

## HEARING BRIEF INDEX

### Public Inquiry



### Operation Eclipse - E19/0471

#### Interviews with International Jurisdictions Folder

Page	Document Title
2	Transcript - Telephone interview with Office of the Commissioner of Lobbying Canada 21 August 2019
24	Transcript - Interview with Standards of Public Office Commission Ireland 30 July 2019
46	Transcript - Interview with Assistant Lobbying Registrar Scottish Parliament 12 July 2019

**Sensitive**

## INDEPENDENT COMMISSION AGAINST CORRUPTION

**RECORD OF TELEPHONE INTERVIEW BETWEEN LEWIS RANGOTT,  
EXECUTIVE DIRECTOR CORRUPTION PREVENTION OF THE INDEPENDENT  
COMMISSION AGAINST CORRUPTION (ICAC), LEVEL 7, 255 ELIZABETH  
STREET, SYDNEY AND NANCY BÉLANGER, COMMISSIONER, OFFICE OF THE  
COMMISSIONER OF LOBBYING OF CANADA AT 6:03, WEDNESDAY, 21<sup>ST</sup> OF  
AUGUST, 2019.**

**TIME: 06:03 (EASTERN STANDARD TIME AUSTRALIA)**

**PRESENT: VIA TELEPHONE LINK: NANCY BÉLANGER,  
COMMISSIONER AND DORIN PETRIU, SENIOR POLICY  
ANALYST, OFFICE OF THE COMMISSIONER OF LOBBYING  
OF CANADA**

**RANGOTT:** Okay, so we're recording. So my name's Lewis Rangott. I am an officer of the New South Wales Independent Commission Against Corruption. It's three minutes past six on the 21<sup>st</sup> of August here in Sydney, Australia and I am speaking with Commissioner Nancy Bélanger, the Commissioner of the Canadian Lobbying Commission and Dorin Petriu, the Senior Policy Analyst over there and in Canada it's a few minutes past four o'clock on the 20<sup>th</sup> of August. Commissioner and Dorin thank you very much for speaking with me.

**BÉLANGER:** You are certainly welcome.

**PETRIU:** You're welcome.

**RANGOTT:** Would, maybe we could just start, just for anyone that might be reading the transcription of this conversation maybe you could just introduce yourselves, your roles and give us a little bit of background about your Commission.

**BÉLANGER:** Certainly. My name is Nancy Bélanger and I've been Commissioner of this office since December 2017. So, while I've been in office for approximately 19, 20 some months, the Office was established back in 2008 as an independent office reporting directly to our Parliament. The Office was a requirement to register lobbying activities goes back at least 30 years and I will have Dorin give you some history if you wish. So, we have a legislation that has requirements for registration in certain circumstances, monthly reporting of discussions, communications that they have with a certain group of people in our Government. We also have a Code of Ethics for lobbyists and therefore that is my job - to regulate the lobbyists that are subject to our regime at the Federal level. So I'll pass it onto Dorin.

**PETRIU:** Okay, so I'll give you sort of the quick historical overview of the lobbying legislation at the Federal level in Canada. So the original Lobbyist Registration Act came into force in 1989 and essentially it was described

as the Business Card Registry so it was the registration of paid lobbyists and all they had to do was essentially provide like their business information, that's it. Over the years there were a few changes made but the next major milestone was 1997 when the Lobbyists Code of Conduct was introduced. And at that time there was an office called The Ethics Councillor who actually reported to the Prime Minister and the Ethics Councillor was in charge of making decisions about the registry and the Act. The next milestone from 1997 then ended up being in 2004. At that point the position of Ethics Councillor was changed and essentially the ethics aspect and the lobbying aspect were separated into two separate offices. So there was now a Registrar of Lobbyists that reported through the Registrar General of Canada and the Minister of Industry and at the same time there was a Conflict of Interest and Ethics Commissioner that is actually not in the Government per se but is under the House of Commons and that person is responsible for dealing with conflicts of interest and ethics for parliamentarians, for Members of Parliament and a number of their staff, as well as senior ranking public servants. Then in 2006 after an election, we had an overall umbrella legislation called The Federal Accountability Act, and it was under that umbrella that the Lobbying Act came into force on July 2<sup>nd</sup> 2008. And the Lobbying Act essentially added additional disclosure requirements introduced with the concept of "designated public service office holders" for senior public office holders. It also added the requirement to report on arranged communications with those public office holders on a monthly basis. So that's, there are more details if you want to. I could probably, they are on our website or I can just send them to you by email. But does that (unintelligible)

RANGOTT: Hmm. No that's very helpful, thank you. One of the things that we are interested in is whether, and I can tell from your explanation that there was some gradual implementation of some reforms. Was there a, did this come out of some sort of crisis in trust in Government or what do you think caused these reforms?

PETRIU: Oh, in terms of some of the reforms. I think that some of them were actually incremental reforms as different governments came in and, you know, probably new governments come in thinking that they are going to outdo the previous government and be more strict. Honestly, there seems to have also been a parallel move I would say worldwide if you look at the OECD and their kind of advice about lobbying registration and transparency, so it was moving with the times. Now in terms of (unintelligible), the 2015 Federal Accountability Act happened to be one of the major kind of platform points for the incoming government of the time. That was the impetus for that. And in 2004 when the offices were split for the lobbying and for the ethics that was following a previous Federal Court of Appeal decision where a civil society group had essentially complained that there was institutional bias by having the same person adjudicate whether complaints against lobbyists as well as complaints against the public office holders.

RANGOTT: Ah-ha, got it, very interesting. Thank you. Commissioner and Dorin, we are interested maybe you can, I will ask a series of questions around and what you are saying are the problem areas in your work. I suppose perhaps a logical place to start is if you can describe some of the lobbying activity

that you see that might be categorised as either non-compliant or improper or somehow harmful.

BÉLANGER: Well I'll start by saying that our regime does not regulate the content, the substance, the validity, the justiciability of actual interest at issue.

5 RANGOTT: Hmm.

10 BÉLANGER: We're not there to judge the quality of the lobbying. Our Act is very much about ensuring transparency and therefore if you are going to be communicating with a government official you must be transparent. In other words you need to register, there are timelines to register and then you need to give us the details if you meet the criteria about certain discussions. That's our legislation and then the legislation allows us to develop a Code of Conduct.

RANGOTT: Hmm.

15 BÉLANGER: For the ethical side. So we have developed a Code of Conduct, which is not in our statute, that we regulate as well. The Code of Conduct, you may have had the chance to review it, but it's really about both ensuring that the lobbyists don't put our public service office holders in a conflict of interest situation creating a sense of obligation of any shape or form, using insider information inappropriately, political activities getting involved in that and then turning around and trying to lobby the person you helped get elected. So that's the, that's the flipside. So there's statutory obligations and that we know that the requirement to register and to give us these monthly communication reports are actual offences under the Act. So if I come across information that they have not been advised for I investigate, but then I must suspend and send to our Royal Mounted Police – RCMP  
—

RANGOTT: Okay.

30 BÉLANGER: — Our Federal police authority. And so the type of non-compliance we see is about having lobbied without being registered and if that is the case, we forward that information to the RCMP. As for timeliness I would say we deal with those mainly administratively. Usually the information comes in it's a volunteer basis, it is voluntary disclosures that they are late: "I'm sorry I'm five days late. I was away on holidays". We accept that, we don't send that to the RCMP.

35 RANGOTT: Sure.

BÉLANGER: The other type of compliance then again is with respect to the Code. If I investigate a Code issue then I report to Parliament on those. So it is really two streams of compliance issues.

40 RANGOTT: Good. I have had the benefit of reading some of your reports on your website and they have been very helpful to us.

BÉLANGER: Okay.

45 RANGOTT: I suppose the follow up question is, do people complain to your Commission about problems that they see with this lack of transparency that you described. People running around doing lobbying without being registered, have people complained to your office?

- 5 BÉLANGER: They do, yes, absolutely. We will receive a complaint about unregistered lobbying whether or not those individuals were in fact lobbying in accordance with the definition of our Act is another issue, so we will need to investigate both. But we do receive complaints from civil societies interests, public interest groups. We will receive complaints from Members of Parliament and sometimes from other lobbyists who are possibly are competitors of each other.
- RANGOTT: Sure.
- BÉLANGER: And then we look into that.
- 10 RANGOTT: Yeah.
- PETRIU: Or it could be lobbyists that happen to be very ethical.
- BÉLANGER: Very ethical, absolutely.
- RANGOTT: Okay, yeah.
- 15 PETRIU: I don't know if you are aware there is a concern on the lobbyist side that their activity or profession if you want is not seen very highly.
- RANGOTT: Hmm.
- PETRIU: So there are some who are very actually interested in making sure that not only they act ethically but everybody else does too because, you know, because like one bad apple gives everybody a bad name.
- 20 RANGOTT: Hmmm.
- PETRIU: Sometimes (unintelligible) it could be other lobbyists as well who disclose, sort of like non-disclosure to us.
- BÉLANGER: Yes, absolutely.
- 25 RANGOTT: I understand in addition to maybe receiving some complaints, you also do some follow up work with public officials to verify that, for instance the communication reports that lobbyists file are correct and that the paperwork is in order?
- BÉLANGER: Yes, we absolutely do that. Monthly, we select or target a certain group or a certain issue. We do it very much.
- 30 PETRIU: On average it ends up being we actually verify a 5% sample of —
- BÉLANGER: Of the group of the lobbyists.
- RANGOTT: Hmm that's very good.
- PETRIU: Last year what we have done is we've actually moved towards automating of the process. So it's —
- 35 BÉLANGER: It makes it easier, it used to be the public office holder would be receiving letters of information asking if it was accurate and they would have to respond to that, but now they automatically receive what is like a copy of what is on the registry and we ask them to verify the accuracy of the information.
- 40 PETRIU: And they can do it online.

- BÉLANGER: And they can do it online and we're very pleased to see that the percentage of accuracy is quite high actually, so it's in the 90s. I think it's 94% accurate.
- RANGOTT: Okay, excellent.
- 5 BÉLANGER: And when it's not, there are very minor errors - a title of someone is wrong or it indicates that someone was in a room when in fact they weren't. They are very minor errors.
- RANGOTT: Hmm.
- 10 PETRIU: And also we do have the, in terms of the errors, a large of category is actually what we call over-reporting where the lobbyists are not entirely sure, they don't know if, you know, the senior advisor is actually a designated public office holder or not and they err on the side of transparency and they actually do report it.
- 15 RANGOTT: Hmm. Hmm. So part of your work is verifying whether information and communication reports are correct but also I suppose if someone complains that there is a lack of transparency, something hasn't been disclosed, you can then verify did this communication take place, yes or no?
- 20 BÉLANGER: Yes, absolutely. In fact if it's not, if it has not been disclosed on the registry, then it would be some form of a compliance activity, like an investigation function that would kick in to go verify with public office holders or with other witnesses whether or not this communication occurred or not.
- 25 RANGOTT: Hmm, okay. Can I move on? I was speaking with some lobbyists in Australia and we have started to develop this distinction between a professional lobbyist and you might call it an amateur lobbyist. I suppose the professionals, they call themselves a government relations professional and they do lobbying as their full time job and the amateurs might be more the type who they lobby from time to time usually about selective interests and they don't understand perhaps the system so well. If you can accept that distinction between the professional and amateur, do you see differences in compliance and behaviour around those two classes?
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- BÉLANGER: Well, our legislation requires that in order for the Act to apply to them they are a paid lobbyist.
- 35 RANGOTT: Hmm.
- BÉLANGER: So the position that we would take, I think, here in Canada is that everyone who is paid to lobby, whether they are an in-house organisation and therefore do it less often versus someone who has that as their fulltime job as a consultant, we'd argue that they are all professional.
- 40 RANGOTT: Yes.
- BÉLANGER: And anyway, I think the distinction between amateur and professional would not necessarily apply in light of the requirements of the Act. Having said that, obviously there are some that are more experienced than others.
- RANGOTT: Hmm.

- 5           BÉLANGER:           And those that are experienced know the rules and play by the rules. From the 18 to 20 months I've been here I have found that the lobbyists that I have met want to abide by the rules and I would also say those that do it less often may be those that are sometimes late because they did not understand the timeline requirements. But they do call in and they do want to abide and they will ask for an information session and we are often invited to go and speak to organisations so that they understand the requirements to make sure they abide. So I don't know that we could identify really a distinction between the two. I don't know Dorin if you agree with me but I don't know that we could categorise —
- 10           PETRIU:           Yeah, I think, essentially, it's more, it's less professional versus amateur, although as you said more frequent versus less frequent lobbying. And if there does seem to be kind of an inverse relationship between or actually a relationship between frequency and being aware of the timelines and everything else. It is not necessarily that people are refusing to register. Now having said that, my understanding is that historically, especially when the legislation was being established that there were groups who did actually say, you know, for example, "we're lawyers" or "we're engineers", "we should be able to communicate but it's not lobbying". But that kind of distinction never made it into law and from what I'm aware of I don't believe any of our provincial or municipal counterparts made that kind of legislation either. So I think with the benefit of time some of those, what you would call amateur ones have come to realise that if you're paid and you communicate with Government that's —
- 15           BÉLANGER:           Right.
- 20           RANGOTT:           You're captured.
- 25           PETRIU:           — of lobbying. But if you don't have the system in place, I can see how at the outset you might hear grumbling from some people that "wait a minute I'm not a lobbyist".
- 30           RANGOTT:           Yeah, so it might just be a function of your more mature system compared to ours which is less developed.
- 35           BÉLANGER:           Possibly.
- 40           PETRIU:           (unintelligible) it does seem to help to accept some of these norms.
- 45           RANGOTT:           Excellent. Can I ask about, another question around administrative compliance. A number of the lobbyists have said to us, and obviously we have a Federal system here in Australia the same as yours. So we've got six States and one Commonwealth Government and every state has something like a lobbyist register and they are all a little bit different. And so some lobbyists that operate across the country complain to us that they have to register six times in six different ways or seven times in seven different ways and I just wondered whether you, if that problem has arisen in your jurisdiction as well and whether you have been able to confront it in some way?
- BÉLANGER:           Well I think that is probably a concern for many a lobbyist who happen to register in more than one province. We have ten provinces, a number of territories plus the federal jurisdiction so that I would argue, I would say that the requirements are similar but not always the same. I am sure that in



5 an ideal world all lobbyists would like to have a harmonised regime, but that would have to come from our, you know, our House of Commons and our provincial and territorial legislature. We don't control what is in this legislation, so unfortunately we do not have a harmonised regime. What I will say though is that my counterparts, we meet regularly. We share information to the extent that it's information that we can share while ensuring privacy. But we do share best practices, we look at certain requirements and how the certain language of the law that is similar, how it is interpreted to try, as much as possible to have a consistent approach in the application - but only to the extent that it's possible because we all are all independent in how we interpret and apply our respective regimes.

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RANGOTT: Hmm. Excellent. Thank you. And so based on what you have just said and I think on some of your earlier answers can I assume that there is a reasonable amount of compliance so the administrative burden of complying with your system doesn't seem to prevent compliance, does that seem right?

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BÉLANGER: I would say so. I would actually say that most lobbyists don't think that the burden is - maybe at the beginning - but I think that maybe they have become accustomed to it. There is really no, I haven't heard complaints about administrative burden on the requirements.

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PETRIU: I've been working at the office for seven years and when I started I had heard of historical complaints, but even then it did seem like it was minor. I think it was mostly some grumbling in the first year or two because of these monthly communication reports were a new feature that had not been required at all.

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RANGOTT: Yeah.

PETRIU: So all of a sudden I think it was less the administrative burden as much as, "you mean I have to pay attention monthly instead of every six months?"

RANGOTT: Hmm. Okay, got it. Well I might ask about those communication reports and I have looked at your website and I have a sense of them but maybe just for the benefit of anyone that might be reading the transcript of our conversation, maybe you could tell us a little about what a communication report is and what goes into them?

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BÉLANGER: Well in a nutshell, on the 15th of the month following the occurrence of the communication, the lobbyists must insert in our registry the name of the designated public office holder with whom they met, the date, and then they have to put a subject matter and it's a predetermined list. And this requirement only occurs if it was a person other than the public office holder who arranged the meeting. So, in other words, it is likely someone in the lobbyist's office who asked for this meeting to be arranged. The meeting was arranged in advance and it was oral.

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RANGOTT: Hmm.

BÉLANGER: So it is either a telephone call or an in person meeting really.

RANGOTT: Yeah.



- BÉLANGER: And arranged in advance, so this has caused some discussions in Canada about having been arranged in advance. So a chance meeting on the street would not bring up the requirement to register this communication.
- RANGOTT: No, no.
- 5 PETRIU: However, a chance meeting on the street where you agreed that you were going to see each other in five minutes at the coffee shop.
- BÉLANGER: That would require a report.
- PETRIU: That would be arranged.
- 10 RANGOTT: Okay, okay, got it. So it would capture, at least some of those casual interactions.
- PETRIU: Most likely it could, although, from what we understand is because these are the senior public office holders, not, not much of real substance is discussed at those casual interactions. Most of the time when they are arranged, they arrange meetings.
- 15 RANGOTT: Yeah. So they are low risk and immaterial, is that a reasonable summary?
- BÉLANGER: The ones that are not required I can't confirm that they would be lower risk. I mean if you end up sitting at the airport lobby for an hour waiting for a plane and you happen to sit with the Minister and happen to lobby them, there may be some circumstances in which there is substance discussed. So it is case by case, but for now they have to be arranged in advance to trigger the requirement to register.
- 20 RANGOTT: Yes. Understand. Good. One of the things that's arisen here in Australia is that some lobbying activity there's claims that its commercial in confidence or lobbyists are worried that too much of the content of their discussions become public which will become damaging to their interests or their client's interests. Does your regime have any sort of exemptions or ways of dealing with claims of commercial in confidence information?
- 25 BÉLANGER: No. No. They have to register the communication and its subject matter. It is not as if the full content of the discussion and the briefing is on our registry, there are subject matters.
- 30 RANGOTT: Yeah.
- PETRIU: And the question has been asked a couple of times a few years ago and ultimately our office basically said that this was something that was raised when the legislation was made and if Parliament did not see it fit to make such an exception then Parliament probably did not intend for it to be such an exception.
- 35 RANGOTT: Hmm mm and if for instance in one of these communication reports the description of the lobbying activity is just too vague or too imprecise do you have powers to correct the record or to provide additional detail?
- 40 BÉLANGER: Well that's interesting, the Commissioner, has the power to seek clarification on the information that is provided on the registry. But I can't order information to be added on or any new information or a new category of information. So I could seek clarification, yes, of the information that is submitted on the registry if it is unclear and not precise and can lead to confusion (unintelligible)
- 45

RANGOTT: Okay.

PETRIU: Excuse me. I think the difference that sometimes it can be difficult to explain is that most of the detail about the lobbying is actually in the registration not the monthly communication reports. So the registration would have details, for example, along the lines of, you know, you're lobbying on topic A and there is, you know, is there actually like a bill currently being considered or are these regulations, you know, are you talking to departments about their obligations or regulations or, you know, what kind of policies or programs are involved and that registration itself normally has a decent amount of detail. But because the monthly communication reports are, you know, they do have to provide the name of the public official, their title, their department and also the subject matter as well and because they quite often, I think it would not be wrong to say that it was meant to be a lighter form of reporting and that's, that's sort of like what makes it like we don't get a lot of complaints from these things. You know, if you have a five minute meeting that takes 20 minutes to provide a transcript or that sort of thing and there was not —

BÉLANGER: That was the intent , the balance.

RANGOTT: So if a company for instance that had like a pharmaceutical company that was trying to get a particular drug authorised by the Federal Government they could lawfully comply and say I've had a meeting about a new drug but they wouldn't have to go into the details of their intellectual property for instance and they can still comply with the law.

PETRIU: Well the registration would have to include something about we're talking to the government and maybe Health Canada about the approval of a drug or a pharmaceutical.

RANGOTT: Hmm.

PETRIU: Now but when they had the meeting itself they could actually say that the topic is health and intellectual property.

RANGOTT: Yes.

PETRIU: The topics are pretty high level and as we said the topics are actually prescribed in the regulations. So we didn't choose them, they're what's in the regs.

RANGOTT: Yes there's a drop down list or something they select from when they —

BÉLANGER: Yes.

RANGOTT: Okay, excellent, thank you. I would like to ask a little bit about what I think is referred to as your "20% rule".

BÉLANGER: Hmm mm.

RANGOTT: Can maybe you just explain what the 20% rule is?

BÉLANGER: Well, in our legislation, in house lobbyists must register if the significant part of duty of one or more than one amounts to — Well actually you have to register if lobbying is a significant part of their duties.

RANGOTT: Hmm.

BÉLANGER: That's it. Our legislation does not talk about a 20% rule.

RANGOTT: Okay.

BÉLANGER: It is the interpretation that has been given to that legislation where if that amount of significant part of duties equals 20% for one or more than one employee then you have the obligation to register. The 20% is really a self-made interpretation that has stemmed from what I can understand, even going back to the US. It's a language that's been used elsewhere and 20% has been sort of the norm which my predecessor and likely before that they adopted the 20% rule but the actual legislation does not talk about 20%, it talks about significant part of duties. Now at the Federal level we have applied it as a percentage, however in the provinces some of the jurisdictions interpret the language in hours.

RANGOTT: Yes, okay.

BÉLANGER: And we've been, we've been told that it is somewhat easier for lobbyists to understand or interpret and for the regulators to apply.

RANGOTT: Yes. Yes.

BÉLANGER: (unintelligible)

RANGOTT: And that 20% is that 20% over the year for one person?

PETRIU: No, no. So in terms of the interpretation of the 20%, which is on the website as well I can send you the link, it actually has to do with 20% of the time that a regular full time employee would have spent over a month.

RANGOTT: A month, okay, okay.

BÉLANGER: A month, yes.

RANGOTT: I was going to ask about how it would apply. For example we have, you know, in my state for instance you might have a single piece of legislation that comes and there is furious lobbying for two weeks which would exceed the 20% rule if it's applied over a month but it wouldn't exceed the 20% rule if it is applied over a year. So what I think you are saying is it's 20% over a month.

PETRIU: Well you would be, yes, you would be, you spend or your organisation. It is actually if you're an organisation or corporation, because if you're a consultant lobbyist it doesn't matter how much of the time you do it. There's no, there's no —

BÉLANGER: Threshold yes.

PETRIU: — no threshold. So if you're a lobbyist for hire then you register at the moment that you have a client. So the way it would work is yes, if we take your organisation and you take everybody's activities — yours, your colleagues, you know, maybe you have some people who do research and even if it's just you and you spend a few hours travelling back and forth to make it to the legislature. If all that adds up to what would be 20% of a single employee's regular hours over the month then the organisation has to register.

RANGOTT: Hmm.

- PETRIU: Now if that stops the next month, after another month you could actually come back and say “I’ve stopped lobbying” and you could terminate your registration.
- 5 RANGOTT: Okay, good, good. And let’s just say, for instance, there’s an organisation with an in-house lobbyist who meets that 20% rule and someone else in the organisation, for instance, the CEO goes and has a meeting with a designated official, does that meeting need to be made the subject of a communication report?
- 10 PETRIU: Actually if it was made in advance and it was about one of these subjects that does require registration, yes. So the CEO is responsible to register on behalf of the entire organisation or corporation and the CEO is also actually responsible to report all of the meetings that any of his employees may have had. So one of the things that sometimes there’s a bit of a misunderstanding in the way these communication reports, at our end is
- 15 at least in one of them you will see it is associated with the name of what is essentially the CEO. But that doesn’t mean that —
- BÉLANGER: The CEO was present.
- PETRIU: — the CEO was present.
- RANGOTT: Yes.
- 20 PETRIU: It doesn’t mean that the CEO wasn’t present. Actually, we only require the disclosure of the public office holders, not the employees.
- RANGOTT: Yeah.
- PETRIU: The reports won’t actually tell you who was there on the lobbyist side of things.
- 25 RANGOTT: Yeah okay. Okay and so but nonetheless if my interpretation is correct if just one employee meets that 20% rule then the whole entity and all of its activities, even if all those individual activities might not —
- PETRIU: Actually it’s all the individual activities all over the organisation. If you were to add them all up and they would amount to 20% of a fulltime employee, even though they are done by 50 different people.
- 30 BÉLANGER: (unintelligible)
- PETRIU: So it’s not an individual 20 (unintelligible) it’s a collective.
- RANGOTT: Yes, okay, okay, I understand now. So you couldn’t game the system by having lots of lobbyists sitting at 19% for instance that wouldn’t work?
- 35 PETRIU: No.
- BÉLANGER: No. No. We have a very good guidance document explaining all the elements for reporting. We can make sure that you get a copy. We even include travel time if you have to go somewhere. But the 20% is not difficult to meet if you’re on a particular project —
- 40 RANGOTT: Hmm.
- PETRIU: — of interest to your organisation.

- RANGOTT: Yes so we're actively thinking about the need to expand our register which is just for what you would I think would call consultant lobbyists to in house and we are just trying to think through the challenges of making that work.
- 5 BÉLANGER: Hmm mm yes and the 20% rule is definitely a challenge.
- PETRIU: In a nutshell, part of the problem seems to be it requires the CEO, for example, to keep track of everybody's time, add it all up and then say "okay over the course of the past month, do all of those hours together come up to 20% of a fulltime employee" in whatever their particular work week would be. So if it is 40 hours then, you know essentially do they amount to more than 32 and (unintelligible) a month hours.
- 10
- RANGOTT: Hmm. I presume that if you had some complaint or some intelligence that there was an organisation out there that was unregistered but was on the brink of exceeding this 20% rule you could intervene and call them and remind them of their responsibilities?
- 15
- BÉLANGER: Yes, well we have. If there are some complaints about someone not registered because they're of the view they don't meet the 20% threshold, we would investigate.
- RANGOTT: Hmm.
- 20 BÉLANGER: Because in fact if we found that they did meet the 20%, we would then send that to the RCMP because they would technically be doing unregistered lobbying.
- RANGOTT: And they would be breaking the law in Canada.
- BÉLANGER: Exactly, yes.
- 25 RANGOTT: Okay. I suppose one of the things that we, again, I'm just sort of trying to think of us, you think of you when you were first starting off, we'd have a bit of a campaign that we would have to do to introduce this law. Can you tell me a little bit about how you educate the community about the rule and people how they might be on the brink of the 20% rule and their obligations?
- 30
- BÉLANGER: I'm very much pro-outreach. So we obviously have information on our website. We have proactively reached out to organisations, corporations, anyone who possibly can hire in house lobbyists. We also look at the, you know, the topic and the priorities of the day. For a while we had, you know, how cannabis became legal in Canada, so we reached out to organisations or corporations that might have been lobbying on the issue. We accept every invitation that we get to be able to reach out and to make presentations. I would also say that we have accepted media interviews the moment that we can and we always take an opportunity to, you know, remind everyone of the obligations for the 20%.
- 35
- 40 RANGOTT: Hmm, good. No I think we'd have to do something similar to make it work here.
- BÉLANGER: Yeah.
- PETRIU: So, the interesting thing is, however, getting back to the fact that 20% is actually not part of our Act.
- 45

- BÉLANGER: It's catchy.
- PETRIU: It's a catchy shorthand that we even use it internally as well.
- BÉLANGER: And we shouldn't be. Yes.
- 5 PETRIU: Even we, actually, and it's catchy, and kind of it's become accepted, but really we should be going around basically it's part of duties, part of duties.
- BÉLANGER: Yes and I am on the record in front of Parliament to say that should our Act ever be open for consultation on amendments, I would certainly be recommending that the 20% significant part of duties threshold be removed. And I have to say that the lobbyist community supports that.
- 10 RANGOTT: Okay, okay.
- BÉLANGER: They find it difficult to apply and they certainly do not want to be in breach of the legislation so they would like something a lot simpler.
- RANGOTT: Hmm. So do your Police Force —
- BÉLANGER: And there are... Sorry?
- 15 RANGOTT: I was going to say if your Police Force wanted to mount a prosecution that the test wouldn't be 20% though it would be a test around significant part of duties.
- PETRIU: Significant part of duties.
- RANGOTT: Significant part of duties.
- 20 RANGOTT: Yes.
- BÉLANGER: And interestingly and Dorin will always talked about that, you know we interpret this significant part of duties as a quantitative measure but it could also be that we start taking a stance that it is quality as well. I mean you might only lobby once every four years but it's to get \$8 million to build a, I don't know what, power plant, just as an example. That is quite significant.
- 25 RANGOTT: Yeah, yeah.
- BÉLANGER: And it's not a time issue but it's a substantive qualitative issue and instinctively that has not been used in the past to interpret the law.
- 30 RANGOTT: And so Commissioner you're —
- BÉLANGER: Again it's difficult to apply. What is substantive to you and substantive to me may differ, so it's difficult.
- RANGOTT: Yeah. Commissioner you are interested in maybe a reformulation of what substantial or substantive means in your jurisdiction, is that correct?
- 35 BÉLANGER: Yes, "significant part of duties" is a phrasing that I would like to have removed from our legislation to have something a much more objective, simpler or concrete, with less room for interpretation really.
- RANGOTT: Yeah, good, good. Can I switch to another question which we are quite interested is your five year cooling off period that you have for certain
- 40 BÉLANGER: Yes.



RANGOTT: We've got something similar here in my state which is shorter and is only for, sort of, former Ministers. But can you tell us how, if you know how you arrived at that five year period?

5 BÉLANGER: Well that is a very good question. We're not certain. It does go back to when the legislation creating the independent office in 2008. That's when it was added in.

RANGOTT: Hmm.

10 BÉLANGER: We're not sure how the five year came up except that Dorin and I were speculating that maybe at that time it would have been equivalent to the electoral cycle.

RANGOTT: Yeah.

15 BÉLANGER: For elections, maybe that's how they came up with that number but unfortunately we can't really help you on that because we're not certain.

RANGOTT: No, that does help though. We, I don't want to use the, I suppose I will use the word "loophole" but I want to just use it carefully. So there's, I understand that you have the power to grant exemptions if people apply to our office.

BÉLANGER: Yes, yes, yes.

RANGOTT: And I can see some of those on the website.

20 BÉLANGER: Yes, well I wouldn't talk about loopholes. I would say that before designated public office holders, when they leave office, they are very much aware of their obligations of not lobbying, the prohibition on lobbying. We do receive requests for exemptions but these are usually for individuals that were, as the criteria is set out in the Act, individuals that were there for a very short time period or for someone that was a student in the Minister's office because technically they would be a designated public office holder. Those are the type of requests that we get. You know, former Ministers do not come in and ask for an exemption on the prohibition. What typically individuals will do is they will not lobby but they may take positions to be more of a strategic thinker.

25

30

RANGOTT: Yeah.

BÉLANGER: But there is no, I can't say there is a loophole. The prohibition is drafted interestingly; so you cannot lobby at all if you're going to be an in-house in an organisation. You cannot lobby at all if you want to become a consultant. However, if you're going to go work for a corporation you can lobby if it is less than 20% of your work.

35

PETRIU: Or technically, a significant part of your work.

BÉLANGER: A part of your work, actually it is the language. There is no "significant part of your duties" but it is a "significant part of your work". They use a different language in that prohibition. We don't understand the distinction

40

RANGOTT: Hmm.



- BÉLANGER: Why would someone in an organisation be prohibited from lobbying completely while someone in a corporation could as long as it is less than 20% of their time, is a bit odd.
- RANGOTT: Yes.
- 5 BÉLANGER: But that is the rule which sometimes we have been identified or explained in the media as a loophole but that's the law as it is.
- RANGOTT: That's the law, yeah okay. I understand, I understand. So we can talk a little bit about this situation where a former public official obtains a job in the private sector after office and they become a, you know, strategic  
10 advisor for instance so provided they don't touch or engage in activities that are defined as lobbying then they're entitled to engage in that advisory work.
- BÉLANGER: Yes.
- RANGOTT: Okay, good, good. And I've seen on your website that there has been some  
15 prosecutions of breaches of this 5 year rule and they are things that, is that the class of thing that your office can investigate that would pass across to the police?
- BÉLANGER: That's exactly what has occurred. We did, it was before my time, but the  
20 office here came across information that demonstrated that a former designated public office holder was lobbying and therefore they forwarded the information to the RCMP who chose to charge and then with the Crown Prosecutions Office this person was found guilty on three counts and there is a few of them. I think we are now up to four of them.
- RANGOTT: Yeah, and can I take it from than answer Commissioner that you get some  
25 reasonable support from the Police Force there? That the matters that you initiate are taken seriously and dealt with?
- BÉLANGER: Absolutely. The RCMP does work independently, I work independently.  
30 However, I will gather information and provide them with the information that I've gathered and then I give them a hand, so they don't do the work for us, we don't do the work for them. We work very independently but once I forward them the information they review and they will often speak to our investigators to obtain further details or understand our process to ensure the credibility and validity of the information that we've obtained. But, yes the RCMP is very much aware of our functions and our work and  
35 they will take our files.
- RANGOTT: Hmm, and Commissioner, your, the investigative work that your team does is some of that not admissible in court or is it generally admissible?
- BÉLANGER: Well usually the RCMP will subpoena the information from their own  
40 process. They will, the information we give to them gives them the grounds for them to initiate an investigation but they will usually obtain the information directly from the source and the witnesses.
- RANGOTT: I understand, okay.
- BÉLANGER: So far in the files that we've obtained I don't believe that it was the  
45 information that we had gathered that was actually filed in court. The RCMP had obtained the information directly themselves.

RANGOTT: Hmm mm.

BÉLANGER: The information we give them is really to give them the reasonable grounds that they need to initiate an investigation.

5 RANGOTT: Excellent. And, it's just in my mind but maybe could you just tell me but which classes of public official are captured by this 5 year cooling off period?

PETRIU: So it's, it's the same ones who have to fill in the communication report if you talk to them. So it's the same, it's essentially it is senior public office holders and so what that means is —

10 BÉLANGER: the Ministers, the Members of Parliament, our Senators, our Deputy Ministers. Then we have —

PETRIU: Ministerial staff, so just because they normally do have access.

BÉLANGER: Access.

15 PETRIU: Yes and a lot of behind the scene sway. And there are some - essentially a number of positions that are equivalent to Assistant to the Minister and Deputy Minister that happen to be in the RCMP or the armed forces. If you would like I can send you the list from the regulations.

20 BÉLANGER: The list of regulations we will also send you - we have a really, really nice like sort of a diagram of who is a public office holder and who is the subset of designated public office holders.

RANGOTT: Oh good.

BÉLANGER: Every designated public office holder is also a public office holder. But the obligation to do a lobbying communication report is the same group as the group that when they leave they are subject to the prohibition but we have a really nice sort of diagram that we can send to you to help you with that.

25 RANGOTT: That would be really helpful, thank you. Thank you very much. I want to ask a bit about your Code of Conduct.

BÉLANGER: Yes.

30 RANGOTT: And I'll, there's a passage in there that says "a system for the registration of paid lobbyists should not impede free and open access to government". And obviously there's this mandatory requirement to register and I suppose I am interested in, if you've got any high level comments about how you deal with that balance and I suppose, the pointy question is do people ever say "this Commissioner is preventing me from having free and open access to my own government?"

35 BÉLANGER: I've never heard that particular comment. Obviously this office is not here to guarantee access, nor to guarantee the quality of the lobbying activity. We are here to ensure that there is a balance between the requirement to register and that it is not burdensome. Although it is all set out in our legislation. So this is, this is really in the preamble. It is actually a preamble, I believe, of the Act not of our Code of Conduct.

40 RANGOTT: Yes.

PETRIU: It is repeated in the Act.

5 BÉLANGER: Yes we might have repeated it in the Act then the Code but it is really to recognise that the purpose of the Act is to ensure transparency; not to create burden but to create a proper balance between transparency and the right for Canadians to know who has access to government, versus, well, the burden. But we do not regulate who has access to whom. But if you do have access you need to make sure that you're transparent about it.

10 RANGOTT: Hmm, Does it follow, does it follow then that if someone is properly registered, they've complied with the law and they can't get access, can they complain and say "hang on I'm a registered card carrying lobbyist and I can't get in the door can you please come and help" is that function of your office to —

BÉLANGER: Not at all. No.

RANGOTT: Okay.

15 PETRIU: (unintelligible) I've heard, before my time, that it had happened but it, yes, it is not a function of our office. And the other thing in terms of balancing it is, to keep in mind is, the paid part is somewhat key as in obviously citizens and whatever are exempt from if you're not paid you don't have to register.

20 RANGOTT: Hmm.

PETRIU: And the other thing is (unintelligible), in our jurisdiction where you have to, you can have access and register after the fact as long as you do it within the timelines.

RANGOTT: Okay.

25 PETRIU: So I know that in different places, there are some places where you are required to register before you can have access.

RANGOTT: Hmm.

PETRIU: From that point of view you can be in that model if somebody is required to register before they can even try to get access maybe they could play the "I'm a card carrying registered lobbyist, why don't you give it to me".

30 RANGOTT: Yeah.

PETRIU: But for us it's really about the disclosure and transparency when that occurs it's not a precondition that they come to us in order to go and talk to government.

35 RANGOTT: I understand.

BÉLANGER: What I will usually say though, in the preamble of the Act it does recognise that lobbying is a legitimate activity.

RANGOTT: Hmm mm.

40 BÉLANGER: And what is the reason? We have to go back to why is lobbying legitimate and it is really to provide information and data to our decision makers for them to have all and for them to have access to all possible information of interest depending on the issue. So I usually take the time to remind public office holders that lobbying is a legitimate activity and it is recognised in

our preamble and there is a reason why we have transparency. The registry is there for that and there is a Code of Conduct. But we don't guarantee, we are not here, to facilitate access.

RANGOTT: Yes. Okay.

5 PETRIU: And as far as the preamble goes for the Act it is interesting that in a way that particular one is actually (unintelligible) the last one.

RANGOTT: Right, right, right.

PETRIU: Interestingly before it also says, you know, it is desirable that officeholders and the public be able to know who engaged in lobbying activities.

10 RANGOTT: Yes, yes. Can I ask about, I think we touched on this much earlier on in our conversation and I'm referring to rules 6, 7 and 8 of the Code of Conduct and I think somehow they set out an obligation for lobbyists to avoid activities that will create a conflict of interest for the public office holder and to avoid lobbying office holders with whom they share a relationship that could reasonably be seen to create a sense of obligation.  
15 I suppose my main question is what, how, what does that look like in practice about what types of things are prohibited?

BÉLANGER: The simple fact that someone is a former colleague will not necessarily automatically create a sense of obligation. So it will be a case by case.

20 RANGOTT: Yeah.

BÉLANGER: It will require an analysis of the nature of the relationship.

RANGOTT: Hmm.

BÉLANGER: And I don't believe, I have to say, that I do not believe that these rules have been, we have not had a chance to interpret them however much, in my time rule 7 and 8 I don't think I've come across this issue. I think —  
25

PETRIU: Again they do not tend to be the sort of rules that lead to a lot of conflict.

BÉLANGER: No. No.

RANGOTT: Yeah.

BÉLANGER: I think people are careful. On the flipside, I would say where a public office holder who knows that a former colleague is coming in possibly to lobby them, they also have their own ethics obligations. They would have to recuse themselves if they feel that they could be seen to be in a conflict of interest. So I think there is like a burden or a responsibility both on the lobbyist's side and on the public office holders as well which is maybe  
30 why we are not, you know, seeing, we haven't really heard of lobbyists, you know, lobbying a former colleague. It's not an issue that we had to, but I think we would have to do a case by case analysis of the nature of the relationship.  
35

RANGOTT: Yeah.

40 BÉLANGER: And, you know, how long ago was this? Were they former colleagues? What was the reporting relationship? would be elements to look at to decide whether or not it actually creates a sense of obligation on the part of the public office holder.

- RANGOTT: Yes.
- PETRIU: And sometimes I think (unintelligible) as well just because somebody is a former colleague doesn't mean they like you.
- 5 RANGOTT: That's right, that's right. I suppose where my question is coming from is I think a common complaint that we might receive or that might be run in the newspapers here is that Lobbyist X only got a meeting with a public official Y because they have a pre-existing relationship and there's something unwholesome about that and that's one of the reasons why my Commission needs to intervene. So I suppose I'm interested if you've got
- 10 any high level comments about whether relationships are a factor in opening doors or getting meetings.
- BÉLANGER: And obviously, yeah relationships possibly will help at opening doors but it really depends on who it is and what was that relationship and if the person is prohibited from lobbying then clearly if it's after the five years,
- 15 possibly time has passed and it really would depend.
- RANGOTT: Yes, that's a good point I hadn't thought of that. Okay, can I ask about your rule 9 which relates to political activities and it basically says words to the general effect that political activities that could create a sense of obligation should be avoided. Is that something that you've done a lot of
- 20 work in?
- BÉLANGER: Political activities, yes. That is probably one of the most active issues. It is one that we probably, from public interest groups, where they will say this person attended a fundraising event, this person organised a fundraising event, this person was on the electoral district committee organising the campaign for this person and then once this person is possibly elected then they go lobby them. And so political activities is a very hot topic.
- 25
- RANGOTT: Hmm.
- BÉLANGER: But we're about to go into possibly an election period. We do have an election date set in October, so this is an issue that we deal with quite a bit.
- 30 RANGOTT: Okay.
- BÉLANGER: We just issued a new guidance document that actually lists examples -
- RANGOTT: Oh good.
- BÉLANGER: Of higher risk political activities versus those that are lower risk and one of the things, when we came out with this particular list of examples we had gone so far to say be careful what you say on, you in your personal capacity on sometimes political panels on TV, on the radio. And some individuals that were you know there is a question of freedom of expression here I think I have made this very, very clear that I cannot prohibit anyone from participating in a political activity.
- 35
- 40 RANGOTT: Hmm mmm.
- BÉLANGER: That is not what I regulate. However, this is a warning that if you do participate in a political activity, when you go back to your lobbying activities, then you may have some restrictions.
- RANGOTT: Yes.

- 5 BÉLANGER: That's the position. We've made it very clear and I, and we have done a lot of education about it and we've just issued guidance and we have used some of the social media on our website and every meeting that I've gone to we have talked about it. It's really, you cannot stop anybody from participating in a political activity here in Canada. I would never do that, but they need to think of the impact of their activity on their lobbying following an election.
- RANGOTT: That's very interesting, yes.
- 10 BÉLANGER: We have come up with a list. Dorin has it in front of him, I'll let him list some examples for you.
- PETRIU: So, examples of political activity, like you know, they almost are always roles, like serving as a Campaign Chair or in a strategic role of a campaign team or, you know, the Canada Elections Act actually has a set of named positions for registered parties, so serving in one of those named positions.
- 15 RANGOTT: Hmm.
- PETRIU: And at the local level serving in the main position of an electoral district's association. So things like Chief Executive Officer, Financial Agent, Appointed Auditor or some kind of other officer. A big one is organising a political fundraising event.
- 20 RANGOTT: Okay.
- PETRIU: So not necessarily donating or attending, though attending could be but the moment you organise one that's definitely sort of a political role that is above and beyond. Or also trying to what we call here "bundling". So if you go to, you know, 10 or 12 of your friends and get them to donate individually but you somehow grab the donations and show up and say "by the way I've got 10 people who have donated to you".
- 25 RANGOTT: Hmm.
- PETRIU: And things like acting as a spokesperson or doing debate preparation for candidates or working in a strategic role in the war room.
- 30 RANGOTT: Okay, okay and that's an example of, so you've issued that guidance and were a lobbyist to trespass on that guidance what could you do?
- BÉLANGER: Okay, so when we, of course if we receive a complaint or if we monitor - I have to make it very clear that we do not wait to receive complaints. We monitor, we are very much proactive in verifying information. Should there be a complaint that we investigated and we do believe that there has been a breach - where someone would have organised a fundraising event and turn around and go lobby the person that they helped get elected - we would do a report to Parliament.
- 35 RANGOTT: Okay, okay.
- 40 BÉLANGER: And so, because this is a Code of Conduct issue, it's not an offence, the police do not get involved in this. It would be a report to Parliament. So then it's really more reputational public shaming, there is no other administrative consequences under our Act.
- RANGOTT: And Commissioner, do you I think I might know the answer to this, but do you have powers to suspend someone's registration then?
- 45



- BÉLANGER: We can only prohibit someone from lobbying after they have been found guilty of an offence. So those would be for breaches of the Act.
- RANGOTT: Okay.
- BÉLANGER: For anything under the Code, no I could not.
- 5 RANGOTT: Got it. And similar question, can you place restrictions on them. So let me explain. Could you, for instance say this person's a lobbyist who's been subject of one of my reports to Parliament, from now on any time they lobby these extra restrictions apply. For instance there needs to be extra note taker in the room or?
- 10 BÉLANGER: No, and that, that's a bit of a concern of mine. There is no, spectrum of types of sanctions depending on the infraction or the severity of wrongdoing. So right now it is: if you breach the Act it is the Police and the Police can charge, if they don't charge it comes back to me and I can complete the report but there are no consequences and the violation under the Code is a report to Parliament.
- 15 RANGOTT: I understand.
- BÉLANGER: There is no administrative monetary penalty, there is no suspension, I can't really even, you know, impose mandatory training. There is no, there is no spectrum of consequences or sanctions —
- 20 RANGOTT: Okay, okay.
- BÉLANGER: — in our legislation, yeah.
- RANGOTT: Yeah, I mean if it assists you, in my State we have our lobbying watchdog has the ability to suspend and the ability to place a lobbyist on a form of watch list.
- 25 BÉLANGER: Interesting.
- RANGOTT: But it's never really happened and it is partly because we're not as advanced as you but I think we probably don't have quite some of your resources and experience. It exists in concept but it hasn't really been used.
- BÉLANGER: Interesting.
- 30 RANGOTT: I really just have one more question on my list in front of me. It is a question about whether the public office holders who are being lobbied whether they have any either an obligation or an expectation that they would report to you if they see evidence of illegal or improper lobbying activity. Are they a source of information for you?
- 35 BÉLANGER: No, they have no obligations per se. The only obligation they have in the legislation is to answer back when I do these verifications, you know, when we talked earlier of verifying —
- RANGOTT: Yes.
- 40 BÉLANGER: — the information in the monthly reports. They should, they do have an obligation to respond on the accuracy of the information. Otherwise, they don't. When I meet the public office holders, what I do tell them is to please remind lobbyists when they meet with them of their obligations under the Lobbying Act and to keep good notes of the meetings that



occurred in the event that it would verify information with them or in the event that they would be a witness in an investigation because the lobbying was not registered.

RANGOTT: Hmm.

5 BÉLANGER: But otherwise they have no obligations. We thought that possibly under the Public Service Code of Ethics, as a public servant, there is some obligation if we believe that there is something untoward that happened.

RANGOTT: Yes.

10 BÉLANGER: But they may possibly have an obligation there, but they don't really have an obligation to raise with me a breach of the code. But some of them do.

RANGOTT: Yes.

BÉLANGER: I have had public office holders reach out.

RANGOTT: So I would imagine as good Canadian public servants they would want to help you do your job and you get some voluntary assistance for that.

15 BÉLANGER: Yes, absolutely.

RANGOTT: Okay, thanks a lot. Can I thank you both. That's all the questions. You have been extremely patient with all of my questions. I thank you very much for your time it is greatly appreciated.

20 BÉLANGER: It is an absolute pleasure and if you think of something else Dorin is here, I am here. We will review our notes and the transcript when you send it in and if we can provide you further information by all means don't hesitate.

25 RANGOTT: I also want to just thank Dorin, he obviously spoke to me back in June and given, already sent me some stuff so thank you it is really going to help us hopefully design what we hope is going to be a world class system here in New South Wales.

BÉLANGER: Wonderful.

PETRIU: It was my pleasure.

BÉLANGER: Thank you very much. Have a good day.

RANGOTT: Thank you Commissioner, thank you Dorin, thank you so much.

30 BÉLANGER: Get coffee now.

RANGOTT: Thank you.

BÉLANGER: Bye, bye.

RANGOTT: Bye.

35 **INTERVIEW CONCLUDED AT 07:13.**

**INDEPENDENT COMMISSION AGAINST CORRUPTION**

**RECORD OF INTERVIEW BETWEEN IRIS KIRKPATRICK, SENIOR  
5 CORRUPTION PREVENTION OFFICER OF THE INDEPENDENT COMMISSION  
AGAINST CORRUPTION (ICAC) AND SHERRY PERREAULT, AT THE  
STANDARDS IN PUBLIC OFFICE COMMISSION, DUBLIN, IRELAND ON  
TUESDAY, 30<sup>TH</sup> JULY 2019 AT 10.15AM.**

10 **TIME: RECORDING OF ANSWERS TO THE PRE-SET QUESTIONS  
BEGAN AT 11AM. A GENERAL DISCUSSION ON THE IRISH  
REGULATORY MODEL WAS HELD BEFORE AND AFTER  
RECORDING.**

**PRESENT: IRIS KIRKPATRICK, SHERRY PERREAULT**

15 **INTRODUCTION**

KIRKPATRICK: So this is a meeting with Iris Kirkpatrick and Sherry, Sherry Perrau..

PERREAULT: Perreault.

20 KIRKPATRICK: Perreault, I beg your pardon - at the Standards Public Office Commission  
in Dublin, Ireland and just for the record can you just state your name  
please and your role?

PERREAULT: I am Sherry Perreault. I'm the Head of Ethics and Lobbying Regulation  
with the Standards and Public Office Commission.

25 KIRKPATRICK: Thank you very much. Now we're here to talk about the model that  
operates in Ireland ... and for someone from overseas who knows nothing  
about the lobbying system in Ireland can you explain the basics of how it  
works please?

30 PERREAULT: The Regulation of Lobbying Act sets out obligations for people who are  
communicating with designated public officials about particular types of  
subject areas and they must register and submit returns of their lobbying  
activities three times a year on designated dates. There are enforcement  
provisions in effect in the Act which range from a penalty, just an  
administrative monetary penalty for someone who has filed a late return  
all the way up to and including imprisonment for, you know, indictable  
35 offences.

KIRKPATRICK: Yes.

40 PERREAULT: For a period of up to two years. The Act also provides for a post  
employment cooling off period of one year for certain categories of  
designated public official. Within the legislation it's a very prescriptive  
situation where it is specific people that fit within scope of the Act who  
lobby designated public officials about what are considered relevant  
matters. So there is sort of criteria that must be met for each of those three

things and all three steps have to be met for it to be considered registerable lobbying.

KIRKPATRICK: Okay. Thank you for that. So normally when major reform is introduced it comes from a major problem. What was the driver for change in Ireland?

5 PERREAULT: Well we're not the policy department so in terms of what I can say about the policy reasons for it is a bit limited. I do know that there were a series of planning irregularities and some scandals around planning and development of land. And it wasn't just in the area of, you know, "unregistered lobbying", quote unquote. There was no system in place at  
10 the time but there were allegations and inquiries into corruption around planning and development. And so there were two commissions of inquiry, the most well-known would be the Mahon Tribunal which in its report recommended among many other steps in terms of transparency and integrity in government, it recommended the establishment of a register of  
15 lobbying. And so over the years there were a number of efforts to bring such a system into being including some private members bills and, you know, a number of studies that were put into place. But then in 2014 there was legislation that was finally introduced by the Government to regulate lobbying and that legislation came into effect in 2015.

20 KIRKPATRICK: Thank you. Is it fair then to say that Ireland has gone from having no legislation and regulatory framework to a progressive system of a way of doing things differently?

PERREAULT: Hmm.

KIRKPATRICK: And how smooth was that entire process?

25 PERREAULT: Well I would say yes it has been a huge culture change. There was nothing in place before and as you can tell from the accent I am from Canada and when I moved over here to head up the Lobbying Regulation I can't tell you how many people said to me well Ireland is a lobbying culture. You know, it's going to be very hard to regulate this when, you know, everybody knows each other. It's a small society, you know, you're not 6  
30 degrees of separation from someone, you're usually no more than 3. You know, so there is all of those considerations. So, you know, it was a wholesale change in terms of making transparent these kinds of communications. And on top of that, you know, just a big cultural shift in terms of trying to bring people along to want that kind of transparency and to recognise the benefit of it. You know, it's one thing to have regulation in place that people have to adhere to it, it's another thing entirely for them to believe in it and to want it.

KIRKPATRICK: Yes.

40 PERREAULT: And so, I feel as though, over the last four years there's been, you know, a shift not only in the acceptance of the regulation but also I think acceptance for the reasons behind it which are really starting still to grow. But that's coming along nicely and I think, you know, it's still a work in progress. This is not something that I would say is done, but because I am a regulator and so I'm always looking for the holes and the gaps and where we can do something better.

45

KIRKPATRICK: Yes.

PERREAULT: But I would say that our early results have been very good and, you know, I think that compliance is becoming the norm and it is continuing to grow which is a really gratifying thing after all of the effort and the change that's been brought about.

5 KIRKPATRICK: Very impressive actually, thanks for that. And what lessons if any can you impart in procurement development and testing of an IT system underpinning the register and the creation of guidance for users of the system?

10 PERREAULT: Well what we did in Ireland was we started out with recognising that the legislation was working its way through the houses of the Oireachtas and that it was very likely to pass even if there was probably going to be some change along the way to what the structure would look like and there might be some tweaks in terms of what was lobbying and what wasn't. The basic framework was in the Bill and so the Government took the kind of unusual  
15 step of saying we're going to start a procurement process early, even before the Act was signed into force and we're going to get, you know, a developer in place to get this going. So they put an investment aside, in terms of how much they would be willing to invest in it. They identified a developer through, you know, a transparent procurement process and put that in place. They put in place a Project Board that was comprised of  
20 members of the Department that was sponsoring the legislation, members of the regulator which was the Standards Commission that would be overseeing the legislation, somebody from the private sector and, you know, the developer and some of the staff. So that helped oversee the project and how it was progressing and to checked in at milestones and so on. And so all of those measures were in place and then importantly we had an Advisory Board that was in place that was comprised of kind of  
25 private and third sector and fourth sector organisations that would have been sort of charities and the third party professional lobbyists and, you know, some of the largest representative bodies within the country as well. So there was probably about a dozen or maybe 15 members on this advisory group who helped inform not only the development of the Register, you know, kind of were able to do user acceptance testing and they were also able to sort of talk about whether it was user friendly,  
30 whether there were enough details, whether it was clear kind of how things were being presented to the user. But they also helped us significantly in terms of the roll out, in terms of the communication strategy, development of guidance for people that would be using it and so there were draft guidelines that were put in place and draft promotional materials and a communication strategy and they provided us feedback on all of those things as well. So they weren't only useful from a technical perspective but just hugely helpful from an operational perspective.

35 Trying to get, you know, that, that, the register rolled out and for people to understand that are using it correctly. So another thing that I would say too is that we, there was very short timelines. I wouldn't necessarily  
40 recommend that as a best practice. I think the contract was put in place sometime around November or December of 2014 and the system was actually launched at the end of March of 2015. And so it was very quick in terms of development and turn around but what the benefit was when we launched it at the end of March it was another four months until, nearly  
50 five months, until the legislation actually came into effect on 1<sup>st</sup> September

and so there was, sort of, the whole summer for people to play with the system, to get familiar with it and build, you know, dummy accounts and put in dummy returns and so on. So it was like a practice period where it was no fault and, you know, at the 31<sup>st</sup> of August we could wipe the slate clean if you will. Keep the registrants and keep their information who had proactively registered before the Act came into effect.

But we could get rid of all of the fake returns so that, they were starting with a clean slate.

KIRKPATRICK: Yes.

10 PERREAULT: And that I think was a very useful mechanism, you know, we've taken a very much an incremental approach to the implementation of the legislation from the get go. So, you know, the development and then a practice period and then there was about a year or so where the Act was in force before the enforcement provisions came into effect. So we couldn't  
15 actually fine or prosecute and so it was an extended period for education and outreach and training.

KIRKPATRICK: Yes.

PERREAULT: I think that that was very effective as well because it also helped us build our reputation as a regulator that's trying to encourage compliance and we're not in the gotcha business, you know?  
20

I mean we use the enforcement provisions that we have when we need to, and I'm sure we will get to that. But it's in place to help us significantly, it has helped us significantly to sort of put in place a compliance focus.

KIRKPATRICK: Yes.

25 PERREAULT: And I think that that's really helped us to get the word out for people.

KIRKPATRICK: That's very interesting actually from where we are in New South Wales.

PERREAULT: Yeah.

KIRKPATRICK: And where we are hoping that we might go. Are there aspects of the Irish model compared to others that you know that work particularly well?

30 PERREAULT: I suspect that there will be others that have better perspective on this because I am so close to it but I would say what seems to work well for us would seem to be first of all the legislation is clear. It is plain language drafting which I think is invaluable. We have other pieces of legislation which are much more complex and drafted in a very kind of traditional  
35 style which aren't as easy for, not only for the regulator but for anybody that's subject to the legislation would struggle and I think that the Regulation of Lobbying Act is a very good example of plain language legislative drafting which I think is useful. We have a user friendly register which, you know, people have found very easy to register, to submit  
40 returns to navigate generally and members of the public can find the information that they are looking for relatively easily. There are always tweaks to be made and we've done, we are just finishing up a second set of upgrades to the register because it's a constant learning process.

KIRKPATRICK: Yes.

PERREAULT: And you can say maybe this text wasn't as intuitive as we thought it was or maybe this process isn't working the way we thought it would in practice and so we continue to try and bring improvements to the register. But generally speaking I think we got it pretty right in terms of its user friendliness. The fact we've had a compliance focus I think has been really good. We've placed a huge amount of energy and attention and emphasis on education in trying to make sure that people understand what the system is and what their obligations are. We've put in place a lot of different tools. We've got guidance, we've got frequently asked questions, sample returns and all that sort of thing to try and explain to people. I always think that there's more that can be done there but you know I think we've done a pretty good job so far. And then I think what else works well is that our enforcement tools are broad ranging which is very good. You know, you've got the ability to levy administrative monetary penalties for people that are submitting a late return so that they are taking the returns period seriously.

PERREAULT: And they're putting them up when they are supposed to, but we also can remove information from the register that's inaccurate or out of date or misleading. We can prosecute for various offences and there are a number of offences set out in the Act and we have fairly, sort of, wide ranging powers in terms of that we can do search and seizure, we can compel witnesses and documents, we can prosecute summary offences directly and not have to go through the Director of Public Prosecutions other than for indictable offences.

So, you know, I think that the powers that we've been given are the strongest that the Commission has in respect of any of its legislation and seem to be serving us quite well.

KIRKPATRICK: Yes and I think that's probably why it gets the reputation of being quite successful - the Gold Standard that people talk about, is having those wide ranging powers. Thank you for that. And now on the Register.

PERREAULT: Hmm.

## THE IRISH LOBBYING REGISTER

KIRKPATRICK: What do you think are the most successful features of The Lobbying Register in Ireland and why? You've kind of covered some of that in your last response there but if you've got anything else to add to that question?

PERREAULT: I would think in terms of, what I thought about with this question compared to the last question was kind of, you know, the first question I focused on what I think works as a regulator and what I think works for a person who is subject to the legislation. But this question I kind of looked at more in terms of what works for the public and what works for a principled approach to the regulation of lobbying. And I think where I landed on is that its free to register, its free to access the information, there's no cost to it, there's no sense that its um - I think that was my phone - the fact that it captures in-house lobbyists, interest groups. There's such a broad range of lobbying activity that's captured it hasn't been, unlike some other jurisdictions where it's really a very restricted look at quote unquote lobbying. It's very narrowly defined and it really only captures a fraction



5 of the types of communications that public officials have. I think ours is very, very broad ranging and I think that's actually very good because, you know, a lot of people would say, oh well you know, I only phoned for a meeting, I only just bumped into them in the shops, that can't possibly count as lobbying. Well actually it does. Under our legislation it doesn't matter where it takes place, how formal the communication was, the method of the communication, it doesn't matter whether it is, you know, an email or somebody tweets at a public official. Or, it's an encounter in a pub, or a shop or, you know, on the street. All that can count if the person who is making the communication fits within the scope of the Act and they are communicating with somebody who is a public official for the purposes of the Act and it's about one of those relevant matters that are subject of the Act.

KIRKPATRICK: It's quite broad ranging.

15 PERREAULT: It's very broad ranging. So I think that works really, really well and I think it gives people a much better sense of the volume and the breadth of communication that's out there and that's it not only kind of third parties that are paid to lobby on behalf of a particular client and it's not only big business in unpopular industries that are doing it. You know, I think that its helped to shine the light on what lobbying really is and I think in some way probably rehabilitates the image of lobbying. Because so many people are looking and saying, oh well, there are all of these charities on the register, you know, and organisations that I support and that I give donations to and I volunteer for and they're lobbyists, you know, how interesting, right. So I think it's actually given a much clearer picture of what lobbying really is.

KIRKPATRICK: Yes absolutely. It's a tricky question but how do you ensure what lobbyists or registrants input as a record of the meeting is accurate?

30 PERREAULT: So that is a tricky question. It's always hard to know for sure if somebody has given you everything they are supposed to in terms of the detail of the communication. Also hard to know if somebody has registered with us who is supposed to register, right? So there are two levels of compliance there. There are the people who are lobbying and not registering and there are other people who are registering without giving the level of detail that they are supposed to.

35 KIRKPATRICK: Yes.

PERREAULT: What we do is twofold. We look at the people who aren't registered, we do use our investigative powers, you know, basically we monitor media and we look at other returns to see if there are other, you know, references to other organisations which are a party to lobbying communication that maybe haven't registered. That kind of thing. So there's a bit of monitoring for compliance for the non-registrants. But then the registrants we also review every return that comes in. We have about 3,000 maybe 3,500 returns at every return period. Now this can fluctuate and I expect it to fluctuate depending on the time of year in terms of whether it's budget time and so on and also the number of registrants currently active on the system. But it's not an onerous amount for us. We have a team of about 4 people on the compliance side, not the investigative, we have a separate team for investigations. But on the compliance side there's five in total,



- 5 four of them kind of working the phones and answering queries and processing returns and registrations and so on. And they review every single return just to make sure that it's complete basically, that it's not too vague, that people have put in, you know, meaningful information. We don't necessarily go behind that much further in terms of regular routine checks. But we would just say okay well it's not enough to say that you met with the Minister and raised issues of interest. That's too vague, you have to tell us what you talked about, what was the intended purpose of that meeting, what were you trying to get out of it.
- 10 KIRKPATRICK: Yes.
- PERREAULT: So we push back a little bit and I think that that's helped improve the quality of the information on the register. And it's helped people to recognise that we're not just allowing them to get away with the bare minimum.
- 15 KIRKPATRICK: Yes.
- PERREAULT: Yeah, yeah.
- KIRKPATRICK: And what source of complaints do you rely on to alert you to misreporting?
- PERREAULT: So it's mostly media frankly, like where things come in and we've registered with a media monitoring service so we get, you know, keyword hits and they'll say, you know lobbying or lobbyist or whatever, you know, type of communication. So we monitor that, we get those in every day. There might be about 30 articles a day that pop up with those keywords and of those maybe there is one or two that actually look like they could be a lobbying activity that meets the three step test. By which I mean it's not just some sort of vague thing saying, you know, members of such and such an industry contacted the Minister. Well that's not really helpful for us and we don't really have the time or energy or resources to be chasing down the Minister and saying which members of the industry contacted you and what was this all about? So instead we look for sort of more certain concrete information, you know, members of this organisation contacted this Minister about this topic. And then we might sort of look for other open source information. We look to see if the organisation has registered that communication. We might contact the Minister and ask for information that they've received, records of meetings. If there's anything open source in their diaries and then we've looked for that already, but we try and cross reference.
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- 25
- 30
- 35
- KIRKPATRICK: Yes.
- PERREAULT: You know, any sort of information we can get and then we follow up with the person who's purported to have lobbied and ask for their views. So you know, we are following the principles of natural justice to try and gather what we can and then present it to the person and say what do you think?
- 40
- KIRKPATRICK: Yes.
- PERREAULT: And go from there.
- KIRKPATRICK: Do you find that you get a positive response when you're following up an inquiry with a minister?
- 45

- PERREAULT: Ah, we've had a kind of a mixed bag on that I have to say. Generally speaking yes like mostly they have cooperated and they have provided us with information. But we've had one or two instances which have been frankly really frustrating as the regulator where we've written out to a Minister and said, you know, we have information to indicate that there is this report that you had a conversation not in the office, maybe, and there is not surprisingly no records of these communications, no records of a meeting, no materials that have been sent in. It would appear that it's purely a verbal conversation and either they say, well there was nothing discussed that was lobbying. Which may well be the case, it is entirely possible. Or they could say oh well no I view that as an exempt matter. And so we have had to go back and forth a few times and say it is not really a matter about whether you view it as an exempt matter it is whether I view it as an exempt matter so please tell us what was discussed and, you know, go into as much detail as possible. And some of them are more or less cooperative it just depends on the person and what it's about. But I'd say we've been, you know, it's hard to say for sure but it feels as though we've been stonewalled on one or two occasions and without evidence we can't do anything. So that's —
- 5
- 10
- 15
- 20 KIRKPATRICK: Yes.
- PERREAULT: — that is challenging. Fortunately most people don't just have like that one time lobbying activity in, you know, in the street or whatever. You know, there's often other things that have preceded it. There might be phone calls or, you know, documents, letters that have been sent in. Things like that. So, you know, it helps us if we can try and get the big picture but.
- 25
- KIRKPATRICK: Would you be able to identify that .. if you feel you weren't getting the response that you need? Are you able to look to the period before or after...
- PERREAULT: We have done. We've actually, we've very broadly requested and we've said we want all documentation that you've received from this organisation on your records. Right and we haven't put a date attached to that.
- 30
- KIRKPATRICK: Okay.
- PERREAULT: So we've just said everything that you've got and they have had to provide us with the stuff.
- 35
- KIRKPATRICK: And they do provide it?
- PERREAULT: Yeah, yeah. We did get at one point, and this was on also a lobbying investigation where we actually had to threaten a department with taking them to the High Court or referring them to the Police because they hadn't —
- 40
- KIRKPATRICK: Provided you with the information.
- PERREAULT: — provided us with the information. It is an offence if they don't actually respond or cooperate and that got them out. Because the last thing they want is to be taken to court by the Standards Commission, it doesn't look good for them, right?
- 45
- KIRKPATRICK: Yes.

- PERREAULT: So we do usually get cooperation it's just the rare occasion where it's been a bit tricky or they have, you know, tried to delay or stall.
- 5 KIRKPATRICK: Yes, thank you. Thank you for that. I think you have kind of covered it but in the event that an inaccurate record is believed to be recorded what steps do you take to rectify?
- 10 PERREAULT: Yeah it's about, it's about trying to identify, you know, as much information as we can get in the first instance right, we gather our evidence. We might contact the Minister or the deputy, sorry, the designated public official whoever that might be. We might contact the registrant for their views. What we try to do is basically bring the person into compliance. So if there's, you know, if there's evidence that they've failed to report something, sometimes it's genuine, just an administrative oversight. They've put in 30 returns for that period and they missed one. But you know, we say to them you have to report this. They'll put it in and they'll get a fixed payment penalty, they'll pay it, they've had their slap on the wrist. You know, as long as they've come into compliance our view is that, you know, everybody gets kind of a pass the first time.
- 15 KIRKPATRICK: Yes.
- 20 PERREAULT: If we were to see a pattern of such behaviour and an organisation that seems to be wilfully either missing deadlines or not providing appropriate information or something we might build a different case and we might be pursuing it differently. But generally speaking we just try to get them into compliance.
- 25 KIRKPATRICK: Okay. Thank you. And how do you deal with complaints about the Register which is I suppose a slightly a different angle?
- PERREAULT: I wasn't sure about what you meant by this. Do you mean complaints about the Register in the broad sense like resistance of it or?
- 30 KIRKPATRICK: Yes either, you've already spoken about the Register being easy to use so I don't envisage that you get many complaints about that. I suppose it was related more to complaints about people doing the wrong thing or —
- PERREAULT: The content of it?
- KIRKPATRICK: Yes the content.
- 35 PERREAULT: Yeah well we do get both actually. We've had a couple of organisations contact us and say they are not happy with the user friendliness of the Register. In some instances it's just been because they haven't understood how it works or they want us to develop some sort of tool or mechanism to cater for their particular organisation's needs which of course we can't do. So, you know, we've put in place as much as we can to make it user friendly and adaptable for their own purposes. You know if CSV exports and there's some sort of a bulk email system, I'm not a technical person myself. There's some sort of a bulk system where people can use for their own returns if they're in a larger organisation. So those sorts of things are in place.
- 40 KIRKPATRICK: Yes.
- 45 PERREAULT: And, so you know, where we receive, we did have one for example about accessibility that we had to address where somebody was using a screen

5 reader, a visually impaired person was using a screen reader and they  
 couldn't for whatever reason read particular drop downs and it's because  
 the version of screen reader they were using was not the ISO certified  
 compatible that we had built the system for. So we tried to make  
 10 modifications to it but it wound up actually destroying the functionality  
 around some of our auto completes and the database that we had for DPOs.  
 So we had to try and find a compromise in there and basically what we did  
 was we, you know, tried to work with the organisation the person's  
 representative body so you know, an organisation that deals with visually  
 15 impaired people and ask them to sort of test it for us and see if they would  
 provide us with any feedback and they did that and they just sort of said,  
 you know, what we were using was pretty standard so they would be  
 satisfied that it would meet the needs of most people. So that's kind of as  
 good as we can do I suppose and we've tried to be responsive where we  
 can around the Register itself. The second part of it is I think the more  
 20 challenging which is where people think that, you know, this group or this  
 organisation or whatever isn't complying and, you know, how come they  
 get away with these terrible returns and we have to put in these other ones  
 and we're so compliant and they're not and so on. So what we've said  
 basically is where we have evidence that somebody's not complying we  
 look into it and we try and identify problems and deal with them on a case  
 by case basis, but, and where we've noted, you know, for example a sector  
 25 is not particularly well represented on the Register or, you know there's  
 geographic underrepresentation or whatever, we try and do tailored  
 outreach to deal with those kind of circumstances. But we can't kind of do  
 a scattergun enforcement approach based on a feeling or a hunch that a  
 particular group of people isn't compliant. You know what I mean?

PERREAULT: You need evidence of actual non-compliance that's specific and without  
 that we can't do much in terms of enforcement but we certainly have  
 30 changed our approach or tailored our approach for outreach where we  
 think there could be underrepresentation or people aren't understanding  
 their obligations or whatever, you know.

KIRKPATRICK: Yes.

PERREAULT: So it has changed how we look at guidance, how we look at FAQs, how  
 35 we look at outreach, all those things based on the feedback.

KIRKPATRICK: Based on what you know to be the case.

PERREAULT: Yes.

KIRKPATRICK: Is there crosschecking, I think you answered this earlier, of what lobbyists  
 record on the Register with what is made publicly available?

40 PERREAULT: Yes and no. Where we have complaints or information that would indicate  
 that maybe lobbying activity has taken place that hasn't been recorded then  
 yes we would look at Ministerial Diaries as one source of information. We  
 don't do that on a regular basis proactively. Partly for resource reasons,  
 you know, it may be something we look at in the future as other activities  
 45 may be, may start to step down a little bit then maybe we can look at maybe  
 beefing that up as a proactive audit type of approach. But it is not  
 something that we would do on a regular basis other than in an  
 investigative context.

KIRKPATRICK: I'm unsure and this is why I ask the question, is what is disclosed through the Ministerial Diaries enough, is the information sufficient that's disclosed?

5 PERREAULT: Not really, I mean like it certainly tells us if a meeting has taken place but it doesn't give us any details of that meeting and there wouldn't necessarily be associated documents. But just like the Register often goes hand in hand with freedom of information, you know, we would view it as a piece of information that may help lead us in a particular direction but it wouldn't be, you know, the be all and end all in terms of an information source certainly.

10 KIRKPATRICK: Thanks.

PERREAULT: Yeah, yeah but it would give us enough to at least say could you please provide us with as many documents that stem from that meeting, we note that this meeting took place what else do you have?

15 KIRKPATRICK: Yes.

PERREAULT: Yeah, yeah.

## DEFINITION OF LOBBYIST

20 KIRKPATRICK: Thank you. We're on the definition of lobbyists now and the exemptions from being required to register. There are many. So how would you verify a claim by an organisation that it doesn't need to register because of an exemption clause?

25 PERREAULT: It depends on what exemption is being cited. So if they say for example that they are subject to a diplomatic exemption then we just need to sort out credentials, you know, how they are associated with the government of their country. If they say that they are exempt because of the number of their employees we might verify with the company's registration office how many employees they have registered or ask for their financial statements that show the salary levels and they usually disclose number of staff and that kind of thing. So it's really, it's dependent on the type of exemption and we would then base what we crosscheck based on the exemption that's being cited. But we don't take it at face value certainly. If somebody says they are exempt then they will need to show us they're exempt. There has to be some sort of evidence base for that.

35 KIRKPATRICK: Okay. And how does the lobbying legislation apply to Members of Parliament including Ministers particularly in circumstances where they might lobby their parliamentary colleagues?

40 PERREAULT: It doesn't. That's the short answer. It doesn't apply. Any communication between public officials in their capacity as a public official is exempt. So they don't have to if they are lobbying a colleague to support a particular initiative or something that doesn't have to be registered. The only exemption to that would be if, you know, there is outside employment, you know, by Members of Parliament here.

KIRKPATRICK: Yes.

PERREAULT: So that's the case in a number of jurisdictions. So let's say you have a Member of Parliament that happens to be a business owner of some sort and, you know, maybe they have, you know, an interest in a particular piece of legislation as a business owner. If they are kind of part of a broad group of persons they would generally not have to worry about, like they would probably have to declare their interest in their ethics obligations.

KIRKPATRICK: Yes.

PERREAULT: But they may or may not have to recuse. If they are part of a broad part of persons they would not necessarily have to recuse. But if they are lobbying based on that then I would say, you know, the business has to register and they would have to submit a return of the business lobbying and they would be a designated public official listed on the return as having lobbied on behalf of that business. You know what I mean?

KIRKPATRICK: Yes.

PERREAULT: So they can't assume that just because they are a designated public official 80% of the time that their lobbying activities on behalf of the business that they run in their private life would be exempt because they are not.

KIRKPATRICK: Yes. Yes I understand, thank you. Does any part of the lobbying regime and again you have answered it, or any other method of regulation prohibit MPs from having secondary employment. And I think you have just spoken about their right to have secondary employment.

PERREAULT: Yes that's right. And I think that there are, now I don't know this for sure but it seems to me there are prohibitions on civil servants for example not holding outside employment.

KIRKPATRICK: Yes, yes.

PERREAULT: But I think for elected officials and this I think, even includes Ministers, Ministers of State, I think they are allowed to as long as they declare sources of outside income.

KIRKPATRICK: Their pecuniary interests.

PERREAULT: Any pecuniary interest, that's right, that's right but they don't have to declare their, oh sorry, they don't have to actually quit a job or divest themselves of their interests.

## UNREGULATED LOBBYING

KIRKPATRICK: Okay, thank you. So moving on to unregulated lobbying. So notwithstanding the broad scope of the Irish Regulatory System, are you in your role, aware of any potential groups or individuals at high risk of non-compliance with the requirements to register, for example small interest groups and property developers or lawyers and other professionals like accountants and finance people that often mask the real beneficiary, the real client who has, who stands to gain the most benefit from lobbying activities?

PERREAULT: Where we have identified concerns it's again these areas where we think that the lobbying is maybe underrepresented. So there are a few areas where I would say I would have some concern about. The first would be



the members of the legal community. Not so much the large firms here in Dublin; I think all of those have pretty much registered and they would mostly be advising clients as opposed to lobbying on their behalf.

KIRKPATRICK: Yes.

5 PERREAULT: But certainly smaller practitioners, sole practitioners out in the country might, you know, write a letter on behalf of a client. They would be more likely to do, to provide a range of services to their clients if you will.

KIRKPATRICK: Hmm mm.

10 PERREAULT: That maybe the larger practitioners wouldn't necessarily as a standard rule of thumb do. And I think in particular for sort of the medium sized enterprises and so on.

KIRKPATRICK: Yes.

15 PERREAULT: So you have, say you have, I don't know, a local publican that employs 20 people, maybe owns a couple of businesses, is busy running the business and says I have concerns about such and such a tariff that's coming in. I'm going to get my solicitor to just write a letter. So that's the sort of thing, I'm not sure if that's being captured. I'm not sure, you know and I would say that obviously lawyers have a better understanding of the law than most and they would have probably have heard more about this legislation. We've done a significant amount of outreach to the legal community to try and make sure that they are aware of it and so on but beyond that, you know, we would have to be looking at specific instances of non-compliance. But that would be an area where I would just be kind of surprised that there's not more registration happening. Another area that has caused some concern is informal coalitions where you would have organisations. So, in our legislation any business where you have more than 10 employees falls within scope. Any representative body that represents the interests of their members so the unions or, you know, Chambers of Commerce and so on.

30 KIRKPATRICK: Yes.

35 PERREAULT: As long as they have one employee. So they would have to be professionalised to a certain extent. Advocacy groups like charities that lobby, you know, in support of a particular issue, and they have at least one employee, they would come within scope. The challenge that we have found is that there have been instances where informal coalitions of businesses or charities or other interests have banded together, have named themselves something, you know, so they have got a particular brand. They might even have letterhead, they might have all sorts of trappings around it, they might have somebody that they are calling the Chairman of this coalition but they don't actually have any employees. So we've seen it and this is prior to the legislation, the enforcement provisions of our legislation coming into effect but there was a coalition of aviation companies in Europe for example that was just informally formed and, you know, it was clear that a secretariat function was being provided by a particular company but it wasn't.. all of the lobbying was being done by this sort of umbrella informal thing.

45

KIRKPATRICK: Coalition.



- PERREAULT: So theoretically they fall outside of scope because they don't have an employee and, you know, that's a frustration.
- KIRKPATRICK: Yes.
- 5 PERREAULT: What we've said is that they cannot assume that whoever is making managing or directing communication isn't going to be caught. So if the constituent member who is leading the charge, who's acting as the chairperson, who's actually managing the communications and would be known as, you know, a person of that particular business, not just I'm part of the coalition, we would suggest that they comply. We would pursue them in terms of compliance. So, you know, they can't assume that the lobbying activity would go uncovered by the legislation I suppose.
- 10 KIRKPATRICK: Yes. Have you, so have you had to do this on many occasions?
- PERREAULT: We've had it on a couple of occasions where we are, you know, pursuing particular organisations and saying well you're the prominent one and you're the one that's leading the charge and you might, you know, you might be using the letterhead of this company but you're known to be the president of this other company so you can't assume your company doesn't have to register.
- 15 KIRKPATRICK: Yes.
- 20 PERREAULT: So, and because the lobbying activity is for the benefit of their own company.
- KIRKPATRICK: Yes.
- PERREAULT: So we're saying you just can't take off that hat and pretend that you don't have it, you know?
- 25 KIRKPATRICK: Yes.
- PERREAULT: So that's another area and the final one I would say has been, well no there's two. One that's been challenging for us is communications that are made by unpaid office holders. So you can have charities that would otherwise fall within the scope because they have an employee, but the Act says that the communication has to be made by a paid member of staff for it to be counted as lobbying.
- 30 KIRKPATRICK: Hmm.
- PERREAULT: Sometimes the only paid member of staff on the payroll is, you know, a secretary or administrative assistant. It does mean that the organisation is professional.
- 35 KIRKPATRICK: Yes
- PERREAULT: But it means that their Board of Directors who are unpaid volunteers are out there lobbying and, you know, and they're saying well I'm the one that's been doing the lobbying so we don't have to register it and we think that that is totally against the spirit of the legislation. So, if you have a prominent charity that happens to have a volunteer Board of Directors I think that the charity should still have to register it.
- 40 KIRKPATRICK: Yes.

- PERREAULT: So, we've actually called for a legislative change to say that "office holders whether paid or unpaid who are lobbying for an organisation that would otherwise fall within scope" should have to register that communication.
- KIRKPATRICK: That sounds as if that's a bit of a loophole for people -
- 5 PERREAULT: Yes, it is.
- KIRKPATRICK: of a mind not to have to register.
- PERREAULT: If you want a loophole you can find one right. I think that all legislation has that challenge.
- KIRKPATRICK: That's right.
- 10 PERREAULT: But what we are just trying to do is just anticipate and where we are seeing evidence of it, you know, try and close the loopholes.
- KIRKPATRICK: Yes.
- PERREAULT: And then the final area where I would say I have a little bit of concern is that we see huge levels of registration within Dublin proper. So it's something like, I don't know what it is or what the numbers are, but it's something like 60 or 70% of registrants are based in the Dublin area and that's not surprising because this is where, you know, the seat of national government is, it's where a lot of our designated public officials are based. It's the headquarters for a lot of organisations, but local authorities, county and city councils are also considered. Like they're elected officials and their staff would be considered designated public officials at the most senior level. And the level of registrations in some of the counties is very, very, very low. And so I find that implausible.
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- KIRKPATRICK: Yes.
- 25 PERREAULT: You know, in four years there has been only, you know, a handful of registerable lobbying activities in a couple of counties. I think that's implausible. The problem is how do we prove it without reports of unregistered lobbying.
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- And so all we can do really is try and boost the outreach and try and make sure that those councillors that are being lobbied are willing to tell us when they are engaged, you know, with somebody who hasn't complied.
- KIRKPATRICK: A big area of concern in New South Wales is the local councils where a lot of lobbying is taking place around planning matters and under our Act it is not captured, you know, the regulation of those activities is not captured. So that's interesting. Do you have any more areas of concern?
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- PERREAULT: I would say they are the key ones really. I wouldn't have, you know, we've also done some outreach in terms of property developers.
- KIRKPATRICK: Yes.
- PERREAULT: Because they are, you know, it's any individual in Ireland that lobbies on zoning and development of land. So not just business owners, not just third party professionals.
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- KIRKPATRICK: Anyone.

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- PERREAULT: Anyone who lobbies on it would have to register and submit returns. And I'm less concerned about your average person who, you know, isn't happy about a windfarm going in next door or, you know, doesn't like the fact that their neighbour is converting their nice empty field to a holiday estate, you know. So those people who, you know, aren't happy about kind of the impact on their community or their personal lives, you know, I worry less about that. What I'm more concerned about is the people who have a vested interest in the outcome of that, you know that they're going to gain monetarily from the sale of the land to build the windfarm or whatever. Those are the people we want to have registered and I think that the level of registration for zoning and development isn't as high as I would like to see it. You know, and again, I'm less worried about the individuals than I am of the developers and the big players. So we've done some tailored outreach to, you know, the representative bodies within the sector. So chartered surveyors, architects, engineers, The Irish Institutional Property Organisation that has just been formed and they would be a kind of a new body that represents kind of professional developers and that kind of thing. So, we're trying push that outreach and target that group.
- PERREAULT: But it is not easy to do. It is not easy.
- 20 KIRKPATRICK: I can imagine. I think you have answered this question too. So how would a Lobbying Register attempt to identify and rectify this? So, you've spoken a bit about tailoring outreach to those that you are concerned about.
- PERREAULT: That's right.
- 25 KIRKPATRICK: And more generally how would you describe your regulatory approach and I think you've answered this in many ways too - saying it's very sort of proactive and less about the gotcha approach, just trying to get people on board and slowly change the culture. Am I right?
- PERREAULT: Hmm. That's right, yeah, yeah.
- KIRKPATRICK: That's the approach.
- 30 PERREAULT: Focusing on outreach has been really helpful and one of the things that I think was probably useful when I came in, you know, I could see this is a benefit and a challenge at the same time. I was coming in as a foreigner into a country that I was, you know, familiar with but had never lived and worked in and I thought that there might be a little bit of you know, go home why are you taking our job kind of thing. But at the same time I thought there would be benefits to it because I was from outside. There was no sense that, you know, nobody could say oh she's in the pocket of so and so or, you know she would have a vested interest or she's too well connected and how could she possibly be independent enough to regulate and so on. And I'm working on behalf of the commission who have been here for a long time and is, you know, an established regulatory body but I was given delegations to be able to do a lot of the decision making myself and I think that level of arm's length not only from the people I'm regulating but the culture generally, I think it actually helped to give some creditability and coming from a country that had already regulated pretty successfully for a long period of time I think helped as well. Because I could say look this stuff does work you just have to give it time to bed in and once, you know, everything is kind of the systems are up and running and people are used to it you'll see the benefits of it and you'll see that it's
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not this scary chilling kind of regulation that's going to ruin the nature of the lobbying and the legitimate lobbying, you know, that will help make things more transparent. So, I could see benefits to that in terms of the approach as well.

5 KIRKPATRICK: So, you are familiar with the Canadian model?

PERREAULT: Yes.

KIRKPATRICK: Did you, were you working in that field in Canada?

10 PERREAULT: Well I was in ethics in Canada so I worked on the Conflicts of Interest and Ethics side for the public officials and the Lobbying Commissioner's a separate office.

KIRKPATRICK: Yes.

PERREAULT: But I would be familiar with how it works and what the rules are as well.

KIRKPATRICK: Hmm. Is it fair to say that there's many similarities between Ireland and the Canadian model?

15 PERREAULT: There are some similarities I would say. Some of the key differences would be that Ireland doesn't have the 20% threshold that Canada has.

KIRKPATRICK: Yes. Yes.

20 PERREAULT: Whereas, if you lobby one time and it's captured by the legislation then you must register where as in Canada it has to be 20% of one of your full time employees' time kind of in order to be captured. Then I think the difference in post-employment would probably be one of the most significant differences.

KIRKPATRICK: The Five years..

PERREAULT: The five years versus the 1 year.

25 KIRKPATRICK: I think we're aware of those differences, yes we'll come onto that.

PERREAULT: Right.

## **RECORD KEEPING**

30 KIRKPATRICK: In terms of record keeping, do you have any role in enforcing record keeping requirements on lobbied parties?

35 PERREAULT: No. We have identified it as a best practice in our guidelines for public officials and we have said it is important to maintain accurate records particularly since the Lobbying Legislation captures these informal communications that could happen out on the streets. We're not saying that somebody needs to go around and have, like you know, a note-taker with them when they are -

## **RECORDING ENDED AFTER 47 MINUTES**

**See written notes of responses to final questions (not recorded).**

40 **RECORD KEEPING continued**

KIRKPATRICK:

What obligation is on the lobbied to keep records of meetings with lobbyists?

How might a citizen access the meeting records kept by the government officials when they meet with lobbyists?

5 PERREAULT:

Section 5(7) of the Regulation of Lobbying Act 2015 provides that the Minister for Public Expenditure and Reform shall prepare and publish a code, to be known as the "Transparency Code", which sets out how certain relevant public bodies, such as ministerial advisory groups, may conduct their activities in a transparent way. By adhering to the Transparency Code, 10 communications within these bodies would meet the exemption from the requirement to register and report on lobbying activities.

Accordingly, the Department of Public Expenditure and Reform has prepared a Transparency Code.

15 More information can be found on:

<https://www.lobbying.ie/media/5986/2015-08-06-transparency-code-eng.pdf> within which site, there is reference to the principles of open government.

<http://per.gov.ie/wp-content/uploads/OGP-National-Action-Plan.pdf>

## **PARTY OFFICIALS/POLITICAL ACTIVITIES**

20 KIRKPATRICK:

Can registered lobbyists simultaneously hold senior roles in political parties?

PERREAULT:

This is possible, but returns must record whether someone is a DPO.

## **REVOLVING DOOR**

25 KIRKPATRICK:

How effective is the 'cooling off' period that applies to all senior decision makers? How do you think the Irish model compares, for example, with the Canadian model which is much longer – 5 years? What was the rationale behind the decision to limit the period to one year?

30 Has post-separation employment of elected officials, their staff, or senior members of the civil service, presented issues of concern?

PERREAULT:

Differences in duration and in enforcement provisions. Irish model is one year, no enforcement power associated with it. We have had a breach, but apart from notifying the person and their new employer and telling the Minister of the facts without naming the person, we could not do anything else. In the consultation process around the submission of the review of the Act, a 35 period of 2 years was mooted but was viewed as too long by the policy department. (See recommendations in Review submission).

Best to speak to policy department about rationale for decision-making; regulator had no role beyond making recommendations.

40 **GIFTS AND BENEFITS**

KIRKPATRICK:

How successfully do you think the Lobbyist Code of Conduct prevents the giving of gifts and benefits by lobbyists?

What Code (or other such source) guides the prevention of soliciting or receiving gifts and benefits by the lobbied?

5 PERREAULT:

Being a 'Code' it is not legally enforceable. The 2018 Corruption Offences Act presumes corrupt intent through giving of gifts and benefits in exchange for a function done or not done (quid pro quo arrangements). However, if a gift is given otherwise, including by virtue of position, it may be considered acceptable.

10 Under the Ethics Acts, office holders may receive and keep gifts received by virtue of their position valued at up to Euros 650 (and any gift over €200 must be disclosed on their annual statement of interest). Under Local Government Act and the Civil Service Code of Standards, local authority members and staff, as well as civil servants, must refuse any gift of more than modest value (for example, pens, diaries etc.)

15 **DONATIONS AND ACCESS**

KIRKPATRICK:

How successfully do you think lobbyists and/or their clients are prevented from gaining preferential access, for example, through making major donations at fundraising events? How is this monitored and enforced?

20 PERREAULT:

The Electoral Act 2007 places limits on funds received by parties, third parties, election candidates and individual officials (TDs, Senators, MEPs). Limits vary according to who the donor is and who the recipient is.

25 €1,000 is the maximum donation that may be accepted from an individual OR registered corporate donor by a TD, Senator, MEP, or candidate/election agent at Dail, Seanad, European or presidential elections.

\$2,500 is the maximum donation that may be accepted from an individual or unregistered corporate donor by a political party, sub-unit of a political party, or a third party.

€200 is the donation limit for an unregistered corporate donor.

30 See the table on page 5 in the following donation guidelines: <https://www.sipo.ie/acts-and-codes/guidelines/donations/Guidelines-for-TDs-Senators-and-MEPs.pdf>

35 Anonymous donations cannot exceed Euros 100, and there is a ban on the acceptance of any cash donation over Euros 200.

Where a donation is made through an intermediary, the identity of the person on whose behalf the donation is made will have to be provided to the recipient. It is an offence to fail to provide this information.

## **EDUCATION/OUTREACH**

40 KIRKPATRICK:



The success of the Scottish, and Irish model is often attributed to extensive stakeholder engagement and program of education, prior to the Act becoming operational. What steps do you think are necessary to move to a culture of more transparency, integrity, fairness and freedom to politically communicate?

5 PERREAULT:

Education and awareness was tailored to need; within the first year in office, Perreault gave 75 presentations on operational aspects of the legislation. Over time, there was a shift in the 'mind-set' regarding compliance and obligations, and gradually, this has led to cultural change.

10 There are different needs for lobbyists in the regions compared to those located in/around Dublin.

Many lobbyists now see the benefit of making entries in the Register – for example, to further their cause/campaign or to promote their organisation as an effective representative body to their members/prospective members.

### **CORRUPTION RISKS**

15 KIRKPATRICK:

What do you think are the key corruption risks that remain around lobbying in Ireland?

PERREAULT:

See response above in section 'Unregulated Lobbying' and also the SiPO submission on Review of the Act. In short, risks are related to:

- 20 - Legal community; informal coalitions; unpaid staff members; low compliance outside of Dublin-based lobbyists; zoning/property developers.

### **REVIEW OF THE ACT**

KIRKPATRICK:

What were the key recommendations made from the review of the Act?

25 Are they likely to be implemented?

PERREAULT:

30 A submission by the Standards in Public Office Commission was made to the second legislative review of the Regulation of Lobbying Act 2015, in May 2019. A report following the review, which is ongoing, is expected to be published before February 2020. The SIPOC made 22 recommendations for change; including:

<https://www.lobbying.ie/media/6224/sipo-submission-10-may-2019-1.pdf>

35 Recommendation 1: The Act should be amended to provide that any business representative bodies or "coalitions" of business interests, irrespective of number or status of employees, are within scope of the Act, where one of more of the members of the body/coalition would be within scope if they were acting themselves. Members of the body/coalition should be required to be named on returns in support of increased transparency.

40 Recommendation 2: Section 5(3) of the Act should be amended to provide that, where a relevant communication on behalf of an organisation that falls within scope of the Act is made by either a paid employee or an office holder of the organisation, it will be regarded as a lobbying activity made by the organisation.

Recommendation 3: The Act should be amended to provide a more comprehensive definition of a full-time employee in section 7.

Recommendation 4: Section 5(1)(c) of the Act should be amended to provide for the managing and directing of relevant communications about the development or zoning of land, in addition to the making of such communications.

Recommendation 5: The provisions of section 5(1)(c) of the Act should be limited to persons who have a material interest in relation to the development or zoning of land or are connected to or communicating on behalf of someone with such an interest.

Recommendation 6: The Act should be amended to exempt communications made by political parties to their DPO members in their capacity as members of the party.

Recommendation 7: The exempt communication at section 7 of the Act should apply to negotiations on terms and conditions of employment undertaken by representatives of other employee representative bodies.

Recommendation 8: Section 11(1)(b) of the Act should be amended to include an address where a person carries on business or their “main activities”.

Recommendation 9: The word “permanently” should be removed from section 11(4) of the Act.

Recommendation 10: Section 16 of the Act should include an explicit requirement for the Commission to lay any code of conduct published under section 16 of the Act before the Houses of the Oireachtas.

Recommendation 11: The Act should be modified to give the Commission authority to conduct inquiries into and report on breaches of the Code.

Recommendation 12: Failure to comply with section 22 of the Act (either in relation to submitting an application for consent, where required, or in relation to complying with the Commission’s decision on an application for consent) should be a relevant contravention under section 18 of the Act and an offence under section 20 of the Act.

Recommendation 13: Employers of relevant DPOs should ensure that DPOs are aware of their post-employment obligations when planning to leave a post, and that they may seek advice from the Commission as needed.

Recommendation 14: The Act should be amended to extend the scope of section 22 to include public bodies and DPOs with whom a person may have had significant involvement, influence or contacts.

Recommendation 15: The Act should be amended to allow the Commission to publish certain details regarding its decisions to waive or reduce the cooling-off period under section 22 of the Act.

Recommendation 16: An anti-avoidance clause be added to the list of relevant contraventions in section 18 of the Act.

Recommendation 17: The Commission should be allowed to publish summary details of investigations under section 19 of the Act.

Recommendation 18: The Act should be amended to introduce obligations for DPOs to decline further communications with persons where the DPO is aware that the person has failed to register previous lobbying activities by the relevant date.

Recommendation 19: The Act should be amended to provide the Commission with the authority to order any DPO to refuse to have dealings with a person who has been convicted of a relevant contravention.

5 Recommendation 20: The Act should be amended to provide the Commission with the authority to investigate breaches of the provisions outlined in recommendations 19 and 20 above.

Recommendation 21: An education programme led by the Department should be undertaken to inform public bodies about the exempt communication under section 5(5)(n) of the Act and the requirements of the Transparency Code.

10 Recommendation 22: An education programme led by the Department should be undertaken to inform relevant state agencies about the exempt communication under section 5(5)(m) of the Act and the circumstances in which it applies.

## GENERAL

### KIRKPATRICK:

15 If your office was to amend any aspects of the regime to make it more effective, or easier to enforce, what changes would you suggest?

To what extent, if any, do a lack of resources impeded your effectiveness of oversight and compliance?

### PERREAULT:

There are 4 units with approximately 4/5 people in each unit:

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- Lobbying Unit
  - Electoral Unit
  - Investigations and Complaints Unit
  - Education and Outreach Unit

25 In the broader offices of the Ombudsman (which provides staff to the Standards Commission), there are 135 staff, with different functions.

The 'structure' is broadly right; staff interchange according to need and priority, there are advantages and disadvantages to this arrangement. Additional resources would be welcome.

**INDEPENDENT COMMISSION AGAINST CORRUPTION****RECORD OF INTERVIEW BETWEEN IRIS KIRKPATRICK OF THE  
INDEPENDENT COMMISSION AGAINST CORRUPTION (ICAC), BILLY  
5 MCLAREN, LOBBYING REGISTRAR AND JAMES DRUMMOND, ASSISTANT  
LOBBYING REGISTRAR, AT THE SCOTTISH PARLIAMENT, ON FRIDAY,  
12<sup>TH</sup> JULY 2019.****TIME: 2.00 P.M.****10 PRESENT: IRIS KIRKPATRICK, BILLY MCLAREN, JAMES DRUMMOND****KIRKPATRICK:** Billy, if you could start please by just saying your full name and what your current role is.**15 McLAREN:** Yes, I'm Billy McLaren and I'm the Scottish Parliament's Lobbying Registrar.**KIRKPATRICK:** Thank you, and James?**DRUMMOND:** I'm James Drummond and I'm the Assistant Lobbying Registrar.**20 KIRKPATRICK:** Thank you. So I have a few questions for you, whoever would like to start. For someone from overseas who knows nothing about the new lobbying system in Scotland can you explain the basics of how it works please?

**25 McLAREN:** Sure, what we deem 'regulated' lobbying to be, and how we have set this out in leaflets and information that we provide – is described by Five Key Steps. These help to define what regulated lobbying is under our Act and we find this the most simple way of explaining to organisations whether or not they have engaged in regulated lobbying. So, in terms of the first step - that would be when they communicated face-to-face with a member of the Scottish Parliament, a member of the Scottish Government, the Scottish Government's Permanent Secretary or one of the special advisors with the Scottish Government, of which I think there are around fourteen.

**30** The second step would be where you have had to communicate about Scottish Government or Scottish parliamentary functions. For example, that could involve legislation, secondary legislation, possibly the granting of licences or funding to certain matters or a parliamentary matter, such as asking parliamentary questions or motions. The third step would be if you have been using the opportunity to inform or influence decisions on behalf

**35** of your organisation, or those that you represent - so that representation may be if you are a consultant lobbyist speaking on behalf of an organisation. Step four - you have to be paid by an organisation and so that means smaller organisations with only volunteers are not caught by the Act – There has to be a paid element to the interaction that you have in

**40** terms of you speaking on behalf of your employer. And finally, the fifth step is really to look at the exemptions which may apply - I think there are around thirteen of those - that might preclude you from actually having to register a conversation. So that's the five key steps we use as the basis for

organisations to think about whether they need to record regulated lobbying.

Now each instance of regulated lobbying should be submitted for publication to the Lobbying Register through an Information Return, which entails the who, the where, the when and the what, discussed during these conversations. We ask that the Information Returns submitted to us are recorded as accurate and meaningful, as the Register is free for anyone to view and see what's been taking place in terms of engagement of MSPs with certain organisations. Now, the Act is quite narrow in terms of its remit only being for oral face to face communications, but in terms of the people who can actually lobby it goes wider than that, so it's not just your consultant lobbyists, it can be anyone who is paid within an organisation. Your main job doesn't have to just be to lobby MSPs, it could be anybody within your organisation who is in receipt of payment from your organisation. I think that pretty much covers the basics.

KIRKPATRICK: Thank you for that. So normally when major reform in Scotland is introduced it comes from a major problem, and what was the problem in Scotland?

McLAREN: Well, there wasn't one. I think we might be unique if I understand the question because there have been issues elsewhere and this has necessitated change but in Scotland there wasn't. I think it was probably a result of the extending of our powers in Scotland and a concern that we should plug a gap in some transparency measures we already had. So, it came from a Members' Bill first being introduced. In fact, that Bill never got as far as introduction from Neil Findlay MSP, a Labour Party member. Now, in Scotland, the parliamentary process is that the government at the time, in this case, the Scottish government, the SNP Government, they decided they wished to pursue their own legislation and generally speaking that means that other legislation would fall, in this case the Members' Bill from Neil Findlay. It was then for the Scottish Government to introduce legislation and they put it into their parliamentary programme to do so. In the end a piece of Scottish government legislation was introduced and passed in 2016. It wasn't really the result of any particular scandal or anything like that. I think it was just seen as the right time to do it.

KIRKPATRICK: Okay, thank you. Is it fair to say that Scotland has gone from having no legislative and regulatory framework to a progressive system – a way of doing things differently? How smooth was that entire process?

McLAREN: I think I said in answer to the last question, there have been things in place and in many ways what wasn't in place was any transparency measure to show how lobbying was undertaken in Scotland of Ministers or MSPs and one civil servant – the most senior civil servant in Scotland – and the political advisors, the special advisors. So that was something we didn't have and there was great debate about how, or whether you should, have a lobbying register to record these details. And that was the debate that went through the Parliament until the Act was passed. And on how would you do it, I think it is fair to say it was fully debated and there were many different views, so to say smooth would probably be not accurate. There was a lot of views aired and ultimately the decision of parliament was to pass the Act in 2016. You have red lines to draw in certain places for what types of activity you wish to record. So that's where we ended up in 2016

but there are probably some further questions still to be asked about how Scotland acts in relation to transparency.

KIRKPATRICK: Yes, okay, thank you. Are there lessons that you can impart about the procurement, development and testing of an IT system underpinning the register and the creation of guidance for users of the register?

McLAREN: Yeah, Iris I will cover procurement because I was around at the very beginning when we started on the procurement process and in fact it actually started before I was put in post. We have got a very good procurement team within the parliament and we had the classic project management setup in here of a very senior manager, in fact, my line manager, being the Chair of a Project Board to take forward the decisions on procurement. So, decisions were made on procurement actually before I came into post but nothing I disagreed with. So that set us down the route of using an existing framework contract which the Scottish Government had, which meant that we could procure fairly quickly, and it was along fairly established routes. So, a very open procurement process was undertaken which took a reasonable amount of time. It was good we contracted the organisation that we are now working with on a long-term contract (Northgate Public Services) who have helped us to on-goingly develop the system. James will cover the rest of the aspects about how we went through the process of implementing IT.

DRUMMOND: Yes, that probably does show where I came in and joined the team – around about the time after the IT contractor had been appointed – the lessons that I would impart from this really comes from the relationship that you have with the IT contractor, if they are external – establish a good relationship and good communications which I think we have had, and continue to have. Because really, it was vital to the development of the IT system during testing to iron out the issues that we had because basically the system was being created from the Act as it was written on a piece of paper, so we needed to ensure that everybody was clear in the interpretation of what the Act says and what we needed the system to do. I think we probably arrived at a good result in terms of the site through the communications that we had during testing with our IT contractors. It probably also applies in terms of the writing of the Parliamentary guidance, – making sure you have good communications. Billy, I think, wrote most of the parliamentary guidance and we road tested the guidance that was written with an External Working Group made up of representatives from the various organisations or sectors that would be on the Register. Again, this was well in advance of the Act going live, and so allowed us the chance try and iron out any kinks in terms of parts that we could see needed to perhaps be explained a bit clearer. Our aim was to have that IT system and the guidance ready well in advance of the Act being commenced. Around six months before the Act was due to come in force, the guidance was almost at that point where it was ready to be published and made available. We also engaged and made sure we had a 4 month trial period of the system itself, so that the organisations who were likely to use the Register when the Act was commenced had the chance to have a practice period, and trials on the system so that everybody got used to what the requirements were when actually using the Register. This meant that nothing was brand new on Day 1 for the bulk of the organisations that registered. I would say it's the communication you have



with your stakeholders, whether that be internally or with the IT contractors, or the people that are likely to use the system, that is the most important to making the system a success.

5 KIRKPATRICK: Are there aspects of the Scottish model compared to others that you feel work particularly well?

10 McLAREN: I sometimes think it's not helpful to compare ourselves to others. We've been part of setting up something called the European Lobbying Registrars Network which brings in 9 or so different organisations in different countries. What we learned from that is that every system is set up on a different basis, so it's quite hard to make comparative measures when you look at different countries, with systems set up for different reasons and different legislation, and so on. Probably from that perspective I wouldn't necessarily say that we look out to others and say we're better or worse. We just focus on what we are trying to do. The good practice that comes through networks like that is really useful to all of us going forward. I wouldn't say there's anything in particular that stands out or otherwise.

15 KIRKPATRICK: Thank you. Just moving onto the Register itself – what do you think are the most successful features of the Register in Scotland, and why?

20 DRUMMOND: Well, what I would say there in terms of what we find successful is that we like to think is the ease of being able to submit the information returns that populate the Register. We would estimate that an organisation should only take five or ten minutes to complete one information return. We do hope that the amount of information that is needed to be inputted is not overly onerous. We have drop-down boxes which helps again to speed up the process for organisations ensuring they have the accurate information in terms of who it was that they spoke to. We do think that it's a good system but we do appreciate that a lot of organisations might not be totally familiar with what they need to do in terms of the Act. If I could go a little bit wider in terms of the success on how people use the Register, I think that probably comes down to our team's own approach to the organisations - We are very much about being helpful, and educating organisations on what it is that they need to do and how they need to fill in the Register, and again inform them of what their statutory requirements are. We are constantly trying to engage with stakeholders and make sure they know what it is they need to do and to be as helpful as we possibly can. One such example being that we have been running workshops with various organisations for their compliance officers - the people who we think are filling in these information returns. We are trying to standardise what comes in from all organisations, so we ran a month of workshops and had various organisations come in to the Parliament where we then provided them with practical information, advice and top tips on how they should be using the register and completing their forms. This was to educate them on what they did, and didn't need to do, and which would save them time when using the system. So, it is really just about the work we do in terms of being successful in ensuring compliance by organisations.

45 KIRKPATRICK: On that, how do you ensure what lobbyist input as a record of the meeting, is accurate?

DRUMMOND: Every single day we have a daily meeting of the whole team. What happens is that we have all information returns that are submitted by organisations

- 5 over the last 24 hours and review all submissions that have been sent in. Before that meeting we look at these individually. We all make our own comments on the list we each have been supplied. We have our own views on the information in each return, for example – have we picked up any possible exemptions? Are there any mistakes? Is the information supplied clear enough? We then gather to discuss the list. Our two other colleagues in the team who deal with a lot of the admin and compliance side of our work are excellent at being able to pick up things that Billy and I can miss. So, we have our daily meeting and look through all returns, which are then divided up and assigned to each person. These will then be worked on by each person with the aim of getting these published on the Register. Nothing goes live on the Register on the public-face of the site until we are sure that we have spoken to organisations about anything that we think is missing, or querying with them whether there are any possible exemptions that they have not considered. That's where we try to do the bulk of the work in ensuring that everything on the Register is accurate. It might be later on that once something is published that an inaccuracy comes to light, but we do as much as we can before anything goes live to make sure its accurate.
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- 20 KIRKPATRICK: In the event that an inaccurate record of the meeting is believed to be recorded what steps do you take to rectify it? I think you have covered that...
- DRUMMOND: If I can briefly elaborate on that a little more. The system does have an inaccurate information button, so anybody can use that to notify our team of something that they believe is inaccurate.
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- KIRKPATRICK: And, what source of complaints do you rely on to alert you to mis-reporting?
- McLAREN: Generally speaking we haven't had a lot, the inaccurate information report has been used probably less than a dozen times. That's been largely used to correct mistakes of a lobbyist submitting the wrong date or so forth. So, it's not really been a big concern. I should add that part of the checking process is after the publication of the Information Return. When this goes live, a link is also sent to the MSP, or the special advisor, or the ministers' office, or private offices so they are able to check if there are any inaccuracies and we are pretty confident that it's quite thoroughly checked.
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- KIRKPATRICK: And that's touching on one of the questions I have which is - is there cross-checking of what lobbyists record on the Register with what is made publicly available on the ministerial member of parliament diaries?
- McLAREN: Yes, mainly by Fiona and Lisa our colleagues. There is a similar situation in Scotland, where the Scottish Government has committed itself as part of its transparency measures to release ministerial diaries three months in arrears. So, we can check those, and we do, to see if there's any organisations that they have met that might possibly be required to register. I do think that members themselves, whether they be ministers or members, or special advisers, or the permanent secretary are very good at making the people that they meet aware of the legislation. Part of that is down to the fact that the Scottish Government themselves introduced the legislation, so take it very seriously. I think on that basis the legislation works well, there are text 'footers' on the private office staff
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communications and so forth about the requirements of the Lobbying Act and I see quite often on the footers of MSPs that they've also got a logo there to say there's a requirement to lobby face-to-face communications and has been since 12<sup>th</sup> March last year. I think that might partly explain why we don't have an awful lot of complaints.

KIRKPATRICK: I'm not sure the next question is valid then – how do you deal with complaints about the Register itself – have you had many?

McLAREN: Some people don't like the policy – the legislation – and perhaps don't agree with the principle of doing it, but that's a separate aspect. We have a legislative review coming next year where stakeholders are free to discuss whether this legislation should stay as it is or should be redacted in some way, or should be extended.

I think that's the proper parliamentary process for doing so; decisions based on stakeholder evidence and the views of the committee and ultimately voted on by members of the parliament itself.

In terms of day to day complaints we haven't really had any but the legislation doesn't enshrine the role of the lobbying registrar or the assistant lobbying registrar. It's in the name of the clerk of the parliament. A proper complaints procedure would obviously be a complaint about my office but would be taken to the Clerk/Chief Executive for review.

I haven't heard of any yet, so ....

20:14

KIRKPATRICK: So, just moving onto the definition of lobbyist itself – the exemptions from being required to register are many. How would you verify a claim by an organisation that it does not need to register because of an exemption clause?

DRUMMOND: Well, ultimately, it is for organisations to conclude whether they are required to register – we can reference the various exemptions within the Act, and we advise them on what these exemptions are, ask them to consult the guidance, and also to discuss in-house with their own management teams as to whether these exemptions do apply. So, we don't give a definitive view really of whether an organisation does/doesn't have to register but we will advise them as best we can. On some occasions we do look at a website of an organisation which has started the application process. That can prompt us into asking whether they have checked all of these exemptions because we can see that their website might reference the fact that it's an entirely volunteer run organisation, hence nobody in that organisation is getting paid. If we return to the five key steps - step four stipulates there must be a paid element to a person that engages in regulated lobbying – So this can rule that organisation out straight away. We try and give organisations advice where we can, but ultimately they have to conclude themselves that they are exempt.

KIRKPATRICK: Thank you, and how does the lobbying legislation apply to members of parliament, including ministers, particularly in circumstances where they might lobby their parliamentary colleagues?

McLAREN: Well our legislation only relates to lobbyists lobbying MSPs and Ministers, not MSPs lobbying other MSPs or Ministers. The onus is on the lobbyists

to record the information and that is what the lobbying register is essentially. There was a safeguard put in, in terms of when you think about peer-to-peer references, an exemption we call the constituency exemption, for short. It's about communications made to a member representing either a region or constituency. Essentially, it exempts communications made on the basis of constituency business. Scottish Ministers took the decision that that exemption shouldn't apply to them, so if you want an example of that, if the health minister was lobbied in his constituency by a lobbyist about an issue to do with planning that communication would have to be registered by the lobbyist. That information has to be reported because that exemption does not apply to Ministers in those circumstances. That's quite an important safeguard I think. It also means there's more of an emphasis on Ministers to ensure that lobbying in the constituency is reported.

KIRKPATRICK: Does any part of the lobbying regime, or any other method of regulation, prohibit members of parliament from having secondary employment?

McLAREN: No. But it's interesting you raise it because there is a proposed Bill in Parliament just now – whether it will end up on the legislation book, I don't know. It's called the Proposed Restriction of Outside Remuneration Etc. of MSPs Bill, and interestingly it is Neil Findlay that we mentioned earlier who is proposing this Members' Bill. We get a lot of proposed Bills and progress is a matter of how much support they can receive. I know that this proposed Bill has already been through a consultation period, which closed on the 2<sup>nd</sup> May this year. And it will be for the Member to determine whether he takes that forward. And he will also need to seek further parliamentary support for its commitments.

KIRKPATRICK: Thanks Billy. Moving on to unregulated lobbying. So, notwithstanding the broad scope of the Scottish regulatory system, are you as the Lobbying Registrar aware of any potential groups or individuals at high risk of non-compliance with the requirements to Register? That is, those who may be lobbying outside the system, for example, small interest groups, property developers, lawyers, and other professionals like accountants and finance people?

McLAREN: You can never say never, but I think James has touched on it already, about the amount of outreach we did with organisations. We did an awful lot of work with member organisations who reach these types of bodies. We had a report produced independently by a company called 'PolicyScribe' before we even started which looked at all the different potential registrants, i.e. those companies/organisations etc. that would have to register. And between the list that PolicyScribe produced and our own registrants, I think we've done a really good mapping of who we would expect to register. I think what we have seen is people registering now who we didn't expect to see, and I think some of that can be explained by the constituency exemption I've mentioned already, where companies lobbying their MSPs, who also happen to be ministers, might have to register that information. And I think it also shows the scope of how many contacts are made by MSPs and ministers. So, I don't see a high risk – we are always diligent in looking at media articles and looking at any information we can get our hands on really, where we think there might be somebody out there that needs to be registered. And people come from different places that we don't expect as I said. But I don't see a high risk.

We are always here – and the same attitude that James described earlier – we are always here if people want to come and talk to us about whether they think they are engaged in lobbying and we encourage them to register quickly. And then get information returns in.

5 DRUMMOND: I think we do try to be proactive also about it because as you mentioned the media articles and the things that we see on social media. Again, Fiona and Lisa actively contact organisations where they have possibly been in media stories, and if we establish that they are not on the register we send an email to raise their awareness of the Act and the Register, and minimise any chance that people are engaging in regulated lobbying without having been registered.

10 KIRKPATRICK: Ok. I think you have answered my next question which was “how would the lobbying register attempt to identify and rectify this?” I think you’ve spoken to that.

15 More generally, how would you describe your regulatory approach”? I think you touched on it earlier – Billy or James – about your communication and trying to be helpful through education, training and just being supportive.

20 McLAREN: It was our instinct to do it that way, but it was backed up by the report that I mentioned earlier. Because the PolicyScribe report went beyond just looking at identifying potential registrants. It actually looked at different lobbying regimes that are already in place across the world. A strong view of what had worked best elsewhere came through in that, and we discussed that with the External Working Group. It was about having clear communication and lots of it.

25 That’s been our approach and continues to be so. We’re quite keen to make clear to people that we are not, some sort of, hidden civil servants in an office. We are very proactive. James mentioned the workshops – we also go out and see individuals and companies if they wish us to do so and the team enjoy doing so. We get a better result from people once we’ve done that.

30 KIRKPATRICK: Thank you. Now on this issue of record-keeping – as the Registrar, do you have any role in enforcing record-keeping obligations on lobbied parties?

35 DRUMMOND: It’s not for us to determine how organisations keep their records as there’s nothing in the Act. That would probably be something more for, I think – and Billy can correct me – the investigatory powers of the Commissioner for Ethical Standards in Public Life, when they would need to look into these matters further, as part of any complaint they receive. I certainly don’t think there’s anything for us in that respect.

40 KIRKPATRICK: In terms of lobbied parties - so, Ministers and Members of Parliament – what kind of record-keeping would they have?

McLAREN: There’s nothing in our legislation that would commit them to any particular types of record-keeping. So, we have no real locus in that respect.

45 You mentioned earlier about ministerial diaries and the government is committed to publishing records of these. They keep records of who they have met.



In terms of MSPs, I think it's a matter for the individual MSPs office to look after their all their record-keeping with regard to this type of thing. The onus is not however on the MSP to report on the lobbying, so it's an individual matter for deciding what they wish to keep, or not.

5 KIRKPATRICK: Thank you. I think that's dealt with the question of what obligation is there on the lobbied to keep records of the meetings – so that's not a remit for you guys.

10 How might, might you be in the position to answer this – how might a citizen then access the meeting records of government officials when they meet with lobbyists? Do you know?

15 DRUMMOND: Again, it's not within our responsibility but The Scottish Government are covered by UK and Scottish Freedom of Information legislation, so requests could be made through that method in terms of members of the public seeking information on what minutes or records were kept of a meeting that a minister might have had with an organisation. I believe that would be the channel to do it through.

KIRKPATRICK: Ok, thanks. And can registered lobbyists simultaneously hold senior roles in political parties?

20 DRUMMOND: Again, there's nothing in the legislation that points to anything for that in terms of our remit.

25 McLAREN: I would just add to that – there is, if you're talking in terms of senior roles in political parties – are you talking about elected members? Elected members themselves would be covered by the code of conduct for MSPs which does have a fairly strong section on paid advocacy, and that's prohibited under the Code of Conduct. So, that's not quite answering the question directly, but it is quite a key aspect.

30 KIRKPATRICK: Yes it is. In terms of post-separation employment, Scotland is unlike other models such as Canada and Ireland in that they don't impose a cooling off period for all senior decision-makers. What was the rationale behind this decision not to?

35 McLAREN: It was not something that fell within the remit of this Act. There is in the Scottish Ministerial Code, which is the Code that governs how Ministers behave – produced by the Scottish Government themselves, and within that code there is a requirement of anybody leaving ministerial office to abide – as I think they do in Westminster – with a 2 year statutory limit where they have to report themselves to the independent advisory committee on business appointments. That doesn't apply to MSPs but it would apply by their own Code to Scottish Government Ministers. But no, that would apply to a separate piece of legislation.

40 KIRKPATRICK: It's not in the Act that you deal with?

McLAREN: No.

KIRKPATRICK: And, just with regard to gifts and benefits, how successfully do you think the Lobbyists Code of Conduct prevents the giving of gifts and benefits by Lobbyists?

45 McLAREN: Again, I think that's probably more a matter for the MSP's Code of Conduct which has been in place since 1999 when the Parliament was



- 5 convened, or reconvened, however you wish to express it – when we came back into being. There’s again, a section in that Code which is absolutely about giving of gifts and hospitality measures and so forth. Our Code of Conduct was produced through our legislation and is really a guide on behaviour that mirrors the Code of Conduct for MSPs. The Code of Conduct for MSPs is about how members should behave and what appeared to be missing was some sort of Code of Conduct on how the lobbyists should behave.
- 10 Essentially, what it does is mirror the MSP Code of Conduct. And the reason I think for that, again, is that the Scottish Government legislation – it wasn’t the Scottish Parliament that introduced this legislation – we just administer it. But, I think the reason behind that was to give some sort of indication of behavioural aspects and that it would be a good idea to set out a very short Code of Conduct for those persons lobbying MSPs – and
- 15 fill that gap, as we mentioned.
- KIRKPATRICK: I think you may have covered this next question which is what Code or other source guides the prevention of soliciting or receiving gifts and benefits by the lobbied – I take it that’s the Codes that you have just referred to?
- 20 McLAREN: That is indeed, aye – the Code I referred to, and you can join the links.
- KIRKPATRICK: Thank you.
- Now, with regard to donations and access, how successfully do you think lobbyists and/or their clients are prevented from gaining preferential access, for example, through making donations at a fundraising event?
- 25 McLAREN: Yeah, this is way beyond our remit.
- KIRKPATRICK: How is this monitored and enforced? This is not within your remit?
- McLAREN: No, it’s not. Again, I think it’s maybe the same in Australia with the Electoral Commission, there are rules around donations and party political funding – it’s not part of this legislation. I mean, I think we have got a
- 30 good framework in place in terms of all the different things I’ve mentioned – the Ministerial Code, the MSPs Code of Conduct, the Lobbying Register, the Freedom of Information Scotland Act and a couple of other transparency measures, like the ministerial diaries. So I think the idea – again, I can’t speak for the Scottish Government, but I think the idea is to
- 35 have all these different aspects to help all records related to the framework, but I think political donations is ... something else.
- KIRKPATRICK: Something else
- 40 You’ve covered the next area fairly well, which is, you know, the success of the Scottish model is often attributed to extensive stakeholder engagement, and the programme of education, prior to the Act becoming operational. What steps are necessary to move to a culture of more transparency, integrity, fairness, and freedom to politically communicate?
- DRUMMOND: Yeah, as you mentioned, we make a big play of the work that we do in terms of outreach and education, and in terms of how we move forward with that, or how that widens, I don’t know if that’s something for us to
- 45 comment on. Billy might have a different view of his own to add to this,

but I always see it as our focus as administrators of the Act is to what is in the boundaries that we have within the Act and again Billy mentioned the review in 2020 so that has got to be subject to that Parliamentary review and. I'm sure organisations will be asked to give their views on whether this Act has made the culture more transparent and more fair, and really, in my opinion, I think our job is to adapt to what comes out of that review, and any legislation that might widen the Act, and deal with that as it comes. That's my view on it.

McLAREN:

I was at a conference yesterday and I was asked a question after my speech about how do you measure success, and I was interested you used the word success in that question. I think it's difficult, because we can say on a purely numerical basis that we've got 1,100 plus registrants and 7000 returns in fifteen months, but numbers alone don't tell you the full answer. So, we're currently preparing our Annual Report in which we'll do a bit more analysis around the types of organisation and the throughput of what we're getting on the system and I think that will help us to understand more about how it's operating. We'll cover the first fifteen months because that takes in two full periods of returns for about 80% of our registrants. I think now is the time to do that so we're going to start work on that very soon and hopefully publish that in September or October time, so that should be a useful resource I hope.

But it's difficult, I think it's fair to say it's successful in terms in that we haven't had a lot of calls for it to be abandoned, or we haven't had a lot of calls to say it's not working. It's not for us as officials to judge its success, it'll be for the stakeholders to give their views to the parliamentary committee next year, as James mentioned, and we'll take it from there.

KIRKPATRICK:

Thank you. I'm interested in – as I come from corruption prevention – so what do you think are the key corruption risks around lobbying in Scotland?

McLAREN:

Again, it's an interesting question. I don't think we ever really think of the lobbying corruption aspects in the way that you perhaps would. One of my international colleagues from another country had mentioned that corruption is a big issue in their country, and not unsurprisingly not this country. But I think that all the different mechanisms that I've described combined, try to root out forms of corruption, but this, to bring it back to what we do, is about making sure there's a clear transparent record where people lobby people in power that, in this Act, is face-to-face, and I think that's a helpful thing for transparency in general. People know that they have to record this information and it goes a long way to them thinking of what it is they actually want to say.

KIRKPATRICK:

Thank you for that. Just more generally, if your office was to amend any aspects of the regime to make it more effective, or easier to enforce, what changes would you suggest?

DRUMMOND:

Ok, well first, and I don't know if you would add anything to this Billy, right from the start and it's already been mentioned, before the Act - Billy mentioned it earlier, but before the Act commenced and through the communications that we did have with the External Working Group, we knew that the exemption for communications made to members for the constituency or region was going to be challenging. I think that's been

borne out in terms of the amount of queries that we do have from organisations who are unclear in terms of what this actually means. There isn't a lot of detail in how this exemption should be applied in terms of what's in the Act or in the Explanatory Notes that accompany the Bill. So, I would say further examination of that in the review would be helpful in terms of explaining what that actually means for organisations and the relationships that they might have with MSPs or Ministers in local constituencies.

From a more functional sense, in terms of an improvement, it would be parliamentary events. The Act states that each instance of regulated lobbying needs to be registered. Now, someone could have half a dozen, twelve, fifteen conversations of the same manner at a parliamentary event but each of those would require to be registered individually due to it being a separate instance each time. We do try and mitigate the amount of work on the organisations courtesy of a copy function within the system that allows them just to keep on regenerating an information return.

We have heard, anecdotally, from organisations who possibly think that if they are having this same conversation fifteen times within the boundaries of one event, that it could be better contained in one return. Again, we appreciate the fact that the Act does stipulate each instance, so it's just something again that came off the top of my head there about what organisations do tell us.

41:16

KIRKPATRICK: Thank you. Billy, anything?

McLAREN: No, I think – pleasingly – that's the extent of it, I think, in terms of you know, things we can change. These changes require further legislation. We have the gift of changing some aspects of the Act, but we don't have the power on those aspects that James has just described, so I think it will be interesting in the Review to hear people's opinions. And any changes they might wish, from an administrative point of view, I think these are the key issues we are hearing. And, some of the other exemptions we thought would cause us more difficulty don't seem to have, so we are quietly pleased about that. Again, we will hear more from the stakeholders as we go into the Review next year.

KIRKPATRICK: Ok thank you. And to what extent, if any, do a lack of resources impede your effectiveness of oversight and compliance?

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I think it's about a team effort. I mean, there's so many different aspects to this – there's the team here who do the brunt of the work. We haven't yet had an investigation so far as I'm aware, by the Commissioner who's got the investigatory role in Scotland; we haven't yet had a criminal aspect where we have had to report something to the Crown Office or the Procurator Fiscal, so there's different aspects that make up this tripartite approach to how the lobbying sanctions work.

We haven't yet had a Commissioner report to the Standards Committee who can recommend sanctions as well under the Act, to an external lobbyist, but that's never been tested yet. So, there's lots of different moving parts. I think in terms of our own resources, the 4 of us, we can always do with more resources, no doubt about it, we do struggle from

time to time, with backlogs and so on, but I think having a very efficient team is the key and we do the best we can with the resources that we have.

KIRKPATRICK: Sounds good. Thank you very much. Is there anything you would like to add at this point yourselves that I haven't covered?

5 McLAREN: I think it's early days for us, and we ourselves are still on a journey of discovering how this legislation has changed public discourse if you like, public policy making. I think it will be interesting to see aspects of whether or not it helps the communications between if you like the lobbyist and MSP and the Minister etc. whether it's slowed things up, whether it's better  
10 focused, so I think it will be interesting to see over time how this legislation has had an impact. What we do know is that there is a lot of information out there now for the people who wish it and we have had some key policy issues that you can now see reflected in the Register around all sorts of things. Like, I was reading this morning about the Gender Recognition Act – there's lots of returns about lobbying on that particular issue. There's  
15 stuff around Airport Departure Tax, short term letting, Air B'b type stuff.

So, I think as the volume grows, and you probably see this more in Ireland who have been going for a couple of years more than us, you start to see the value of the information that's there.

20 KIRKPATRICK: What about you James?

DRUMMOND: Yeah, I was just trying to think about that there as well. I think it's quite interesting, again I'm looking at it more from an internal point of view. It's enlightening to see the amount of organisations that come in and speak to MSPs about legislation that's going through Parliament, and how often  
25 MSPs are lobbied on amendments that are coming forward at the second stage of a Bill. It's also actually quite good feedback in terms of how you can communicate some of this information internally to your colleagues. I'm thinking more specifically about our legislation team or Non-Government Bills Unit colleagues, who we can give them a bit of a heads up, saying, "this organisation has been speaking to MSPs or Ministers about this and you should review the Register and see if it can give you any kind of helpful information on what you're doing in terms of the work, for these Bills."  
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KIRKPATRICK: That's an interesting point.

35 McLAREN: That's kind of secondary ....

DRUMMOND: It was only when we were sitting in a team leaders meeting one day that it shone a light for me and the fact that listening to the Non-Government Bills team leader discussing a certain Bill. The Register will have information on who is speaking to organisations about that Bill.,

40 McLAREN: If you go looking, you'll find a lot of information – the last time I looked there was over 7000, and I think we're up to date.

DRUMMOND: Yeah, close to 7500 returns since March last year, and as Billy mentioned the back-log that we still have, so yeah, more to come.

45 KIRKPATRICK: All good work. Thank you very much, I think I've exhausted my questions and would just like to thank you both, and for being patient with me.

DRUMMOND: Thanks.

McLAREN: Thanks.

KIRKPATRICK: Thanks. I'll stop now.

**RECORDING STOPPED AFTER 47:15 MINUTES**

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