



Parliamentary Briefing

Debate in the House of Commons of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

Wednesday 22 January 2014

The National Council for Voluntary Organisations (NCVO) is the largest membership organisation for the voluntary sector in England. With over 10,000 members, NCVO represents all types of organisations, from large 'household name' charities to small voluntary and community groups involved at the local level.

This briefing focuses on Part II of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill:

- The bill contains provisions to amend the rules covering 'non-party campaigners' – people and organisations other than political parties in the run up to an election.
- For many charities and voluntary organisations, campaigning is a routine and important part of their work and central to their charitable objectives and mission.
- The broad scope of electoral law means that a charity or voluntary organisation campaigning on policy issues or legislation may quite legitimately fall within the scope of the rules on non-party campaigning, even though the activity is non-partisan (and in the case of charities, even if the activity is fully compliant with the restrictions that charity law places on party political campaigning).

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Executive Summary

- During the bill's debates in the House of Lords, Government has tabled a set of amendments, which have improved and clarified the legislation, while still ensuring that the necessary framework is in place to create accountability and transparency in elections.
- The key change is an increase of the registration thresholds (to £20,000 in England and £10,000 in Scotland, Wales and Northern Ireland).
- This is an important change that NCVO has welcomed. It means that those organisations that undertake small scale campaigning activity shouldn't have to worry about the rules as they are highly unlikely to go anywhere near the registration thresholds.
- This shows that Government has listened to the concerns of charities and of the wider voluntary sector about the possible unintended consequences of the bill, which could severely restrict campaigning by charities and voluntary organisations.
- The Lords have also helped improve the bill by supporting two amendments tabled by Lord Harries of Pentregarth (Crossbench), aimed at defining the scope of activities where staff costs have to be accounted for and covered by the constituency controls.
- Both these amendments are not a full exclusion of staff costs or elimination of constituency limits, but have allowed a useful compromise between reducing the regulatory burden and recognising the need for transparent expenditure in relation to the activities that come within the scope of the bill.
- Even following these changes, charities and the wider NGO sector continue to be concerned about the impact that the bill may have on their campaigning activities.
- In particular, remaining problems caused by a very broad definition of what constitutes 'controlled expenditure' combined with the rules on campaigning in coalition and by the considerable reduction in the spending limits are likely to deter charities and other voluntary organisations from undertaking campaigning activities.

Government amendments

Government has tabled a set of amendments that are designed to remove campaigners who incur small amounts of controlled expenditure from the regulatory regime, ensure reporting requirements are not overly burdensome, ease the transition into the new regime, and clarify the regulatory rules. These are useful changes that help improve the bill, by clarifying some of the rules and achieving a more proportionate regulatory framework, whilst preserving the policy intent of ensuring accountability and transparency of spending in an election period.

Recommendation

Please approve the amendments tabled by Lord Wallace of Tankerness aimed at:

- ***raising the registration thresholds;***
- ***reducing the length of the 2014-2015 regulated period;***
- ***removing the post-dissolution constituency limit so there is only a simpler constituency cap;***
- ***introducing an exemption for the costs of translating material from English into Welsh (and vice versa) and for campaign costs relating to disability and security;***
- ***simplifying the reporting regime;***
- ***allowing a lead campaigner to report on behalf of the small campaigners when working in coalition;***
- ***committing to a review of the effects of the bill following the 2015 General Election.***

Staff costs

Following an amendment tabled by Lord Harries of Pentregarth and supported by Peers, there has been a narrowing down of the requirement for third party campaigners to account for staff costs.

Staff costs continue to be included in controlled expenditure in relation to election material, marketing and canvassing, and when they directly relate to communicating with the electorate.

The amendment simplifies the requirement and makes it more workable (and therefore easier to comply with) by excluding background costs only in relation to the following activities:

- press conferences, or other media events
- transport
- public rallies or other public events.

Recommendation

Please approve the amendment by Lord Harries of Pentregarth to exclude background staff costs.

Constituency limits

The Lords have supported an amendment tabled by Lord Harries of Pentregarth aimed at reducing the regulatory burden for charities and voluntary organisations campaigning in individual constituencies.

In particular, the amendment more clearly defines the scope of activity covered by the constituency controls so that they cover spending in respect of election material sent to voters and households in a constituency, and unsolicited phone contact with such voters.

Recommendation

Please approve the amendment by Lord Harries of Pentregarth to define the scope of activity that counts towards the constituency limits.

Outstanding problems

Even with the changes outlined above, there continue to be very concerning problems in the bill, which are likely to deter charities and other voluntary organisations from undertaking campaigning activities.

Definition of 'controlled expenditure'

- It is crucial that charities and other voluntary organisations have absolute clarity on whether and when their campaigning activities will count towards controlled expenditure and therefore be regulated by the Electoral Commission.
- However, as the definition currently stands, the question remains open whether or not legitimate non-partisan campaigning by charities and other voluntary groups, and awareness-raising on policy issues, would be caught by the new rules even if there were not intended to have an electoral effect.

Coalition campaigning

- The rules on campaigning in coalition remain problematic for organisations spending above the registration threshold.
- Over this amount, the rules on 'working to a joint plan' require organisations to be jointly liable for all spending.
- This will be a serious disincentive from working together because organisations will be deemed to have spent much more than they really have.

Spending limits

- The bill considerably reduces the total amount that non-party campaigners can spend in the year before a General Election (by approximately 60%).
- This is contrary to the spirit of a recommendation by the Electoral Commission, which made clear that any widening of the scope of regulated activity should be accompanied by changes to spending limits to ensure the changes would not unduly restrict freedom of expression.