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Accountable lobbying of Parliament

A reaction to the Select Committee Report on Lobbying in Whitehall;
supporting transparency and limiting opportunity for inappropriate lobbying

Brendan Whitty

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The One World Trust promotes education and research into changes required in global governance to achieve the eradication of poverty, injustice, environmental degradation and war. We develop recommendations on practical ways to make powerful organisations more accountable to the people they affect now and in the future, and how the rule of law can be applied to all. We educate political leaders, decision makers and opinion-formers about the findings of our research.

To contact the author please email
bwhitty@oneworldtrust.org

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3 Whitehall Court
London SW1A 2EL

Tel +44 (0) 20 7766 3470

Fax +44 (0) 20 7219 4879

Email info@oneworldtrust.org

www.oneworldtrust.org

Charity Commission No 210180

Accountable advocacy, research and lobbying is important for just and robust policy-making and legislation. The recent report of the Public Administration Select Committee “Lobbying: Access and Influence in Whitehall” considers options for regulating lobbying public bodies in the United Kingdom. At the same time a public debate has begun on ways to curtail potential paid-for influencing of legislative processes in the House of Lords through individual members, the definition of appropriate sanctions, who could apply these, and how.

To bolster standards of accountability amongst professional lobbyists, the Select Committee report identifies transparency and public utility as key principles to drive the definition of rules about lobbying and influencing Parliament. To achieve this, the Select Committee articulates the need for (1) a single umbrella group, that brings together on a voluntary basis all those who conduct lobbying activities in Parliament, and (2) a compulsory register of lobbying activities that allows public access and review of certain key information

The Select Committee’s main recommendations seek to strike a balance between the freedom to approach and lobby public institutions, and the prevention of abuse by bringing inappropriate access and influence to light. Research conducted and published by the One World Trust on accountability principles for think-tanks and other policy research organisations yields insights that may be helpful to close down gaps which remain in the Select Committee’s recommendations.

On the basis of this research we argue in this briefing that:

- Both multi-client professional political consultancies and non-profit organisations involved in lobbying should disclose their clients, most important donors and, if applicable, accurately describe scope and type of their claimed grassroots support;
- all statistics and supporting evidence used in lobbying should be cited formally and made directly or upon request available to the public; and
- an independent ombudsman should be created, whose function would be to supplement the powers of the umbrella group by offering a formal complaints handling and adjudication mechanism regarding irregularities in lobbying and other influences brought to bear on the legislative process, and who can advise parliamentary standards bodies on appropriate sanctions.

Accountability principles applied to lobbyists and campaigners

The One World Trust has formulated an integrated conception of accountability which has been developed for global organisations¹ and adapted to policy-relevant research organisations in our study of November 2008 “[Accountability Principles for Research Organisations](#)”². In the course of the work, the One World Trust applies four core principles: transparency, participation, evaluation and complaints-handling. We focus in this paper on the principles of transparency and ask what that means for lobbyists in the United Kingdom. Together with the conclusions of the Public Administration Select Committee in their 5 January 2009 report³, applying these principles will reduce the margin of opportunity for inappropriate lobbying activities by clarifying exactly the standards of ethics for lobbyists and ensuring that they are transparently adhered to by all lobbying and other special-interest groups. Furthermore, in the light of the still inconclusive reform of anti-corruption legislation in the UK⁴, the points explored in this paper may be helpful to find a way forward on other problematic practices involving the influencing of legislative processes, such as the recent “cash for legislation” allegations, which have visibly damaged the House of Lords’ reputation.

Supplementing the register: transparency in data and stakeholders

Research conducted by the One World Trust on the accountability of policy relevant research processes emphasises the importance of transparent relations between policy-makers and researchers for a robust policy process. It therefore concurs with the Select Committee’s conclusion that while a compulsory register of *lobbyists* may limit the ability of citizens to engage in Parliamentary affairs, and thus may impede an important aspect of democracy, introducing a register that requires information disclosure about lobbying *activities* will deter improper access and influence in Parliament.

The Select Committee recommends two principles which inform the information to be included in the register: one states that the register should “include only information of genuine potential interest to the general public, to others who might wish to lobby government, and to decision makers themselves”, while the other is concerned with feasibility: “[the register] should include so far as possible information which is relatively straightforward to provide”. In addition to the application of these principles as outlined by the Select Committee, we would suggest that they support the inclusion of additional information to that recommended in the Select Committee’s paper – two of which we now address.

Non-profits should be transparent too!

We believe that there is a key gap in the proposed register. It captures five key pieces of information, of which three relate to the important question of the relationship between lobbyist and the public decision maker. The remaining two focus on the stakeholders of the lobbyist: first, the “names of individuals carrying out lobbying activity and of any organisation hiring them”; and second, “in the case of multi-client consultancies, the names of their clients.”

¹ See One World Trust (2005): Pathways to Accountability. The Global Accountability Framework, One World Trust, London

² Available at

http://www.oneworldtrust.org/index.php?option=com_docman&task=doc_view&gid=213&tmpl=component&format=raw&Itemid=55

³ House of Commons, Public Administration Select Committee, *Lobbying: Access and influence in Whitehall*, First Report of Session 2008-09, Volume 1, HC 36-I.

⁴ The Draft Corruption Bill of 2003 and its legislative scrutiny involved significant discussions about parliamentary privilege and the use of parliamentary proceedings in Court. While no such privileges are proposed in the 2007 Bill [HL 126], the failure to conclude the process of legislation on this issue creates an unnecessary uncertainty for the appreciation of what constitutes the improper exercise of their function as members of both Houses in Parliament.

We argue that the requirement of naming clients and key stakeholders should go beyond simply multi-client consultancies, to include the disclosure of donors of non-profit organisations which engage in lobbying, including think-tanks and advocacy organisations. Lobbying is thus not the sole province of the professional political consultancy firms – the “lobbyists for hire”. Indeed, increasingly non-profits and single-interest groups are involved and influential in parliament, through provision of information and a variety of lobbying practices.⁵ Consider for example the case of the anti-obesity charity which lobbied parliament and accepted government funds as grants, but which also received substantial funds from a diet company.⁶ A list of their key donors contained in the register would ensure that possible conflicts of interests were brought to light. It would also reflect good practice rules within Parliament, such as the requirement that cross-party parliamentary groups both describe their purpose and disclose funding and other external support they may receive.

There is no reason why non-profits and charities should be less transparent than the lobbying firms. Indeed, there is need for greater scrutiny since the accountability profile of the non-profit organisation is often more complicated than that of a multi-client firm, whose accountability is mainly balanced between the duties owed to a specific client and to the public decision-maker. The One World Trust’s research supports the conclusion that non-profit advocacy organisations run the risk of being torn between accountability to three potentially conflicting external stakeholder groups: (1) the constituencies on whose behalf they claim to work and are lobbying (their ‘grassroots’), (2) their donors and (3) the decision makers whom they are seeking to convince.

Non-profits should therefore be transparent not only about their donors but also their grassroots support. We propose that information on both of these key stakeholders is put in the register. The Select Committee Report also isolates the danger of so-called astro-turfing, i.e. “fake” claims to have grass-roots support, yet no information about these stakeholders is captured by the proposed register. While we do not think that it would be appropriate to reveal specifics about individuals, we think claims to grassroots support should specify numbers of members – perhaps broken down by location – which should be subject to challenge.

Produce evidence used to support lobbying activities

The minutes and written evidence provided to the Select Committee rightly emphasise the value of lobbying as a means to collect information. Policy should be based on evidence, and lobbying is one important means for evidence to be brought to the attention of the decision makers. Not only is the democratic principle served by allowing all elements of society to engage in lobbying activities, but the policy ‘output’ will also be improved.

We therefore argue that the register should include full citations and if possible documentation of any evidence used to support lobbying activities. The inclusion of such supporting evidence meets both the principle of transparency, and that of public utility as identified by the Select Committee. Not only is this information a core element of evidence-based policy-making - it is also relatively straightforward to provide. The register already demands that minutes be taken, and this additional specification would thus not be onerous. We suggest that the additional information to be provided should for instance include statistics used to support the case, together where possible with citations referring the reader to the full data-sets and supporting analyses. To facilitate this we recommend that the electronic and web accessible register includes a function for uploading and viewing relevant

⁵ Dr Phil Parvin, *Friend or foe: Lobbying in the British Parliament* (2007) The Hansard Society: London.

⁶ The Independent on Sunday, Michael Gillard, 20 January 2008.

documents. Again, this builds on existing good practices within Parliament for the disclosure of full evidence given for instance in public hearings during legislative scrutiny processes.

Opponents to this suggestion may argue that some data is confidential or should not be available for other reasons. We would counter such arguments with the assertion that, insofar as an argument is being made to a public body that is seeking to make a decision which will affect the public, a strong presumption exists that in the interest of transparent policy-making such arguments should be supported by information that is publically available.

At the same time, our research on information disclosure and complaints handling in global organisations shows that not in all cases consensus will be achievable on issues of disclosure and the good practice to follow. First the boundaries between practices of information sharing, lobbying and influencing of legislative processes are to some extent fluid, and second in a competitive environment there may be commercial and political incentives to keep some information back, against the understanding of good practice by others. This brings us to our second set of recommendations – that there should be an ombudsman to whom complaints may be brought.

Adding bite: an independent ombudsman

At present, lobbying is more stringently regulated from the side of the lobbied – the activities of Government and the Houses of Parliament (see paragraph 67 of the PASC Report) – than it is from the side of the lobbyists. Public affairs agencies and lobbyists themselves are only self-regulated through three umbrella groups – the Association of Professional Political Consultants (APPC), the Public Relations Consultants Association (PRCA) and the Chartered Institute of Public Relations (CIPR – which alone of the three has a membership comprised of individuals). The Select Committee argues that since “[l]obbyists do not want their competitors to know the detail of how they go about their business... external coercion will be required” (para 43). Self-regulation, the Report argues, has in fact “led to very little regulation of any substance” (para 66).

Conversely, we take seriously the argument that too strict regulation will impair access to the Government and to the Parliament, and thus may impede the democratic principles which were brought up during oral evidence to the Committee⁷. Constraints on approaching public bodies should be limited. We therefore agree that there cannot be a compulsory member group for lobbyists. Yet the creation of a single umbrella group, for whom membership will be voluntary (para 145), will help to harmonise understandings of accountability requirements and the definition of good practice for self-regulation.

We remain concerned, however, that the reputation aspect may not be sufficient to provide incentives for membership of the organisation. Since regulation is a question of a business culture (which is notoriously difficult to change by top-down regulation) we question whether the business culture would change by virtue of a piece of regulation sufficiently and quickly enough to impel organisations and individuals to enrol. Moreover, there would inevitably be a number of organisations – those non-profits and corporations’ in-house lobbying teams – who may not consider themselves lobbyists, hence not become members and fall outside the umbrella group’s self-regulatory powers.

Since compulsory registration in the umbrella group is not an appropriate option for reasons of public access to public institutions, we instead argue that an independent ombudsman should be created who will be given the power to accept complaints about improper lobbying activities by anyone approaching Parliament, including non-members of the umbrella group.

⁷ House of Commons, Public Administration Select Committee, *Lobbying: Access and Influence in Whitehall*, First Report of Session 2008-09, Vol. II Oral and Written Evidence, HC 36-I, 5 January 2009, e.g. Ev 3.

Since the ombudsman's powers would be exercised over those lobbying Parliament, it would not interfere with the possibility of citizens to approach Whitehall, and yet at the same time it would bolster the transparency and accountability of lobbying. Complaints would also be acceptable over the content of the register, which we are concerned would remain unpoliced. The remit of the ombudsman would include challenges brought to information included in the register – and could ask, for example, for an organisation to substantiate claims as to grassroots support.

Conclusion and summary of recommendations

Accountable advocacy, research and lobbying is important for just and robust policy-making and legislative processes. Yet the current very open and largely unregulated practice of lobbying and access to Parliament involves challenges for realising transparency in the public policy and legislative process in terms of evidence that is brought to bear on the process, by whom, and on whose behalf. Knowledge of and public access to this information is critical to the integrity of Parliament and the important work its members do.

This paper builds on research conducted by the One World Trust on the accountability of policy oriented research, parliamentary oversight of policy processes and the accountability of global organisation. On this basis it seeks to complement the conclusions reached in a recent January 2009 report of the Public Administration Select Committee on "Lobbying: Access and Influence in Whitehall". Key issues raised in this paper may also be helpful to address the challenges that have emerged from the recent 'cash for legislation' allegations against some members of the House of Lords, and provide a further incentive for Parliament to progress with work on the Corruption Bill.

To address specifically the issue of regulating lobbying in Parliament, the One World Trust's research leads to the following recommendations:

- An independent ombudsman should be appointed who would have formal powers to process and investigate challenges and complaints brought before him/her, whether it be about information entered in the register or the conduct of lobbying, or other influences brought to bear on the legislative process, to adjudicate, and as a last resort recommend further investigation and sanctions by appropriate bodies.
- The register of lobbying activities proposed by the Select Committee should not be limited to activities conducted by multi-client consultancies but should also capture lobbying by the broader range of organisations and individuals involved in it such as non profits. Further, it should include information about the clients and, where applicable key donors, scope and type of claimed grassroots support.
- Lobbyists should include in the register the evidence they propose in support of their case, including statistics and citations produced in the course of their lobbying activities. Public access to these sources is vital for a transparent policy-formulation process.

The One World Trust is an independent think-tank that conducts research, develops recommendations and advocates for reform to make policy and decision-making processes in global governance. In addition to work conceptualising global and democratic accountability, the One World Trust also conducts practical research on Parliamentary oversight processes and the accountability of research organisations seeking to effect policy processes. The Executive Director of the One World Trust, Michael Hammer, acts as Honorary Clerk to the All Party Parliamentary Group for World Governance, which promotes discussions of Parliamentarians on issues of global governance and the reform of international organisations.
