

LINK Meeting with Scottish Government on their Lobbying Bill Edinburgh, 5 March 2014



Scottish Government

- Joe Fitzpatrick MSP, Parliamentary Business Minister
- Paul Wheelhouse MSP, Environment Minister

LINK Governance Group

- Lloyd Austin, Helen McDade, Maggie Keenan, Charles Dundas, and Andy Myles

1. Lloyd kicked off with some background on LINK and its members for the benefit of Joe Fitzpatrick and asked where the Scottish Government has got to with their own process on developing a Lobbying Bill and hoped that they would avoid the “mistakes” of Westminster’s own Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill which was passed in January.
2. Andy added that LINK are working closely with the Electoral Commission to assist with their development of Guidance on the new UK legislation. He stressed that LINK are not opposed to better regulation of lobbying, but that any solution needs to be proportionate, with both lobbyists and “lobbyees” having to take action, such as publishing MSPs’ diaries in the same way as Ministers’ are. He also pointed out that there has never been any problem with environmental lobbying in Scotland as we are “policy advocates” rather than business lobbyists. We are there to help.
3. Paul Wheelhouse confirmed that the Scottish Government and environmental NGOs work together all the time, such as the Scottish Biodiversity Strategy, and that it would be a shame to lose that if we were caught up in stricter controls.
4. Joe Fitzpatrick agreed with Andy, he is not afraid of the “lobbying” word, it’s an important part of politics, and whatever the Scottish Government do, it should not stand in the way of the good work going on at the moment. He affirmed that there was no major problem with lobbying probity in Scotland, but that there was an opportunity to improve on transparency. He wanted a real cross-party approach on the issue which is why SG took over Neil Findlay’s Member’s Bill. The Scottish Government have started with a clean sheet, and are still in listening mode while the SPPA Committee continues to take evidence (finishing up soon), but are committed to legislation before the end of this parliamentary session in 2016. The new system needs to add value to the status quo.
5. Lloyd explained that we would like to see the definition of “lobbyees” drawn as widely as possible to include all MSPs, Special Advisors, senior Civil Servants, etc... There should also be a level playing field for which lobbyists need to register.
6. Paul Wheelhouse spoke from his own experience that commercial lobbyists often approached him to speak about something, only to then ambush him with another hidden agenda within the meeting.
7. Andy explained that the “third party campaigning” element of the Westminster Bill was a result of UK MPs looking across the Atlantic as the Political Action Committees (PACs and Super-PACs) which fund much of their elections, and attempting to pre-empt anything like that in the UK.
8. Lloyd outlined the problems this presents to UK campaigning bodies, do they register an individual employee who works on advocacy, or their campaigning role in general, or must every staff member - irrespective of role - who have any contact with

politicians register, such as a nature reserve manager who hosts a guided tour for the Minister.

9. Helen pointed out that a registration process also threatens small and newly formed groups' ability to influence. Would Ministers refuse to meet anyone who wasn't registered?
10. Joe Fitzpatrick replied that that was why getting the definitions in the new Bill right was so important, but also why it was important that this was a two-way street with responsibilities on the politicians too. The process of publishing Ministers' diaries was not seen as onerous, so could be easily expanded.
11. Maggie asked, if there was a register then who would administer it? What would the costs be?
12. Joe Fitzpatrick deferred to one of his Governance civil servants who mentioned some international comparisons such as Australia who do the whole thing in-house which does raise the issue of perceived independence.
13. Joe Fitzpatrick pointed out that legislation was not necessary for all the reforms which could be carried out. For example, the publishing of MSPs' diaries would simply need a modification of the Parliamentary Code of Conduct.
14. Lloyd suggested that if there was to be a combination of legislative and non-legislative solutions offered, then they should be announced as a package.
15. Maggie asked what sanctions there might be if someone lobbied without being registered? Joe Fitzpatrick replied that there was nothing definite on that yet.
16. Andy added that some people lobby as a way of making money, we do not, in fact our political engagement is a cost to our individual organisations.
17. Paul Wheelhouse praised the effort put into Committee evidence sessions and other such work from LINK.
18. Lloyd asked what process the Government might follow with their Bill, a public consultation, a draft Bill?
19. Joe Fitzpatrick responded that their process would depend on the response they get from the SPPA Committee, but that they would aim for maximum consultation possible.
20. Lloyd responded that whatever steps taken, LINK would be delighted to be involved in any stakeholder discussions or formal consultation that takes place.
21. Paul Wheelhouse added that he didn't have any stats on it, but he was sure that a lot of the time government agencies would lean on the expertise of eNGOs, such as SNH calling up the RSPB with a specific species enquiry, and that no new Lobbying Bill should put a stop to that sort of open engagement.
22. Charles highlighted the significant problems presented to campaigning organisations by the third party campaigning elements of the UK Bill in limiting our ability to carry on our day-to-day work during election periods, whilst our charitable status already regulated and ensured our political neutrality. This did not feature in Neil Findlay's Bill, nor in the SPPA Committee's consultation questions, so is it safe to assume that the Scottish Government are not interested in pursuing a similar path?
23. Joe Fitzpatrick replied that he had no intention of following Westminster on this issue.
24. Paul Wheelhouse spoke in favour of campaigners' questionnaires to candidates before elections. How else could you know about individual candidates' feelings on matters of conscience or other major issues.

25. Charles pointed out that these were very similar answers to those given by Westminster politicians, full of reassurance that charities are not the target of the bill and that we had nothing to worry about, the problem was that the drafting of the bill did not agree with the political intention.
26. Joe Fitzpatrick said that he would be interested to “throw a draft bill into the mix” when thinking about the process to go ahead with.
27. Helen posited the scenario whereby a campaigning organisation promotes a policy, then an individual candidate announces her support for the same policy. Does that mean that the organisation, in promoting their original policy, are now supporting that individual candidate, and would have to regulate their spending accordingly?
28. Lloyd pointed out that no one has an answer to that, least of all the Electoral Commission who are trying to develop guidance on it.
29. Andy finished by explaining how scrupulously careful LINK and its members have always been about our political engagement.

Charles Dundas, WTS & LINK trustee, March 2014