

# STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

## INQUIRY INTO LOBBYING

### SUBMISSION RECEIVED FROM UNLOCK DEMOCRACY

#### About Us

Unlock Democracy is the UK's leading campaigning organisation for democracy, rights and freedoms. A grassroots movement, we are owned and run by our members. In particular, we campaign for fair, open and honest elections, a stronger Parliament and accountable government, and a written constitution.

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

The size of the UK lobbying industry - now worth £2bn - has steadily increased over the last decade. There are good reasons to believe that Scotland has attracted more than its fair share of that growth. As devolution has matured, the Scottish Government and Parliament have become more assertive, and therefore a more important arena for lobbying. This trend is only likely to continue with the prospect of further changes in the future. The lobbying industry has also diversified, with lobbying increasingly done by think tanks, in-house teams, and law and accountancy firms as well as more traditional public affairs agencies.

#### **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?**

Although Scotland has not seen lobbying scandals on the same scale as Westminster, this should not be seen as an indication that Holyrood is immune. Many of the same issues apply in Scotland: for example, around the funding of cross-party parliamentary groups,<sup>1</sup> or lobbyists with parliamentary passes.<sup>2</sup>

Lobbying is an important part of the democratic process which often improves public policy, but it needs to be transparent. A comprehensive register of lobbyists would be the best way to create a culture of transparency and probity in lobbying. Scotland has a chance to make sure that the scandals that have undermined trust in Westminster are not repeated here. However, transparency in lobbying should not be seen simply as a preventative measure; it should be a goal in itself. The more information that is available to the public on who is involved in politicians' decision-making processes, the better they will be able to hold them to account.

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<sup>1</sup> <http://www.scotsman.com/news/politics/top-stories/msps-come-clean-after-breaking-lobbyist-rules-1-2944883>

<sup>2</sup> <http://www.heraldscotland.com/row-as-lobbyists-and-party-donors-access-all-areas-with-holyrood-visitor-passes-1.827838>

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

A comprehensive register of lobbyists would bring information about who is lobbying, about what, and how much money they are spending on it into the public domain. This would allow the public to make judgements on whether there has been undue influence on the decisions of politicians and government. Transparency would motivate politicians and lobbyists alike to act, and be seen to act, properly.

**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?**

We believe that to ensure transparency, the lobbying register should be as comprehensive as possible. Lobbying is a legitimate activity conducted by a wide variety of organisations, from private companies to campaign groups and charities. The register should be aimed at all those who are paid to influence legislation, regulation, policy or government contracts, rather than targeting certain types of organisation that lobby.

Without a statutory register, coverage will not be comprehensive, nor will there be a significant advance in transparency. Self-regulation by the lobbying industry has repeatedly failed; existing registers have patchy coverage, and contain little information - typically only the names of lobbyists and their clients. Voluntary registers have also failed to ensure information on the register is accurate and up to date.<sup>3</sup> Despite numerous relaunches, even the chair of the UKPAC lobbying register admits that its latest iteration remains underfunded and lacks coverage.<sup>4</sup> These failures cannot be remedied outside a statutory register.

We recommend that the lobbying register be overseen by a body independent of both government and the lobbying industry. This is the only way to ensure public confidence in the register and avoid any conflict of interest when investigating breaches.

A lobbying register must offer the public enough information to draw conclusions about how decisions are being made in government. The essential components of any register include:

- The organisation lobbying and the names of individual lobbyists
- Information on public offices held by lobbyists in the past 5 years (“revolving door”)
- The public body being lobbied and the names of the officials lobbied
- A summary of what is being lobbied on – legislation, policy, contract &c
- An estimate of the amount of money spent on lobbying

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<sup>3</sup> <http://www.prweek.com/article/1059201/mp-calls-statutory-regulation-lobbyists-ukpac-register-riddled-errors>

<sup>4</sup> <http://www.prweek.com/article/1118110/ukpac-releases-new-version-register-following-industry-criticism>

Financial information is vital to understanding the scale and balance of lobbying activities, yet has never been included on any voluntary register. We understand why commercial lobbyists are reluctant to declare financial information, which could potentially be used by competitors to gain unwelcome insight into their commercial strategy. We believe that with a banded cost system, firms could make good faith estimates of costs at a level of detail that would be informative for the public without prejudicing their commercial interests. Financial information should be identified on the register as an unverified estimate; however, we believe that estimates would still be valuable and that lobbyists would have an interest in improving their accuracy.

We believe in a comprehensive register. However, to ensure that the smallest organisations are not subject to disproportionate bureaucratic burdens, there should be a spending threshold for registration. Organisations which have fewer than one full-time equivalent employee working on lobbying, or which spend <£6,000 per quarter on lobbying should be exempted from disclosure.

We believe that the level of disclosure we recommend would not impose significant costs for compliance, nor would it act a barrier for participation for small organisations. Unlock Democracy have completed a sample quarterly filing as an example of how the register would impact small campaigns.<sup>5</sup>

**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?**

We believe that there should be a full range of sanctions available proportionate to the scale and intent of non-compliance with the register. These could include public warnings for minor breaches, fines for more serious offences, and criminal penalties or temporary suspension from the register for the most serious non-compliance. The body which oversees the register must have investigatory powers to monitor compliance so that they can apply sanctions appropriately.

The proposed UK register, which only covers those consultant lobbyists who meet ministers or senior civil servants on behalf of their clients, will cover a tiny proportion of organisations which lobby. The information that will be provided on the register is limited to identifying the client lists of consultant lobbyists. The UK register will not improve transparency in lobbying; in fact, it could even reduce the information that is available to the public. Scotland has an opportunity to establish a truly comprehensive register, which covers the whole range of lobbying activities and provides information that genuinely adds to transparency.

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

The register will help parliamentarians and civil servants carry out their duties in a proper and transparent manner. For example, they will be able to use information on the register to avoid giving privileged access to certain groups. MSPs should not fall under the register themselves, as their business is not lobbying but the public duty of representing their constituents.

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<sup>5</sup> Cost estimates are derived from estimates of staff time, publications and postage costs

We do not believe that a register will discourage organisations from lobbying. In 2009, the Public Administration Select Committee noted:

The advantages of being able to lobby decision-makers on issues of concern are so obvious, that only the most restrictive or onerous regulation could dissuade interested parties from making their views known to Government.<sup>6</sup>

In fact, greater lobbying transparency may help organisations which lobby by providing a level playing field, with no access to government behind closed doors.

## **7. Whether other changes could be made to improve transparency in lobbying in Scotland?**

Some organisations have suggested that publishing the diaries of ministers, MSPs and senior civil servants would provide an effective alternative to a comprehensive register of lobbyists. While we would welcome the publication of these diaries, this is no substitute for a lobbying register. These diaries would contain very limited information about lobbying activities. We would know who has met ministers and MSPs in order to lobby them; at most, publication could also include the topic of the meeting. Diaries would only cover meetings in person, not telephone or electronic communications. Ministers, MSPs and senior civil servants are not the only decision-makers, or even necessarily the most important lobbying contacts. Furthermore, these diaries would not include information on the cost of lobbying, so the public would not be able to properly assess the scale and extent of lobbying campaigns. Publishing ministers', MSPs' and civil servants' diaries would produce only very limited transparency.

The existing publication schemes for ministers' diaries also raise questions about how transparent this would be in practice. Both the Scottish<sup>7</sup> and the UK government<sup>8</sup> already publish ministers' diaries. However, the records are not kept sufficiently up to date to be useful for scrutinising lobbying in real time; the latest Scottish data as of 06/01/14 dates from March 2013. Descriptions of meetings are often opaque: "various" or "regular meeting" is typical.<sup>9</sup>

## **8. What, if any, changes should be made to Section 5 of the Code of Conduct for Members of the Scottish Parliament?**

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

We believe that the rules regarding lobbying for MSPs are broadly in the right place. The introduction of a comprehensive lobbying register will make potential breaches of the rules easier to identify. We believe that there should be a parallel Code of Conduct for lobbyists which would impose a duty to uphold transparency and openness in all dealings with government. The lobbying industry has been receptive to the idea of a code, but existing voluntary codes have lacked effective enforcement to deal with breaches. Whether the code is voluntary or statutory, it should be developed with input from the full range of lobbying organisations. One model might

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<sup>6</sup> Public Affairs Select Committee, *Lobbying: Access and influence in Whitehall*, 2009, p. 63

<sup>7</sup> [www.scotland.gov.uk/About/People/14944/Events-Engagements/MinisterialEngagements](http://www.scotland.gov.uk/About/People/14944/Events-Engagements/MinisterialEngagements)

<sup>8</sup> <http://goo.gl/34jHu5>

<sup>9</sup> See <http://unlockdemocracy.org.uk/blog/entry/andrew-lansleys-diary>

be for the registrar to certify a voluntary code, reviewing compliance on a regular basis.

**UNLOCK DEMOCRACY**  
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