



Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill: Lords amendments

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This Bill is now awaiting royal assent. It introduces:

- a statutory register of consultant lobbyists and establishes a Registrar to enforce the registration requirements
- regulates more closely election campaign spending by those not standing for election or registered as political parties
- strengthens the legal requirements placed on trade unions in relation to their obligation to keep their list of members up to date.

UPDATE ON PING PONG STAGES

- **Lord amendments were debated in the Commons on 22 January 2014. The Political and Constitutional Reform Committee [report](#) on 22 January 2014 called for further reforms to be made to the Bill. It tabled a series of amendments which it wished to see made at Lords amendments in the Commons. The Lords Amendments debate was subject to a [Programme Motion no 3](#), passed immediately before debate began.**
- **During the Commons debates on 22 January 2014, the House debated part 1 and rejected non-Government amendment 1 (special advisers) by 311 to 258. It then debated part 2, and did not accept the non-Government Amendments 108 (staff costs) and 26 (constituency limits). The vote on amendment 108 was by 310 to 278 and on 26 it was 314 to 274. The subsequent [Commons Reasons and Amendments in Lieu](#), published on 23 January 2014, was debated in the Lords on 28 January, where the Lords accepted all outstanding Commons amendments. The vote on a non-Government amendment on staff costs (Motion c1) was tied at 245, so the Bill was not amended and will pass into law.**

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Library Research Paper 13/52 [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#) gives full details on the background. Library Standard Note 6734 [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#) discusses the passage of the Bill and the changes made in the Commons to Parts 1 and 2. [Lords Library Note LLN 2013/028](#) gives background for Lords second reading.

The Bill proved controversial during its passage through both Houses. It had its second reading in the Commons on 3 September 2013, and finished its Lords stages on 21 January 2014, where another non-Government amendment was passed restricting the application of constituency limits. The part which provoked most debate was part 2. The proposed changes alarmed many charities and other third parties which campaigned at elections. The definition of what counted as campaign expenditure was amended at Commons report stage.

At Lords second reading, the Government agreed to 'pause' consideration of part 2 of the Bill for further discussion and came forward with amendments at report stage. These included:

- Raising registration thresholds to £20,000 for England and £10,000 for Scotland, Wales and Northern Ireland;
- Reducing the length of the regulated period for the 2015 general election, to start on 19 September 2014 after the Scottish independence referendum;
- Simplifying the constituency limit so that there is a single limit of £9,750;
- Increasing the proposed expenditure limits in Scotland Wales and Northern Ireland by £20,000 respectively;
- Allowing large campaigners to provide a single expenditure report on behalf of a coalition of smaller campaigners;
- Simplifying the reporting regime for third parties;
- A review of Part 2 following the 2015 general election.
- A power to make consequential provisions to modify PPERA until the next general election.

Government amendments passed at report and third reading implemented these changes. Some non-Government amendments were also passed. These were:

- **Amendment 45**, moved by Lord Harries of Pentregarth at report stage, exempting staff costs, was agreed. Charities and third parties have argued that their staff costs should not be included in any definition of controlled expenditure. This was passed by 236 votes to 193.
- **Amendment 11** moved by Lord Harries of Pentregarth at third reading, restricting the application of constituency limits to election material and unsolicited telephone calls. This was passed by 248 votes to 222.
- **Amendment 21** moved by Lord Harries of Pentregarth at third reading was accepted by the Government and ensures that the review of the new legislation takes place within 18 months of the election.

Lord amendments were debated in the Commons on 22 January 2014. The Political and Constitutional Reform Committee published a [report](#) on 22 January 2014 calling for further reforms to be made to the Bill.¹ It tabled a series of amendments which it wished to see made at Lords amendments in the Commons. The Lords Amendments debate was subject to [Programme Motion no 3](#), passed immediately before debate began.

During the Commons debates on 22 January 2014, the Leader of the House, Andrew Lansley, set out the changes made to the Bill by Government amendments.² On Part 1, concerning lobbying, the Commons agreed to all the Lords amendments except Amendment 1, which added special advisers to the list of people with whom contact would constitute registerable lobbying. The motion to disagree was passed by 311 – 258, HC Deb 22 January 2014, c337. The House debated Part 2, and did not accept the non-Government Amendments 108 (staff costs) and 26 (constituency limits). The vote on Amendment 108 was 310 to 278³ and the vote on Amendment 26 was 314 to 274.⁴

The subsequent [Commons Reasons and Amendments in Lieu](#)⁵, published on 23 January 2014, was debated in the Lords on 28 January, where the Lords accepted all outstanding Commons amendments.

¹ [Tenth report of HC 891 2013-14](#)

² [HC Deb 22 January 2014 c342-354](#)

³ [HC Deb 22 January 2014 c371](#)

⁴ [HC Deb 22 January 2014 c375](#)

⁵ [Bill 158 2013-14](#)

1	Passage of the Bill	4
2	Lobbying	5
2.1	Lords Committee stage	5
2.2	Lords Report stage	5
	Observance of a Code of Conduct	5
	Minor and technical amendments	5
3	Non Party Campaigning	6
3.1	Definition of non-party campaigns	6
3.2	Changes proposed by the Bill	6
3.3	Lords report stage	7
3.4	Third Reading	10
4	Trade Union Administration	11
4.1	The duty to maintain a register of members' names and addresses	11
4.2	Changes proposed by the Bill	12
4.3	Lords Committee stage	12
4.4	Lords Report stage	13

1 Passage of the Bill

The Political and Constitutional Reform Committee's report on *The Government's lobbying Bill* was published on 5 September. It was critical of both the content of and the lack of consultation on the drafting of the proposed legislation.⁶ The Lords Constitution Committee [report](#) of 18 October 2013 also expressed concerns.⁷ The Joint Committee on Human Rights [report](#) of 16 October 2013 called for a pause in the passage of the Bill, citing the lack of pre-legislative scrutiny and human rights concerns about part 2.⁸ In response to a motion from the crossbencher Lord Ramsbotham proposing a pause in consideration of the Bill, the Government minister, Lord Wallace of Saltaire announced on 5 November that the Government would pause part 2 until 16 December for wide consultation, taking parts 1 and 3 first into committee stage in the Lords.⁹ This was enough to persuade Lord Ramsbotham to withdraw his motion. The Lords Committee stage was on 5, 11, 16 and 18 December 2013. Report stage took place on 13 and 15 January 2014 and Third Report is expected on 21 January, with Lords amendments planned for 22 January in the Commons. Full details of the passage of the Bill are available from the dedicated [page](#) on the Parliament website.¹⁰

⁶ Political and Constitutional Reform Committee, *The Government's lobbying Bill*, 5 September 2013, HC 601-I 2013-14

⁷ Constitution Committee Third Report HL Paper 62 of 2013-14

⁸ Joint Committee on Human Rights Fifth Report HL Paper 61/HC 755 of 2013-14

⁹ HL Deb 5 November 2013 c110

¹⁰ <http://services.parliament.uk/bills/2013-14/transparencyoflobbyingnonpartycampaigningandtradeunionadministration.html>

2 Lobbying

2.1 Lords Committee stage

The provisions on lobbying were not amended at Committee stage in the Lords. The Government stuck to the idea of a register for paid consultant lobbyists who make contact with central government, with no code of conduct. This was designed to complement existing quarterly information by Ministers about their meetings, by revealing the clients of those lobbyists they have met who are not directly employed by the interests they represent (ie those who are not in-house lobbyists). It was not intended as a form of regulation, which would be implicit in a code of conduct.

During the Committee stage in the Lords the Minister, Lord Wallace of Saltaire, was asked about the possibility of future changes being made other than through primary legislation, in case the new framework proved unsuitable in light of experience. He gave no direct undertaking, but said that this might be caught during the five-year review of the legislation.¹¹

Lord Wallace of Saltaire also indicated that the Government and Opposition might discuss between Committee and Report stages an agreed definition of senior civil servants for inclusion in the Bill as people with whom meetings constituted lobbying, since there was some scope for disagreement over the most relevant category of senior officials.¹²

He rejected the Opposition's attempt to include a code of conduct, but undertook to look further at the possibility of an explicit link between the register for which the Bill provides and the voluntary code of conduct to which a registered lobbyist may be party:

A specific reference on the statutory register to the voluntary code to which a lobbyist has subscribed is an interesting proposal that the Government are willing to consider further.¹³

2.2 Lords Report stage

On 8 January 2014 Lord Wallace of Tankerness wrote to all members of the House of Lords to set out amendments that the Government would move on report. Those concerning Part 1 were as follows.

Observance of a Code of Conduct

Amendment 12 changes clause 4 so that a person's entry on the register must include a statement as to whether they subscribe to a code of conduct and, if so, where the code may be inspected. This refers to the voluntary codes of conduct promoted by industry bodies.

Minor and technical amendments

There are several technical amendments, some clarifying language or creating consistent terminology. Among the more interesting is **Amendment 19**, which broadens the scope of those committing an offence if lobbying without being registered. It now covers an employer and anybody lobbying as part of that business. Previously, the Bill covered only employers and their employees; it will now include, for instance, contractors.

Amendment 27 broadens the range of subordinate legislation to which the affirmative procedure will apply, in line with recommendations of the Delegated Powers and Regulatory

¹¹ HL Deb 5 November 2013, cc127-8

¹² HL Deb 5 November 2013, c149

¹³ HL Deb 5 November 2013, c153

Reform Committee.¹⁴ The regulations that will now be subject to the affirmative procedure are any made under clauses 4(5)(a) or 5(4), which may require additional information about clients to be included on the register, the first regulations made under clauses 11 (3) and 17 (3), which concern the determination of appeals against information notices and civil penalties, and any regulation which amends or modifies the provisions of Part 1 of the Bill.

Amendment 10 clarifies that the maximum term for which a person may be re-appointed as Registrar is three years.

These amendments were all made. One other amendment was made: Lord Tyler's **Amendment 3**, which added special advisers (SPADs) to the people with whom contact may constitute registerable lobbying. It was agreed on division by 213 to 195.¹⁵

3 Non Party Campaigning

3.1 Definition of non-party campaigns

A local third party which is only campaigning for or against one candidate has no spending limits or reporting limits until the dissolution of Parliament when under the current rules, a limit of £500 can be spent. This spending is regulated under the *Representation of the People Act 1983*.

If a non-party campaign is campaigning about two or more candidates, they can spend up to a limit of £10,000. What constitutes campaigning is known as 'controlled expenditure'. Full background is given in Research Paper 13/51 [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#). If a non party campaigner wishes to spend more, they must register and they then become regulated by the *Political Parties, Elections and Referendums Act 2000* (PPERA). They are then able to spend up to the limit of £794,000 in England (£27,000 in Northern Ireland; £108,000 in Scotland and £60,000 in Wales). Third parties are regulated for the same time period as political parties, that is, 365 days prior to polling day for UK Parliamentary elections. Part 2 of the Bill makes changes, discussed below.

3.2 Changes proposed by the Bill

Part 2 of the *Transparency of Lobbying etc Bill* broadens the definition of controlled expenditure in order to make it more consistent with the definition for campaign expenditure for political parties in UK general elections. The proposals in part 2 caused considerable concern to charities. These concerns were set out in detail in the Commission on Civil Society and Democratic Engagement report published on 13 December 2013.¹⁶

The Government made amendments to the definition of controlled expenditure in clause 26 and schedule 3 at report stage in the Commons on 9 October 2013, following the undertaking in Committee to "revert to a test based on the wording in the existing legislation". However, the amendments did not restore the original PERA definition of what constitutes "controlled expenditure" for third parties, as the Electoral Commission had requested changes to the definition.

¹⁴ Delegated Powers and Regulatory Reform Committee, 12th report 2013-14, 1 November 2013, HL 72

¹⁵ HL Deb 13 January 2013, c44

¹⁶ [Non-party Campaigning Ahead of Elections: Consultation and Recommendations relating to Part 2 of the Transparency in Lobbying, Non-Party Campaigning, and Trade Union Administration Bill](#)

The precise meaning of the new definition has yet to be fully tested. ¹⁷The Electoral Commission indicated in its 13 December 2013 briefing for Lords Committee stage that it did not support further amendments to change the definition of controlled expenditure:

However, in the remaining time available for scrutiny of Part 2 of the Bill, we do not think that the definition of controlled spending can be improved without other unforeseen or unintended consequences. We therefore do not support amendments that would make changes to this fundamental definition at this stage. Furthermore, we note that changes to other elements of the rules, including registration thresholds, spending limits and reporting requirements will alter the overall scope of the regime. This is a way to reduce the need for amending the central definition at this time.¹⁸

Charities and campaigning groups are also concerned about the lowering of the threshold above which it is necessary to register with the Electoral Commission as a third (campaigning) party. The new thresholds in the Bill, as originally introduced, were significantly lower at £5,000 in England and £2,000 in Wales, Scotland and Northern Ireland. The Commission indicated that it would support amendments which would retain rather than reduce the thresholds level.¹⁹

The considerations which would have affected voluntary organisations and staff were set out in the Electoral Commission briefing for Lords second reading:

What the changes mean for campaigners' plans

23. For campaigners to understand whether and how the Bill will affect their activity in the year before May 2015, they will have to do the following:

- (1) assess whether any of their planned activity will fall into the new list of categories covered by the Bill and whether it can reasonably be seen as intended to promote the electoral success of a political party or candidates;
- (2) estimate the likely costs of those activities, including staff costs etc5;
- (3) estimate whether the costs relate to activity in particular constituencies;
- (4) consider whether their plans include coordinated campaigning with other organisations, because under both the current law and the Bill, the total coordinated spending will count towards the individual spending limit of each campaigner; and
- (5) decide whether their planned spending will exceed the threshold that requires them to register with us
- (6) check that their planned spending will stay within the reduced spending limits across the UK and the new spending limits for activity in constituencies.²⁰

3.3 Lords report stage

The Government promised to table further amendments to part 2 at report stage, since there has been continuing pressure from charities and other third party campaigners. On 16 December, Lord Wallace of Tankerness, Government spokesperson in the Lords, made clear

¹⁷ See the House of [Lords Library Note](#) LLN 2013/028 prepared for second reading in the Lords for details of the changes

¹⁸ [Electoral Commission briefing for committee stage](#) part 2 of Transparency of Lobbying Bill 13 December 2013

¹⁹ Ibid p8

²⁰ [Transparency of Lobbying etc Bill Electoral Commission briefing for Lords second reading](#) 22 October 2013

that these amendments would be available shortly after the Christmas recess.²¹ The proposed amendments were set out in a letter from him to a number of peers on 8 January 2014.²² The amendments included:

- Raising registration thresholds to £20,000 for England and £10,000 for Scotland, Wales and Northern Ireland;
- Reducing the length of the regulated period for the 2015 general election, to start the day after the Scottish independence referendum on 19 September 2014;
- Simplifying the constituency limit so that there is a single limit of £9,750;
- Increasing the proposed expenditure limits in Scotland Wales and Northern Ireland by £20,000 respectively;
- Allowing large campaigners to provide a single expenditure report on behalf of a coalition of smaller campaigners;
- Simplifying the reporting regime for third parties;
- A review of Part 2 following the 2015 general election.

Charities and other third parties continued to press for further changes on

- Removing the new definition of controlled expenditure (clause 26)
- Excluding staffing costs for third parties within the definition of controlled expenditure (they are excluded for political parties)
- Complete removal of constituency spending limits.

The letter set out the changes to the thresholds and limits in each constituent part of the UK in tabular format:

²¹ HL Deb 16 December 2013 c1040-1042

²² DEP2014-0022

Third Party Registration Thresholds	England	Scotland	Wales	Northern Ireland
PPERA threshold	£10,000	£5,000	£5,000	£5,000
Bill threshold	£5,000	£2,000	£2,000	£2,000
Government amendment	£20,000	£10,000	£10,000	£10,000
Third Party Constituency Limits				
Bill	Start of Regulated Period to Poll	£9,750	<i>0.05% of the total of the maximum campaign expenditure limit in the UK</i>	
	Post Dissolution to Poll	£5,850 (of the £9,750 above)	<i>0.03% of the total of the maximum campaign expenditure limit in the UK</i>	
Government amendment	Start of Regulated Period to Poll	£9,750	<u>For entirety of the regulated period. No lower post-dissolution limit.</u>	

The Electoral Commission briefing for Lords report stage supported the higher registration and spending limits and the shortened regulatory period, but continued to express concern about the practicality of constituency limits and the regulatory burden on campaigners.²³

On 15 January 2014 the Government moved a number of amendments to the Bill on the lines outlined above. This included

- a new clause after clause 26 on allowing for coalitions of charities (**Amendment 39**)
- allowing compliance with a code of practice to be a defence against breaches of clause 26 (**Amendments 37 and 38**).
- removing from the definition of campaign expenditure meetings relating to parades in Northern Ireland under the *Public Processions (Northern Ireland) Act 1998*, costs associated with providing protection at public rallies; translation costs from or into Welsh, costs associated with a disability, and security around a public meeting (**Amendments 41 to 44**)
- raising the thresholds for registration (**Amendments 46 to 51**)
- removing the distinction between pre- and post- dissolution spending cap for the purposes of clause 28 (constituency limits) (**Amendments 53 to 62**)
- allowing bodies with a royal charter, charitable incorporated bodies and Scottish partnerships to register as a third party campaigner (**Amendment 68**)
- removing the requirement for recognised third parties to submit nil reports, allowing third parties to report weekly only in the post-dissolution period in the event of a snap election, and removing the requirement for third parties to submit a spending return or

²³ [Briefing Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill -House of Lords Report Stage 15 January 2013 Electoral Commission](#)

statement of accounts if they register with the Electoral Commission but do not in fact incur expenditure above the registration threshold (**Amendments 74 to 98**)

- amending the reporting requirements, so that only donations over £7,500 will need to be notified to the Electoral Commission. Third parties which registered but did not spend above the threshold will not need to complete a return (**Amendments 99 to 106, and 108 to 116**)
- a new clause after clause 34 to provide for candidates' personal expenses to be excluded for all elections, including local elections. This is intended to assist candidates with disabilities (**Amendment 117**)
- a new clause to provide for a review of the operation of the regulation of third party campaigning after the general election. The review must take place within 12 months of the general election (**Amendment 118**)
- amendments to commencement provisions to allow for a shorter regulated period for the next general election (**Amendments 128 to 134**)

These changes, plus some technical amendments, were all agreed.

Non-Government amendments debated included:

- **34**: exemption for campaigning in relation to legislation before Parliament (withdrawn)
- **36**: Removal of charities from the scope of part 2 (withdrawn)
- **45**: exemption of staff costs from the definition of campaign expenditure (**agreed on division by 236 to 193**)²⁴
- **52**: restricting the definition of expenditure in relation to constituencies in clause 28 (supported by the Electoral Commission in principle) (withdrawn)
- **52A**: raising constituency spending limits to almost £20,000 (withdrawn)
- **119**: tax relief on donations to parties (disagreed on division by 148 to 28)
- 119ZA joint guidance from the Electoral Commission and Charity Commissions on interpretation of part 2. (Electoral Commission think unnecessary as they are committed to working with the charity regulators on guidance²⁵) (withdrawn)

Amendment 45, moved by Lord Harries of Pentregarth, exempting staff costs, was agreed. Charities and third parties have argued that their staff costs should not be included in any definition of controlled expenditure. This was passed by 236 votes to 193.

3.4 Third Reading

Further Government amendments were also moved at third reading, but these were mainly designed to make technical amendments, consequent on earlier changes. However **Amendment 24** was agreed, which gives a power to modify PPERA by secondary legislation

²⁴ HL Deb 15 January 2014, c283

²⁵ [Briefing Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill -House of Lords Report Stage 15 January 2013 Electoral Commission](#)

in order to ensure that modifications could be made if needed to implement the Bill's provisions. The secondary legislation would be subject to the affirmative resolution procedure and expire after the next general election.²⁶ Two more non-Government amendments were passed:

- **Amendment 11** moved by Lord Harries of Pentregarth restricts the application of constituency limits to election material and unsolicited telephone calls. This was passed by 248 votes to 222.²⁷
- **Amendment 21** moved by Lord Harries of Pentregarth was accepted by the Government and ensures that the review of the new legislation takes place within 18 months of the election.²⁸

The Political and Constitutional Reform Committee published a [report](#) on 22 January 2014 calling for further reforms to be made to the Bill.²⁹ It tabled a series of amendments which it wished to see made at Lords amendments in the Commons.

During the Commons debates on 22 January 2014, the Leader of the House, Andrew Lansley, set out the changes made to the Bill by Government amendments.³⁰ The House debated part 2, and did not accept the non-Government Amendments 108 (staff costs) and 26 (constituency limits). The vote on amendment 108 was by 310 to 278³¹ and on 26 314 to 274.³²

The subsequent [Commons Reasons and Amendments in Lieu](#) published on 23 January 2014, was debated in the Lords on 28 January, where the Lords accepted all outstanding Commons amendments in lieu. There was a division on constituency spending where Motion B1 sponsored by Lord Harries of Pentregarth was lost by 249 votes to 231.³³ The vote on a non-Government amendment on staff costs (Motion C1) was tied at 248 each side,³⁴ and therefore the Bill passed into law, since under [Lords Standing Order 56](#) where there is an equality of votes, amendments to Bills are not made. During the debate, Lord Wallace of Tankerness indicated interest in a round table discussion to be held by the Electoral Commission on the implementation of the new law.³⁵

4 Trade Union Administration

4.1 The duty to maintain a register of members' names and addresses

Since the mid-1980s every trade union has been under a duty to compile and maintain an accurate register of the names and addresses of its members. The duty is currently provided by [section 24](#) of the *Trade Union and Labour Relations (Consolidation) Act 1992*. An independent regulator, the Certification Officer, oversees compliance with the duty.

Currently, a union's register of members is investigated by the Certification Officer if a union member claims the union has failed to comply with the duty. Additionally, the register may

²⁶ HL Deb 21 January 2014 c611

²⁷ HL Deb 21 January 2014 c601

²⁸ HL Deb 21 January 2014 c605

²⁹ [Tenth report of HC 891 2013-14](#)

³⁰ [HC Deb 22 January 2014 c342-354](#)

³¹ [HC Deb 22 January 2014 c371](#)

³² [HC Deb 22 January 2014 c375](#)

³³ [HL Deb 28 January 2014 c1094](#)

³⁴ [HL Deb 28 January 2014 c1112](#)

³⁵ [HL Deb 28 January 2014 c1085](#)

be inspected during union elections. During elections the union is required to appoint a scrutineer to observe the process. The scrutineer must inspect the register whenever it appears to him to be appropriate to do so or when asked to by a member of the union or a candidate in the election who has a well-founded suspicion that the register is inaccurate.

4.2 Changes proposed by the Bill

Part 3 of the Bill proposes a requirement for trade unions to submit to the Certification Officer membership audit certificates at the same time as their annual reports. Clause 36 would insert a new section 24ZA into the *Trade Union and Labour Relations (Consolidation) Act 1992* implementing this requirement. Federated trade unions which are not required to send annual returns would be treated for these purposes as if they are. The membership audit certificate would have to be signed by an officer of the union who is authorised to sign on its behalf, indicating whether the union has complied with its duty to maintain an accurate register of members. In cases of unions with 10,000 or more members the membership audit certificate would have to be provided by an assurer.

4.3 Lords Committee stage

Part 3 of the Bill was not amended in Committee. A number of peers opposed Part 3 in its entirety. Lord Monks, former General Secretary of the Trades Union Congress, spoke against clause 36 and tabled amendments which would have removed the requirement to provide audit certificates unless a complaint is received by the Certification Officer. Lord Monks said:

We have raised our opposition to the clause standing part as part of an attempt to persuade the Government to think again and to think further about what resembles a vindictive attempt to load on to trade unions a great new dollop of red tape—a new layer of bureaucracy that is unnecessary by any objective or fair-minded standard. Of course unions should keep accurate records. Indeed, they are already required to do so under the Trade Union and Labour Relations Act. They are required to make detailed returns on an annual basis to the certification officer. They are required to have independent scrutineers in all elections, and invariably those scrutineers check the membership registers.³⁶

The Minister, Viscount Younger of Leckie, outlined the Government's reasons for its proposals in Part 3:

The annual assurance of unions' compliance with this duty will demonstrate to members, employers and the public that unions are diligent in their maintenance of such complex records. It will also provide greater confidence that union activity is accountable to the membership.³⁷

Alongside Lord Monks' criticisms, Lord Beecham and Lady Turner expressed concerns that Part 3 represented a politically motivated attack on the unions. In response, the Minister said:

Perhaps I should not be surprised at their reactions, as we are perhaps being accused of placing our tanks on their lawn. That is just not the case; if anything, it may be only the front of the front wheels. However, this is not intended to make it harder for trade unions to operate. They are membership organisations, and as such have a

³⁶ [HL Deb 11 November 2013 c527](#)

³⁷ [Ibid](#), c548

responsibility to their members to keep their register of members' names and addresses accurate and up to date so far as is reasonably practical.³⁸

The amendments to clause 36 were withdrawn and the clause was agreed to without division. Lord Monks moved further amendments to emphasise the data protection and privacy issues surrounding disclosure of membership data to assurers.³⁹ These were also withdrawn.

4.4 Lords Report stage

On Report Lord Monks again raised concerns about the Bill's potential impact on union members' privacy. His Lordship noted ongoing concerns about trade union member blacklisting, and argued that disclosing membership data to an assurer would create a "risk of information falling into the wrong hands and becoming available to people who should not see it".⁴⁰ A group of amendments tabled in Lord Monks' and Lord Stevenson's names sought to strengthen the protection of union members by subjecting assurers to a statutory duty of confidentiality to unions and their members and requiring them to abide "at all times by the trade union's obligations under the Data Protection Act 1998".⁴¹

In reply to the concerns about blacklisting the Minister highlighted existing prohibition of the practice under the *Trade Union and Labour Relations (Consolidation) Act 1992* and *Employment Relations Act 1999 (Blacklists) Regulations 2010*. As to the data protection concerns, the Minister stated that existing law adequately protected union members:

the assurer must comply with the Data Protection Act, because in performing their statutory functions they will be a data controller. Should the assurer breach data protection rules, the union may engage the Information Commissioner, who enforces the Data Protection Act. The Information Commissioner has a range of powers at his disposal, including imposing a fine of up to £500,000. Finally, the assurer is prohibited in the Bill from disclosing member data unless in specific permitted circumstances.⁴²

Notwithstanding the Minister's assurances the House divided. The proposed amendments were defeated by 216 votes against 157.⁴³ Other proposed amendments which sought to prevent the establishment of the independent assurer role⁴⁴ and delay the implementation of Part 3 were withdrawn.⁴⁵

³⁸ Ibid

³⁹ HL Deb 11 November 2013 c551; Ibid, c567

⁴⁰ [HL Deb 13 January 2014 c69](#)

⁴¹ Ibid, c68

⁴² [HL Deb 13 January 2014 c74](#)

⁴³ Ibid, c77

⁴⁴ Ibid, c80

⁴⁵ Ibid, c88