

Government Lobbying Bill Inquiry
Written Evidence Submitted by the National Council for Voluntary Organisations

Executive Summary

- We recognise that there is a need to regulate lobbying activity in order to prevent further ambiguity and mistrust in the political system.
- However, the current proposals to introduce a statutory register of lobbyists present a number of problems. In particular we are concerned that the proposals are unlikely to achieve their aim to increase the transparency with which Government policy is formulated.
- The purpose of any proposal must be to ensure that the process of lobbying takes place in a way that is as clear, open and transparent as possible. The aim should be to inform the public about how decisions are made and how policy is influenced, by showing who is lobbying whom, on whose behalf, and on what issues.
- The current provisions for a Statutory Register of Lobbyists are too narrow, and in our view Government has missed an opportunity to address the full issue. Merely listing multi-client agencies does not contribute to increasing transparency, or to ensuring a level playing field between different lobbying sectors. The absence of a supporting code of conduct, against which behaviour can be measured, means that it is unlikely standards will rise.
- NCVO is seriously concerned about the new rules proposed in Part II of the Bill, on non-party campaigning.
- We are particularly worried about the broad scope of the proposed changes to the Political Parties, Elections and Referendums Act, and by their lack of clarity.
- This is causing increasing concerns among charities, voluntary organisations and community groups that the new rules proposed could apply to a range of normal and legitimate awareness-raising activities that they undertake, despite them being intended to be party-politically neutral. This will have a huge impact on charities' and other groups' day-to-day work.

About NCVO

Founded in 1919, 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.

For many of these, campaigning and lobbying are important activities that enable them to speak up for their beneficiaries and influence public policy in a valuable way.

We recognise that there is a need to regulate lobbying activity in order to prevent further ambiguity and mistrust in the political system.

However, the current proposals to introduce a statutory register of lobbyists present a number of problems. In particular we are concerned that the proposals are unlikely to achieve their aim to increase the transparency with which Government policy is formulated.

Answers to specific questions on the inquiry

1. Is the definition of "consultant lobbyist" in clause 2 of the Bill likely to lead to a register that enhances transparency about lobbying?

1.1 The Government has proposed the very narrowest definition of who the register should cover: it will include only consultant lobbyists, a minority in the industry. In-house lobbyists are excused, firms whose main business is not lobbying are excluded, and it restricts disclosure only to consultants who lobby senior officials and ministers.

1.2 In our view this is a missed opportunity to address the broader issues of public perception, unequal access to decision makers and inadequate transparency. Merely listing multi-client agencies and their clients does not amount to properly regulating lobbying activity in a way that is comprehensive and likely to prevent further lobbying scandals.

1.3 The current proposals fail to increase transparency, level the playing field between multi-client consultancies, in-house lobbyists and charities, and to drive-up standards across the board.

2. Are the definition of "consultant lobbyist" in clause 2 of the Bill and the list of exceptions in schedule 1 of the Bill likely to have any unintended consequences?

2.1 The narrow definition of "consultant lobbyist", combined with the list of exceptions, causes major loopholes in the proposed legislation. Despite the aim of increasing transparency, lobbying firms will still be able to keep their clients secret should they wish to, for example by limiting their meetings to special advisers and mid-ranking civil servants.

3. Is the information that the Bill requires to be listed on the register sufficient to enhance transparency about lobbying?

3.1 Merely listing the names of clients for whom the consultant lobbyists has acted is not in itself sufficient to enhance transparency.

3.2 We believe that the aim of regulating lobbying activity should be to ensure that the process of lobbying takes place in a way that is as clear, open and transparent as possible. This can be achieved by informing the public about how decisions are made and how policy is influenced, by showing who is lobbying whom, on whose behalf, and on what issues.

4. Does the absence of provision for a statutory or hybrid code of conduct in the Bill present any problems?

4.1 Simply introducing an element of transparency is unlikely to impact on behaviour. A code of conduct, setting out acceptable professional conduct, alongside the register is essential to the proper working of the new system. It would set out clear expectations outlining how outside interests should interact with Government and this would act as a powerful nudge, driving standards up across the board.

4.2 We remain concerned that the proposals neither seek to influence behaviour through a code of conduct, nor highlight the financial backing of different lobbies, nor enable the public to understand the impact lobbyists are having on the public policy process.

Additional comments of Part II – Non-Party Campaigning Rules

NCVO is also concerned about the new rules on non-party campaigning and their potential impact of charities', voluntary organisations' and community groups' legitimate day to day activities. In particular we have major concerns that the provisions of the Bill are very broad in scope, due to a new definition of 'activities for election purposes'. Furthermore, they are highly complex and unclear, and run the risk of discouraging charity campaigning.

Range of regulated activities

Under the Bill a wider range of activities will be regulated by the Electoral Commission than under existing PPERA: the list in new Schedule 8A to PPERA includes not only election material (such as leaflets, adverts, etc.) but other campaigning activities such as events, media work and manifestos. Furthermore, the new definition of the term 'for election purposes' is cast in such broad terms that it captures all expenditure incurred for the purpose of, or in connection with, promoting or procuring the electoral success or enhancing the standing of a political party or candidate. The definition of 'for election purposes' doesn't rely only on the intent of the third party: the effect is also taken into account even if the activity was carried out for other purposes.

The concern is that, as the definition is currently drafted, legitimate day to day activities of charities and voluntary organisations engaging in public policy for non-political purposes would be considered 'for election purposes' and caught by the rules. A charity's activities which are intended to advance the interests of its beneficiaries, for example by raising public awareness of issues in connection with the election, could be regarded as being 'for election purposes' even if it doesn't refer to specific policies or candidates.

It also means that charities' ability to react to important public policy developments on issues relevant to their mission and beneficiaries will be severely undermined, as this could be seen as potentially coming within the meaning of 'activity for election purposes'.

Expenditure thresholds

The existing limits of how much a third party can spend have been considerably lowered. Under the Bill, if a non-party campaigner spends more than £5,000 in England (£2,000 in Scotland, Wales and Northern Ireland) then it must register with the Electoral Commission as a 'recognised third party'. This is a significant reduction from the current £10,000 in England (£5,000 in Scotland, Wales and Northern Ireland).

The Bill will also reduce the total that registered campaigners can spend on regulated activity in the year before the general election by 60%-70%. All relevant spending on the defined activities will count towards these thresholds. While a lower limit may seem reasonable, because of how the total expenditure is calculated over the course of year and how broad the definition of 'for election purposes' is drawn it is inevitable many organisations will reach this threshold unless they stop their campaigning activities entirely.

Such low levels are likely to cause problems for campaigning organisations, especially those involved in coalitions given that expenditure by coalitions is aggregated (this means that each member has to account for the full amount spent for the joint campaign, regardless of the individual contribution). The requirement to account for the whole expenditure of a coalition is particularly burdensome: it will force the larger organisations to leave many joint campaigns, while also deterring smaller charities and voluntary organisations to work together for fearing of dealing with the financial and administrative burden.

Staff costs

All relevant costs are considered, including staff costs. However the list of items that this would potentially cover is long and complex, making the provisions excessively burdensome, particularly on smaller organisations.

It is disproportionate to expect charities and voluntary organisations to comply with such a requirement, especially considering that political parties' staff costs related to campaigning are explicitly excluded from the definition of campaign spending. Objections to their inclusion included concerns that accounting for staff costs would be disproportionately burdensome.

Reporting requirements

The Bill increases the regulation of reporting by introducing a requirement for quarterly reports of donations to recognised third parties. During 'regulated periods' (i.e. after Parliament is dissolved) more frequent weekly reports of donations to recognised third parties will be required. Even if no reportable donation has been received, there is still a requirement to submit a nil return for the relevant period.