Standards, Procedures and Public Appointments Committee

Lobbying (Scotland) Bill

Written submission received from the Electoral Reform Society

About the Electoral Reform Society

Founded in 1884, the Electoral Reform Society (ERS) operates on a simple premise – that our politics can be better than it is. We seek a living democracy where every vote and every voice is valued, where power is fairly distributed and those who exercise power can be held to account. Our policy is developed in consultation with our elected Council and our membership.

The Electoral Reform Society's main funding source is in the form of an annual dividend from Electoral Reform Services Ltd, the UK’s leading independent supplier of ballot and election services. These organisations have strict separation of governance and objectives.

We think a statutory register of lobbying is important for the following reasons:

While lobbying is an important part of public policy formation, there is lots of evidence that falling trust in democracy and the rise of populism are in part fueled by a public view that government acts in the interests of powerful sectoral interests – big business – to the harm of sections of the public. One of the actions to address this concern would be to try and make the lobbying process as transparent as possible, without harming public engagement.

We welcome the fact that the Scottish government is taking a Bill through the parliament to try and address this problem by making lobbying more transparent but we think it could be made better. We suggest the following:

1. Expand definition so multiple modes of communication trigger registration

As drafted in the current Bill, only if lobbyists meet politicians face-to-face will they have to register their lobbying. We believe that it shouldn’t matter how you contact politicians – whether by letter, email, text, over the phone, or in person – it’s still lobbying and should trigger registration.

We propose that the definition of a lobbyist – as set out in 1(1)(a)(1) – is amended so that it includes multiple modes of communications, not just face-to-face meetings; and more closely mirrors the internationally recognised definition of lobbying below:

The term “lobbyist” refers to any individual who, as a part of his or her employment or for other compensation, engages in more than one lobbying contact (oral and written communication, including electronic communication) with an elected official, his or her staff, or high and mid-ranking government employee who exercises public power or public authority, for the purpose of influencing the formulation, modification,
adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position.

2. Expand definition so lobbying of civil servants and special advisers triggers registration
As drafted in the current Bill, only lobbying of Ministers and MSPs triggers registration. This ignores lobbying of civil servants and special advisers, who can be valuable contacts for lobbyists.

We propose that the definition of a lobbyist – as set out in 1(1)(a)(1) – is amended so that as well as Ministers and MSPs, it also includes civil servants and special advisers above grade 7, and staff in agencies and NDPBs of the Scottish Government above civil service grade 7, or equivalent. This would mean it would more closely mirror the best practice definition above.

3. Expand the information that should be disclosed by lobbyists to include spending on lobbying
As drafted in the current Bill, lobbyists must disclose who they are, whom they are lobbying; and the purpose of the lobbying. Under an expanded definition that includes more than simply face-to-face meetings, it is not necessary for lobbyists to detail every contact, or communication made, as has been suggested by some.

We propose, however, that the information that lobbyists are required to disclose – as set out in s6(2) – should include a good faith estimate of how much they are spending on lobbying. Spending could be banded to make it easier. The disclosable expenditure should include direct staff costs and other expenditure, including spending on: the preparation of materials, or information to be used in support of lobbying efforts; professional advice, opinion polling, research, or any other evidence created in support of lobbying; events and hospitality; and any staff costs involved in these activities.

Impact on Our Organisation.

Much of the information required for this register is captured and reported to the elected council of the Electoral Reform Society. We have attempted to put together an example of the sort of information required arising from the bill with our suggested amendments. Appendix 1. It is of course just our interpretation at this time but it does show how straightforward such a register might be.

Who Should Register?

We agree with the need for those who are paid to lobby being a trigger for registration. We think there should be a threshold for smaller campaigns/organisations. We propose that organisations, or groups of organisations working collectively, whose total expenditure on lobbying activity during an accounting year is cumulatively less than £2,000, or which dedicates cumulatively less than 0.25 of a full-time equivalent member of staff to direct lobbying activity, should not have to register.
Wholly voluntary, community and social campaign groups that do not employ, or remunerate staff, or engage third-party organisations to do this on their behalf, shall be exempt from reporting.

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