Standards, Procedures and Public Appointments Committee

Lobbying (Scotland) Bill

Written submission received from Unlock Democracy

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

We agree that this Bill is necessary and believe that a register of lobbying activity is a vital tool for holding government and lobbyists to account.

Lobbying is an essential part of a healthy democracy. However, professional lobbying – an industry worth £2 billion in the UK – can subvert democratic decision making processes by giving those with the greatest resources undue influence and privileged access to politicians. At the moment, most of this happens behind closed doors. The public does not have the full picture of how lobbying shapes the decisions made in government.

This is as true in Scotland as it is for the rest of the UK. As more powers are devolved to Scotland, the lobbying industry in and around Holyrood will only grow in size and influence. A lobbying register would bring lobbying activity from out of the shadows into the public eye. The Scottish Parliament has the opportunity to learn from Westminster’s failure and put transparency in place before it is tainted by scandal; we strongly urge you to take it.

- How will the Bill affect you or your organisation?

As currently drafted, the Bill will have no impact on Unlock Democracy. We lobby a range of Scottish politicians on democracy issues, including this Bill, but as we are based in London this has not involved any face to face meetings. This means that we would not have to declare any of our lobbying involving correspondence in writing or by phone.

Much of our campaigning involves lobbying politicians, so we believe that a Bill that does not cover our activities would deny the public the full picture. If, as we recommend, the definition of lobbying in the Bill was expanded to include other forms of communication, we would be required to declare this lobbying on the register. We do not believe this would require significant additional administrative work. We already keep records of the majority of our contact with targets for lobbying. An expanded Bill would certainly not discourage us from lobbying Scottish politicians.

- You would only have to register if you were lobbying in exchange for payment (either as a consultant or an employee). You wouldn’t have to register if you lobby in the course of voluntary work or lobby on your own behalf. Do you agree with this approach?

We agree that only lobbying conducted by paid lobbyists should be registered. While some voluntary lobbying activity may be of public interest, the primary goal of a
lobbying register should be to make the details of paid lobbying transparent so that the public can decide whether there is undue influence on politicians.

- **Does the Bill strike the right balance between capturing valuable information while ensuring that access to participation with the work of Parliament and Government is not discouraged?**

Unlock Democracy welcomes the fact that the Scottish Government is taking a Bill through Parliament to introduce a lobbying register but we do not think the proposals go far enough. As currently drafted, it will capture little in the way of valuable information.

The Scottish Alliance for Lobbying Transparency (SALT), of which Unlock Democracy is a founder member, believes that the current draft bill is far too narrowly focused to deliver proper transparency in lobbying. Fundamentally it will not allow us to see who is lobbying whom, about what - which should be the basic test for any lobbying register.

- **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?**

We believe that the definitions and exclusions in the Bill are clear but the definition of lobbying is too narrow to incorporate significant elements of lobbying activity. The definition of lobbying should be expanded to include written and oral communication as well as contact with special advisers and senior civil servants. This would provide a clear but broader definition of lobbying activity.

- **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?**

We agree with this approach and foresee that the main role of the regulator would be to remedy inadvertent failures in compliance. We believe that criminal offences should be reserved for the most serious breaches.

- **Are there any amendments that would, in your view, enhance the Bill?**

We believe that the Bill would be improved by broadening the definition of lobbying to include written, oral and electronic communication, lobbying of senior civil servants and special advisors should be covered by the register, and lobbyists that register should be required to give a good faith estimate of the costs of their lobbying campaigns.

1. **Expand definition so multiple modes of communication trigger registration**

We believe that whatever method of communication lobbyists use to lobby politicians – whether by letter, email, text, over the phone, or in person – it is 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 reflects internationally recognised definitions of lobbying.

We do not believe it would be necessary for lobbyists to declare each individual contact, for instance an email or a phone call, to provide meaningful information about their lobbying activity. Instead lobbyists could be required to register who they have contacted on which issues during the reporting period.

2. Expand definition so lobbying of civil servants and special advisers triggers registration

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. Although the Civil Service is a reserved matter, regulating the lobbyists who interact with civil servants appears to be within the competence of the Scottish Parliament.

3. Expand the information that should be disclosed by lobbyists to include spending on lobbying

As drafted, lobbyists must disclose who they are, whom they are lobbying, and the purpose of the lobbying.

We believe that lobbyists should be required to 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.

We also 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 only report on an annual basis. Any organisation that exceeds these levels should report on a quarterly basis.

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