

## Public Administration and Constitutional Affairs Committee

### Propriety of governance in light of Greensill

[justin.fisher@brunel.ac.uk](mailto:justin.fisher@brunel.ac.uk)

Justin Fisher is Professor of Political Science at Brunel University London. He was special advisor to the Public Administration Select Committee inquiry into lobbying in 2007/8, and was a witness to the Political and Constitutional Reform Select Committee hearing on the government's proposals on a statutory register of lobbyists in 2012. He also advised the Committee on Standards in Public Life on its response to the government's proposals on a statutory register of lobbyists in 2012. He was a member of the working party, which ultimately led to the establishment of the UK Public Affairs Council (UKPAC).

**May 2021**

---

What key aspects of lobbying omitted and, if so, how can they be addressed?  
Are the sanctions for those who breach the current rules sufficient?

#### Executive Summary

- Lobbying is a positive aspect of democratic life and is undertaken by a broad range of political actors – not just the private sector.
- The Register of Lobbyists covers only a tiny proportion of lobbying activity.
- There has been progress in self-regulation of lobbying conduct via the Public Affairs Code, but its coverage is far from complete.
- The Register of Lobbyists should be expanded to cover all professional lobbying activity.
- The existing Public Affairs Code should apply to all professional lobbyists.
- An independent self-regulatory body should be established to oversee and enforce the Public Affairs Code.
- Failure to establish such an independent body within a reasonable timeframe should result in statutory enforcement of the Public Affairs Code.

## 1. How should lobbying activity be regulated?

- 1.1 Lobbying is a positive aspect of democratic life. It provides a means by which interests can be represented to decision-makers, frequently provides specialist expertise which may otherwise be unavailable, and is a further link between civil society and the state.
- 1.2 Lobbying is undertaken by a broad range of political actors. In this and in other enquiries, there has been a tendency to focus only on lobbying as it relates to the private sector. Extensive lobbying also takes place in the charitable, not-for-profit, trade union, and public sectors. There are no good kinds or bad kinds of lobbyists – there are just lobbyists.
- 1.3 Like all political actors, such as political parties, lobbyists require a form of regulation to deliver transparency, high standards of conduct, and as with party finance regulation, seek to deliver an environment where relative wealth does not enjoy a disproportionate advantage.
- 1.4 The current system for the regulation of lobbying is a combination of statutory regulation (as delivered by the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014) and self-regulation through bodies such as the Public Affairs Board. Coverage of both – especially statutory regulation - is far from extensive, and the Greensill case has exposed the inadequacy of current arrangements.
- 1.5 Questions relating to the regulation of lobbying are not new. But, both government and the wider lobbying industry have failed to respond to them adequately.
- 1.6 I would recommend that the Committee re-examines the proposals made by the Public Administration Select Committee published in 2009.<sup>1</sup>
- 1.7 In respect of the regulation of lobbying, the committee considered the scope of who was regulated and whether any regulation should be delivered via self-regulation or by statutory means.
- 1.8 Its key recommendations in this respect were twofold. **First**, that there should be a single body to regulate the whole lobbying industry via a code of conduct. Such a body should be independent of the organisations that promote and represent those involved in lobbying activity. The committee's view was that the industry should be given the opportunity to create that body and bear the cost of its creation and maintenance. In the event of the failure of the industry to deliver a single body to enforce a code of conduct, the committee's recommendation was that statutory regulation should be introduced. **Second**, the committee recommended the creation of a body separate from both government and the industry to manage and enforce a register of all those involved in lobbying.

---

<sup>1</sup> Public Administration Selection Committee (2009)  
HC36-1 Available at: [Microsoft Word - CRC 3-12-08 - Final - Vol1 redone by PLO.doc \(parliament.uk\)](#)

- 1.9 While the lobbying industry has made some important progress on self-regulation, there has been a failure to deliver an independent industry-wide body. While the UK Public Affairs Council (UKPAC) was initially created in 2010, the Public Relations & Communications Association (PRCA) - then

those requiri

- 4.5 ***The case for statutory regulation*** is firstly, that the political activities of key actors in the democratic process are already regulated by law. Political parties are regulated by the Political Parties, Elections and Referendums Act (PPERA) and the Political Parties & Elections Act; trade unions are regulated by the Trade Union Act 1984 (superseded by the Trade Union and Labour Relations (Consolidation) Act 1992); companies are regulated by PERA and the Companies Act 1967 (superseded by the Companies Act 1989); 'third parties' are regulated by PERA and the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. It is therefore consistent that actors seeking to influence the policy process should themselves be subject to statutory regulation.
- 4.6 Existing self-regulation arguably has no effective sanction and only statutory regulation can guarantee appropriate standards of conduct as legal sanctions are available.
- 4.7 ***The case against statutory regulation*** is that it would require enforcement. While the Office of the Registrar of Consultant Lobbyists has now been established, the expansion of the register to include the whole industry would

- 5.3. An independent self-regulatory body should be established to oversee and enforce the Public Affairs Code.
- 5.4. Failure to establish such an independent body within a reasonable timeframe should result in statutory enforcement of the Public Affairs Code.