

## EU TRANSPARENCY AND LOBBYING

### A UCL PUBLIC POLICY AND UCL EUROPEAN INSTITUTE EVENT

#### IN CONJUNCTION WITH THE EUROPEAN PARLIAMENT INFORMATION OFFICE IN THE UNITED KINGDOM

3 November 2011

UCL's public policy event on 'EU Transparency and Lobbying' was held on November 2011. **Diana Wallis** MEP was the keynote speaker. **Michael Shackleton** (Head of the European Parliament Information Office in the United Kingdom) acted as discussant. The event was chaired by Professor **David Coen** (UCL School of Public Policy).

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#### *Introductory remarks*

Professor **David Coen** introduced Diana Wallis with reference to her long-standing interest in democratic accountability and citizen's rights, and her role in pushing forward the European code of conduct on lobbying. Introducing Michael Shackleton, Professor Coen described his long-standing and extensive work in the European Parliament, including his role in negotiations between Parliament and Council and establishing europarlTV.

Professor Coen noted that the debate on lobbying and transparency was wider than EU institutions – for example, the Liam Fox affair in the UK had raised questions about the need to improve transparency in lobbying. Whilst there were perhaps fewer, or less visible, scandals in Brussels, lobbying was nevertheless very big business – there are around 20,000 lobbyists working in Brussels, which compares to around 20,000 EU functionaries, so there is almost parity between the two. About two thirds of lobbyists represent business- or firm-based groups.

The extent of lobbying in Europe therefore raises significant issues of equity, access and accountability. However, the input of legitimate interest groups into the political process forms an important part of policy development and it is important not to unnecessarily restrict this. As well as the challenges in making lobbying more transparent and accountable and in better understanding the lobbying footprint, there is also a tension between a voluntary or mandatory code of conduct.

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#### *Keynote address by Diana Wallis MEP*

**Diana Wallis** noted that the media spotlight had been on Europe over the last few weeks in the light of the crisis in the Eurozone. This highlighted that whatever is done at European level needs to be done in an open and transparent way so that citizens have confidence and trust in the process.

She discussed her specific role as Vice President of the European Parliament with the portfolio for transparency over the last five years. There has been significant evolution in Europe, especially the European Parliament, since the Lisbon Treaty. The Parliament now has far greater powers to influence the political process, so transparency is now even more important. Transparency is also

important for participatory democracy - citizens can only participate if they can see what is happening.

The European Commission launched its Transparency Initiative at the same time as the European Parliament was issuing a report into transparency. A joint working group between the Commission, Parliament and the Council on transparency issues was subsequently formed. The European Commission established a voluntary register for interest groups as part of its Transparency Initiative, which required that people trying to influence the policy process should register.

Following the establishment of the register, Parliamentary involvement meant that the initiative was widened beyond commercial lobbyists to involve all groups involved in the policy-making process, including lawyers, NGOs, think tanks, academics, churches, etc. The idea was for the register to be as wide as possible, so that all groups were part of an open process. This took a lot of negotiation! However, it was then possible to draw up a complete code of conduct for lobbyists: the end result wasn't a lobbying register but a Transparency Register, which covered both business and commercial lobbyists, and NGOs and other organisations. Although the Transparency Register remains voluntary, the issuing of access badges to the European Parliament requires registration. This means that an element of disclosure, agreement to a code of conduct, an appeals process and a form of sanction (removing access to Parliament) is ensured.

This represents huge progress, especially compared to the UK, where no such register exists for Westminster. However, challenges remain (for example, there are questions over adequate financial disclosure) and there is still a clear gap in terms of engaging the European Council. Although no one from the European Council attended meetings at the start of the transparency process, they have become more engaged and have given a declaration that they want to participate in future. (At the moment they are only observing, which is not satisfactory.)

The case of Liam Fox in the UK illustrates that people have right to know what national ministers doing in their role as members of European Council, when exercising a policy-making or legislative role in Europe. This issue is not adequately addressed in the UK or Brussels, but needs to be: British politicians should be answerable to British citizens for what doing in Brussels. If the Council joins the Transparency Initiative then the transparency register could be made mandatory.

Ms Wallis explained that the Transparency Register covers the interest group side of lobbying; the other side of the equation is MEPs. Whilst MEPs need interest group representatives to do their work and listen to a wide range of views, the process needs to be open, transparent and accountable, and with a balanced range of views feeding in. The working group is therefore now developing a draft code of conduct for MEPs which it is hoped will be enforced by January 2012. (Ms Wallis noted that when she had previously suggested a code of conduct for members around legislative transparency, she had originally been told that this was too complicated!)

The work on developing this examined existing codes of conduct in other national parliaments and is aiming to put European Parliament in leading position on transparency. The code of conduct should ensure better disclosure of conflicts of interest, past occupations, proper system of sanctions. However, Europe depends on each individual member state to sanction its own citizens and therefore its own MEPs. Parliament can only apply political sanctions; as one of these, Ms Wallis said that she would like to see list of offenders against the code published on the European Parliament website. She would like to also see a legislative footprint introduced in Europe – so that at the end of every legislative report is a list of lobby groups that have had contact and involvement. This could start with a voluntary process with the intention of setting a trend.

She concluded by stating that the Transparency Register puts the European Parliament in leadership position, with the code of conduct for MEPs soon to be enforced. The open question is over the European Council. Transparency promotes participatory democracy and confidence in law-making process, so continuing to make improvements is vital.

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## ***Discussant remarks: Michael Shackleton***

**Michael Shackleton** noted the significance of the adoption of the Lisbon Treaty for Europe, but also noted that, given the co-decision process was introduced in 1993, it had taken a long time to get to the current situation. Given the criticism of legislative procedure, why did member states agree to give Europe more powers?

He remarked that there was a history of European Parliament officials being seen to throw stones at the European Council, which has had unintended consequences. However, he noted that it was very uncomfortable for the Council to be constantly rebuked by Parliament over transparency and predicted that the Council will come on board with the Transparency Initiative (eventually and reluctantly!). In the meantime, he noted that both the European Council and Parliament have set up excellent register of documents to make them publicly available.

Mr Shackleton also discussed issues of different cultural understanding and attitudes to lobbying and transparency. For example, whilst French MEPs would acknowledge that lobbying may be useful, they consider it to be a necessary evil which gets in the way of the identification of a collective view. The attitude to what is reasonable behaviour and what is transparency is quite different among different national groups. For example, the Swedish concept of transparency is not about open meetings, but rather about having all documentation open and available. He also felt that the notion of the legislative footprint goes against the cultural assumptions of many MEPs. There are therefore additional challenges in the transparency agenda arising from different political cultures.

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## ***Discussion and Q&A session***

Questions raised in the discussion included:

- Why are lobbyists necessary? Are lobbyists tolerated to make up for a lack of resources within the European Parliament?
- Is Brussels in danger of becoming like Washington?
- Should the Transparency Register also include frequency of contact?
- What are the lessons from Europe for the UK?
- Is there a way to scrutinise MPs and EU officials once they've left office?
- What is the European Parliament's interpretation of a conflict of interest between legitimate activities outside parliament, and the role of an MEP?
- How extensive should the transparency initiative be – should it be extended not only to MEPs but other staff within the European Parliament?

The panel discussion suggested that lobbyists do play a useful role in European policy-making; transparency is important to ensure trust and accountability in the process.

It was noted that there are two key differences between the Washington and Brussels culture: firstly, there are not the same links between European policy-making and party political funding as in Washington (because funding is at national level in Europe); secondly, budget decisions are not taken in Europe so the voting on budget amendments that is so problematic in Washington doesn't apply.

A legislative footprint may be useful to individual MEPs because it would help them to ensure that they are getting a balanced view, including balancing local constituents' views with those of the Brussels lobby. However, there is certainly a balance to be struck in introducing a legislative footprint. Given that there is no government majority in the European Parliament, debate is more open and individual votes more significant than in the UK – the legislative footprint might enable greater understanding of who MEPs have seen and how they might have made their voting decisions.

The current Transparency Register was a work in progress, not an end point, so would no doubt continue to evolve to reflect additional concerns. Part of the process in Europe has been defining what lobbying is; Europe has gone from a lobbying register to the Transparency Register. For the Transparency Register to be successful, it needs to be all-encompassing; it is therefore important that Parliament ensures that its own institutions and processes are compliant and that what it asks for from other institutions it must be prepared to do itself.

The code of conduct for MEPs operates on the basis of disclosure, rather than banning particular activities. It is up to individual MEPs to resolve conflicts; there is an advisory committee who can provide advice on that. It was noted that Europe can't disrupt MEPs' mandate, which comes from their national country, so these issues have to be approached in a measured manner. MEPs' staff and secretariat staff on policy-making committees can also be subject to lobbying. Whilst the priority at the moment was transparency with regard to MEPs, in the future, it might be necessary to look at ways of protecting institutional staff.

Holding former MEPs and official to account for what they do afterwards is difficult; however the existing code of conduct is quite tough. The access badge for former MEPs cannot be used to gain access if they are employed by an interest group; that would require a different access badge as a lobbyist. This is a step in the right direction.