



In Focus

Lobbying (Transparency) Bill [HL] HL Bill 13 of 2016–17

Key Provisions

The [Lobbying \(Transparency\) Bill \[HL\]](#) is a private member's bill introduced by Lord Brooke of Alverthorpe (Labour). The Bill had its first reading on 24 May 2016 and is scheduled to have its second reading on 9 September 2016. The Bill would repeal the legislation which currently provides for a statutory register of consultant lobbyists and replace it with a new statutory register covering a wider range of lobbying activity. Lord Brooke has described the Bill's intentions as follows:

Just over a year ago the Government introduced a statutory register of lobbyists after adoption of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. Lobbying is an estimated £2 billion industry in the UK. Most of this is spent by business, not charities or trades unions. The current register is too limited in scope, both in terms of the lobbyists it includes and in terms of the information it collates and publishes. It does not include in-house lobbyists working for big organisations, including NGOs, law firms and companies. It does not cover lobbyists who target mid-level civil servants and parliamentarians who have an influence on decisions over policy and legislation. The register does not give any details of the money spent on lobbying and the topics and goals that lobbyists pursue. These are of legitimate interest to citizens in a democratic and open society. So this Bill is calling for part I of the Lobbying Act to be repealed. It will be replaced with a genuine statutory lobbying register that will address some of the imbalances in our political system and ensure that there is equal scrutiny of all those that seek to influence government.¹

Clause 2 of the Bill would define a lobbyist as “a person who, for payment, undertakes lobbying activity”. This would cover both ‘consultant lobbyists’, defined as someone “who engages in lobbying activity on behalf of a third party client”, and ‘in-house lobbyists’, which the Bill defines as any “employee, officer, director, partner, proprietor or shareholder (but not unpaid volunteer) of an organisation, who engages in lobbying activity on behalf of that organisation”. ‘Organisation’ is broadly defined in the Bill, and would include entities such as charities, interest groups, industry bodies, professional organisations, foreign governments, and businesses. Clause 2(6) sets out details of the organisations that would be covered.

Under clause 2, a person would be deemed to be engaged in ‘lobbying activity’ if they arranged or facilitated a meeting with a public official, or communicated with a public official, on matters relating to specified parliamentary business and specified government activities, such as policy positions, regulation, or the awarding of contracts and grants. The definition of lobbying activity would also include giving professional advice to, or working in support of, other people engaged in lobbying activity. The public officials covered by this definition of lobbying activity would include members of both Houses of Parliament and their staff, as well as staff of government departments, executive agencies, non-ministerial government departments, non-departmental bodies, and regulatory bodies. The types of communication covered would include oral and written communications (including emails and text messages); the

circulation of information material or position papers; and organising events or promotional activity in support of a lobbying position. Clause 3 sets out exemptions for activities that would not be classed as lobbying activity, for example: communications between MPs and their constituents, or public submissions to parliamentary committees or government consultations. Clause 4(3) would also exempt in-house lobbyists whose expenditure on lobbying activity did not exceed £5,000 in a three-month period from being required to register.

In contrast, the existing provisions in the 2014 Act apply only to consultant lobbying, which is deemed to take place when “in the course of a business”, a person makes written or oral communications personally to a UK government minister or permanent secretary (or equivalent), about government policy, legislation, the award of contracts, grants or licences or the exercise of other government functions, on behalf of another person, and in return for payment.² Only consultant lobbyists who are VAT-registered are required to register. Schedule 1 to the 2014 Act provides an exemption to the requirement to register “if a person’s business mostly consists of activities other than the lobbying of governments, and any communication that they make on behalf of someone else to ministers and permanent secretaries of the UK government is incidental to those non-lobbying activities”.³

The current legislation requires each register entry to contain the consultant lobbyist’s name, address, and (where relevant) the registered company number issued by Companies House. It also requires the disclosure of the names of any partners or directors (or equivalent), together with the names of the clients for whom the consultant lobbyist has engaged in consultant lobbying (or has received pre-payment to do so). These details must be updated quarterly. In contrast, clause 5 of Lord Brooke’s Bill would require a greater range of information, including: a general description of the registrant’s business or activities; where the registrant is a consultant lobbyist, a general description of their client’s business; the name of each employee of the registrant who has acted, or is expected to act, as a lobbyist; whether any such employee has served as a public official in the ten years prior to becoming a lobbyist for that organisation or client, and if so, details of their position as a public official; whether the employee is a parliamentary passholder; the subject matter of the lobbying activity; details of any relevant parliamentary or government business which is, or is planned to be, the subject of lobbying activity; the name of any government department or governmental institution at which lobbying activity is to be directed; and details of the means of communication the registrant uses or expects to use in connection with any lobbying activity. Under clause 6, registrants would have to update this information each quarter. Additionally, in-house lobbyists would be required to provide a quarterly estimate of their expenditure on lobbying activity, and consultant lobbyists would be required to provide a quarterly estimate of lobbying-related income received from each client.

Under section 4(3) of the 2014 Act, consultant lobbyists are required to indicate on the register whether they have undertaken to comply with a publically available “relevant code of conduct”, but there is no statutory code for lobbyists. The current Registrar (the statutory office-holder appointed by ministers to manage the register) intends to consult and issue guidance during 2016–17 on what constitutes a relevant code of conduct.⁴ Clause 7 of the Bill would introduce a statutory code of conduct, to be drafted by the Registrar after consultation with stakeholders, and approved by Parliament. Registered lobbyists would then be obliged to comply with it. Clause 8 would give the Registrar powers to suspend or remove from the register individuals found to have breached the requirement to register or file returns, or to have breached the code of conduct. Engaging in lobbying activity without registering and filing quarterly returns, or providing incomplete or inaccurate information, would be an offence subject to a fine not exceeding level 5 on the standard scale.

Background

The Coalition Government stated that the main purpose of the lobbying provisions of the 2014 Act was to “ensure that it is clear whose interests are being represented by consultant lobbyists who make

representations to government”.⁵ The Government intended that the register would “complement the existing transparency regime, whereby government ministers and permanent secretaries of government departments proactively disclose information about who they meet on a quarterly basis”.⁶ The Conservative Government stated in March 2016 that the register “does not include in-house lobbyists because it is, by definition, clear who they are working for when their details are published in the list of meetings of ministers and permanent secretaries”.⁷

A statutory register of consultant lobbyists was established under the 2014 Act in March 2015.⁸ As of 1 September 2016, 136 organisations had registered.⁹ To date, the Registrar has issued civil penalty notices to four firms for failing to comply with the terms of the Act.¹⁰ Asked about whether the register could be described as successful, the current Registrar, Alison White, said: “The Register does what the legislation requires—my job is to continue to make sure that all those who are required to register do so, and to operate the system cost effectively”.¹¹

In March 2015, Lord Wallace of Saltaire, then Lords Spokesperson for the Cabinet Office, said that he believed the “next step” would be “after two or three years’ operation of this measure for the next government to review how effective this process has been and how many professional lobbyists have registered”.¹² He said the Government would consider at that point “what we might do to expand our activities in this area”. However, he warned that: “If we were to register every single lobbyist of every single company that lobbies directly for its interests, we would have a vast bureaucracy”, and that was “not something that we should undertake lightly”. In March 2016, the current Government said it had “no plans to increase the scope of the Register”.¹³

The relatively narrow scope of the 2014 Act has been criticised by supporters of a more comprehensive statutory registration scheme. During the final stages of the passage of the 2014 Act, the House of Commons Political and Constitutional Reform Committee described it as “an unsatisfactory and inadequate vehicle for increasing transparency about lobbying”.¹⁴ The Committee’s view was that “in order to genuinely enhance transparency, a lobbying register would have to cover all those who lobby professionally, and all those who offer professional advice on lobbying, whether they are third party or in-house lobbyists, including those working for law firms, trade associations and think tanks”. The Committee also argued that “the information that the register requires to be listed should be expanded to include the subject matter and purpose of the lobbying, when this is not clear already from the company’s name”. The Committee also believed that “the list of people with whom communication, or advising on communications, counts as lobbying should include Senior civil servants and special advisors, as well as ministers and permanent secretaries”.¹⁵

There have been further calls for the current legislation to be replaced or strengthened. For instance, in February 2015, the non-governmental organisation Transparency International UK recommended replacing it with “legislation that is fit for purpose, including more comprehensive registration obligations for lobbyists”, covering both in-house and consultant lobbyists.¹⁶ It also called for public disclosure of campaign spending and lobbying objectives for lobbyists with a budget above £10,000. In its manifesto for the 2015 general election, the Labour Party pledged to repeal the 2014 Act and “replace it with a tougher statutory register of lobbyists”.¹⁷ The Liberal Democrats similarly pledged to “strengthen and expand the lobbying register”.¹⁸ In March 2016, the Council of Europe’s Committee on Legal Co-operation published a draft recommendation which proposed that member states should establish a legal framework to ensure that consultant lobbyists acting on behalf of a third party, in-house lobbyists acting on behalf of their employer, and organisations representing professional or other sectoral interests would be subject to regulation.¹⁹ It also suggested that a register of all lobbyists should be maintained by public authorities. The group Unlock Democracy supports Lord Brooke’s Bill.²⁰

Various industry bodies have their own registration schemes covering a range of lobbying activity. In July 2015, the Chartered Institute of Public Relations (CIPR) launched the UK Lobbying Register, a voluntary

scheme open to all lobbyists, which the CIPR said was “an effort to deliver greater standards of transparency and raise professional standards of practice”, given that the “narrow scope” of the current legislation meant the public was “unable to access meaningful information about lobbying”.²¹ The Association of Professional Political Consultants (APPC) also publishes a register giving details of its members and their clients.²² The CIPR and the APPC both have codes of conduct for their members, and all lobbyists who sign up to the voluntary UK Lobbying Register must also abide by one of these organisations’ codes.²³ The Public Relations and Communications Association publishes a quarterly public affairs and lobbying register of its members, who are also subject to its code of conduct.²⁴

Further Information

- House of Lords Library, [Lobbying and Political Campaigning: Charities and Trade Unions](#), 2 August 2016
- House of Commons Library, [The Register of Consultant Lobbyists](#), 22 January 2016

¹ This text was provided by Lord Brooke of Alverthorpe on request from the Library.

² Cabinet Office and Department for Business, Innovation and Skills, [Explanatory Notes to the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014](#), January 2014, para 19.

³ *ibid*, para 22.

⁴ Office of the Registrar of Consultant Lobbyists, [Business Plan 2016–17](#), March 2016, p 8.

⁵ *ibid*, para 4.

⁶ *ibid*. Information about ministers’ and permanent secretaries’ external meetings is published each quarter on the GOV.UK website by the relevant government department.

⁷ House of Lords, [‘Written Question: Lobbying’](#), 15 March 2016, HL6639.

⁸ Office of the Registrar of Consultant Lobbyists, [‘Register of Consultant Lobbyists Reaches its First Anniversary’](#), 25 March 2016.

⁹ Office of the Registrar of Consultant Lobbyists, [‘See the Register’](#), accessed 1 September 2016.

¹⁰ Office of the Registrar of Consultant Lobbyists, [‘Registrar of Consultant Lobbyists Issues First Civil Penalty Notice’](#), 30 March 2016; and [‘Registrar of Consultant Lobbyists Issues Civil Penalty Notices to Late-Paying Registrants’](#), 14 July 2016

¹¹ Office of the Registrar of Consultant Lobbyists, [‘Register of Consultant Lobbyists Reaches its First Anniversary’](#), 25 March 2016.

¹² [HC Hansard, 12 March 2015, col 760](#).

¹³ House of Lords, [‘Written Question: Lobbying’](#), 15 March 2016, HL 6638.

¹⁴ House of Commons Political and Constitutional Reform Committee, [The Government’s Lobbying Bill: Follow-up](#), 22 January 2014, HC 891 of session 2013–14, p 9.

¹⁵ On the day the Committee’s report was published, the House of Commons reversed a Lords amendment which would have included communications with special advisors in the definition of consultant lobbying activity ([HC Hansard, 22 January 2014, col 341](#)). Instead, the Act contains a power for regulations to be made to extend the definition of consultant lobbying to include communications with special advisors, but to date no such regulations have been made.

¹⁶ Transparency International UK, [Lifting the Lid on Lobbying](#), February 2015, p 66.

¹⁷ Labour Party, [The Labour Party Manifesto 2015](#), April 2015, p 63.

¹⁸ Liberal Democrat Party, [Manifesto 2015](#), April 2015, p 132.

¹⁹ European Committee on Legal Co-Operation, [Draft Recommendation of the Committee of Ministers to Member States on the Legal Regulation of Lobbying Activities in the Context of Public Decision-Making](#), 22 March 2016.

²⁰ Unlock Democracy, [Theresa May’s Chance to Shine a Light on Lobbying](#), 26 August 2016.

²¹ Chartered Institute of Public Relations, [Lobbying](#), accessed 1 September 2016.

²² Association of Professional Political Consultants, [‘Previous Registers’](#), accessed 1 September 2016.

²³ Chartered Institute of Public Relations, [‘Professionalism and Ethics’](#); Association of Professional Political Consultants, [‘APPC Code of Conduct’](#); UK Lobbying Register, [‘Professional Standards’](#), all accessed 1 September 2016.

²⁴ Public Relations and Communications Association, [‘Public Affairs and Lobbying Register’](#), accessed 1 September 2016.

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