



Response to Consultation on the proposed Lobbying Transparency (Scotland) Bill

1. Do you support the general aim of the proposed Bill? Please indicate "yes/no/undecided" and explain the reasons for your response.

Yes. The Jimmy Reid Foundation is in complete agreement with the aims of the proposed Bill and views the issue of greater transparency in the relations between elected officials, civil servants and those using paid means to seek to influence public policy as being one of the most important issues facing Scottish democracy today.

2. Do you agree that legislation is a necessary and appropriate means of improving lobbying transparency?

Yes. As no-one disputes that lobbying has a direct impact on Scottish democracy and as there is no consistent voluntary adherence to transparency principles, legislation is appropriate.

3. Is there any specific international approach to the regulation of lobbyists that represents a good model for developing an approach appropriate for Scotland?

The Foundation is soon to announce a Commission which will seek to identify good practice in addressing issues of fairness of political access and influence. At this stage we have not reviewed existing international practice.

4. What robust, comprehensive and sufficiently explicit definitions of lobbying and lobbyist can be developed and applied that will ensure all who lobby are captured under the proposals?

The simpler and more generic the definition the better. Anyone seeking to influence public policy on a paid basis - whether in-house or not - is lobbying. If this is done regularly they are a lobbyist.

5. Who should register on a lobbying register in Scotland?

As previous answer, the wider the definition and the more people on the register the better. No-one undertaking legitimate activity with the aim of influencing public policy should have any concerns about transparency. For example, the Reid Foundation itself seeks to influence public policy and would have no hesitations about registering; nor should any other think tank or advocacy group.

6. Is it necessary or desirable to develop a Code of Conduct for lobbyists to accompany a lobbying register? If so, what key elements should this code include?

Again, it is hard to see what objection there could be to a clear code of conduct on what is considered acceptable in the field of political lobbying. The question of what such a code should

include is one that requires detailed consideration. However, some simple starting-points can be proposed - a lobbyist should:

- Always make clear the policy outcome they are seeking to influence
- Never conceal the identity of the client.
- Always make clear any financial interests which might benefit from lobbying (for example, an commercial lobbyist, NGO or think tank that receives financial support in another context from an interested party that would benefit from a specific lobbying activity it hasn't paid for but which might reasonably be expected to affect the behaviour of the lobbyist)
- Never knowingly use false information or present partisan information developed by them or a client as neutral or independent
- Never seek to influence on the basis of offering inducements directly or in kind
- Never claim to speak on behalf of or represent the interests of any group without the explicit agreement of that group
- Never blur the boundaries between professional and social influence

7. Are the current arrangements, whereby lobbyists are governed only through self-regulatory schemes, adequate or is a statutory regime required in order to regulate lobbying?

Self-regulation is never sufficient where there is a strong financial interest as too often the financial interest is stronger than the instinct to self-regulate

8. What do you think is the appropriate and necessary information to be disclosed in order to make lobbying transparent and how regularly should entries be updated?

It would be worth considering different categories of lobbyists. In-house lobbyists need not provide extensive information about 'clients' where commercial lobbyists should. Think tanks (which cover a wider range of issues than most seeking influence) might be expected to outline the broad areas of interest and the broad type of influence being sought. Small campaigning charities and similar might be considered a different category again. If the register is managed online and electronically, those registered might receive a request to update information on a pre-agreed schedule. The aims and activities of in-house lobbyists and small charities are unlikely to change regularly so an annual update might be adequate. Commercial lobbyists may have a turnover of clients (and therefore changing aims and activities) that would make quarterly updates appropriate.

9. Should there be a threshold for inclusion in the lobbying register? If so, what should it be (in terms of time / resources devoted to lobbying, size of organisation, budget, etc.)?

It should be possible to achieve a common-sense outcome here. If there are different categories of lobbyists the threshold issue might be resolved through different requirements on each. However, it should not prove onerous for even a small charity that seeks to influence policy occasionally to register and update information from time to time as appropriate.

10. Should it only be contact with MSPs, Ministers and civil servants which should require to be recorded on the register, or should all public officials, including from NDPBs, be included?

Any activity which directly impacts on the development and implementation of public policy or the use and distribution of public funding is directly relevant to the public interest. This would include NDPBs, ALEOs and any other structure created by any level of government to exercise these functions. There is also a strong case to be made for this including any third-party commissioned to carry out this work for any layer of government on a fixed-term basis. This would include private sector consultants and others - if commercial lobbying is being used to influence the processes of advice being prepared for government by third parties it should be transparent that this has happened. Currently these third parties can claim to provide 'independent' advice, even if they have been heavily lobbied by commercial interests.

11. Which organisations should be exempted from registering and why should they be exempted?

Exemptions should be kept to the absolute minimum. Local groups seeking to influence only their directly-elected representative and relevant government minister should be considered as constituency business. Individuals writing to politicians to express a view should also be considered a routine aspect of the democratic process. Most lines of influence between different layers of government, between government and officials and between government and its agencies should be covered instead by Freedom of Information requirements and should probably not be considered. However, some activities which might not usually be considered lobbying (such as social movement campaigns targeted directly at politicians or coordinated activity by faith groups) should be considered for inclusion since they impact directly on democracy.

12. Is an independent body required to oversee the register? If so, which organisation should be responsible for administering the register?

The role of the Scottish Information Commissioner might be expanded to cover this. However, as below, the role should (in the first instance) be kept fairly restricted.

13. How will compliance be policed and what investigative and enforcement powers would the overseeing body require?

Initially, the system should be self-policing with a means of reporting activity that seems to be in contravention of the legislation. The key is not to have extensive policing but to make contravention of the legislation once enacted prohibitive. Most obviously this should involve a fine proportionate to an organisations income/spend on lobbying. The scope for more punitive action (such as bans) might best be held over until there is a proper evaluation of how a self-policing-with-substantial-fines approach works.

14. How should the administration of a statutory register be paid for? And what is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

The cost of administering this system should be borne from the main Scottish budget. This issue is fundamental to democracy. The financial implications on the Reid Foundation would

be negligible - the equivalent of filling in half-a-side-of-A4 worth of information once a year. The only other implication might be for the commercial lobbying sector which is used in part to disguise the direct role of clients in certain lobbying activities. There is some chance that this would reduce the attraction in out-sourcing lobbying for some commercial interests. However, this would be likely to have minimal impact and where there is any impact this is as a result of cleaning up practices which are not acceptable. In these cases the public interest is significantly more important than small commercial interests.

15. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

It should. At the moment issues of commercial interest tend to dominate political debate because of the influence of lobbying. If this was rebalanced it is possible that a wider range of issues - including equality issues which seldom have big money backing - might have a chance of a fairer hearing.

About the Jimmy Reid Foundation

The Jimmy Reid Foundation was established in 2011. It is not affiliated to any political party or organisation but works closely with anyone interested in a more progressive future for Scotland. By making strenuous efforts to maintain party political neutrality the Foundation aims to offer a home for all people of the left in Scotland.

The Foundation is funded through donations. The vast majority of those both by number and by value are from ordinary people who want to see the Foundation succeed. But we also receive donations from organisations such as trade unions, campaigning groups and charitable trusts. The Foundation will not accept any donation which would be likely to compromise its independence in any way.