House of Commons

Public Administration Select Committee

Lobbying: Access and influence in Whitehall: Government Response to the Committee's First Report of Session 2008–09

Eighth Special Report of Session 2008–09

Ordered by The House of Commons
to be printed 22 October 2009

HC 1058
Published on 23 October 2009
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Eighth Special Report

The Public Administration Select Committee reported to the House on Lobbying: Access and influence in Whitehall in its First Report of Session 2008-09, published 5 January 2009 as HC 36. It is an established convention that the Government should normally respond to select committee reports within two months. The Government Response was received on 21 October 2009, more than ten months after publication of our Report, and is reproduced below. The Government has apologised to the Committee for its delay in responding to the report. We have decided to publish the Government's response as quickly as possible without comment, but intend to return to this issue.

Government response

Scope

5. A broad look is needed at contact between those working in the public sector and those attempting to influence their decisions. (Paragraph 13)

6. Although many of our recommendations are relevant to the whole of the public sector, this Report necessarily concentrates on the framework within which Ministers and civil servants are lobbied. (Paragraph 14)

What is the problem?

7. Because secret lobbying by its very nature leaves no evidence trail, there could still be a significant problem even with little concrete evidence of one. (Paragraph 36)

8. Some of the concerns that exist around improper influence are closely linked to the power of informal networks of friendships and relationships. (Paragraph 41)

9. The Government's encouragement of wider engagement in the policy process is to be welcomed. The challenge, however, is to ensure not just that this engagement is even-handed, but also that it is seen to be even-handed. Token engagement breeds cynicism, and is worse than no engagement at all. (Paragraph 42)

10. Lobbyists do not want their competitors to know the detail of how they go about their business. Commitment to transparency in the world of lobbying is, and always will be, a relative concept. What this suggests is that a degree of external coercion will be required to achieve sufficient transparency across the board. (Paragraph 43)

The Government is grateful to the Public Administration Select Committee for its examination of lobbying in the UK, which is the first Parliamentary inquiry on the subject since 1991.

It is right that the Government remains alert for signs of improper influence over any aspect of our public life and the Committee's Report provides a helpful opportunity to look

again at arrangements and to ensure that it has the right framework in place to ensure confidence in the way outside interests interact with government.

In responding to the Committee's recommendations, it is first important to set out the context of this inquiry. While the Committee's Report focuses mainly on the relationship between the lobbying industry and Government, it must be remembered that lobbying goes much wider than this. Lobbying is essentially the activity of those in a democracy making representations to government on issues of concern. The Government is committed to protecting this right from improper use while at the same time seeking to avoid any unnecessary regulation or restriction. As well as being essential to the health of our democracy, its free and proper exercise is an important feature of good government. Those who work within government should have no monopoly on the advice that Ministers use to make their decisions. Section 5.2 of the *Ministerial Code* states:

> "Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions".

The more individuals and groups outside government engage with the policy making process and the broader the base of advice and evidence used to take decisions, the better those decisions tend to be.

The Government believes that in the vast majority of cases, lobbying takes place in a legitimate and beneficial way. The Committee on Standards in Public Life (CSPL) gave the issue detailed examination in 2000, and considered the evidence again before submitting its views to the inquiry. In its memorandum for this inquiry, the CSPL did not:

> "detect any common link running through these stories that suggests systemic current weakness in public standards."

While the Government agrees with this assessment, it nevertheless accepts that it needs to consider whether there is more to do to provide the public with greater reassurance that lobbying takes place within a framework which upholds high standards of propriety and prevents improper influence or access. Clear standards and rules of conduct are already in place for those who are the target of lobbying – Ministers and civil servants. It is now time to consider whether further strengthening is needed particularly in relation to lobbyists themselves.

How are these areas currently regulated?

11. The guiding principles of conduct may not go far enough, but they are nonetheless a welcome and noteworthy step towards consistency of approach, which is certainly needed if self-regulation is to have any hope of meaningful success in such a fragmented landscape. (Paragraph 52)

12. The APPC does not seem to attract sufficient trust throughout the lobbying industry among its clients for it to suggest with any authority that only its members should be eligible to apply for public contracts. But the spirit of this suggestion – the notion of a single self-regulating organisation for multi-client public affairs

consultancies – recognises that the current situation allows consultancies to pick and choose the rules that apply to them in a way that is incompatible with self-regulation. (Paragraph 57)

13. A complaints system that was working would have produced more than three cases in the last ten years, even if the vast majority of lobbyists were operating ethically and transparently. Reprimands and "severe" reprimands, the only outcomes to have been seen in two cases decided against members of any of the three umbrella groups (both within the CIPR), are not of a kind that would give confidence to any outsider that disciplinary processes are robust. The APPC's policy of expecting complainants to be prepared to bear the costs of an investigation, including the legal fees of the member complained against, is unacceptable: it is unique as far as we are aware in any industry complaints system and is an obvious barrier to potential complainants. (Paragraph 64)

14. The three umbrella groups have an in-built conflict of interest, in that they attempt to act both as trade associations for the lobbyists themselves and as the regulators of their members' behaviour. (Paragraph 65)

15. In the final analysis, what lobbying organisations refer to as "self-regulation" appears to involve very little regulation of any substance. (Paragraph 66)

17. What emerges from this survey is that while the activities of lobbyists are scarcely regulated at all, there are a variety of ways in which the lobbied are subject to behavioural constraints and transparency requirements. These have developed piecemeal, however, and with different times and issues in mind. (Paragraph 119)

While reform in this area has been incremental, it has nevertheless been consistent and coherent. The Government has responded to developments, including very helpful examinations of the issue by the CSPL. The Government accepted the recommendations made by the CSPL in 1995 and 2000.

Central to the Government's approach has been the principle of increasing transparency and upholding standards by focussing rules and guidance on those who are the target of lobbying activity – Ministers and civil servants. The CSPL endorsed this approach in its 6th and 7th Reports, concluding that the most effective way to police lobbying activity and uphold standards was to focus constraints around those who are lobbied. These rules are reinforced by wider initiatives to increase transparency around the work of government in general, such as Freedom of Information.

The Government agrees that the Committee's Report raises important issues about the current arrangements for voluntary self-regulation. It is in the industry's best interests to look again at these arrangements. The Government welcomes the constructive start the industry has already made with the adoption of guiding principles by the Association of Professional Political Consultants (APPC), the Public Relations Consultants Association (PRCA) and the Chartered Institute of Public Relations (CIPR) and the formation of a Public Affairs Council (PAC) Working Party, which also includes independent membership.

Regulation of lobbying abroad

18. There are a number of very general conclusions that can be drawn from the experience of other jurisdictions:

- **Lobbying can be regulated far more extensively than is the case in the United Kingdom.**
- **Where lobbying activity is regulated, this seems to be accepted as a fact of life by those concerned.**
- **In many countries, including most European countries, lobbying activity is not explicitly regulated.**
- **The more restrictive regimes tend to respond to an environment in which there is significant concern around lobbying practices. That in the USA is a reaction to the close association between lobbying and the financing of political activities. (Paragraph 122)**

19. The experience of other jurisdictions suggests that there is no 'one-size-fits-all' or 'off-the-shelf' solution to the regulation of lobbying and that early attempts at solutions often need subsequent adjustment. We are convinced that the system in the United Kingdom could be better tailored than it is. In the current climate of public mistrust, voluntary self-regulation of lobbying activity risks being little better than the Emperor's new clothes. (Paragraph 130)

20. Solutions need to be adapted to different constitutional arrangements and political cultures. In the case of the United Kingdom, where there is a culture of discretion and where deals are traditionally done behind closed doors, an element of external compulsion will be needed to provide for meaningful transparency. This is shown by the experience of the Freedom of Information agenda, which could only be implemented through legislation. (Paragraph 131)

The Government agrees that there is a no 'one-size-fits-all' or 'off-the-shelf' solution to the regulation of lobbying and that early attempts at solutions often need subsequent adjustment. In considering its response to the Committee's Report, the Government has consulted a range of interested parties, including practitioners and policy makers in the lobbying industry, the voluntary and charitable sector and also the OECD.

The risks of regulation

21. The risk of regulation creating an exclusive or two-tier process is one that clearly needs to be guarded against – but we suspect that it is a risk that has been overstated. (Paragraph 135)

22. The frankly cynical argument put to us by some lobbyists is that their behaviour should not be regulated, because if it were, it would encourage people to try to break the rules. If this theory were followed to its logical conclusion, there would be no regulation of any activity whatsoever. It is true that external regulation (as opposed to culture change) tends to encourage an adherence to the letter rather than the spirit of

the rules, but we see this as an argument for well-framed regulation, rather than an argument against any regulation at all. (Paragraph 137)

23. We again think that this risk (that regulation could stifle input into the policy-making process) is over-stated. The advantages of being able to lobby decision-makers on issues of concern are so obvious, that only the most restrictive or onerous kind of regulation could dissuade interested parties from making their views known to Government. (Paragraph 141)

24. This (bureaucratic overload) is yet another risk that we believe to be over-stated, though it is one that clearly needs to be guarded against. If sensibly framed, regulation would simply require those involved in the process of lobbying to provide information which should already be in their hands. (Paragraph 142)

The Government takes seriously the potential risks of state regulation. The right of any individual or organisation to approach government on an issue of concern is essential to our democracy and important for good government. Regulation which might inhibit the legitimate exercise of this right must be avoided.

The possible risks of mandatory registration have been powerfully outlined by the CSPL. In its 6th Report, the Committee concluded that:

> "we believe that the amount of information that could be made available through a register would not be proportionate to the extra burden on all concerned of establishing and administering the system".

The Committee then went on to say:

> "such a system could give the erroneous impression that only 'registered lobbyists' offer an effective and proper route to MPs and Ministers".

The Government believes that effective voluntary self-regulation must be the preferred approach. The Committee has made a number of recommendations directed at the lobbying industry, calling for statutory regulation only if the industry fails to make credible improvements to voluntary self-regulation. The Government agrees that the industry should be allowed the opportunity to develop a system of voluntary self-regulation which commands the confidence of those in and outside the industry. In doing so, the Government will keep the issue under review to ensure that progress is made in developing an effective system of voluntary self-regulation.

Proposals for reform

25. What is clear is that reform is necessary. Lobbying the Government should, in a democracy, involve explicit agreement about the terms on which this lobbying is conducted. The result of doing nothing would be to increase public mistrust of Government, and to solidify the impression that Government listens to favoured groups – big business and party donors in particular – with far more attention than it gives others. Measures are needed:

- **To promote ethical behaviour by lobbyists, with the prospect of sanctions if rules are broken.**

- **To ensure that the process of lobbying takes place in as public a way as possible, subject to the maximum reasonable degree of transparency, and**

- **To make it harder for politicians and public servants to use the information and contacts they have built up in office as an inducement to other potential employers. (Paragraph 144)**

26. We do not believe that transparency requirements are ever likely to be enforceable through self-regulation. There may, however, be a role for a self-regulatory organisation in promoting ethical behaviour by those involved in lobbying. This will depend, however, on whether lobbyists are genuinely willing to be seen to be regulating themselves effectively. If they are, there are a number of simple and obvious steps that could take to improve the current situation:

i. **Establish a single umbrella organisation with both corporate and individual membership, in order to be able to cover all those who are involved in lobbying as a substantial part of their work.**

ii. **Ensure that people from outside the lobbying world with a track record in regulation and in business ethics are involved in running the organisation.**

iii. **Establish a clear separation between promoting and representing those involved in lobbying activity, and regulating that activity.**

iv. **Subject the standards of the members of the organisation to more rigorous scrutiny, including external validation. (Paragraph 145)**

27. The public affairs industry should institute an externally assessed validated standard – a kind of kite mark – which its members should be required to meet. The standard should integrate ethical issues, structural issues and service quality issues, all of which are interdependent. (Paragraph 145)

28. Such a standard would only be worthwhile if it were assessed and validated externally by a trusted body outside the industry, and if companies and individuals did on occasion fail the tests that were set. It would also only be of value if companies knew that there was a business advantage in achieving it or in employing people who had achieved it. (Paragraph 146)

29. We would not expect all of those individuals and groups involved in lobbying decision-makers to belong to this body. We would, however, expect all of those involved in lobbying decision-makers on a regular basis to perceive an overwhelming advantage in membership. This would include campaigning organisations and in-house corporate lobbyists as well as self-professed public affairs consultancies. (Paragraph 147)

30. The body's effectiveness would be judged in part by its readiness to sanction those who fail to meet its criteria. If the perceived advantage of membership is strong enough, suspension and expulsion will be powerful sanctions. In some circumstances other sanctions, including the power to fine and to 'name and shame' might also be needed. (Paragraph 148)

31. For the lobbying industry to implement these recommendations will require rivalries to be set aside in the interests of genuine joint commitment to effective self-regulation. This suggests an unprecedented unity of purpose. It may concentrate minds to consider the alternative. We recommend that the Government should allow six months following the publication of this Report to see whether concrete and consistent progress can be made. Failing this, we recommend that the Government should bring forward a short bill to provide in statute for the kind of organisation we have discussed above, to be funded by lobbyists. (Paragraph 149)

The Government agrees that lobbying in a democracy should take place on explicit and accepted terms. In relation to Ministers and civil servants, these activities are governed by the requirements of the *Ministerial Code* and the *Civil Service Code*.

It is, of course, for members of the lobbying and public affairs industry to respond on the detail of the Committee's proposals to improve voluntary self-regulation. However, the Government believes that these are helpful recommendations aimed at promoting ethical practice and greater public confidence in lobbyists.

The Government is encouraged by the efforts now being made by the industry to develop a single and credible regime of voluntary self-regulation. The industry has continually improved its disciplinary procedures over recent years, including through the greater use of independent figures of standing to consider and rule on possible breaches.

The Government urges the industry to embrace the opportunity provided by the Committee's Report. If a system of voluntary self-regulation can be made to work it would be a more proportionate and effective means of promoting the transparency and standards of conduct that should be expected of lobbyists without the potential risks associated with statutory regulation.

Mandatory register

32. While it would be of genuine interest to be able to see how much money is being targeted at particular lobbying campaigns, it is doubtful that it is possible to obtain reliable information of this kind through a register. (Paragraph 166)

33. It is important to start from first principles when deciding what information needs to be included in a register of lobbying activity in the United Kingdom and how this information should be gathered. (Paragraph 167)

34. We can identify five key principles for a register of lobbying activity:

a) it should be mandatory, in order to ensure as complete as possible an overview of activity.

b) It should cover all those outside the public sector involved in accessing and influencing public-sector decision makers, with exceptions in only a very limited set of circumstances.

c) It should be managed and enforced by a body independent both of Government and lobbyists.

d) It should include only information of genuine potential value to the general public, to others who might wish to lobby government, and to decision makers themselves.

e) It should include so far as possible information which is relatively straightforward to provide – ideally, information which would be collected for other purposes in any case. (Paragraph 168)

35. In our view, to meet the last two of these key principles, the following information would need to be provided:

a) the names of the individuals carrying out lobbying activity and of any organisation employing or hiring them, whether a consultancy, law firm, corporation or campaigning organisation.

b) In the case of multi-client companies, the names of their clients.

c) Information about any public office previously held by an individual lobbyist – essentially, excerpts from their career history.

d) A list of the relevant interests of decision makers within the public service (Ministers, senior civil servants and senior public servants) and summaries of their career histories outside the public service.

e) Information about contacts between lobbyists and decision makers – essentially, diary records and minutes of meetings. The aim would be to cover all meetings and conversations between decision makers and outside interests. (Paragraph 176)

36. We recommend that all multi-client organisations involved in public affairs should be required to publish in a timely and transparent way the names of all clients whose interests they represent to the government and other public bodies as well as all clients to which they give advice on how their interests would best be represented to the government and other public bodies. (Paragraph 178)

41. Our proposal for a mandatory register involves placing new obligations on individuals and organisations outside the public sector: it will therefore necessarily involve legislation, and cannot be implemented overnight. Experience from other jurisdictions suggests, however, that such registers can be made to work relatively swiftly and in the public interest, and that they do not act as a barrier to free communication between Government and the electorate. (Paragraph 188)

The Government agrees that any system of regulation, whether it is voluntary self-regulation or statutory regulation, requires a register of lobbyists to ensure that lobbying activity is transparent. The Government agrees with most of the elements for such a register outlined by the Committee.

However, the Government does not agree that such a register should include the private interests of Ministers and civil servants. This should not be a matter for a register of lobbyists. Ultimately, major decisions are taken by Ministers. Information about Ministers' relevant private interests is now published as well as information in the Registers of Members' and Peers' Interests. In addition, relevant interests' of departmental board members are also available publicly. However, the Government believes that the proposal

for a Register of the private interests of civil servants would be a disproportionate requirement that would place a significant burden on departments and agencies while adding very little to the regulation of lobbying. Both Ministers and civil servants are already subject to clear standards of conduct for dealing with lobbyists.

Hospitality and Gifts

12. The Ministerial Code requires adjustment to reflect the duty on Ministers to record within Government all offers of hospitality which a reasonable person might consider to have made to them in their capacity as Ministers. (Paragraph 83)

14. We see no reason why the principle-based approach to gifts and hospitality adopted by Departments could not be developed into central guidance, incorporating the flexibility required to allow offers from potential contractors and from foreign diplomats to be treated differently. (Paragraph 86)

15. We suspect that information on gifts and hospitality has not been kept across Government as rigorously as it might. (Paragraph 87)

37. Gifts and hospitality above a token value received by all Ministers and all civil servants should be recorded and made publicly available. The Cabinet Office should provide central direction to Departments and Agencies to ensure that consistent processes are being followed. (Paragraph 82)

Meetings

38. A first step towards greater transparency, and one that could be achieved without legislation, would be to publish routinely the information about ministerial and other high-level official meetings with outside interest groups which is currently produced only in response to specific FoI requests. (Paragraph 184)

42. There are also steps that the Government could take now and without legislation to make information about its meetings with outside interest groups publicly available. There is a perception that real government takes place behind closed doors. This may be partly because of media portrayal or innate distrust of those in power. But there seems to be a culture of secrecy in some parts of government beyond that which is strictly necessary, and beyond that seen in some other countries. Cultures and attitudes need to change. Government should and could be more open and more transparent about how it formulates policy and takes decisions. (Paragraph 189)

39. Lunches are the kinds of contacts which can be of as much potential concern as formal lobbying meetings on the record with business or other interest groups. (Paragraph 186)

40. We ask the Government to confirm that there remains a requirement to record meetings on the record with business or other interest groups. (Paragraph 187)

Both *the Ministerial Code* and the *Civil Service Code* clearly set out the standards of conduct and behaviour expected of Ministers and civil servants when it comes to the acceptance of gifts and hospitality. Section 7.20 of the *Ministerial Code* states:

> "It is a well established and recognised rule that no Minister should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation".

The standard set out in the *Civil Service Code* is expressed in similar terms and there is further detailed advice in departmental codes or guidance.

Ministers, as Members of Parliament, are already required to register the hospitality they accept over the Parliamentary threshold in the Register of Members' Interests or the Register of Peers' Interests. The Government accepts there would be merit in publishing details of hospitality received by Ministers in a ministerial capacity. It already does this in relation to gifts valued at more than £140 and will now do so in relation to hospitality received. Information will be published on-line by departments on a quarterly basis with effect from 1 October 2009.

In February 2009, for the first time ever, the Government published a list of hospitality received by Senior Civil Servants at departmental board level. In response to the Committee's recommendation, the Government agrees to extend the list's coverage to include hospitality received by all Senior Civil Servants at Director General level and above. This information will be published by departments on a quarterly basis and on-line. In addition, the list will also include expenses received by senior civil servants at Director General and above.

The Government agrees that it would be helpful for Departments and Agencies to be issued with guidance which sets out best practice for compliance with the principles based approach for the receipt of gifts and hospitality, as currently set out in the *Civil Service Code* and the *Civil Service Management Code*. This guidance has now been circulated to departments and a copy is submitted with this response at **Annex A**.

The Freedom of Information (FoI) Act has already achieved a great deal in opening up the work of government. It has given the public greater access to details of the interaction between government and outside interests. The Government agrees that as a further step towards greater transparency, department's will now publish on-line on a quarterly basis information about ministerial meetings with outside interest groups. This will be effective from 1 October 2009.

However, while all meetings are recorded, publishing information in respect of other high-level official meetings would involve collating a huge amount of information and divert significant resources within departments.

Government generally is more open and inclusive in the way it develops policy and takes decisions. Consultation is now a well established part of the policy making process. There is central guidance to help departments conduct helpful and meaningful consultation exercises and the principles of good consultation are set out in the Government's *Code of Practice on Consultation.*

The Government confirms that it is still a requirement for private offices to record meetings between Ministers and any external individuals or organisations. This requirement is clearly expressed in the *Guidance on the Management of Private Office*

Papers, National Archives guidance observed by all departments and published on The National Archives website.

List of Ministerial Interests

13. We welcome the proposal to publish a statement of Ministers' interests. We do not think, however, that an annual list is the best solution. Much of the information it contained might quickly become historic: even the names of some of the Ministers. We would prefer to see an outline register, which could be kept regularly updated. In our view, the register should be inclusive, not exclusive. It is not always clear in what capacity a Minister is acting: as a Minister, a Member of Parliament, a party politician, or a private individual. If in doubt, an interest should be included. The test needs to be whether a reasonable person could consider that an interest is relevant. (Paragraph 84)

The Government believes that publication of an annual statement of Ministers' relevant interests is an important step forward which has already increased transparency and confidence in the application of rules designed to prevent conflicts of interest. The interests included are those which are, or could reasonably be perceived to be directly relevant to Ministers' public duties. The *List of Ministers' Interests* will now be updated and published, on-line, every six months.

Business Appointment Rules / Advisory Committee

16. Part of the appeal of employing former Ministers is the perception accurate or not – that they will be able to offer access across government. This is particularly so when their party remains in government. (Paragraph 110)

43. There is a continuing need for a strong Advisory Committee to instil confidence both in the public and in those whose careers they can affect, that processes are followed and decisions taken both robustly and fairly. There would be benefit to having an Advisory Committee that was more representative of society at large. Under these circumstances, the Government should consider providing some remuneration to members of the Advisory Committee, and should seek a wider field of applicants than might have been the case in the past. (Paragraph 192)

44. We hope that, when they are appointed, the new chairman and members will undertake a thorough review of the Advisory Committee's internal processes, to ensure that their advice, particularly on lobbying, is as unambiguous as possible in its meaning, and to provide enough transparency to allow the public and media the opportunity to assess whether or not this advice has been followed. (Paragraph 193)

45. The new Advisory Committee also needs to be given the opportunity to review the Business Appointment Rules themselves. (Paragraph 194)

46. We are strongly concerned that, with the rules as loosely and as variously interpreted as they currently are, former Ministers in particular appear to be able to use with impunity contacts they built up as public servants to further a private interest. We think that this is unacceptable, particularly when they continue to be paid from the

public purse as sitting Members of Parliament. The rules need to reflect this. (Paragraph 195)

47. There are limits to how far this can be taken. It would not be desirable or in all probability legally possible to prevent a former health Minister from taking up a post elsewhere which took advantage of their expertise in health issues. What we would like to ensure, however, is that consistent rules are strictly applied so that former Ministers and other public servants are effectively prevented for an extended period of several years from using their contacts and sensitive information that they acquired in public office to further their own and others' private interests.

The Government would first like to put on record its gratitude to the members of the Advisory Committee on Business Appointments (ACoBA) for the important contribution they make to the maintenance of high standards in this area of public life, and in particular, in the case of the recently retired Members of the Committee, for their agreement to the Government's request to serve beyond the end of their terms of appointment pending the refreshment of the Committee membership.

The Government agrees that there is a continuing need for a strong ACoBA to reassure the public that there are no reasonable grounds for criticism about the propriety of appointments taken up by Ministers and Crown Servants when they leave public office. The Government believes the principles set out for this purpose in the *Guidelines for former Ministers and the Rules for Crown servants* remain the right ones, and that in the many cases on which it has advised within this framework the Advisory Committee has done its job very effectively. The Committee itself expressed this view in its report on the *Business Appointment Rules*, where the Committee concluded that there would be little benefit in changing the Advisory Committee's composition or its way of working (Conclusion and recommendation 10, 6th Report of Session 2006-07).

The recent refreshment of the Advisory Committee's membership provides an opportunity to recruit members from a wider field of candidates, subject to ensuring the necessary breadth and depth of expertise and experience to command confidence in the Committee's advice. The Government has recently appointed The Rt Hon Lord Lang of Monkton DL, Dame Juliet Wheldon DCB QC, The Rt Hon Lord Macdonald of Tradeston CBE, The Lord Dholakia OBE DL, Sir Colin Budd KCMG and, General The Lord Walker of Aldringham GCB CMG CBE DL. Lord Lang is currently acting as interim Chairman which is subject to the Public Administration Select Committee undertaking a pre-appointment hearing.

The Advisory Committee has to date, carried out its sometimes onerous work without payment, and the Government agrees it would now be appropriate to introduce some form of remuneration for the new Advisory Committee in recognition of the time it will need to commit to its work and to bring it in line with other independent advisory bodies, such as the House of Lords Appointments Commission. This will take the form of an honorarium.

The Government does not agree with the general assertion that former Ministers in particular are able to use improperly and with impunity contacts they have built up while in office. The Government agrees with the Committee that it would not be desirable to prevent former Ministers, or Crown servants, making use of their expertise once they leave office. It is in the country's interests that they should be able to use their skills and

experience in work outside Government provided there is no reasonable cause for concern about propriety when they take up such appointments. Nevertheless, the Government agrees that the *Guidelines for former Ministers and the Rules for Crown servants* (including the associated Guidance to Departments) need revision so as to bring them up-to-date and to ensure that they can be interpreted as unambiguously as possible. The Advisory Committee is an independent body, but the Government has no doubt that the new membership will wish to consider its procedures in the light of the Government's revised regulations on which it will consult the Advisory Committee in advance of publication.

The Government acknowledges the practical limitations, to which the Committee has drawn attention, in producing a fully comprehensive yet clear and unambiguous definition of lobbying. Any attempt to provide an exhaustive description would not be effective in defining precisely for regulatory purposes the kinds of activities that would subject a former Minister or Crown servant to restriction or a ban. Nevertheless, the Government agrees that the issue of lobbying needs to be addressed in the regulations that form the basis on which the Advisory Committee gives its advice, and will do so in the revision of them which it will undertake in consultation with the Advisory Committee.

The Government notes the Committee's view on the acceptability of former Ministers using their contacts to further a private interest while they continue to be paid as sitting Members of Parliament. This is a matter for Parliament itself to consider. The Standards and Privileges Committee in the House of Commons and the Sub-Committee on Lords Interests in the House of Lords are able to investigate and rule on the conduct of MPs and Peers respectively. The Committee on Standards in Public Life is currently undertaking an inquiry into MPs' allowances, including the issue of MPs holding second jobs.

48. Government needs to be aware of the scale of transfer into (and indeed from) specific businesses and sectors, so as to be able to take measures against the capture of the public interest by the interests of those businesses or that sector. (Paragraph 197)

Departments are aware of the levels of transfer into specific businesses and sectors, and where there might appear to be a problem, this would be investigated. However, the level of transfer between government and particular sectors does not of itself mean there is a problem. Indeed the Government is happy to see interchange as a common feature of public sector life. Provided that standards of propriety are properly observed, society benefits from the exchange of ideas and approaches and interchange helps to promote a more open culture in government. What matters is that the Business Appointment Rules are appropriately and effectively applied in each individual case to prevent improper personal gain or any business obtaining unfair advantage. The Advisory Committee also assesses samples of applications referred to the Committee's secretariat (who act on behalf of the Cabinet Office), in order to ensure consistency and effectiveness in advice given to departments.

ANNEX A

CIVIL SERVANTS RECEIVING HOSPITALITY

The Civil Service Code sets out the standards of behaviour expected of all civil servants. It applies to civil servants working in the UK Government and the Devolved Administrations.

The Code states that: **civil servants must not accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise their personal judgement or integrity**.

In addition, departments will also have their own internal rules and guidance.

It is widely recognised that it is important for civil servants to maintain and build effective networks in order to support the work of Departments, and to gain a real understanding of the views of stakeholders. However, contact with organisations outside government can give rise to offers of hospitality, and while accepting hospitality in certain circumstances may further the Government's interests this must be balanced with upholding high standards of propriety and guarding against any reasonable suspicion of perceived or actual conflicts of interest or an undue obligation being created.

The following should be considered before accepting hospitality:

Purpose

- Accepting hospitality should be in the interests of Departments and help further Government objectives.

Proportionality

- Any hospitality accepted should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation could lead to a perception that the work of the Department is being influenced by the objectives of a single organisation.
- On the same basis, any hospitality accepted should not seem lavish or disproportionate to the nature of the relationship you have with the provider.

Conflict of interest

- There are strict rules in place for those responsible for procurement or management of contracts, but even if you are not directly involved in financial, contractual or regulatory matters connected to the organisation, it is essential to consider the relationship the organisation has with Departments.
- You should consider whether the organisation is bidding for work or grants from Departments, or if it is under investigation or had criticism.

- You should also consider whether it is appropriate to accept hospitality from a source if it is also a taxpayer-funded organisation. All of the considerations above also apply before accepting gifts.

Recording hospitality

Staff, including those on short term or agency contracts, should record all instances of hospitality accepted from organisations outside of Government. This includes any instance involving a personal friend where the purpose of the hospitality was to cover business and/or was paid for by the individual's company expense account. When recording instances of hospitality, staff should also record whether they were accompanied by any guests at the expense of the source of the hospitality. There is no need to record minor refreshments or sandwich lunches.

In general, it is not necessary to record hospitality received from others within HM Government or the Devolved Administrations, the Palace, non-departmental public bodies and overseas governments. Hospitality received from universities, local authorities and police forces should be declared. More detailed guidance will be set out in departmental staff handbooks.

Audit

Accounting Officers should ensure records are maintained as and when hospitality is received, and that procedures are in place to review staff registers in order to assess compliance with the guidelines and gauge if there is potential for conflicts of interest to arise.

If you are uncertain about any of these issues, you should discuss them with your line manager and/or your HR Division. If you feel concerned that accepting an offer of hospitality could give rise to the perception of a conflict of interest, it would probably be best to decline. The Propriety and Ethics Team in the Cabinet Office can also provide further guidance on 020 7276 2471/2470.

Publication

The scope of the publication should include all Board Members, including Non-Executive Directors, and Director Generals to be published on a quarterly basis by Departments on their websites. The first quarterly report should cover the period 1 April to 30 June 2009.