

# Summary Briefing: The Lobbying Act for a Third Sector Audience

20 February 2017

## Introduction

Did you know?

If you hand your Policy Briefing to an MSP in person you will have to register your communication under the Lobbying Act, but if you email it you do not have to report it.

The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014, better known as the 'Lobbying Act', has been the focus of much speculation and has caused immense confusion for a range of third sector organisations. Who needs to register? What needs to be recorded and by whom? Seemingly simple aspects of the Act are in fact complex and open to interpretation. The Health Policy Officers Network invited Billy McLaren, the Scottish Parliament Lobbying Registrar, and his newly appointed colleague James Drummond to speak to the group.

Billy McLaren was appointed in October last year to develop an online register for lobbying. Billy and his colleague are also developing parliamentary guidance which will contain a range of scenarios to support people fulfil their registration duties. Officially, the register is planned to be in place from April 2018 however, Billy pointed out that a live environment for the register will be in place by Autumn this year. This will mean that organisations will be able to start recording their lobbying as soon as the register goes live later this year. It is important to note that you do not have to make entries retrospectively.

## What lobbying is regulated?

Part 1 of the Lobbying Act defines 4 key factors of regulated lobbying:

1. Paid "Person" including an individual or a legal person such as a company.
2. All face-to-face, oral communications/engagement (including those made with the use of digital visual communication software such as Skype and teleconferencing).
3. With Members of Scottish Parliament, Ministers, Special Advisers and Permanent Secretary
4. The communications must relate to parliamentary functions

The Lobbying Act is not regulated by the Scottish Government but run as a duty of the Scottish Parliament who are apolitical and therefore provide neutral ground to enact this legislation.

## Who and what is exempt?

- Individuals and individual matters
- Unpaid lobbyist (volunteers, unpaid board members are exempt)
- Local and constituency issues
- Small organisations of less than 10 paid staff (this does not apply to representative organisations)
- Lobbyist has to initiate the lobbying (so situations where people/organisations are approached for their expertise, opinion or evidence do not count)
- Formal proceedings (which are already available to the public) or any communication required under any statutory provision or other rule of law, is not lobbying.
- Communication made in the context of, and during, a meeting of a group recognised as a cross-party group by the Parliament is not lobbying
- Terms and conditions of employment (i.e. a company that is closing may want to discuss sensitive information and this would not be considered as lobbying)
- Purposes of journalism
- Public Authorities covered by Freedom of Information Act

## What information must be registered?

Section 6 sets out the information about the lobbying activity of both active registrants and inactive registrants that the register must contain:

1. The name of the person lobbied,
2. The date on which the person was lobbied,
3. The location at which the person was lobbied,
4. A description of the meeting, event or other circumstances in which the lobbying occurred,
5. The name of the individual who made the communication
6. either—
  - a. a statement that the lobbying was undertaken on the registrant's own behalf, or
  - b. the name of the person on whose behalf the lobbying was undertaken, and
7. The purpose of the lobbying.

## When to submit information?

There are no set dates for returns in the same way as there are for tax returns. You have 30 days from the date of your first communication/engagement to submit information into the register. You then have a further 6 months from the date of your first engagement to submit any other lobbying engagements that have occurred during that 6 month period.

## Further issues for consideration

- It is important to note the Lobbying Act does not apply to written communications such as emails and social media. It only applies to face to face oral communication.
- If you host or attend a Parliamentary event, all of your staff attending need to be logged on the register and every discussion (as defined by regulated lobbying) needs to be registered.
  - Member and volunteers are exempt from this.
- If you employ volunteers to do lobbying but have paid staff then you still need to register your organisation.
- Chance encounters where ‘lobbying’ occurs need to be recorded.
- There will be a review of the Lobbying Act in 2 years’ time and there will be an opportunity to engage with the Parliamentary Committee to discuss your experience.

Lobbying is a loaded term and the third sector will have to re-think our understanding and use of the word. For the purposes of the Lobbying Act, lobbying should be considered as any instance where a paid representative of your organisation gives information about or promotes the purpose or aim of your organisation, in an attempt to influence MSPs, Ministers, Special Advisers or the Permanent Secretary.

If you have any further questions about the Lobbying Act or you would like to be signed up to the Lobbying Registrar’s e-bulletin, please contact Billy McLaren - [Billy.McLaren@parliament.scot](mailto:Billy.McLaren@parliament.scot)

### For further information contact:

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