

Chloe Smith MP
Minister for Political and Constitutional Reform
Cabinet Office
70 Whitehall
Westminster
London, SW1A 2AS

22 August 2013

Dear Ms Smith

## Re: Non-Party Campaigning

We are writing to you in light of increasing concerns among charities that the new rules proposed in Part II of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill will have a huge impact on charities' and other groups' day-to-day work. We fear that the rules as they are currently drafted are entirely unworkable and call on you to reconsider.

For many charities and voluntary organisations, raising awareness of issues affecting the people and causes they support is a routine and important part of their work and central to their charitable objectives. However the rules in the new bill risk seriously hampering their ability to speak up on issues of concern, including as part of their fundraising activities.

We are concerned by the broad scope of the proposed changes to the Political Parties, Elections and Referendums Act, and by their lack of clarity. We are seeking urgent legal advice in the interests of preventing this bill from having disastrous unintended consequences.

We are concerned that the proposed new rules could apply to a range of normal and legitimate awareness-raising activities despite them being intended to be party-politically neutral. For example:

- 1) A health charity could publish a leaflet highlighting the dangers of smoking. If smoking legislation became a party political issue in an election this activity could be deemed to have the effect of supporting a party's campaign, and be subject to regulation.
- 2) A local community group could campaign for or against a proposed bypass road. If local candidates subsequently express a view on the issue the campaigning activity could be deemed to assist candidates' election campaigns. The community group would become subject to regulation, even if it had acted apolitically and had no intention to support any candidate's campaign.
- 3) A children's charity calls for a statutory inquiry via the media in response to a major abuse scandal at the same time as one of the major political parties. This could leave them open to claims that they have inadvertently benefited that party's election campaign.

All these cases show how charities and other groups risk being accused of benefiting a party or candidate's election despite their campaign and material being entirely party politically neutral. It will, of course, not always be possible for a charity to know in advance what issues may become political during an election period, and may be deemed to be 'for election purposes'. Nor will it be

possible for them to predict when their activity may be deemed to have the effect of supporting a particular party or candidate.

The new rules encompass such a broad range of activities (including staff time, media appearances, leaflets and posts on social media and websites) that even small organisations may easily meet the maximum spending thresholds - for example only £9,000 per constituency or £35,000 in all of Scotland - and we would be prevented from undertaking further activity in an election year. Many organisations could find themselves unable to operate, in whole or part, for prolonged periods. In addition, the rules regarding coalitions (which require each organisation to account for the expenditure of all thereby imposing double counting), combined with the new lower thresholds, mean that charities will be discouraged from working together for fear of breaching the allowed spending limits.

Furthermore, there is an assumption that the election period is certain and definite. While we now have fixed term parliaments, previous experience shows that the precise date of an election is, more often than not, an unforeseeable event, making it even more difficult for organisations to understand how and when the rules would apply. This adds a further concern for organisations, and increases the administrative burdens related to ensuring compliance. The regulatory burden imposed by this legislation would be crushing for a small organisation, yet it would not even be able accurately to predict when, or whether, it would be subject to the reporting rules.

It is deeply worrying that large numbers of organisations would be unable to know with any degree of certainty whether they were acting within the law, leaving them open to the risk of prosecution.

The complexity of the legislation, the lack of clarity in drafting, the amount of discretion given to the Electoral Commission in determining how the rules apply, and the remarkably burdensome reporting requirements, at a time when the government has given a commitment to reducing regulation, will collectively have the result of muting charities and groups of all sorts and sizes on the issues that matter most to them and the people they support.

The government's desire to legislate in order to promote transparency in this area in one we share and understand. We hope you will consider our concerns and ensure the bill does not damage the work of the country's thousands of charities and community groups. We stand ready to work constructively with you and your colleagues to achieve the objectives of the Bill without imposing burdensome unintended and unnecessary consequences on a vitally important sector of society.

Yours sincerely,

Sir Stuart Etherington Chief Executive

CC:

Rt Hon Francis Maude MP, Minister for the Cabinet Office Nick Hurd MP, Minister for Civil Society

## With support from:

Stephen Remington, Chief Executive, Action for Blind People

Dame Clare Tickell, Chief Executive, Action for Children

Judith Davey, Acting Director, ActionAid

David Emerson, Chief Executive, Association of Charitable Foundations

Sara Llewellin, Chief Executive, Barrow Cadbury Trust

Claire Horton, Chief Executive, Battersea Cats & Dogs Home

Simon Gillespie, Chief Executive, British Heart Foundation

Andrew Copson, Chief Executive, British Humanist Association

Stephen Bowen, Director, British Institute of Human Rights

Simon Blake OBE, Chief Executive, Brook

Chris Bain, Chief Executive, CAFOD

Stephen Joseph, Chief Executive Officer, Campaign for Better Transport

Shaun Spiers, Chief Executive, Campaign to Protect Rural England

Alison Garnham, Chief Executive, Child Poverty Action Group

Loretta Minghella, Director, Christian Aid

Gillian Guy, Chief Executive, Citizens Advice

Sir Barney White-Spunner, Executive Chairman, Countryside Alliance

Leslie Morphy OBE, Chief Executive, Crisis

Barbara Young, Chief Executive, Diabetes UK

Andy Atkins, Executive Director, Friends of the Earth

Doug Parr, Policy Director, Greenpeace UK

Richard Leaman, Chief Executive, Guide Dogs

David Priall, Chief Executive, Help the Hospices

Frances Crook, Chief Executive, Howard League for Penal Reform

Jehangir Malik, UK Director, Islamic Relief UK

Sally Light, Chief Executive, Motor Neurone Disease Association

Jana Osborne, General Secretary, National Federation of Women's Institutes

David Orr, Chief Executive, National Housing Federation

Toni Pearce, President, National Union of Students

Penny Lawrence, Acting Chief Executive, Oxfam GB

Simon Ross, Chief Executive, Population Matters

Benedict Southworth, Chief Executive, Ramblers

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Alex Swallow, Chief Executive, Small Charities Coalition

Paul Woodward, Chief Executive, Sue Ryder

Matthew Frost, Chief Executive, Tearfund

Lord Victor Adebowale CBE, Chief Executive, Turning Point

Stephen Hilborne OBE, Chief Executive, The Wildlife Trusts

Polly Neate, Chief Executive, Women's Aid

James Cooper, Head of Government Affairs, Woodland Trust

David Nussbaum, Chief Executive, WWF-UK