

Lobbying (Scotland) Bill – Stage 3

The industry's position

- + The PRCA is the UK professional body representing lobbyists and communications professionals. Our membership includes consultancies (including around 75% of the “PR Week Top 150”), in-house teams and individual practitioners. Members include organisations as diverse as charities, banks, professional bodies, law firms and the entire Government Communications Service. We represent around 350 consultancies and 250 in-house teams. We are the largest association of our type in Europe and of the 20,000 individuals employed by members of the PRCA, around 1,500 are lobbyists.
- + We believe that a Bill is necessary and support the establishment of a Lobbying Register in Scotland: this has been our longstanding and consistent position. The PRCA will continue to operate the industry’s own transparency register alongside this and will continue to give a voice to all those who lobby.
- + We support the work – from all sides – to ensure that public understanding and awareness of the Lobbying Register in Scotland is properly attended to. The Scottish Government has taken a positive approach to the industry and its representative bodies. We hold similar aims when it comes to educating the public: to ensure all those who need to register do so and to dispel any myths or confusion that might exist around lobbying and democracy in Scotland.
- + We are broadly supportive of the proposed amendments to widen both the scope of activities that would require a lobbyist to register and the public officials that this legislation would apply to. Those who seek to influence, inform and engage do so in a number of different ways. As many stakeholders have pointed out, engaging with a Special Advisor might benefit both parties more than engaging with a Minister. In addition to this, face to face meetings can often be the most effective way of engaging with the government but there is no guarantee that this is true in all cases. Those lobbying might instead engage with a civil servant and communicate via email. We therefore offer qualified support to several amendments covering these areas whilst continuing to believe in the broadest possible definition.
- + There are a number of amendments that cause deep concern across the industry. First, financial disclosure is not simply flawed in its unworkability but does members and campaigners a disservice by suggesting that spend equates to influence. Secondly, the exemption for small businesses undermines the goal of a level playing field and would exempt a great many of those lobbying. Finally, featuring work history on the Lobbying Register in Scotland does nothing to contribute to transparency nor does it foster a frank and proper discussion around the perceived issue of “revolving doors” in politics.

We support the following amendments:

- + **Amendment 19**, in the name of Joe FitzPatrick, which seeks to promote public awareness and understanding “of the operation of the Act”. We believe that a lobbyist is properly defined by the act of lobbying itself and that a Lobbying Register in Scotland – if properly promoted – will go some way to dispelling any myths about our industry. We note that **Amendment 11**, in the name of Neil Findlay, has similar aims but in relation to the problematic notion of financial disclosure which we address later in this briefing.

- + **Amendment 23**, in the name of George Adam, which clarifies that “orally”, for the purpose of the Bill, can include British Sign Language and similar forms of communication.

We offer qualified support for:

- + **Amendments 13 and 16**, in the name of Patricia Ferguson and supported by Patrick Harvie, which would widen the scope of those being lobbied to “designated public official[s]” serving as members of staff of the Scottish Administration. We believe that lobbying is the act of influencing government or advising others how to influence government. Our definition of lobbying¹ ensures that “government” includes everyone from Ministers to MSPs to officials to public authorities (within the meaning of section 6 of the Human Rights Act 1998). We offer qualified support on the basis that this widens the scope, but ought to cover all those who are lobbied. For similar reasons and in light of our previous arguments to include Special Advisors, we welcome to the spirit of **Amendment 18**, in the name of Joe FitzPatrick, although we believe it should go further.

- + **Amendment 14**, in the name of Patricia Ferguson and supported by Patrick Harvie, which widens the communications covered by this Bill to include electronic communications and “traditional document[s]”. The PRCA fundamentally believes in – and puts into practice – a wide definition of lobbying. In that definition, drawn up by a parliamentary draftsmen, we focus on the idea of “activities” rather than specifying “communications”. In widening the communication covered, this amendment would significantly increase the number of registrants on the Lobbying Register in Scotland, although we recognise that the Scottish Government considers face to face communication the most effective. The PRCA has previously argued that only information of value should be captured by this Bill and – with this in mind – serious consideration must be given to the regulatory burden that a great many people could face if these other forms of communication are included. The industry overwhelmingly favours statutory regulation and self-regulation which covers all those conducting lobbying without an onerous amount of information. The PRCA Public Affairs Register, for instance, captures the organisation, offices conducting lobbying, those employees carrying out lobbying and (if acting in a third party capacity) the clients for whom this work is carried out for. We do not, for instance, capture each individual instance of lobbying and nor should this Bill seek to.

¹ See here: <http://www.prca.org.uk/assets/files/Definition%20of%20Lobbying.pdf>

We believe members should oppose:

- + **Amendments 2, 7, 8 and 9**, in the name of Neil Findlay, which would result in financial disclosure featuring on the Lobbying Register in Scotland. We appreciate that members will have been contacted by various stakeholders lobbying for financial disclosure. Lobbying, as current defined by the Bill, is part of a wider communications strategy and it occurs as-and-when necessary according to changing political circumstances. Despite the mention of “payments received for an instance of lobbying”, neither consultants nor in-house lobbyists work on contracts which specify a certain number of meetings or which allocate a certain portion of their budget or time to these activities. Financial disclosure suggests that – even if we could narrow things down and focus solely on money spent on lobbying according to the Bill’s definition – money equates to influence. This does a great disservice to MSPs as well as the public. Lobbying is about informing and ensuring politicians and policymakers have all the information necessary from a range of stakeholders and that they can make an informed decision. Co-ordinated and properly targeted campaigning on a small budget has the potential to achieve as much as a larger campaign which spends far more.

- + **Amendment 22**, in the name of Joe FitzPatrick, which will exempt communications made by organisations with fewer than 10 full-time employees (or equivalent). Whilst we absolutely appreciate the intention of the Scottish Government, it adds a significant loophole to the situation and does not create the level playing field necessary for democracy in Scotland. If members are minded to reduce small business burden, we ought to ensure only essential information is captured, rather than anything else. We would urge members to oppose this because, despite intentions, it weakens the Bill significantly. We are an industry which already discloses a great deal of information through the PRCA Public Affairs Register; whilst some stakeholders have sought to exempt themselves from the Lobbying Register in Scotland, members will note that we have previously called for the Scottish Government to remove loopholes – such as the exemption of pro-bono or voluntary lobbyists – rather than create further exemptions. Whilst we recognise **Amendment 22A**, in the name of Patrick Harvey, attempts to correct some of the problems here we believe the former amendment would still vastly reduce transparency in Scotland.

- + **Amendments 3, 4, 5 and 6**, in the name of Neil Findlay, which aim to add a record of employment “for the past five years” to the Lobbying Register in Scotland. We recognise that a proper discussion about “revolving doors” and the correct codes for former public officials needs to take place, but adding information already found on professional sites such as LinkedIn does nothing to advance the issue. It fuels a negative narrative whilst consequentially doing nothing for transparency.