

Consultation on proposals for a Lobbying Transparency Bill

A response from Scottish Environment LINK
July 2015



Scottish Environment LINK is the forum for Scotland's voluntary environment organisations, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society. LINK welcomes the opportunity to respond to this consultation.

CONSULTATION QUESTIONS

Question 1 – Do you agree that the Government's three core principles are appropriate to inform the delivery of an effective and proportionate lobbying registration regime in Scotland?

LINK agrees that this is a sensible set of principles that will establish a registration regime proportionate to the current lobbying activity in Scotland. That said, it must be borne in mind that as there has been no 'problem' that so far identified that this legislation seeks to resolve, it must also be a priority of the legislation that it does not ultimately harm the lobbying activities of smaller charitable organisations that has been positive contributor to our democratic process by creating bureaucratic processes that dis-incentivises parliamentary engagement. The Third sector in the UK has only begun to understand the implications of The Transparency of Lobbying, Non-party campaigning and Administration of Unions Act 2014, which, although was not intended to be so, has created much uncertainty and a potentially onerous registration regime.

Question 2 – Do you agree that a publicly available register of lobbyists should be introduced in Scotland?

LINK and its members are not opposed to the introduction of a register of lobbyists, so long as it fair, universal and proportionate. The establishment of a register would go some way towards increasing transparency in lobbying, which is a fundamental element of good governance. We hope that it may also improve public knowledge of lobbying, accountability and democracy and help to improve public trust in the political system. We strongly believe, however, that these proposals must not result in an inequality of access to the political process in Scotland. They must only



increase the transparency of the process. We believe that lobbying is an essential element of the democratic system that any individual, community of place, or community of interest, should be able to lobby the Government, Parliament or an MSP. Many laws passed by MSPs affect our charitable objectives. However, as we explore below, introducing a register does not have to be the only way of ensuring this is achieved. We believe that Ministers, senior civil servants and MSPs should also be part of the solution. We also believe the register should be compulsory in order to minimise the potential for non-compliance of those with something to hide.

Question 3 – Do you agree that no fee should be payable by lobbyists for registering or updating the register?

The current proposal for the establishment of a free register would be supported by LINK.

Question 4 – What are your views on whether the onus to register should lie with individuals who lobby as part of their work, or organisations who lobby? Please provide reasons in support of your response.

This largely depends on what is entailed with the registration process and the frequency of updates. The Government's proposal to have an individual lobbyist register is sensible in its intention that it will account for all lobbyists, provided that the register also states on behalf of whom the lobbyist is advocating for.

Question 5 – Should both consultant lobbyists and in-house lobbyists be required to register? Please provide reasons in support of your response.

We believe that in order to engender trust in the fairness of the system and to create a level playing field, the principle of universality should be used. We believe, therefore, that the register should cover all professional, paid lobbyists working as consultants or those based in-house – and that this should apply in each of the private, civic and public sectors. (Parliamentary 'liaison' officers are employed by most Government agencies.) Further, LINK also notes that the definition of the term 'lobbyist' and definition of what 'lobbying' constitutes is important. The definition must ensure both that lobbyists don't get around the rules, and that lobbyists in the third sector are not excluded from the system nor forced to join in a disproportionately costly way. It is important that 'lobbying' should be considered as the activity that proactively seeks to engage MSPs about particular issues, rather than simply those who are visited by MSPs whilst carrying out the duties of their position, such as a reserve warden, or education officer. The consequence of including the latter in a registration regime would become very costly for many charitable organisations who are visited by MSPs whilst on constituency duties.

Question 6 – Should any types of in-house lobbyist be exempt from registration? Please provide reasons in support of your response.

In order for the registration regime to encompass all lobbying that takes place, it is important that in-house lobbyists are also included. This is based upon the assumption that a sufficient 'definition of 'lobbyist' is provided, were any genuine 'lobbying activity' would be registered, and subsequently, no lobbyist would be excluded. We therefore believe that in order for the register to be proportionate, only staff spending the bulk of their time on parliamentary engagement – such as parliamentary officers - should be required to register individually.

Question 7 – Do you agree that the register should cover the lobbying of MSPs and Ministers? Please provide reasons in support of your response.

In order to maximise transparency and faith in the efforts to improve the lobbying system, the burden must be shared between those lobbying and those being lobbied. LINK therefore supports a dual approach of not only introducing a register for lobbyists, but also of requiring MSPs, Ministers and senior civil servants to publish details of their diaries.

Question 8 – What types of communication do you think should be covered by a statutory register?

LINK supports the principle that all paid lobbying activity should be covered, it is important to acknowledge that many charitable causes do not have similar 'lobbying' budgets and therefore accounting for all of their activity may involve a considerable amount of work. Members engage with the political process in a number of different ways - be it constituency site visits, meetings in the Parliament, provision of factual briefings, social media engagement or mailings. These activities may also encompass a number of different staff profiles – reserves managers, parliamentary officers, chief executives, media officers, policy experts or administrators.

Question 9 – Do you agree with the Government's view that paid lobbyists should be required to register? Please provide reasons in support of your response.

Yes

Question 10 – Do you agree that the register should also allow for voluntary registration by lobbyists not required to register? Please provide reasons in support of your response.

Provided that there is a sufficient definition of 'lobbying' and 'lobbyist' provided within the registration regime, LINK does not envisage there being any class of 'lobbyist' that would not be captured by the compulsory regime.

Question 11 – What are your views on what kind of information each lobbyist should be required to provide on registration? Please provide reasons in support of your response.

Whilst we support the government aims to create a register that provides a comprehensive picture of lobbying in Scotland, it is important to consider that a six monthly report of all activity between charitable organisations and MSPs would be a considerable undertaking, especially if it must detail the content of all discussions. For some smaller charities that have a campaigning function, this could involve a considerable amount of time and perhaps even become a disincentive to engaging with the parliament.

Question 12 – How often should lobbyists be required to provide a return detailing their lobbying activity? Please provide reasons in support of your response.

The regular public disclosure of information- such as the name of the person MSPs are meeting, the organisation they represent and the subject area or bill they are discussing would be an extremely time consuming process for those tasked with parliamentary engagement on behalf of Charities. A more sensible system would be the regular publishing of MSPs diaries, which would likely already be kept to a standard acceptable for publication, and would prevent creating bureaucracy for charities keen on engaging with the Scottish democratic process.

Question 13 – Do you agree that the Parliament should introduce a Code of Practice for lobbyists setting out guidance on the registration regime and expected standards of behaviour? Please provide reasons in support of your response.

We have no view on this, though we note that there already exist voluntary codes of conduct for the Association for Scottish Public Affairs and the Association of Professional Political Consultants.

Question 14 – Do you agree that a register should include the facility for lobbyists to indicate if they already subscribe to any industry Codes of Conduct? Please provide reasons in support of your response.

Yes

Question 15 – Do you have any views on the Committee’s proposals for who should be responsible for upkeep and oversight of the Register?

Comments

Question 16 – Do you have any views on what enforcement mechanisms and sanctions should be available in connection with the registration regime? Please provide reasons in support of your response.

Comments

Question 17 – Do you have any views on whether Parliament, by resolution, should be able to adjust the scope and operation of the registration regime once established?

We believe it is sensible for the Parliament to have the opportunity to alter the regime to cover all lobbying activity, since it may be that the establishment of the registration regime may induce a behaviour change that could entail that some lobbying activity is not reported.

Question 18 – Do you have any views on whether there could be impacts on equalities groups as a result of the proposals outlined? Please draw on specific evidence and/or wider knowledge, experience and expertise.

Comments

Question 19 – Do you have any views on whether there could be any additional costs or other implications for businesses as a result of the proposals outlined? Please draw on specific evidence and/or wider knowledge, experience and expertise.

We believe that businesses can only benefit from a clear transparent political process.

Question 20 – Do you have any other comments on the general operation of a register of lobbyists, or on any of the proposals put forward by the Committee or the Government?

Comments

This response was prepared on behalf of the LINK Governance Group which includes RSPB Scotland, WWF Scotland, Woodland Trust Scotland.

For more information please contact the LINK Advocacy Manager, Andy Myles, on 0131 225 4345 or via email on andy@scotlink.org
www.scotlink.org