Standards, Procedures and Public Appointments Committee

Lobbying (Scotland) Bill

Written submission received from OSCR

1. Background

1.1 The Scottish Charity Regulator

The Office of the Scottish Charity Regulator (OSCR) is established under the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) as a Non-Ministerial Department forming part of the Scottish Administration. OSCR is the independent registrar and regulator of over 23,800 charities registered in Scotland.

The Standards Procedures and Public Appointments Committee (the Committee) has issued a call for evidence on the Lobbying Bill outlining a series of specific questions they are seeking views on.

2. Response

2.1 Context

In our previous submissions to the Scottish Parliament's Standards, Procedures and Public Appointments Committee in respect to their inquiry into lobbying and the Scottish Government consultation on the planned Bill, we highlighted the need for proportionality in the scope and requirements of a Register of Lobbyists:

“Transparency in public life is important. The proposal of a register of lobbyists is one route towards making lobbying transparent. If such a register is to be created, it is essential that it is clear who is required to register and what they are required to register. Proportionality comes into play and any negative impacts across the charity sector should be mitigated wherever possible. This would be important both in terms of minimising the regulatory burden for charities, especially small charities, as well as ensuring that the principle of accessibility to the Scottish Parliament is upheld.”

We also stressed the diversity of the charity sector in Scotland and the potential for disproportionate impact on the majority of Scottish charities that have an income of less than £25,000. Many of these small charities have a very limited ‘professional’ capacity to take part in lobbying activity and are unlikely to have been the focus of the original intentions of the Inquiry and subsequent proposals.

2.2 Questions on the general principles

1. Do you agree that the Bill is necessary and that the establishment of a Lobbying Register is desirable?
As previously indicated we are in favour of increasing transparency in public life and encouraging engagement with MSPs, whilst minimising the administrative burden on charities. However, it is important that any registration would not create an unnecessary burden for charities nor, indeed, stop or discourage engagement with MSPs and Ministers, if that is what they need to do to further their charitable purposes.

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

As reflected in earlier submissions the register may increase queries and concerns to OSCR about political activity by charities.

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?**

In our consultation response to Scottish Government, we highlighted that:

'it is not clear whether ‘professional lobbyists’ who may volunteer their skills for a charity would need to register that area of voluntary work.'

We are pleased to see that the Bill clarifies this position.

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?**

Yes, however, we would question whether excluding electronic communications, online meeting facilities and social media takes full advantage of the opportunity to ‘future proof’ the Bill by addressing these alternative methods of communication.

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?**

We believe that the definitions set out in the Bill are clear; however, whether it will allow individuals and organisations ‘to easily know’ if their activity is caught will be very much dependent on that activity. We would hope to see comprehensive guidance with illustrative examples to ensure that individuals and organisations understand the requirements and how they might apply to them.

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?**

We welcome the light touch approach and in line with our own principles of proportionate regulation.

7. **Are there any unforeseen consequences of the Bill as currently drafted?**
No comment.

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

No comment.

3. **Conclusion**

OSCR has welcomed the opportunity to respond to this call for evidence and we look forward to developments in this area.

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