

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

INQUIRY INTO LOBBYING

SUBMISSION RECEIVED FROM OPEN UNIVERSITY IN SCOTLAND

The Open University in Scotland welcomes the opportunity to respond to the Standards, Procedures and Public Appointments Committee call for evidence as part of its inquiry into lobbying. To put our comments in perspective, we have provided background information about The OU in Scotland's public affairs activities, in addition to answering the specific questions set by the Committee.

About The Open University in Scotland

The Open University in Scotland provides part-time and open supported higher education. It currently has around 16,000 students across Scotland, with the largest concentration of students in rural areas. The average age of our students is 30, and over 40% of our students live in low income household.

The OU in Scotland's Public Affairs work

The Open University in Scotland is a member of Universities Scotland, the representative body for Scottish HEIs which develops policy on behalf of the university sector and campaigns on higher education issues. Due to the distinct nature of our student body, The OU in Scotland also employs a Policy and Public Affairs Manager to represent the interests of, and undertake policy work on behalf of, part-time students as well as mature students and those undertaking distance learning.

Arrangements for part-time students, particularly funding arrangements, are different from those for full-time students. Moreover, their needs are routinely overlooked by politicians and policy-makers who inadvertently, but regularly, assume that university study is undertaken by school-leavers on a full-time basis at campus-based universities.

Whilst part of the remit of the Policy and Public Affairs Manager at The OU in Scotland is to lobby for equity between full-time and part-time students in Scotland, the post-holder is also regularly involved in discussions with civil servants, politicians and others who draw on the expertise within the organisation for a fuller understanding of policy for part-time students and how policy changes may impact on part-time students. For example, the OU recently worked with a researcher at SPICE to help them draft an accurate response to an MSP's question on the new funding arrangements for part-time students.

The OU in Scotland believes there is often a grey area between lobbying and providing policy support to politicians and civil servants which has implications for any proposed lobbying register, as outlined in more detail below.

The OU in Scotland believes in transparency and is a member of the Association for Scottish Public Affairs.

Responses to questions set by the Standards, Procedures and Public Appointments Committee

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

The Open University in Scotland does not believe that there have been any significant changes in the way that lobbying is carried out within the Scottish Parliament over the last decade.

The only slight change The Open University in Scotland has observed in the last few years has been less willingness on the part of some of the newer MSPs (those returned at the 2011 election) to take up invitations to discuss issues that fall within their portfolio or are of relevance to the committee of which they are a member.

However, in our experience, the Scottish Parliament remains largely true to its founding principles of openness, accessibility and accountability, with the majority of MSPs willing to take up invitations to meet to discuss relevant policy issues. Arguably, the fact that the vast majority of MSPs meet with a wide range of organisations has contributed to the continuing openness and accessibility of the parliament, and minimised the need for organisations to turn to professional lobbyists to gain access to politicians.

2. 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?

The Open University does not perceive there to be a problem with lobbying in Scotland.

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

The Open University is not convinced that there is a problem with lobbying that would require the introduction of a register of lobbyists. We respect the calls for greater transparency to address fears of undue influence of particular organisations on legislation, however, we would suggest that this could be achieved by simply publishing the diaries of MSPs and Ministers. The OU in Scotland believes accountability must lie, first and foremost, with elected members of the Scottish Parliament rather than on individual organisations.

4. To whom should such a register apply? Should it be voluntary or compulsory? How should it be maintained and who should maintain it? What level of information should be on it? Should thresholds be set for registration? If so what should they be? What are the likely cost implications of registration for groups that lobby?

The Open University in Scotland has concerns about the practicalities of establishing a register, in terms of defining who would be on it and what information it would hold.

The consultation ahead of the final proposal for a private member's Bill proposed that all professional lobbyists (both commercial and in-house), including charities and representative bodies, should be on the register which would include 'bands' based on lobbying income or expenditure. It was suggested that an 'in-house lobbyist' would need to register, if their company or organisation spent a total of £9,000 or more on "lobbying activity" over a 6 month period.

Most lobbying activity undertaken by The Open University in Scotland is undertaken in-house by the Policy and Public Affairs Manager, however as this post undertakes a wide range of functions including policy work, communications, and event management in addition to public affairs work, it would be difficult to quantify accurately the actual time and resource the post undertakes on lobbying.

Also, as outlined above, The Open University in Scotland believes there is a grey area between lobbying and providing expertise to civil servants, policy-makers and others. It would be difficult to distinguish between these activities for such a register, particularly if meetings held with Special Advisors and Scottish Government officials were to be registered.

The Open University in Scotland would suggest that policy makers regularly draw on the expertise held by different organisations to ensure that policy and legislation is appropriate and fit for purpose. Furthermore, we would advocate that constructive engagement between government and different interest groups is a sign of a mature democracy. We therefore believe that any register for lobbying would need careful consideration to ensure that it did not inadvertently prohibit such discussions.

If any such register were introduced, it would need to distinguish between commercial multi-client consultancies and in-house lobbyists. The Open University believes it is not appropriate for in-house lobbyists to be part of such a register.

5. What sanctions should there be for failure to register lobbying activity? How will the register sit alongside the UK register? How will compliance be monitored? What are the implications of a register for (a) the Parliament, (b) MSPs, (c) organisations that lobby and (d) Ministers and civil servants? Whether other changes could be made to improve transparency in lobbying in Scotland? What, if any, changes should be made to Section 5 of the Code of Conduct for Members of the Scottish Parliament?

The Open University in Scotland would have concerns over the possibility of sanctions being imposed on individuals or organisations for a failure to register lobbying activity, particularly if such activity is defined too broadly to be applicable. In addition, we believe the threat of sanctions could prohibit organisations, particularly those with limited resources, from accessing MSPs, Ministers or public officials.

6. Should there be a Code of Conduct for lobbyists? Should it be statutory or voluntary?

The OU in Scotland is a member of the Association for Scottish Public Affairs (ASPA) and signs up to its Code of Conduct. We believe that any organisation that engages in public affairs activity should be willing to sign up to a voluntary code, and that politicians with concerns about a particular organisation and its lobbying activities could check whether organisations had signed up to such a voluntary code.

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8 JANUARY 2014**