Committee on Standards in Public Life
Local government ethical standards consultation

Written evidence from Spinwatch and Unlock Democracy (May 2018)

Introduction

1. Over the past decade Spinwatch\(^1\) and Unlock Democracy\(^2\) have campaigned around the issue of lobbying: what we see as the growing influence of private interests on public decision-making in the UK and the impact that this is having on levels of public trust in government.

2. We have lobbied government on the subject and given evidence to a number of Parliamentary inquiries, including: the Public Administration Select Committee 2007-09 inquiry into lobbying; the same Committee’s inquiries into Business Appointment Rules in 2012 and 2016; Scotland’s Standards, Procedures and Public Appointments Committee 2014 inquiry into lobbying; as well as presenting evidence to the Committee on Standards in Public Life’s 2013 review of transparency around lobbying.

3. Our concerns apply as much to local government as they do to Westminster or Holyrood. The same issues – the influence of commercial lobbyists on decision-making, the so-called revolving door between public and private sectors, and the lack of transparency and public scrutiny over who is lobbying whom and for what – are having a detrimental impact at local council level too.

4. Recent media investigations have started to highlight these issues, which include:

- large numbers of sitting councillors working for firms that provide lobbying services to developers. An [investigation by the Guardian](https://www.theguardian.com/) newspaper found that 43 councillors in London alone work for communications consultancies specialising in securing planning permission.
- the frequent hospitality accepted by local councillors from property companies seeking favourable council decisions. Again, the Guardian exposed the excessive levels of hospitality lavished on one Westminster Councillor.
- local councillors moving from public office and almost straight into property firms with whom they previously had dealings, as was the case with the [former leader](https://www.haringey.gov.uk/) of Haringey Council.

5. We know from our work that these are not new, but rather longstanding issues, which are likely to receive further media attention. The problems exacerbated by local councillors becoming too cosy with developers now have national significance, the lack of affordable housing being the most pressing. We think the issue of lobbying by the property industry is central to your inquiry into local government ethical standards. The focus too often is exclusively on the registration of pecuniary interests and while this undoubtedly important and should be done better, we believe that the potential for

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\(^1\) Spinwatch campaigns for greater transparency in governance in the UK and EU. Spinwatch is a project of Public Interest Investigations, a not-for-profit company that investigates the way that the public relations and lobbying industries, in particular, distort public debate and undermine democracy.

\(^2\) Unlock Democracy is the UK’s leading campaigning organisation for democracy and constitutional reform. A grassroots movement, we are owned and run by our members. We exist to put power in the hands of the people. We believe that a vibrant and inclusive democracy makes everyone’s lives better.
conflicts of interest and the impact that this has on trust in public life is equally important. We welcome this opportunity to give evidence.

Questions

Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

6. The Localism Act 2011 introduced a system whereby every council is required to have a code of conduct and each is free to draft their own. We do not believe this is practicable and creates additional confusion for councillors and those wishing to scrutinise what they do. Under this system it is possible for someone to be elected to more than one body, a county and district council for example, representing broadly the same area. However they would be subject to two different codes of conduct and two different reporting regimes. This is not sustainable and does not build trust into the system.

7. We think that the existing standards system is not sufficient to ensure high standards of conduct by councillors. It allows certain behaviours that potentially damage public trust in local government. We have identified the key issues as:
   a. Potential conflicts of interest: councillors are currently permitted to work as lobbyists for property companies seeking to influence local government decisions. This includes councillors who sit on planning committees;
   b. Insufficient transparency: councillors’ registers of interests do not provide sufficient, timely, and reliably accurate information to allow proper public scrutiny of outside interests. The data is also not provided in machine readable formats, many are copies of handwritten entries making them difficult to effectively scrutinise;
   c. A culture of ‘wining and dining’: councillors are in some cases accepting excessive hospitality from developers;
   d. ‘Revolving door’: there are no checks on councillors, on leaving, moving into jobs with property companies, including positions in companies that they dealt with while in public office.

   What, if any, are the most significant gaps in the current ethical standards regime for local government?

8. We believe that the current standards regime can be strengthened in the following ways:
   a. Councillors who are simultaneously employed to influence the decisions of local government on behalf of property companies should be barred from having any involvement in decisions taken by their council that relate to planning, or land and property assets. This needs to be made more explicit as current, more general, codes of conduct are not preventing this from taking place.
   b. Councillors’ registers of interests must provide sufficient, timely and accurate information for local residents to be able to determine whether a conflict of interest exists. Specifically:
      i. Councillors must state clearly if they work in the property lobbying business.
      ii. Councillors must disclose any clients to whom they have personally provided lobbying services.
      iii. All lobbying firms that employ a local councillor must make public a list of current lobbying clients, which councillors must provide a link to on their registers of interests.
   c. Councils must take steps to change the culture where hospitality is used to curry favour with councillors by:
i. imposing a ban on councillors accepting excessive hospitality from property developers, or their representatives (above a reasonable threshold of, say, £20); and
ii. ensuring that councillors’ registers of hospitality are publicly available and up-to-date.

d. Councillors involved in planning must get approval, if they want to take a job in the property industry, from an independent body that has the power to impose restrictions on lobbying of former colleagues.

Codes of conduct

A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors’ interests. Are these requirements appropriate as they stand? If not, please say why.

Registration of hospitality and gifts

9. In addition to our concerns regarding the registration of councillors’ interests, which are outlined in next section, we would also like to highlight problems around the registration by councillors of hospitality and gifts.

10. It is our understanding that there is no longer a requirement for councillors to declare gifts and hospitality, and no legal requirement for councils to check whether any registers are updated.

11. This has led to enormous variation in transparency. Some councils do publish hospitality registers that shed some light on who is entertaining councillors. Other councils, however, produce registers that seem to have been either partially, or completely ignored by councillors and contain little or no information. An example of this is West Oxfordshire District Council’s registers where the entries of all 49 councillors are blank, including the council leader. Some councils have no hospitality registers at all.

Declaring interests and conflicts of interest

Are existing arrangements to declare councillors’ interests and manage conflicts of interest satisfactory? If not please say why.

12. We have a number of concerns regarding the current accuracy and usefulness of councillors’ registers of interests. The Localism Act 2011 was intended to strengthen the requirements on councillors to register and disclose pecuniary interests. We don’t believe that this has been the case in practice.

An unreliable record of outside interests

13. Registers of interests are often out-of-date, or do not give a full account of a councillor’s outside interests.

14. It would be too time consuming to know the exact extent of the problem, but take one council chosen at random, West Oxfordshire District Council, as an example. We found one councillor, again out of a random selection, who declares he is employed by a
company that he has not worked for five years; and another councillor who said he worked for a company that was dissolved three years ago. Both cases suggest that the registers have not been updated in some time. By looking at the professional networking site, LinkedIn, which often provides a more accurate account of a politician’s interests, we also found another councillor who has an outside interest in a company that is not declared on his council register at all. Insufficient information is available to determine whether a conflict of interest may exist.

15. The paucity of information provided on registers mean it is frequently impossible to gauge whether a councillor’s outside interest presents a conflict of interest. Some councillors working for property lobbying firms, for example, merely describe their employers as ‘communications consultancies’, or ‘consultancy firm’, which does not reveal the full nature of their business. An example of this would be a recent councillor on the planning committee of Watford Borough Council, who works for a leading property lobbying firm, which he describes in his register as simply a ‘communications agency’.

16. Other councillors provide only the name of their employer firm with no supporting information. There are very many cases of this, but taking one West Oxfordshire District Council councillor as an example: he states that he is managing director of a company, for which he provides only the company name. Look at its website, though, and you can see it is lobbying firm ‘specialising in planning and development’, which has worked on projects in the region, and that claims to be able to put property clients ‘in contact with the people who can directly influence the outcome of your planning application.’

17. As well as being unable to easily see if a councillor is a planning lobbyist, it is practically impossible to know who they are lobbying for. Some lobbying firms that specialise in property and planning do not publish a current client list, nor do they sign up to the various voluntary disclosure systems, where lobbying firms publish clients on a quarterly register. For example, one leading firm that is not signed up, publishes a list of 164 clients and former clients on its website, meaning there is no way a member of the public can find out which property interests it is currently acting for.

Recommendations for improving transparency

18. There are a few immediate steps that could be taken with regard to councillors’ registers of interest that would open up lobbying and increase public trust.

   a. Councillors should state clearly if they work in the property lobbying business. This would echo the requirement for MPs and Lords to provide a brief, but accurate description of their employers’ business in their registers of interests.
   b. Councillors must disclose any clients to whom they have personally provided lobbying services. Again, this is similar to the requirement for MPs and Lords to declare personal clients.
   c. All firms that provide lobbying services that employ a local councillor must make public a list of current lobbying clients, which councillors must provide a link to on their registers of interests. This would require firms that employ councillors to sign up to one of the industry bodies that oversee the voluntary registers, either the APPC, or PRCA.

19. In short, registers of interests should aim to provide sufficient, accurate and timely information for local residents to be able to determine whether a conflict of interest exists. Cases of good practice do already exist. For example, Isle of Wight Councillor,
Chris Whitehouse, who is chair of Whitehouse Consulting, a lobbying firm that has served property clients, provides a clear statement that he is a ‘public affairs consultant’ and includes in his register of interests a link to the industry register where people can view a ‘full list of recent clients’. This could easily be replicated across councils.

Improving standards

What steps could local authorities take to improve local government ethical standards?

20. As well as the recommendations above, we believe that improvements should be made in a number of key areas.

Bar councillor-lobbyists from any involvement in planning decisions

21. At a national level, conversations around elected members working as lobbyists have moved on significantly in recent years. Where twenty years ago the public tolerated MPs working for lobbying agencies, today it is deemed unacceptable and to a large extent, has stopped. We believe the same shift now needs to take place in local government.

22. We would like to see a ban on councillors working in the property lobbying industry. As a minimum, however, we think that such councillors should have no involvement in any decisions taken by their council that relate to planning, or land and property assets, whether or not they have clients that are lobbying their particular council. We believe this is necessary for three key reasons:

i) The potential for a direct conflict of interest

23. Under the current system, it is possible that a councillor might be employed by a property company to influence the decisions of the council on which they serve.

24. This is evidenced by the fact that the lobbying industry has put in place voluntary rules that bar such behaviours. The code of conduct of the lobbying industry body, Association of Professional Political Consultants (APPC), for example, includes a rule that prohibits councillor-lobbyists from working on a client project ‘of which the objective is to influence a decision of the local authority on which they serve.’ Some individual lobbying firms have adopted a similar rule, but in their own internal code of conduct.

25. We consider these self-regulatory measures to be wholly inadequate. However, the very fact that they exist, is an acknowledgment by the industry that such behaviour is possible, if not a tacit admission that it happens.

ii) Bias in favour of developers

26. We believe that councillors who work in the property lobbying industry are unlikely to be as even-handed as the job of councillor requires.

27. While an understanding of the needs of developers will be an asset to a councillor with planning responsibilities, someone whose livelihood comes from property companies may find themselves identifying with the needs of developers more than is healthy for a public servant.

iii) Large developers are privileged under the current system
28. A property company that hires a lobbying firm that is staffed by councillors and former councillors is buying itself advantage. This is openly acknowledged by the lobbying firms that market themselves on their insider knowledge of local government and networks of contacts. This privileges developers that can afford these services, and potentially disadvantages smaller firms and communities.

29. Excluding councillor-lobbyists from planning and property matters would start to address these three issues.

**Slow down the revolving door**

30. The other improvement in local government ethical standards we would like to see concerns the so called revolving door.

31. Property firms are able to gain advantage through the hiring of former councillors and council leaders. One specialist lobbying firm, for instance, employs two sitting councillors, two ex-council leaders, lots of ex-councillors and a former planning minister.

32. The revolving door between the private and public sectors creates the obvious potential for conflicts of interests. Might a councillor's future ambitions colour any current decisions they make? And when they do get a job outside local government, will they maintain close relationships with their former colleagues?

33. There are some controls on the revolving door in central government (not very good ones, but they're there). They require ministers and senior officials moving into the private sector to go through a committee that can then impose a ban on lobbying of former colleagues for up to two years.

34. We believe a similar, but preferably tougher, system should be introduced for council leaders and councillors with responsibility for planning and development.

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