

Submission to the Commission on Civil Society and Democratic Engagement

October 2013

Introduction

1. The Countryside Alliance works for everyone who loves the countryside and the rural way of life. Our aim is to protect and promote life in the countryside and to help it thrive. With over 100,000 members we are the only rural organisation working across such a broad range of issues. The Alliance is a UK wide organisation, although our structure is devolved to reflect the current devolution settlement with respect to Scotland, Wales and Northern Ireland.
2. The Alliance welcomes this opportunity to submit evidence to the Commission on Civil Society and Democratic Engagement. The Countryside Alliance is a strictly apolitical campaigning organisation and works with politicians of all parties both locally and nationally.

Our Campaigns

There are four core campaign areas, within which are a variety of individual campaigns:

- Country Sports – including hunting, shooting and fishing
 - Rural Communities – mobile coverage and broadband, post offices and rural services, rural housing and transport
 - Food and Farming – food labelling
 - Education – outdoor learning
3. Clearly some are long term core campaigns, while others are shorter term and focussed on a current issue. Our hunting campaign is an example of a long term core campaign which seeks not only to defend hunting and to get the Hunting Act repealed but also to promote an understanding of hunting and its importance. An example of a short to medium term campaign would be our work to ensure a proper mobile phone signal in rural areas and access to broadband.
 4. None of our campaigns are orientated towards, or timed in relation to, elections although clearly all our campaigns are political in the broadest sense as we seek to influence policy and public opinion on rural issues. The same would be true of almost every campaigning organisation or charity. Our campaigns are generally national campaigns but can also be specific to issues arising in the devolved parts of the UK. We do not campaign on a constituency basis but our regional staff and members and supporters have been involved in specific localised issues such as a post office closure.

Elections

5. Political Parties and candidates seek power by asking the electorate to endorse certain positions which those parties or candidates adopt on local and national issues. Many of these proposals have implications, direct or indirect, for rural Britain and our members and supporters. We believe it is a fundamental right in a free society for anyone, or any organisation, to comment on the policies or opinions of candidates and parties which are a matter of public record. This is not the same thing as endorsing candidates or parties or prejudicing those who hold contrary opinions. It is about informing the electorate as to what policies we do, or do not, favour. For example, we have a policy of seeking to repeal the Hunting Act. If a political party or candidate or group of candidates takes a public position on this issue then this is a matter of public record. The fact that those seeking election have chosen to make repeal an issue should not have the effect of making the Alliance's hunting campaign an activity which is considered electoral expenditure in the sense of expenditure which helps some candidates and does not help others. The same would apply to our campaign for superfast broadband in rural areas. The expenditure on that campaign may or may not be regarded as being electoral expenditure depending on what the political parties say, or what is said by a candidate or group of candidates. It is not possible to know with certainty at the beginning of the twelve month regulated period, in the case of a General Election, what expenditure may, or may not, count as electoral expenditure.
6. Our election activity is largely limited to the UK General Election and elections to the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly. This will involve writing to candidates, drawing attention to the opinions and policies of candidates and parties so as to provide our members and supporters with factual information. We would like to put this information out on our website and to the wider public so that they had this information when finding out about parties or candidates but have felt constrained from doing so by electoral law. We also see no reason why a comparison (without comment) of the party manifestoes should be considered as electoral material or spending for electoral purposes. It is an important part of encouraging more engagement in the political process, at a time of falling voter turnout.
7. At previous elections we have published our own manifesto highlighting those issues which we believe need to be addressed by any future government. In 2010 we published "The Rural Manifesto" which was sent to Prospective Parliamentary Candidates and used to raise the profile of rural issues in the run up to the election. This exposition of Alliance policy was intended to stimulate and inform debate. Whether candidates or parties chose to agree, or disagree, with our policies was a matter for them. However, the way in which the law is drafted both in the Political Parties, Elections and Referendums Act (PPERA) and in the Transparency of Lobbying, Non-Party campaigning and Trade Union Administration Bill (Lobbying Bill) means that such a document would in whole, or part, count as election material. At previous elections the cost of the production of such a document fell below the threshold for registration with the Electoral Commission. What is proposed in the Lobbying Bill with the reduced threshold for registration would necessitate registration and lead to the imposition of a huge bureaucratic and administrative burden on the Alliance. Moreover, it would not simply be the costs of the production of such a document but also costs associated with events such as country/agricultural shows where our campaigns are promoted to the public. The Alliance would be faced with the choice of bearing the additional administrative costs or not campaigning in some or all of its campaign areas in the regulated period.

The Current Law – Political Parties, Elections and Referendums Act (PPERA)

8. While we do not think that publicising matters of fact about those seeking election should be subject to any restriction so long as it is a matter of public record or where an organisation is promoting its own message and opinions consistent with its aims and objectives, we do accept that success at elections must not be based simply on who can spend most either locally or nationally. A balance needs to be struck between free speech and the need for transparency. Elections are a key moment to get across to those who seek our votes what matters to the electorate, or a part of the electorate. While far from perfect there is some attempt at this balance within the existing law, which would be destroyed by the proposed changes in Part 2 of the Lobbying Bill.
9. Before previous General Elections we have taken to the Electoral Commission, not just material published to raise awareness of our issues at election time but also a wide variety of material from our policy handbook to leaflets and information on hunting, shooting and other campaigns material which is made available to the public, via our website and at shows and events. We have been advised that some might be considered as “election material” for the purposes of PPERA. Some publications, in the Commission’s opinion fell outside the current definition of electoral material, while other documents were considered to have only specific sections which might be election material. There seemed to be a view that because of hunting’s controversial nature that generally hunting literature was ‘electoral material’ whereas other campaigning material could become electoral material depending on what were the issues seized upon by politicians in the regulated period. It was impossible to say with any certainty what might or might not be caught and was therefore very difficult to plan.
10. However, given the threshold for registration with the Electoral Commission, our spend was always below the £10,000 in England and £5000 in Scotland, Wales and Northern Ireland. Therefore, while we think the current definition of election material in PPERA is too broad, its impact was limited to those spending more significant amounts of money.

The Lobbying Bill – Part 2

11. The problem with the changes proposed is that not only is the threshold for registration halved, and in Scotland, Wales and Northern Ireland more than halved, and the expenditure limits massively reduced but that these reductions are coupled with a widening of activities that count towards election spending. Qualifying expenses now include market research, media events, transport with a view to obtaining publicity, public meetings and ‘events’.
12. Under the old regime a policy document or a document like “Case for Repeal”, which makes the arguments for repeal of the Hunting Act, might in whole or part be regarded as “election material” but it did not involve expenditure which would bring us within the PPERA regime. Under the new proposed regime involving the expanded range of activities which count towards election spending it would not only be the cost of publication but also its promotion and distribution at county shows, game fairs etc, all of which are ‘events’. Would all, or only some, of the cost of those events, including staff costs, need to be included in any calculations?
13. Does the recent statement by Diana Johnson MP, Shadow Home Office Minister, that Labour is proposing “the biggest change to firearms legislation since the handguns ban in 1998” mean that much of our shooting campaign activity to promote and defend shooting interests will now also fall within the definition of controlled expenditure, including that associated with promoting that campaign at country shows across the country?

14. Under the proposed changes it would probably have been impossible to have either held, or prepared for, demonstrations such as the Countryside Marches during a regulated period. The event itself and the publicity for such an event would almost certainly count as election material and the expenditure limits would have been quickly reached. This is perhaps another area where freedom of speech and the right to peaceful demonstration could be compromised by the proposed changes.
15. It is also unclear what the relationship would be between expenditure in the constituent parts of the UK. The Electoral Commission is UK wide as is the Alliance. At a Scottish parliamentary election what would count towards expenditure in Scotland? Would UK wide campaigns activity count towards the Scottish expenditure given that we share media and many Scottish voters may attend shows and events in England?
16. It is abundantly clear that there is an unacceptable lack of clarity and certainty even over the existing law, but that its negative impact on non-party participation in the democratic process has been reduced by the current threshold for registration and current expenditure limits when coupled with the narrow range of activities to which expenditure controls apply. The proposed changes to PPERA would have the effect of dragging within the scope of the law a wide range of organisations, spending relatively small amounts of money on issues and campaigns which are the very reason for their existence. These organisations, whose campaigns are unrelated to the electoral cycle, would then be faced with either registering with the Electoral Commission, which would have considerable administrative and financial implications for many smaller organisations, or cease to campaign. There must also be the very real fear that any error on their part might result in expensive legal action.
17. Even if an organisation does register there remains the issue of the massive reduction in the expenditure limit which could mean that an organisation is unable to campaign on an issue, or even entirely, for some or all of the regulated period before an election.

Conclusion

18. At the very least the Lobbying Bill would increase the “chilling effect” which has resulted from PPERA. At worst it could severely damage charities, voluntary, and campaigning organisations by restricting their ability to campaign, with the inevitable impact on their economic sustainability. The existing law is problematic but the additional scope and lack of legal certainty in the changes proposed by the Lobbying Bill is unacceptable given that criminal offences are involved. It should be clear what does, and does not, constitute an offence.
19. Uncertainty discourages participation. The role of charities and voluntary and campaigning groups in informing public debate is vital in any democracy. Part 2 of the Lobbying Bill would be extremely problematic for the Countryside Alliance as the examples above demonstrate. Above all the law should be proportionate and clear. The proposed changes are neither, nor have we seen, or heard, any convincing justification for them.