists mainly of non-lobbying activities, and
>
> (b) the making of the communication is incidental to the carrying on of those activities.[88]

59. The Minister explained that it was designed to exempt those who communicate with Ministers only as a small part of the conduct of their main business, such as a lawyer who writes to a Minister in the course of representing their client in litigation.[89]

60. The Registrar was critical of the vagueness of the incidental exemption and the lack of clarity surrounding its policy aim. It is, he suggested, "the most contentious, vague and problematic drafting in the legislation".[90] The professional associations were concerned that the vagueness of the incidental exemption allowed activity tantamount to consultant lobbying to go undeclared, particularly by large law firms or management consultancies:

> One person's incidental lobbying could be another person's significant part of their campaign—it is fairly vague.[91]

61. Whilst rejecting the claim of unregistered lobbying by law firms, the Registrar acknowledged that the incidental exemption had been cited in relation to the lobbying activity of Lord Cameron as well as that of former Chancellor of the Exchequer, the Rt Hon Lord Hammond of Runnymede.[92]

86 Q12–13 (Duncan Hames, Transparency International UK); National Security Act 2023
87 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.3
88 Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Schedule 1, Part 1, S1
89 Q256 (Alex Burghart MP)
90 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.3
91 Q73 (Jon Gerlis, CIPR)
92 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002), p.4

62. The Minister pointed to the greater clarity surrounding the legitimate use of the incidental exemption that the Registrar had provided through his guidance on submitting quarterly returns. That guidance goes further than the legislation in clarifying that the incidental exemption can only be applied where the lobbying is only a "minor accompaniment" to the main focus of activity. It is "a narrow exception and will not apply to most businesses or individuals that engage in consultant lobbying".[93] It makes clear that the lobbying is not 'incidental' if it is forms a substantive part of the business, judged by volume of work, the value of it, or the significance of it to either the firm or individual doing the lobbying or to those on whose behalf the lobbying was undertaken.[94]

63. The Registrar's guidance has gone some way to establish the limits to the incidental exemption and to make clear the quite narrow circumstances under which it should apply. The Registrar was, however, not convinced that it had provided the required clarity:

> The guidance goes as far as I am able to provide clarity, but it is still complex and unclear because the founding legislation is unclear. I urge the Government to form a view on the policy intention behind the incidental exception and then express this clearly and unequivocally in the Act.[95]

64. ***As with the VAT exemption, the Government stresses the importance of avoiding unnecessary bureaucracy in justifying the exemption for 'incidental lobbying'. However, the purpose of the incidental exemption is not made clear in the Act. The Registrar's guidance has added some clarity but he himself emphasised that this is still insufficient. If the Government maintains that there is a need for the incidental exemption, it must amend the Act to clarify its purpose and remove any ambiguity about what that is and when it can apply.***

Code of Conduct

65. We have noted that the Act does not intend to regulate the conduct of lobbying, instead only requiring a degree of transparency for that conduct. In registering, consultant lobbyists can declare that they are signatories to a code of conduct. For those wishing to declare adherence to a code, it must meet some basic requirements: the code must be relevant to lobbying and must include a route for complaints in respect of breaches as well as external, independent oversight of compliance and of any complaints. However, consultant lobbyists are under no obligation to subscribe to such a code of conduct. Beyond specifying those minimum requirements for declaring subscription to a code in the Register, the Registrar has no role in oversight of compliance or complaints.[96]

66. Previous efforts to introduce an industry-wide code of conduct were based on self-regulation.[97] The UK Public Affairs Council ("UKPAC") was established in 2010 by the main professional associations at the time (CIPR, PRCA, and the Association of Professional Political Consultants ("APPC")) in an attempt to provide a single body to regulate the lobbying industry as a whole. However, the PRCA withdrew from UKPAC

93 ORCL Guidance on registration and quarterly information returns July 2023, s5.1
94 ORCL Guidance on registration and quarterly information returns July 2023, s5.1
95 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0017), p.4
96 https://registrarofconsultantlobbyists.org.uk/faqs/
97 See Prof Justin Fisher (PGG04); The Good Lobbying Campaign (PGG15)

within months of its establishment, and it was wound up in 2015. The APPC subsequently merged with the PRCA in 2018, leaving the two professional associations from whom we heard.

67. Despite both the CIPR and the PRCA having their own codes of conduct which their members must abide by in conducting their lobbying activity, Nigel Boardman recommended that a statutory code of conduct for consultant lobbyists be established.[98] Others, including from within the lobbying sector, also support a statutory code as part of the Register.[99] However, such a step would only make sense if the Lobbying Act was amended to extend the Register to cover the entire lobbying sector rather than just consultant lobbyists or if separate legislation was introduced to establish an industry-wide statutory regulator. It would also require a rather different body from the current Office of the Registrar of Consultant Lobbyists to oversee it.

68. In rejecting Boardman's recommendation for a statutory code of conduct, the Government noted the existence of industry's own recognised codes.[100] The Minister elaborated on the reasons for the Government's rejection of a statutory code of conduct in evidence to us. A government-initiated statutory code risked, he argued, cutting across the well-established industry codes, as well as codes for other sectors such as law and accountancy, and would require a body to enforce it with additional resources.[101] He told us that, ultimately:

> In keeping with our desire to have light or lighter touch regulation, we have decided not to pursue it.[102]

69. We acknowledge the arguments of those calling for an industry-wide code of conduct which can go some way to ensuring that lobbying is conducted in an appropriate way. It is gratifying that many organisations voluntarily commit to such conduct through subscribing to one of the two existing industry codes of conduct. However, their coverage is limited, and there are no clear ramifications for those who do not commit to conducting their lobbying in an ethical way. We heard evidence about the way in which such things are dealt with in other jurisdictions and, in particular, at European level. Of particular interest was the mechanism by which compliance with the European 'voluntary' registration scheme for lobbyists was encouraged.

70. Since 2021, the European Commission, the European Parliament, and the European Council have subscribed to an Inter Institutional Agreement ("IIA") on a 'mandatory' transparency register.[103] Though not directly analogous with the UK's scheme—the register applies to all lobbyists and not only consultant lobbyists, for example—the scheme does include a code of conduct and the way in which compliance is incentivised is instructive. Although described as such, the scheme is not, in fact, mandatory. However, under the IIA, the three signatory institutions agree that access for lobbyists is largely dependent upon them joining the transparency register and complying with its code of conduct:

98 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2 Recommendations and Suggestions Cabinet Office 5 August 2021, p.23–4

99 E.g. Q87 (Liam Herbert, PRCA); The Good Lobbying Campaign (PGG15), p.3

100 Cabinet Office Strengthening Ethics and Integrity in Central Government CP 900 July 2023, p.22

101 Q267 (Alex Burghart)

102 Q267 (Alex Burghart)

103 Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register L207/1

the 'conditionality' principle.[104] Without registering, lobbyists cannot, for example, have meetings with Commissioners, MEPs, or the European Council secretariat, significantly limiting their ability to operate.

> There is no law, regulation or directive obliging lobbyists or interest representatives to register, but the EU created a system where your life as a lobbyist becomes much easier if you are on the Register.[105]

71. The scheme is evidently not watertight. We were told that compliance is not monitored as vigorously as it could be, for instance, and that some bodies can avoid registration.[106] Nonetheless, it is clear that the conditionality underpinning the ostensibly voluntary scheme significantly incentivises compliance.

72. ***In rejecting proposals for a statutory code of conduct governing the way in which lobbyists carry out their activities, the Government suggested that the existence of the established industry codes of conduct made it unnecessary. In order to encourage lobbyists—both consultant and in-house—to subscribe to one of the current industry codes of conduct, Ministers should commit to meet only with lobbyists who have done so. Likewise, officials covered by the departmental transparency releases should only meet with lobbyists who are included in one of the established industry registers and subscribe to their codes of conduct.***

The Registrar of Consultant Lobbyists

73. When the Registrar was appointed in 2018, our predecessor Committee conducted the pre-appointment hearing with him before he commenced in the role. In its report, that Committee noted the haste with which the pre-appointment scrutiny process had had to be conducted. This was because, as a 'corporation sole', the authority of the Office is invested almost entirely in the Registrar and, consequently, a Registrar needed to be in post.[107] As such, there is no provision in the Act for, for instance, the temporary incapacity of the Registrar nor for him to recuse himself from an investigation if a potential conflict of interest arose.[108]

> Either in the case of my being unavailable or if I happen to have a conflict of interest in relation to a particular registrant or a potential registrant, the Act simply does not function. There is no means by which anybody else can take on those responsibilities, so a new Registrar would have to be appointed.[109]

74. The Minister acknowledged this problem with the way in which the Act is drafted and agreed that it should be amended. Having ruled out amending the Act for the foreseeable future, however, he told us that he was taking steps to cover such an eventuality through secondary legislation:

104 Q149 (Matti Van Hecke, EPACA)
105 Q153 (Matti Van Hecke, EPACA)
106 Qq179–180 (Vitor Teixera, Transparency International EU)
107 PACAC Appointment of Mr Harry Rich as Registrar of Consultant Lobbyists 11th Report of Session 2017–19 HC 1249, para. 12
108 Harry Rich (Registrar of Consultant Lobbyists at Office of the Registrar of Consultant Lobbyists) (LOB0002),
109 Q147 (Harry Rich)

> In the interim, we have had some internal discussions about what we would do if such a situation ever arose, and we think that we could create a sort of temporary patch using regulation in order to alleviate that situation [… .] I do not think that it would be entirely straightforward, but if we had to, we could do it. I think that is where we are.[110]

75. ***The lack of provision to cover for the temporary absence of the Registrar—through illness or because they are conflicted, for example—is another example of where there is a clear need for the Act to be amended but which the Government has ruled out for the foreseeable future. We are relieved that the Government is aware of the issue and is making contingency plans. However, by the Minister's admission, these will not be an adequate substitute for amending the Act which we believe should be taken forward as a priority.***

110 Q268 (Alex Burghart)

Conclusions and recommendations

Government Transparency Releases

1. If transparency is the Government's main mechanism for ensuring the integrity of the process by which Government is lobbied, clearly the information it releases on who has been lobbied by whom should be as accessible and easy to navigate as possible. A single, integrated platform that includes the transparency data for the whole of government is an important step towards that. We welcome the Government's commitment to producing an integrated platform for transparency data. We will be watching closely the system's progress towards completion and its impact once it is operational. Given we are in the final months of this Parliament, it will be the responsibility of our successor committee to consider the impact of the integrated platform and we encourage it do so. (Paragraph 11)

2. *If the Government's transparency releases are to provide the public assurance they are designed to, timeliness is important. Yet with quarterly publication, the information may be several months old by the time it is released. We accept the Government's case that a move to monthly publication is dependent on the implementation of the integrated transparency platform. The Government has said it will consider, though did not commit to, more frequent publication once the integrated transparency platform is operational. We also acknowledge the Government's sensible caution about when this integrated transparency platform will be ready. However, once the platform is operational, we expect the Government to move swiftly from quarterly to monthly transparency publication.* (Paragraph 15)

3. The Government's proposed extension of the transparency releases to include Directors General and other key posts is welcome. However, we remain unconvinced by the Government's defence of the current level of disclosure of Spads' meetings. It is true that, as the Government argues, Spads frequently play a significant role in managing the media. Yet it is also clear that they often play a significant role in formulating policy and have a closeness to their Minister that few officials have. That any gifts or hospitality they receive are included in the transparency releases is clear acknowledgement of that influence; therefore to maintain that their meetings should not be disclosed, beyond those with very senior media figures, appears inconsistent. Moreover, perception is key in establishing and maintaining trust in the integrity of the decision-making process. The evidence we have received suggests that there is genuine concern about the continued omission of Spads' meetings from the transparency releases and references to the applicability of the Carltona Principle manifestly do not address this. (Paragraph 21)

4. *Despite the Government's argument to the contrary, the omission of Spads' meetings, other than those with senior media figures, from the departmental transparency releases is clearly anomalous. Furthermore, it undermines public confidence in the integrity of the lobbying process. The Government should include Spads' meetings in the departmental transparency releases on the same basis as those of Ministers and senior civil servants.* (Paragraph 22)

5. *We would encourage those in positions in which they may be subject to lobbying, such as shadow ministers and other frontbenchers from non-government parties, to routinely publish details of the meetings they hold with outside bodies on their webpages in a timely manner. Alternatively, the House of Commons could resolve to require that MPs, or those who hold certain positions within their parties, publish details of their meetings with lobbyists.* (Paragraph 25)

6. *For the transparency declarations to be "relevant and instructive", we would expect the descriptions of the meetings to include, at a minimum, details of the policy area and any specific regulations, legislation, or funding under discussion.* (Paragraph 30)

7. *We recommend that the introduction of the integrated transparency platform, with a single transparency publication for the whole of government, be accompanied by the introduction of a single point of accountability for the quality of that publication. There should be a single Senior Responsible Owner for transparency publication whose role is to ensure the information contained is both comprehensive and timely. The Head of the Propriety and Ethics Team in the Cabinet Office, or someone of at least equivalent seniority, should be the Senior Responsible Owner for the integrated transparency platform.* (Paragraph 32)

8. *If WhatsApp and other Non-Corporate Communication Channels ("NCCCs") are to be used in government and, in particular, if they are to be used to communicate with third parties, then they should be subject to the same disclosure regime as other forms of contact. Where exchanges by means of NCCCs are in place of a face-to-face meeting or prompt significant consideration in government, they warrant inclusion in the government transparency releases. If an appropriate transparency regime cannot be found that can command public confidence, which we consider the current arrangements do not, the use of any NCCCs should be blocked on official devices.* (Paragraph 37)

The Lobbying Act Part One

9. *To embark on a process of post-legislative scrutiny whilst ruling out changes to the legislation concerned, even where the Government acknowledges such changes are required, risks negating the validity of the whole exercise. Regardless of any non-legislative improvements that result from the process, and no matter how welcome they might be, it is contrary to the principles of effective government to conduct post-legislative scrutiny without being open to the possibility of its outcome requiring legislative change.* (Paragraph 40)

10. *The purpose of post-legislative scrutiny is to judge the extent to which legislation is achieving its stated aims, rather than to revisit those aims and to reopen debates that should have been had at second reading. To expand the Register of Consultant Lobbyists to encompass all those conducting lobbying activity would be to fundamentally change the purpose of the Act from one designed to address the gap in the Government's transparency releases created by the use of consultant lobbyists to one designed to duplicate or replace them. It would require the Office of the Registrar for Consultant Lobbyists to be replaced with a new body with a very different remit and powers. As such, in our view it would be beyond the scope of post-legislative scrutiny and this inquiry.* (Paragraph 44)

11. *We recognise the level of frustration with the narrow scope of the Act. However, that frustration appears to be in large part a reaction to the inadequacies of the Government's own transparency releases. The Government has committed to improve these. Given a General Election will take place within months of the publication of this report, it will be our successor Committee that will be in a position to evaluate how far these changes have addressed the concerns we have heard. We would encourage it to do so. Should the Government's transparency releases continue to prove inadequate, the case for a statutory register of all lobbying activity should be reconsidered.* (Paragraph 45)

12. *The current requirement for consultant lobbyists only to declare in the Register the identity of their clients is inadequate. We do not recommend including, as some registers require, the disclosure of the financial details of lobbying contracts. However, the purpose of the Register is to fill the gap in the Government transparency releases created by the use of hired consultant lobbyists. The amount of information that should be included in declarations in the Register of Consultant Lobbyists should therefore be sensibly proportionate to its purpose, and, as such, should reflect the information contained in the transparency releases. The Register should contain not only a list of clients, as it currently does, but also the subject of lobbying, dates of lobbying, and the medium through which lobbying took place.* (Paragraph 51)

13. *The Register currently requires declarations of contact made by consultant lobbyists with Ministers and Permanent Secretaries. In line with the Government's proposed extension of the transparency releases to include Directors General, Departmental Financial and Commercial Directors, and Senior Responsible Owners for Major Projects, as well as our recommendation that they include Ministerial Special Advisers, declarations in the Register should be extended to include lobbying of these groups.* (Paragraph 52)

14. *The desire to avoid onerous bureaucratic burdens on small or sole operator lobbyists is laudable. However, it is important that concerns about regulatory burden, which will already be lower on smaller operations undertaking less work, do not undermine the primary purpose of the Act, which is to ensure transparency in consultant lobbying. There are other ways of mitigating the regulatory burden on small firms that do not present such a sizeable loophole to allow lobbying to go undisclosed. To that end, the exemption from registration for consultant lobbyists who do not pay VAT should be removed.* (Paragraph 57)

15. *As with the VAT exemption, the Government stresses the importance of avoiding unnecessary bureaucracy in justifying the exemption for 'incidental lobbying'. However, the purpose of the incidental exemption is not made clear in the Act. The Registrar's guidance has added some clarity but he himself emphasised that this is still insufficient. If the Government maintains that there is a need for the incidental exemption, it must amend the Act to clarify its purpose and remove any ambiguity about what that is and when it can apply.* (Paragraph 64)

16. *In rejecting proposals for a statutory code of conduct governing the way in which lobbyists carry out their activities, the Government suggested that the existence of the established industry codes of conduct made it unnecessary. In order to encourage lobbyists—both consultant and in-house—to subscribe to one of the current industry codes of conduct, Ministers should commit to meet only with lobbyists who have done*

so. Likewise, officials covered by the departmental transparency releases should only meet with lobbyists who are included in one of the established industry registers and subscribe to their codes of conduct. (Paragraph 72)

17. *The lack of provision to cover for the temporary absence of the Registrar—through illness or because they are conflicted, for example—is another example of where there is a clear need for the Act to be amended but which the Government has ruled out for the foreseeable future. We are relieved that the Government is aware of the issue and is making contingency plans. However, by the Minister's admission, these will not be an adequate substitute for amending the Act which we believe should be taken forward as a priority.* (Paragraph 75)

Formal minutes

Tuesday 30 April

Members present:

Mr David Jones, in the Chair

Ronnie Cowan

Jo Gideon

Damien Moore

Lloyd Russell-Moyle

Tom Randall

John Stevenson

Draft Report (*Lobbying and Influence: post-legislative scrutiny of the Lobbying Act 2014 and related matters*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 75 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order 134.

Adjournment

[Adjourned till Tuesday 14 May 2024 at 09.30am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Tuesday 1 November 2022

Duncan Hames, Director of Policy and Programmes, Transparency International UK Q1–54

Tuesday 15 November 2022

Harry Rich, Registrar of Consultant Lobbyists, Office of the Registrar of Consultant Lobbyists Q55–105

Liam Herbert, Chair of Public Affairs Board Executive Committee, Public Relations and Communications Association; **Jon Gerlis**, Public Relations and Policy Manager, Chartered Institute of Public Relations (CIPR) Q106–148

Tuesday 6 December 2022

Matti Van Hecke, Head of the Secretariat, European Public Affairs Consultancies' Association; **Maria Rosa Rotondo**, President, Public Affairs Community of Europe (PACE) Q149–174

Vitor Teixeira, Senior Policy Officer, Transparency International EU Q175–201

Tuesday 17 October 2023

Alex Burghart MP, Parliamentary Secretary, Cabinet Office; **Rachel Rayner**, Deputy Director for Parliamentary and Constitutional Policy, Cabinet Office; **Eirian Walsh Atkins**, Deputy Director for FOI and Transparency Data, Cabinet Office Q202–272

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

LOB numbers are generated by the evidence processing system and so may not be complete.

1 Chartered Institute of Public Relations (CIPR) (LOB0012), (LOB0014)

2 openDemocracy (LOB0004)

3 Public Relations and Communication Association (PRCA) (LOB0008)

4 Quakers in Britain; Bond; Charity Finance Group; Friends of the Earth; Liberty; and Refugee Action (LOB0009)

5 Registrar of Consultant Lobbyist (LOB0002), (LOB0017)

6 Spotlight on Corruption (LOB0019), (LOB0013)

7 Sustrans (LOB0001)

8 The Public Relations and Communications Association (LOB0021)

9 Transparency International UK (LOB0016), (LOB0010)

10 Unlock Democracy (LOB0011)

11 Uplift (LOB0007)

12 Westminster Foundation for Democracy; and Popvox Foundation (LOB0018)

13 Worthy, Dr Ben and and Crepaz, Dr Michele (LOB0020)

14 Worthy, Dr Ben, Morgan, Cat and Langehennig, Stefani (LOB0005)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2023–24

Number	Title	Reference
1st	The Appointment of Douglas Chalmers CB DSO OBE as Chair of the Committee on Standards in Public Life	HC 243
2nd	Parliamentary Scrutiny of International Agreements in the 21st century	HC 204
3rd	Parliamentary and Health Service Ombudsman Scrutiny 2022–23	HC 198
1st Special	Civil Service People Survey: Government response to the Committee's Ninth Report of Session 2022–23	HC 462
2nd Special	Parliamentary Scrutiny of International Agreements in the 21st century: Government Response to the Committee's Second Report of session 2023–24	HC 685

Session 2022–23

Number	Title	Reference
1st	Parliamentary and Health Service Ombudsman Scrutiny 2020–21	HC 213
2nd	The Work of the Electoral Commission	HC 462
3rd	Governing England	HC 463
4th	Propriety of Governance in Light of Greensill	HC 888
5th	Governing England: Follow up to the Government's response to the Committee's Third Report of Session 2022–23	HC 1139
6th	Parliamentary and Health Service Ombudsman Scrutiny 2021–22	HC 745
7th	The Role of Non-Executive Directors in Government	HC 318
8th	Where Civil Servants Work: Planning for the future of the Government's estates	HC 793
9th	Civil Service People Survey	HC 575
10th	Appointment of Baroness Deech as Chair of the House of Lords Appointments Commission	HC 1906
1st Special	Coronavirus Act 2020 Two Years On: Government response to the Committee's Seventh Report of Session 2021–22	HC 211

Number	Title	Reference
2nd Special	The Cabinet Office Freedom of Information Clearing House: Government Response to the Committee's Ninth Report of Session 2021–22	HC 576
3rd Special	Parliamentary and Health Service Ombudsman Scrutiny 2020–21: PHSO and Government responses to the Committee's First Report	HC 616
4th Special	The Work of the Electoral Commission: Government Response to the Committee's Second Report	HC 1065
5th Special	The Work of the Electoral Commission: Electoral Commission response to the Committee's Second Report of Session 2022–23	HC 1124
6th Special	Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response	HC 1437
7th Special	The Role of Non-Executive Directors in Government: Government response to the Committee's Seventh Report of Session 2022–23	HC 1805
8th Special	Where Civil Servants Work: Planning for the Future of the Government's Estates: Government and Office for National Statistics response to the Committee's Eighth Report	HC 1868

Session 2021–22

Number	Title	Reference
1st	The role and status of the Prime Minister's Office	HC 67
2nd	Covid-Status Certification	HC 42
3rd	Propriety of Governance in Light of Greensill: An Interim Report	HC 59
4th	Appointment of William Shawcross as Commissioner for Public Appointments	HC 662
5th	The Elections Bill	HC 597
6th	The appointment of Rt Hon the Baroness Stuart of Edgbaston as First Civil Service Commissioner	HC 984
7th	Coronavirus Act 2020 Two Years On	HC 978
8th	The appointment of Sir Robert Chote as Chair of the UK Statistics Authority	HC 1162
9th	The Cabinet Office Freedom of Information Clearing House	HC 505
1st Special	Government transparency and accountability during Covid 19: The data underpinning decisions: Government's response to the Committee's Eighth Report of Session 2019–21	HC 234
2nd Special	Covid-Status Certification: Government Response to the Committee's Second Report	HC 670

Number	Title	Reference
3rd Special	The role and status of the Prime Minister's Office: Government Response to the Committee's First Report	HC 710
4th Special	The Elections Bill: Government Response to the Committee's Fifth Report	HC 1133

Session 2019–21

Number	Title	Reference
1st	Appointment of Rt Hon Lord Pickles as Chair of the Advisory Committee on Business Appointments	HC 168
2nd	Parliamentary and Health Service Ombudsman Scrutiny 2018–19	HC 117
3rd	Delivering the Government's infrastructure commitments through major projects	HC 125
4th	Parliamentary Scrutiny of the Government's handling of Covid-19	HC 377
5th	A Public Inquiry into the Government's response to the Covid-19 pandemic	HC 541
6th	The Fixed-term Parliaments Act 2011	HC 167
7th	Parliamentary and Health Service Ombudsman Scrutiny 2019–20	HC 843
8th	Government transparency and accountability during Covid 19: The data underpinning decisions	HC 803
1st Special	Electoral law: The Urgent Need for Review: Government Response to the Committee's First Report of Session 2019	HC 327
2nd Special	Parliamentary and Health Service Ombudsman Scrutiny 2018–19: Parliamentary and Health Service Ombudsman's response to the Committee's Second report	HC 822
3rd Special	Delivering the Government's infrastructure commitments through major projects: Government Response to the Committee's Third report	HC 853
4th Special	A Public Inquiry into the Government's response to the Covid-19 pandemic: Government's response to the Committee's Fifth report	HC 995
5th Special	Parliamentary Scrutiny of the Government's handling of Covid-19: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1078
6th Special	The Fixed-term Parliaments Act 2011: Government's response to the Committee's Sixth report of Session 2019–21	HC 1082
7th Special	Parliamentary and Health Service Ombudsman Scrutiny 2019–20: Government's and PHSO response to the Committee's Seventh Report of Session 2019–21	HC 1348