

# **STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE**

## **INQUIRY INTO LOBBYING**

### **SUBMISSION RECEIVED FROM SCOTTISH COUNCIL OF JEWISH COMMUNITIES**

The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland. SCoJeC advances public understanding about the Jewish religion, culture and community, by providing information and assistance to educational, health, and welfare organisations, representing the Jewish community in Scotland to Government and other statutory and official bodies, and liaising with Ministers, MSPs, Churches, Trades Unions, and others on matters affecting the Jewish community. SCoJeC also provides a support network for the smaller communities and individuals and families who live outwith any Jewish community, and assists organisations within the Scottish Jewish community to comply with various regulatory requirements. SCoJeC also promotes dialogue and understanding between the Jewish community and other communities in Scotland, and works in partnership with other organisations and stakeholders to promote equality, good relations, and understanding among community groups.

In preparing this response we have consulted widely among members and relevant constituent organisations within the Scottish Jewish community.

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The Scottish Council of Jewish Communities welcomes the opportunity to give evidence to the Standards, Procedures and Public Appointments Committee Inquiry on Lobbying. As can be seen from the above summary of our activities, the Council regularly engages with the Scottish Parliament and Scottish Government in order to represent the views of the Jewish community of Scotland on a wide range of issues relevant to the community. During the last two years, these have included, amongst others, Marriage and Civil Partnership, Certification of Death, Assisted Suicide, Religious Observance in Schools, and Rural Education. Neither the Council nor any of the individual local Jewish communities, nor indeed any individual within the community, derives any commercial or financial gain from this activity.

For the avoidance of doubt we wish to make clear that the Scottish Council of Jewish Communities would not have any objection to registering if required to do so, and we do not believe that our ability to represent the Jewish community would be adversely affected by the creation of a register. Since, however, Neil Findlay draws so wide a definition of “lobbying activity” in the consultation on his proposed Lobbying Transparency Bill, we strongly believe that there would be a significant and unwarranted adverse affect on many other small, especially voluntary, Third Sector organisations, and that this would in turn have a detrimental effect on the quality of political decision-making.

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

We are not aware of any significant changes to lobbying practice in Scotland since the creation of the Scottish Parliament in 1999. From discussion with similar representative organisations in England, we are very aware that the Scottish Parliament and Government have been much more accessible from the outset than their UK counterparts. It has been, and remains, easier for both individuals and small organisations to express their views, and to feel that those views have been given full consideration, though, naturally, these are not always accepted. This has always been regarded as one of the strengths of the Scottish political system since Devolution, and through our strong links with other ethnic, cultural, and faith communities, we know it is something we all greatly value, and we would regret any change that might make it more difficult for the Scottish Parliament and Government to hear the full spectrum of views on any particular issue.

**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?**

We are not aware of an actual or perceived problem with lobbying in Scotland, but we recognise that there may be a distinction to be drawn between commercial lobbyists and individuals and genuinely representative community groups. Whether or not there may be an argument for introducing a register of commercial lobbyists, we believe that any attempt to impose similar rules on community organisations would be disproportionate, would detract from the valued ability of Parliament and Government to hear the full range of public opinion, and indeed would run counter to the culture of the Parliament as embodied, for example, in the Public Petitions Committee.

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

This question presumes that there is a problem to be addressed, but, as stated, we do not believe this is the case, and, furthermore, are concerned that this could become an exercise in over-control and micromanagement of the voluntary sector. Even if a register were felt to provide greater transparency with regard to companies that are engaged in commercial lobbying, that should not be relied upon as in itself, preventing the exertion of undue pressure; indeed, by discouraging due diligence, it could in fact increase the opportunity for abuse.

**To whom should such a register apply? Should it be voluntary or compulsory? Should thresholds be set for registration?**

Once again, this begs the question that a register should be introduced. We do not believe there is any evidence of such abuse as to make registration for non-commercial organisations necessary, but accept that there may be an argument for the compulsory registration of commercial lobbyists and other large organisations. We do not, however, see it as either feasible or desirable to introduce a compulsory register of small non-commercial, and in particular representative, bodies.

In his consultation, Neil Findlay suggests that an organisation should be required to register if it spends £9,000 or more on lobbying activity during a six month period, or if lobbying activity occupies at least 20% of a person's workload. This would result in anomalies and injustices depending on how these limits are to be calculated:

- The level of contact that organisations that are not professional lobbyists have with the Scottish Parliament and Government varies widely, largely depending on what Bills happen to be before the Parliament, and what Government policies are being considered or implemented at the time.

A community group making a single ad hoc submission in response to a consultation would not require to register, but if it then sought to comment on the subsequent legislative proposal it may find itself in default. If it employs a lawyer to advise on interpreting a draft clause, it could exceed the expenditure limit. It is likely that apprehension about registering would deter some groups, causing them to decide not to make any submission, with the result that Parliament and Government would not receive a fully rounded picture of the implications of the relevant proposal.

- It is not inconceivable that staff in a representative community organisation might spend more than 20% of their time liaising with relevant civil servants or MSPs during a short period, and then not have any contact at all for some considerable time. Furthermore, the time period is capable of being manipulated, especially in large organisations: is one day for a monthly-paid official 5% of that month's workload, even if the work continues into the following month? Would a consultant or contractor breach the 20% limit by working only an hour a day if that is the only work she does for the organisation?
- In any case, 20% of a person's time is an inequitable measurement. 20% of one employee's time in an organisation with 50 full time employees is a negligible proportion of the organisation's activities, whereas 20% of an employee's time in an organisation with only two part-time employees, or of a volunteer's time in an organisation with no paid staff, indicates a much higher level of engagement. On the other hand, 20% of the time of a senior full-time official – one full day a week, or almost a complete week in a month – amounts to a considerable effort, while 20% of a volunteer's spare time is, in total, negligible.
- Similarly, a limit of £9000, or indeed any fixed arbitrary sum would impact disproportionately. A large organisation could simply absorb this negligible proportion of its costs under other headings, whereas a small organisation might be inhibited from taking specialist advice by the need to declare it and therefore to register.

Unfortunately it is precisely small representative organisations that would be most likely to stop making the views of their communities known if they were required to join a statutory register, and it is probable that their withdrawal would impact disproportionately on precisely those minorities that are not otherwise heard.

**How should it be maintained and who should maintain it? What level of information should be on it? If so what should they be? What are the likely cost implications of registration for groups that lobby?**

Once again, this begs the question that a register should be introduced. We do not believe there is any evidence of such abuse as to make registration for non-commercial organisations necessary.

**What are the likely cost implications of registration for groups that lobby?**

That obviously depends upon what charges are levied for registering, but however low in absolute terms, they will deter small voluntary organisations, and so inhibit them from participating as fully in the political process as they are currently encouraged to do. We therefore recommend that any registration fee should be waived for voluntary sector organisations.

**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?**

Once again, this begs the question that a register should be introduced. We do not believe there is any evidence of such abuse as to make registration for non-commercial organisations necessary.

**What are the implications of a register for (a) the Parliament, (b) MSPs, (c) organisations that lobby and (d) Ministers and civil servants?**

Even if, as suggested in Neil Findlay's consultation, there would be a financial threshold below which an organisation need not register, we are concerned that fear of overstepping the permitted limits might cause some bodies representing minority sectors to become more hesitant about approaching MSPs, Ministers, and civil servants to raise awareness of their community's views on relevant matters. The consequent loss of information about how particular proposals might impact on all communities across Scotland, must inevitably be detrimental to policy development for individual MSPs, Parliament as a whole, and 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?**

Provided that it is effectively monitored to ensure compliance, Section 5 of the Code of Conduct for MSPs is sufficient to ensure transparency, and does not require to be amended.

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

We would welcome the introduction of a Code of Conduct, but urge that any such code recognise the significant differences between representative community organisations and commercial enterprises for which lobbying is a primary activity.

We do not have any view as to whether a Code of Conduct should be statutory or voluntary.

**SCOTTISH COUNCIL OF JEWISH COMMUNITIES**  
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