

# STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

## INQUIRY INTO LOBBYING

### SUBMISSION RECEIVED FROM ALCOHOL FOCUS SCOTLAND

#### Introduction

1. Alcohol Focus Scotland (AFS) is Scotland's national alcohol charity working to reduce the health and social harm caused by alcohol. Advocacy, which includes lobbying activity, is an important aspect of the work of AFS. We seek to influence decision-makers at a local, national and international level with regard to the implementation of effective regulatory safeguards to prevent and limit alcohol problems across society.
2. AFS recognises that lobbying activity is a legitimate part of the democratic process, and that organisations and individuals have the right to make representations to government and parliament on legislative and policy matters that affect them. However, like many charitable and non-governmental organisations, AFS is concerned that powerful, corporate interests are able to 'buy' greater access to decision-makers, with the risk that they exert a disproportionate influence over the policy process. Such a situation is unfair, unjust, and threatens the basis of representative parliamentary democracy.
3. A lack of lobbying transparency in Scotland undermines public trust and confidence in the political system. AFS believes full public disclosure of all lobbying activity is required to demonstrate the integrity and probity of policy and political decision-making processes. The introduction of a statutory register of lobbying activity is, in our view, a necessary and proportionate means of improving lobbying transparency and accountability in Scotland.

#### The problem and the need for change

*Have there been significant changes over the last decade in the way that lobbying is carried out?*

4. Due to a lack of lobbying transparency, we cannot be certain of the full extent and nature of lobbying in the UK. However, academic analyses and parliamentary and public inquiries on the subject highlight an increase in the scope and intensity of corporate lobbying activity in recent years.<sup>i,ii</sup> A key feature of the process of globalisation over the past few decades has been the rise of transnational corporations. These corporations, some with turnovers greater than the GDP of a number of countries,<sup>iii</sup> have grown substantially in power and influence.<sup>iv</sup> They increasingly seek to exert political pressure in countries in which they operate, as well as at a supra national level, to create conditions that are most favourable to their business interests. Unfortunately, the narrow, sectional interests of large corporations are not always compatible with the wider public interest. Corporate lobbying is particularly evident in relation to regulatory frameworks (e.g. finance, planning, licensing, excise duties) and in spheres of economic activity where

commercial and profit-maximisation strategies compete with broader societal goals, such as social justice, population health and protection of the natural environment.

5. Corporate lobbying takes place at all levels of government in the UK, including the Scottish Parliament. Research into corporate lobbying activity in relation to Scotland's alcohol strategy demonstrates that corporate actors use a range of channels to influence policy formation and implementation.<sup>v,vi,vii,viii</sup> Industry actors lobby directly and indirectly through numerous trade associations, as well as contracting external public affairs agencies to advance their positions. Time and effort is spent on cultivating long-term personal relationships with policy-makers. Sponsorship of events at party conferences, corporate social responsibility programmes, award ceremonies, parliamentary drinks receptions all provide corporate lobbyists with points of contact with ministers, political advisers, and civil servants and the opportunity to press their case. Large corporations can deploy far greater resources for lobbying activity than non-governmental organisations. They can effectively buy greater access to decision-makers.

*Is there a problem or perceived problem with lobbying in Scotland? If so, how can this best be addressed? If not, do steps still need to be taken to address any problem arising in future?*

6. To date, no lobbying scandals like the cash for questions at Westminster have come to light at the Scottish Parliament. However, it cannot be assumed that there is no problem with lobbying in Scotland. Indeed, an emphasis on lobbying scandals misses a significant point. Disproportionate access to decision-makers, with the consequent risk of undue influence over policy processes, can occur without any obvious impropriety or any breach of a code of conduct. Recently published research in the British Medical Journal reveals an extraordinarily level of access to UK government departments granted to the alcohol industry, including 130 meetings with the department of health alone, as it lobbied against the introduction of minimum pricing for alcohol in England and Wales. Freedom of information requests resulted in the Home Office and Treasury stating that they did 'not hold minutes' for all their meetings with alcohol industry representatives.<sup>ix</sup>
7. As at Westminster, a fundamental problem with lobbying in Scotland currently is the lack of lobbying transparency. In relation to Scottish alcohol policy, evidence of corporate lobbying has been revealed piecemeal through one-off academic studies involving interviews with corporate actors,<sup>x</sup> as well as through ad hoc newspaper reports.<sup>xi</sup> Academic research provides useful insights but as the researchers acknowledge it presents a partial picture and much more needs to be done in uncovering the mechanisms, as well as establishing the extent, of corporate influence on policies.<sup>xii</sup>
8. It may be argued that access to decision-makers does not always entail influence. The passage of alcohol minimum pricing legislation in Scotland in the face of strong industry opposition may be provided as an example. However, minimum pricing legislation was defeated first time round, as were other aspects of the published alcohol strategy, notably the proposal to raise the off-sales alcohol purchase age from 18 to 21. These facts by themselves do not, of course,

demonstrate that MSPs were improperly influenced by industry lobbying. However, the lack of accessible information on the nature and scale of corporate lobbying in relation to Scotland's alcohol strategy means that the public are unable to ask any questions in this regard, exercise judgement, or hold politicians and public officials to account.

9. AFS believes that proper conduct in relation to lobbying, including what constitutes undue influence and what can be considered acceptable lobbying techniques, is not something to be decided by individual MSPs, or a particular administration, but determined collectively by society and institutionally embedded. In a modern, liberal democracy, there should be no place for secret lobbying. Details of all lobbying activity in Scotland should be made publicly available in a timely and accessible format. Openness and transparency is a necessary pre-condition for ensuring accountability, and full disclosure of lobbying activity can only be achieved through statutory means.

### **The need for a statutory register of lobbying activity in Scotland**

*To what extent will the introduction of a register of lobbyists address any problem or perceived problem with lobbying?*

10. A statutory register, which includes sufficient information on who is lobbying whom, and on what policies, legislation and regulation, is required to improve lobbying transparency. Existing mechanisms for obtaining information relating to lobbying activity are limited. There is no obligation on MSPs or civil servants to publish details of meetings with lobbyists. Ministers publish a record of some meetings, but not what the meeting was about. Freedom of information is a cumbersome and time consuming procedure to use and does not apply to all public officials. Self-regulatory schemes and codes of practice operated by industry trade bodies only apply to commercial lobbyists who choose to join. Such schemes lack effective complaints and disciplinary procedures. Alternatives to a statutory register, such as the publication of MSPs' diaries, do not provide the level of transparency required for proper accountability. Diaries do not cover emails, text messages or telephone calls, nor do they necessarily convey whose interests are being represented at meetings with MSPs. Some not-for-profit organisations and institutions are linked to commercial entities by way of their governing structures, membership, operations, or reliance on industry financing. This may not be apparent from a name and description of an organisation appearing in an MSP's diary. However, this information should be required in a lobbying register. Effective and comprehensive disclosure of lobbying activity can only be achieved through a statutory regulatory framework.

*To whom should a register apply? Should thresholds be set for registration? If so what should they be? What level of information should be on it?*

11. AFS shares the view of the Alliance for Lobbying Transparency ([www.lobbyingtransparency.org](http://www.lobbyingtransparency.org)) who define lobbying activity to be contact or communication with public officials regarding the formulation, modification, or adoption of legislation, regulation or government policy positions; or the awarding of any contract, grant or other financial benefit by or on behalf of the government.

Communication includes telephone conversations and any other electronic communication; circulating and communicating letters, information material or position papers; organising events and attendance of as a lobbyist, meetings (formal and informal), or promotional activities in support of a lobbying position.

12. Any individual or organisation lobbying according to this definition should be required to register their lobbying activity. AFS is strongly of the view that both in-house lobbyists and commercial/consultant lobbyists who act on behalf of third parties should be included. To exclude in-house lobbyists from a register, as proposed in the current lobbying and non-party campaigning bill at Westminster, would mean the bulk of lobbying activity would not be subject to public scrutiny. This would defeat the aim of lobbying transparency.
13. Larger charities/NGOs/not-for-profit organisations should be required to register along with other bodies and organisations. Informed judgements about the extent to which different interest groups have access to decision-makers can only be made if the lobbying activities of all interest groups are represented. A threshold can be set below which an organisation is under no obligation to register to ensure that the burden of registration is not be placed on small charities that engage in small amounts of lobbying activity.
14. Concern has been expressed that the introduction of a statutory register will lead to a two-tier system in lobbying, with registered individuals/organisations given preferential access to policy-makers. Such concerns can be addressed. It should be possible, for example, to instate a monitoring and review period following the introduction of a statutory register, assessing whether the existence of a register does in fact exclude smaller organisations from inputting into the policy-making process; and proposing remedial action if indicated.
15. The information required on a register should include the name of the lobbyist; the company/organisation they work for and/or who they are working on behalf (client); who they are contacting; the communication techniques used; the subject of the contact, for example the particular policy, legislation or contract they are trying to influence; the estimated financial worth or expenditure on any lobbying activity; and the career history of the individual lobbyist. It should be clearly distinguishable on a register those who lobby in the interests of private business and those who lobby in the public interest.

*How should a register be maintained and who should maintain it? What sanctions should there be for failure to register lobbying activity? How will compliance be monitored?*

16. AFS believes the administration of the register should be publicly funded and administered by an independent body with sufficient resources and powers to audit registrations, investigate complaints, and enforce sanctions. There should be a range of enforcement measures for non-compliance, including fines for non-disclosure and the possibility of criminal prosecution for more serious offences.

## *What are the implications of a register for organisations that lobby?*

17. We believe that the implications of a register, in terms of the time and cost to AFS of registering lobbying activity, will be modest. Good governance and accountability already require AFS to have in place recording and reporting procedures on our activities. Incorporating an additional requirement of registering our lobbying activity should not place a significant additional financial/administrative burden on the organisation, as should be the case with any other medium sized/larger charity or public sector organisation.

## **ALCOHOL FOCUS SCOTLAND 10 JANUARY 2014**

### **References**

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<sup>i</sup> Lobbying: Access and Influence in Whitehall, House of Commons Public Administration Select Committee, January 2009.

<sup>ii</sup> Leveson inquiry quoted in McCambridge, J, (2013) The challenge corporate lobbying poses to reducing society's alcohol problems: insights from UK evidence on minimum unit pricing, *Addiction* doi:10.1111/add.12380.

<sup>iii</sup> Anderson S and J Cavanagh, Top 200: The rise of global corporate power, Institute for Policy Studies, 2000.

<sup>iv</sup> CSDH (2008) Closing the gap in a generation: health equity through action on the social determinants of health. Final Report of the Commission on Social Determinants of Health. Geneva, World Health Organization. Chapter 12: Market Responsibility

<sup>v</sup> Hawkins B et al (2012) Alcohol industry influence on UK alcohol policy: a new research agenda for public health. *Crit Public Health* 22: 297-305.

<sup>vi</sup> McCambridge J et al (2013a) Industry use of evidence to influence alcohol policy: a case study of submissions to the 2008 Scottish Government consultation. *PLOS Med* 10: e1001431.

<sup>vii</sup> Hawkins B & C Holden (2013) Framing the alcohol policy debate: industry actors and regulation of the UK beverage alcohol market. *Crit Policy Stud* 7: 53-71.

<sup>viii</sup> McCambridge J et al (2013b) The challenge corporate lobbying poses to reducing society's alcohol problems: insights from UK evidence on minimum unit pricing, *Addiction* doi: 10.1111/add.12380

<sup>ix</sup> Gornall, J (2014) Under the Influence, *British Medical Journal BMJ* 2014;348:f7646 doi: 10.1136/bmj.f7646

<sup>x</sup> Holden C et al Cleavages and co-operation in the UK alcohol industry: a qualitative study. *BMC Public Health* 12: 483.

<sup>xi</sup> SABMiller boosts firepower to fight minimum pricing: Brewer calls in Bell Pottinger Public Affairs to battle government pricing plans, *PR Week*, 27 July 2012 <http://www.prweek.com/article/1142705/sabmiller-boosts-firepower-fight-minimum-pricing>

<sup>xii</sup> McCambridge J et al(2013b) op cit