

Stewart Stevenson MSP

Convener

Standards, Procedures and Public Appointments Committee

Room TG.01

The Scottish Parliament

Edinburgh

EH99 1SP



1 March 2016

Dear Stewart,

LOBBYING (SCOTLAND) BILL

During Stage 2 consideration of the Lobbying (Scotland) Bill I undertook to update the Committee about the Government's plans to amend the Bill at Stage 3. This letter provides a summary of our planned amendments which I hope the Committee finds helpful.

Constituency-based activity

At Stage 2, a non-Government amendment was lodged to include a threshold in the Bill to exempt small-scale lobbying activity. In debating the amendment I noted the concern expressed by Members at Stage 1 that the Bill might impact negatively on MSPs' relationships with constituents. The Government has maintained throughout that the Bill should not erode the ease-of-access and openness of Parliament. The Bill, on introduction, therefore exempted communications made by individuals on their own behalf. On further reflection the Government considers it appropriate to broaden the current protection for constituents' communications to include "in-house" communications from organisations on their own behalf to either the constituency or list MSPs where the organisation is located (or where the individual making the communication for the organisation is a resident).

I would stress this exemption will not apply to MSPs who are also Ministers, as it is not possible in law to distinguish sufficiently whether an issue raised in a constituency context relates to a member's MSP or Ministerial role.



Communications made by smaller organisations

To help ensure that smaller organisations or businesses are not unduly impacted upon by the Bill, recognising the concerns raised particularly by the third sector and the Federation of Small Businesses, the Government will bring forward an amendment that will provide a general exception of communications made by legal persons, on their own behalf, which have fewer than 10 full time equivalent employees.

It is important to highlight that neither of these exceptions will apply in respect of communications made on behalf of a third party, to catch commercial consultant lobbying firms. Such communications will remain registrable under the Bill framework.

Coverage of the civil service

In its Stage 1 Report, the Committee recommended that “the Government consider bringing forward amendments to broaden the definition of regulated lobbying to include communications made to other public officials”. The Government response committed to reflecting further on how any broadening of the definition of regulated lobbying could be balanced against the underpinning principle of ensuring proportionality in the operation of the regime. I reiterated that message at Stage 2 when responding to Patricia Ferguson’s amendment which proposed widening the scope of regulated lobbying to include all Senior Civil Servants.

The Government recognises that many stakeholders supported the inclusion of Civil Servants (particularly Senior Civil Servants) as lobbyees. The Government has carefully considered the implications of such a move and this has included consultation with Trade Unions. Our conclusion is that the best approach at this stage is to extend the scope of the Bill to cover the Permanent Secretary of the Scottish Government. Whilst civil servants have clear linkage to Ministers, they occupy a different space to politicians. They are not decision-makers, and undertake a wide range of day-to-day operational and stakeholder liaison functions many of which bear no association with lobbying activity. The Government believes that the case has not been made to justify the Bill requiring meetings with all senior civil servants to be registrable, or to suggest that such action would represent a proportionate approach.

The Committee unanimously agreed to amend the Bill at Stage 2 to require the Parliament to review the operation of the registration framework two years after the scheme goes live, including the issue of which lobbyees should be covered. That provision will ensure that this matter can be revisited with the benefit of experience.

Promoting awareness and understanding of the registration framework

At Stage 2, a non-Government amendment was lodged seeking to enable the Parliament to make information available with a view to promoting awareness and understanding of the registration framework. That amendment also sought to require the Parliament to ensure that sufficient funding was provided to support that aim. In response I confirmed that whilst I saw some benefit in the Bill clarifying the Parliament’s role in publicising any new arrangements register, I also regarded that matters about Parliamentary funding should be left to the responsibility of the Scottish Parliamentary Corporate Body.

The Government will however lodge an amendment at Stage 3 to set out on the face of the Bill that the Parliament may take such steps as it considers appropriate to promote awareness and understanding of the operation of the Act. I view such provision as complementary to existing provision at section 43 of the Bill requiring the Parliament to publish guidance on the operation of the resulting Act.

I hope the content of this letter proves helpful to the Committee. I am copying this letter to Neil Findlay MSP.

Yours for Scotland



JOE FITZPATRICK