Standards, Procedures and Public Appointments Committee

Lobbying (Scotland) Bill

Written submission received from RNIB Scotland

About us

As Scotland’s leading organisation of blind and partially sighted people, RNIB Scotland welcomes the opportunity to respond to this call for evidence.

The number of registered blind and partially sighted people in Scotland currently stands at around 34,500. However, registration is voluntary and research indicates that as few as 23-38% of eligible people are actually registered. There are around 188,000 people in Scotland with significant sight loss and the number of Scottish people with sight loss could almost double to 400,000 between now and 2030 due to our ageing population and the persistently poor health that continues to disadvantage many of our communities.

We support children and adults with sight loss to live full and independent lives. Our priorities are to:

- Stop people losing their sight unnecessarily
- Provide support at the point of diagnosis of sight loss (“Being there”)
- Support independent living for blind and partially sighted people
- Create a society that is inclusive of blind and partially sighted people’s interests and needs.

We are a membership organisation dedicated to delivering services our members need and campaigning for their civil and welfare rights. To meet these goals in the future we anticipate that it is likely to be appropriate to register RNIB Scotland on a Scottish Lobbying Register within a regulated lobbying framework.

Scottish Parliament Standards Procedures and Public Appointments Committee Lobbying (Scotland) Bill call for evidence

The current Lobbying Bill was introduced in the Scottish Parliament on 29 October 2015 with the stated purpose of increasing ‘public transparency of the interactions between lobbyists and elected representatives and Government Ministers’. The Committee’s role at Stage 1 of the parliamentary process is to report to the Parliament on the overall purpose of the Bill – that is, on its general principles. To this end, the call for evidence invited responses to eight key questions and our responses are below:
General Principles of the Lobbying Bill

1. Do you agree that the Bill is necessary and that the establishment of a Lobbying Register is desirable?

We agree that the Bill is necessary and that the establishment of a Lobbying Register is desirable. We also welcome the approach of covering 'significant' lobbying activity defined in the Bill's Policy Memorandum as involving 'direct face to face paid lobbying (communication) with MSPs and Ministers'.

This will complement other existing parliamentary and governmental transparency measures including the Code of Conduct for Members of the Scottish Parliament and the Scottish Ministerial Code.

It will also fit in with the international trend of regulating lobbying outlined in the Scottish Parliament Information Centre (SPICe) briefing, 'Lobbying Schemes in Other Countries' (SPICe, 2014). This noted the existence and development of Lobbying Registers in Australia, Australia: New South Wales; Australia: Victoria; Canada; Canada: British Columbia; European Union (EU); Organisation for Economic and Co-operation and Development (OECD); France; United States; and New Zealand.

2. How will the Bill affect you or your organisation?

RNIB Scotland is engaged in service delivery for blind and partially sighted people as well as campaigning for their civil and welfare rights. We have regular contact with parliamentarians, government ministers and civil servants.

We note that the Core Concepts of the Lobbying Bill state that:

'(1) For the purposes of this Act, a person engages in regulated lobbying if—
(a) the person makes a communication which—
(i) is made orally and in person to a member of the Scottish Parliament, a member of the Scottish Government or a junior Scottish Minister,
(ii) is made in relation to Government or parliamentary functions, and
(iii) is not a communication of a kind mentioned in the schedule, or
(b) in the course of a business or other activity carried on by the person, an individual makes such a communication as an employee, director (including shadow director), partner or member of the person.
(2) Where a person engages in regulated lobbying by virtue of paragraph (b) of subsection 15 (1), the individual mentioned in that paragraph is not to be regarded as engaging in regulated lobbying.
(3) For the purposes of subsection (1), it does not matter whether the communication occurs in or outwith Scotland.'

We are also aware of the definitions and exclusions of 'Communications which are not lobbying' as defined in the Schedule to the Lobbying (Scotland) Bill [see response to question five].
We recognise that some of our activities may fall under the scope of lobbying that should be registered. Therefore, we would make a proactive application to register and would devise an appropriate internal six-monthly reporting system that covers our range of organisational lobbying.

3. Registration is triggered only when lobbying is being done in exchange for payment (either as a consultant or an employee) and does not capture lobbying carried out in the course of voluntary work or when it is done by an individual on his or her own behalf. Do you agree with this approach?

Yes - we agree with the approach of triggering registration when lobbying is being done in exchange for payment. We also agree with the approach of registering organisations rather than individuals where an individual lobbies on behalf of their employing organisation.

4. Do the provisions set out in the Bill succeed in striking a balance between capturing information of value and ensuring that access and participation with the work of Parliament and Government is not discouraged?

RNIB Scotland welcomes the acknowledgement in the Bill's Policy Memorandum that:

’One of the Parliament's founding principles was that it should be "accessible, open, responsive, and should develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation".

The Government is clear that provision on lobbying transparency should not infringe on this principle, which it deems both essential and beneficial to policy making in Scotland.’

RNIB Scotland further welcomes the statement in the Policy Memorandum that:

’The Scottish Government agrees with the view expressed in the Committee's report that lobbying is a legitimate and valuable activity. During a survey conducted by PA Advocacy in January 2014, four-fifths of MSPs said that direct contact with or correspondence from organisations was useful in their role. The Government also recognises that Scotland's constitutional position is changing. Increased responsibility and greater powers for the Scottish Parliament will naturally lead to increased intensity in the conduct of Scottish public affairs, with the potential for an increase in the amount of lobbying that takes place in Scotland. In that context, the Government considers that it is of fundamental importance to ensure that elected representatives continue to have access to as wide a range of information and perspectives as possible.’

The Bill's provisions appear to strike a balance between capturing information of value and ensuring that access and participation with the work of Parliament and Government is not discouraged.
We nonetheless emphasise that it is most important that the process of registration is simple, straightforward and free for organisations. Guidelines for registering 'lobby contacts' should be established and well-publicised ahead of the introduction of a Lobbying Register so that registering organisations have a good understanding of their obligations and do not arrive at the conclusion that reporting lobbying activity is so onerous that the organisation is 'better off' not lobbying the Scottish Government or Parliament.

5. Do you feel that the definitions and exclusions are sufficiently clear? Do they, for example, allow individuals and organisations to easily know whether their activity requires to be registered?

The Schedule to the Lobbying (Scotland) Bill lists 'Communications which are not lobbying'. These include:

'Meetings initiated by a member or Minister
5 A communication made in the course of a meeting or other event arranged by or on behalf of a member of the Parliament, a member of the Scottish Government or a junior Scottish Minister.
6 However, paragraph 5 does not apply where the meeting or other event was arranged in response to a request from a person attending or represented at the meeting or event.

Cross-party groups
7 A communication made in the course of a meeting of a group recognised as a cross-party group by the Parliament.'

RNIB Scotland has provided Secretariat services to the Scottish Parliament's Cross-Party Group on Visual Impairment for several years. The Cross-Party Group activity is of great importance not only to RNIB Scotland but to the sight loss sector in Scotland. Given that the Scottish Parliament website publishes details of their activities, we welcome the exclusion of Cross-Party Group activity from lobbying reporting as well as 'indirect' contact with MSPs and Ministers including emails, letters and phone calls. This is in keeping with the 'light touch' approach referred to below whilst ensuring that substantial and sustained lobbying must be reported. However, it will be important to establish clear guidance including responses to 'Should this type of activity be reported?' so that organisations do not inadvertently breach the lobbying reporting regulations.

6. The Bill's Policy Memorandum states the Bill aims for a 'light touch, educative approach' and that 'criminal offences and penalties [are] provided for as a last resort'. What are your views on this approach?

This approach promises to keep the doors of the Scottish Parliament and Government open to a wide range of perspectives, information and organisations whilst capturing significant lobbying and increasing transparency and public knowledge of major lobbying activity.
7. Are there any unforeseen consequences of the Bill as currently drafted?

Clichéd but true - time will tell! It is most important to maintain the Scottish Parliament's founding principles of accessibility, openness and responsiveness, with procedures which enable a participative approach to the development, consideration and scrutiny of policy and legislation.

8. Are there any amendments that would, in your view, enhance the Bill?

As time will reveal the impact of the legislation including unforeseen consequences it would be appropriate to add a requirement to report within its first three years of existence on whether the Lobbying Register has met its stated purpose of increasing 'public transparency of the interactions between lobbyists and elected representatives and Government Ministers'. This Report should include any necessary recommendations for amendment or further legislation.

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