

The lobbying bill risks gagging charities and campaign groups, while letting lobbyists of the hook

By Democratic Audit

*The Government's Transparency of Lobbying, Non-Party Campaigning & Trade Union Administration Bill will receive its Second Reading on September 3rd. Critics of the Bill have been unequivocal about legislation which has been described by some commentators as a 'dog's breakfast'. Here, **Peter Bradley** of Speakers' Corner Trust argues that the Bill not only misses a real opportunity to introduce an effective statutory register of lobbyists, but could also damage the ability of charities, trades unions, and campaign groups to do their jobs.*

Three years ago, in a keynote speech on rebuilding trust in politics, the then Leader of the Opposition David Cameron declared that Britain's £2 billion lobbying industry represented "the next big scandal waiting to happen". Acknowledging that "secret corporate lobbying goes to the heart of why people are so fed up with politics", he pledged that "it's time we shone the light of transparency on lobbying in our country and forced our politics to come clean about who is buying power and influence".



Speakers Corner in Hyde Park, London (Credit: shoobydooby, cc by 2.0)

This indictment of what he called "crony capitalism" certainly didn't lack clarity. So how has the Government contrived to produce, after three years' deliberation, a [Transparency of Lobbying, Non-Party Campaigning & Trade Union Administration Bill](#) which could be described by the chair of the Political and Constitutional Reform Select Committee, Graham Allen, as "rushed and ridiculous"? How has it managed to unite in condemnation an unlikely alliance of transparency campaigners, professional lobbyists, trade unions and voluntary organisations?

A Bad Bill Produced in Haste

For a start, the Government appears to have committed two cardinal sins in producing what Allen called a "dog's breakfast" of a Bill, first by rushing it out without adequate consultation in response to an event – in this case revelations about the Conservative MP Patrick Mercer's [lobbying activities](#) - and second, by succumbing to the temptation to tack on to its main provisions some highly politicised measures which don't belong there, if anywhere. As a result – whether through cock-up, conspiracy, or both – this is a bad Bill for what it doesn't do as much as for what it does.

Part I – The Register Which Isn't

Back in 2010, David Cameron was very clear about where the light of transparency [should shine](#): "we don't know who is meeting whom. We don't know whether any favours are being exchanged. We don't know which outside interests are wielding unhealthy influence. This isn't a minor issue with minor consequences".

At the time, David Miller of the Alliance for Lobbying Transparency welcomed this apparent resolution but laid down some [clear markers](#): “if they are serious about listening to ordinary people, the Conservative Party must pledge to introduce a mandatory register of lobbyists as soon as possible so that the public can see who is lobbying whom, and the extent to which national policies are being influenced by commercial forces.”

Indeed, what’s needed is a register which includes all lobbyists and provides clear information about their clients, what they’re lobbying for, whom they’re lobbying and how much they’re spending.

But the register the Bill offers will capture only the tiny number of “consultant lobbyists” who deal directly with Ministers or Permanent Secretaries. Those who operate behind the scenes, as most do, those who work for consultancies, including for example law firms, for which lobbying is not the principal business and, remarkably, all in-house lobbyists, including those who work for global corporations, trade associations or major charities, will be exempted.

Iain Anderson of the Association of Professional Political Consultants has highlighted APPC research which found that last year, ministers in the Department for Business, Innovation and Skills had as many as 988 meetings with lobbyists, only two of whom were consultant lobbyists who would now be required to register. He [called it](#) “a bad bill which actually undermines the goal of increased lobbying transparency” and with it the legitimacy the industry seeks. ALT called it a “sham” which “will reveal nothing of what goes on behind closed doors in Westminster and Whitehall”. Transparency campaigners Spinwatch [agreed](#): “as currently drafted, it is questionable whether it will even force the PM’s campaign adviser Lynton Crosby to reveal his corporate clients.”

I believe that we should be sensible about lobbying. It is and has always been a key feature of democratic politics. As an MP I sent the vast majority of the glossy brochures I received every day straight to recycling. I accepted very few invitations to receptions and when I did, I was perfectly capable of consuming a *vol au vent* without swallowing corporate propaganda. I was never offered an inducement much more valuable than a biro. But it was lobbying – by constituents, voluntary organisations and interest groups and occasionally businesses – which introduced me to many of the causes and campaigns I adopted both in my constituency and at Westminster.

I was, however, also aware and often concerned that Government policy was in many areas more likely to be shaped by powerful vested interests than by party manifestos or idealistic backbenchers. That’s why I support the introduction of a comprehensive and adequately policed register which will tell us what we need to know about lobbyists and their activities and help us distinguish between due and undue influence.

Part II – The Register Which Shouldn’t Be

But there is at least one other area for concern. Big business has a lot to spend on lobbying; ordinary people and many of the voluntary organisations which represent them have very little. We not only need to know exactly what is being spent, but also how to cap it. We also need to find other ways of redressing the balance.

Back in 2010, David Cameron seemed to agree, pledging that his Government [would](#) “take the power away from the political elite and hand it to the man and woman on the street.” That also appeared to be his vision for the Big Society in which voluntary groups were to play an increasingly important role in both representing and addressing the needs of their communities.

But having already cut the voluntary sector’s funding, it appears that the Government also wants to curtail its influence. For, almost gratuitously, Part 2 of the Bill introduces the kind of regulation of charities and campaign bodies which is so conspicuously absent from the clauses dealing with lobbyists. In election year, when their analysis and advocacy roles are most important, the Bill seeks to increase significantly the scope of activities by non-party organisations which could be considered “for election purposes” while halving the level of expenditure which requires them to register with and then regularly report to the Electoral Commission.

But worse, as the explanatory notes which accompany the Bill explain, “the definition of ‘for election purposes’ does not rely solely on the intent of the third party; the effect of the expenditure must also be considered”. So even a politically impartial charity’s analysis of policy, meant simply to inform the opinion of its members, could fall foul of the regulations if it could be perceived to favour one party’s position over that of another.

According to Political Scrapbook [blog](#), the Electoral Commission, which will have to police the non-party register, was neither consulted about nor impressed by these provisions. It quotes correspondence in which the Commission complains that “in our view it is not at all clear how that test will apply in practice to the activities of the many third parties that have other purposes beyond political campaigning. For instance, it seems arguable that the new test could apply to many of the activities of charities, voluntary organisations, blogs, think tanks and other organisations that engage in debate on public policy.”

There’s another striking anomaly. A Cabinet Office press release explains that “[limiting such spending is intended to avoid](#) the situation...where unregulated spending by vested interests means that it might not always be the best candidate who wins an election, but the one with the richest supporters”. If that is the Government’s intention, it will not be realised. For while limiting the modest activities of local voluntary organisations, the Bill will do nothing to prevent wealthy party donors from continuing to channel substantial funds precisely to secure electoral advantage in key marginal seats as [I found to my cost in 2005](#). Reform of party funding is the holy grail which is not being sought.

TUC General Secretary Frances O’Grady has argued that if the Bill becomes law, next year’s Congress, along with many other union campaigning activities, would have to be cancelled as their cost, falling within 12 months of a general election, would take both the TUC and individual unions over the permitted spending limit. She [claims](#) that the Bill “has been drawn so widely that its chilling effect will be to shut down dissent for the year before an election. No organisation that criticises a government policy will be able to overdraw their limited ration of dissent without fearing a visit from the police”.

Was it simply that the Government was so worried that the Mercer affair might be the prelude to “the next big scandal” and so desperate to be seen to be acting decisively that it rushed out a Bill before it had been properly considered? Is the Bill just ill conceived and incompetently drafted or is O’Grady right to call it an “attack on free speech worthy of an authoritarian dictatorship”?

The Cabinet Office Minister, Chloe Smith, has been [criticised](#) for failing to consult before the Bill was finalised. Now organisations, including the National Council for Voluntary Organisations and the TUC, are hammering at the door, and, with the Bill’s Second Reading scheduled for 3 September, the Political and Constitutional Reform Committee is convening in [emergency session](#) to take evidence and make recommendations.

Much depends on whether between them they can persuade the Government to tear up its Bill and start again – and, of course, we should all be lobbying our MPs while we still can.

Note: This article represents the views of the author and not those of Democratic Audit or the LSE. Please read our [comments policy](#) before posting.

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