



Unlock Democracy's evidence to the Commission on Civil Society on Part 2 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill

Executive Summary

A key part of Unlock Democracy's mission is to promote participation in democratic processes. We are a non-aligned organisation and do not campaign for or against any particular candidate or party. However we do campaign, including during election periods, and we have networks of activists up and down the country who also do so.

At the last general election we produced a manifesto of our key policy asks in the election and how the different political parties matched against them. Our local groups also held events in their constituencies - some hustings some single issue meetings. We were advised by the Electoral Commission that did not need to register as a third party. If the proposed rules had been in place we not only would have had to register but because of the new rules on including staff costs and aggregating costs between members of coalitions, we may not have been able to do this activity.

Key problems with these proposals

1. Organisations will be subject to these rules for the whole of the year before the next general election.

Currently the rules on non-party campaigning only come into force once an election has been called. This bill would regulate non-party campaigning for a full year before the general election - from May 2014 - May 2015. This, particularly when combined with the new rules on including staff costs, would limit the ability of charities and voluntary sector organisations to comment on public policy and hold the government to account.

2. The inclusion of staff costs and office costs in the spending limits.

Presently only the costs of election directed materials and activities such as leaflets and advertisements are regulated. The bill proposes that staff time and other costs should now be included in the limit, at a time when it is also suggested that the limits should be drastically reduced. It is far from clear why third parties are being put under far greater restrictions than political parties in this regard, particularly as political parties were specifically exempted from including staff costs as it was considered too burdensome.

3. Aggregating costs among coalition partners

These proposals would also restrict our ability to build coalitions for with other organisations, as any costs accrued by a coalition will need to be “aggregated”. Unlock Democracy would have to declare within our reported expenses the full amount spent on the joint campaign, regardless of how much we contribute. As we are a member of a number of coalitions, two of which have over 100 organisational members, ranging from small community groups to trade unions and large charities and campaigning organisations, it is difficult to see how this would work in practice.

4. They would have a chilling effect on campaigning and participation in politics

As currently drafted these proposals would limit the ability of a wide range of organisations to campaign and comment on public policy both in the run up to the general election and during the campaign itself. The TUC and NCVO have already published details of how it would adversely affect their members. What is far harder to quantify is the chilling effect that this would have on local campaigning. Unlock Democracy works with a large number of activists and small community groups who wish to hold public meetings or run local campaigns on specific issues. Current regulations about holding hustings can be intimidating, particularly if the group does not want to invite a particular party such as the BNP. We fear that these proposals would increase the regulatory burden on smaller organisations and we fear would prevent some local campaigns about important local issues from getting off the ground.

Whilst we are supportive of efforts to increase transparency, these proposals are fundamentally flawed. The government has failed to present convincing evidence that this is a problem which requires urgent attention. There has been no consultation on these proposals, no attempt to build cross-party consensus and the exceptionally short timescale for the bill means that there is very little opportunity for scrutiny but they could do real damage to the health of our democracy. It is no exaggeration to suggest this could go down in history as the Dangerous Dogs Act of election law.

Response to the Commission’s questions

1. **Question:** What sort of campaigning activity does your organisation want to do ahead of elections (irrespective of regulation at this stage)?

Unlock Democracy argues and campaigns for a vibrant, inclusive democracy that puts power in the hands of the people. We are the UK’s leading campaign for democracy, rights and freedoms. A grassroots movement, we are owned and run by our members. In particular, we campaign for fair, open and honest elections, stronger parliament and accountable government, and a written constitution. We want to bring power closer to the people and create a culture of informed political interest and responsibility.

The type of campaigning that we would seek to do ahead of elections includes:

- General public policy advocacy work on democracy, rights and freedoms issues going through Parliament at the time, this includes facilitating public involvement in these processes. For example thousands of our members have submitted individual responses which were not in any way edited by us to government consultations and select committee inquiries on issues ranging from lobbying to local government reform.
- Arranging public meetings around the country. We have a network of local groups and activists who arrange public meetings on issues of local concern and frequently invite local politicians and candidates to speak. In the run up to an election they often organise hustings so that people can hear from the candidates standing for election. Previously we have run Democracy Day to encourage as many people as possible to organise hustings in their constituencies.
- We run Vote Match an online hustings for public elections in the UK. This is a short quiz where voters answer a series of statements and they are shown how far they match with the political parties standing in the election. We have run this project for London Mayoral, European and in the 2010 general election where it was used by over 1.25million unique users.
- Publishing a policy manifesto and scoring the parties on how far they agree with our policy agenda. We also include questions that people may wish to ask their candidates. In 2010 we did this online, as well as sending printed copies to our members and supporters.
- We ask our members and supporters to ask their candidates views on specific topics such as whether or not they support the Human Rights Act.
- In 2010 we were part of the Take Back Parliament coalition which organised a demonstration in central London immediately after the general election to call for electoral reform.

Question: Is policy campaigning important ahead of elections in a democracy? If so why, and what is your organisation trying to achieve?

Elections are the point in the political cycle when the public is most likely to engage with politics and politicians. Therefore it is essential in a democracy that civil society organisations are able to raise their policy concerns with candidates and parties and that voters are given as much information as possible from sources that they trust about the election. The main purpose of our campaigning work is to engage people in the political process. If they are a member or supporter of Unlock Democracy then they care about the policy issues that we campaign on – our campaigning gives them a way to engage with candidates whether it is through asking them specific questions on policies or by attending a hustings. Voluntary sector campaigning is also beneficial for candidates because it shows them the issues that people in their area care about.

2. **Question:** Is it right that voluntary organisations try to influence the policy positions of parties, elected politicians and candidates?

Yes. Voluntary sector organisations have links to voters and communities that are often under-represented in the political process. They also have expertise in

particular policy areas that can be very beneficial to political parties when developing their policies and to elected politicians in improving legislation. Voluntary organisations provide a key forum for collective action which is essential in a vibrant democracy.

3. **Question:** Is it right that voters should understand politicians' policy positions and what voluntary organisations think about these positions? – or would that information unduly influence politicians?

Politicians from across the political spectrum have expressed concern about low turnout in elections. The most recent Audit of Political Engagement, produced by the Hansard Society found that only 41% were guaranteed to vote if there was an immediate general election. This is an all time low for the 10 year survey. There has been extensive research about why people choose not to vote but commons reasons given are that they can't see the difference between the candidates and that they don't know enough about the issues in an election to vote. Voluntary sector campaigning can help to address these concerns. Organisations that voters already trust are providing them with information about policy agendas that they already care about.

4. **Question:** What are the principles that regulation of third-party campaigning should be based on?

It is absolutely right that third party campaigning should be regulated. However Unlock Democracy believes that any regulatory system should be based on a strong evidence base, be proportionate and ensure that the right to freedom of expression and association is protected. A vibrant democracy relied on debating ideas and policies, we are concerned that the proposals in this bill will have a chilling effect and will stifle legitimate discussion of the governments records and public policy issues.

5. **Question:** What transparency is needed in relation to donors who give money towards a campaign run by a voluntary organisation? (i.e. registration thresholds and how burdensome reporting should be – size of organisation, timescale ahead of elections)
6. **Question:** Are you concerned about a current lack of transparency?

Unlock Democracy campaigns for transparency from our government whether this is in terms of lobbying, donations to political parties or freedom of information. We believe it is important that voluntary sector organisations are also open about where they receive their funding. We voluntarily abide by the same rules as political parties in terms of reporting donations and our accounts are available on our website. Many organisations are similarly open but some are not and this damages the reputation of the sector. We believe that agreeing a sector wide best practice would be beneficial. However it is essential that any regulatory regime is proportionate and does not impede the ability of organisations to fulfil their core functions.

7. **Question:** Do you think the existing law regulating third party campaigning works – or are changes needed? What changes, if any, would you propose?

Unlock Democracy has not had to register as third party campaign and so does not have firsthand experience of the regulatory framework but we have been grateful for clear and prompt advice from the Electoral Commission on whether the activities we were contemplating needed to be registered. We understand that there have been criticisms of the current framework but before any changes were made to the current system we would want to see evidence as to why the regulations needed to be changed.

8. **Question:** Part 2 of the Lobbying Bill proposes to introduce changes to the current regulation of non-party campaigning ahead of elections – how do you think they would affect your organisation’s campaigning activity? You may wish to draw on plans for the next general election, or on campaigns you ran at the last election.
9. **Action:** Please can you gather specific examples of campaigning activity that is planned or happened at the last election that:
 - a. Could not happen under the Lobbying Bill

While we don’t believe that there is a specific activity that Unlock Democracy would seek to undertake that we would be prevented doing by this bill, the regulatory burden, in particular the complexity and uncertainty would in all likelihood limit the campaigning we would do. Unlock Democracy is particularly concerned about the impact this bill would have on campaigning at a local grassroots level.

- b. Would be much more difficult

All of our campaigning would be made more difficult by the proposals in this bill. We do not seek to influence the outcome of an election either nationally or in individual constituencies but have been advised that our public advocacy work would be covered by this bill. We would be particularly concerned about work on contentious policy areas such as support for human rights which would undoubtedly divide candidates in a constituency.

The proposals in this bill would create a significant regulatory burden for an organisation with a small staff team. Having to calculate the staff costs involved in our activities would be particularly challenging. This in itself would limit the amount of campaigning we would be able to do.

Under the current regulatory framework, communication with members and supporters is not counted as third party activity. These proposals would exempt members but not supporters. Unlock Democracy is a merger of 2 organisations, one of which had member and one which deliberately only had supporters. Our supporters are people who respond to our campaign actions and often have a financial relationship with us. According to the legal advice we have received communicating about our campaigns with our supporters would under these proposals be considered third party activity. This would create an administrative nightmare for an organisation like Unlock Democracy. We usually communicate with our members and supporters by email and our email lists are not segregated

between who is a member and who is a supporter. It is difficult to see how we would be able to comply with the proposed new regulations by April 2014.

A key aspect of Unlock Democracy's campaigning work is to encourage people to take action in their own area. It is not yet clear whether or not hustings are covered by these proposals; the government have argued that they are not but legal advice we have received argues that they are, particularly if not all candidates attend. This confusion inevitable makes a key part of our campaigning work more difficult.

We have considerable experience of supporting people to organise local meetings including hustings. It is not unusual for people who express an interest in organising a hustings to back out once they realise that there are rules covering meetings during an election period. The proposed new rules are significantly more complex and the sanctions for non-compliance are significantly harsher. We believe that this will have a chilling effect on campaigning at a local level, people who would be otherwise actively participating in democratic processes will choose not to engage for fear of breaking the rules.

- c. You feel your organisation would be deterred from carrying out as a result of the prospect of falling close to / foul of the law

Unlock Democracy would be very wary of being part of any coalition during an election period. At the moment we are members of a variety of campaigning coalitions on everything from support for the Human Rights Act, to promoting women's participation in politics to encouraging councils to use the Sustainable Communities Act. Some of these coalitions have over 100 members and we would be very wary of the reporting requirements. If the proposals are passed in their current form it is likely that we would cease to work in coalitions in this way. This would be a great loss as the coalitions bring together organisations and activists from a wide variety of backgrounds to campaign for a shared aim.

10. **Question:** Do you agree with the thresholds set for third parties needing to be registered with the Electoral Commission as set out in the Bill? Do you have any suggestions for what the thresholds should be?

Unlock Democracy believes that until further evidence is provided on the impact of third party campaigning in the UK that the current spending limits and thresholds should be retained.

11. **Question:** Do you agree with the limits on constituency spending by third parties set out in the Bill? If you do not think the limits set out are right, what would be appropriate?

Unlock Democracy does not oppose constituency spending limits in principle, however we have not been able to find any evidence or rationale for why the spending limit is being set at limit proposed in the bill. The government has not provided any evidence that third party campaigning is currently a problem in the UK or that there have been constituencies where the result has been unduly influenced by third party campaigning. Unlock Democracy believes that there needs to be more research done on the appropriate spending limits.

12. **Question:** Do you think there should be a pause in the passage of this legislation? How long do you think this pause should be?

Yes. Unlock Democracy supports the call initially made by the Political and Constitutional Reform Committee but echoed by a number of other parliamentary committees and parliamentarians from across the political spectrum for there to be a pause in the passage of this legislation. There has been no consultation on these proposals, no pre-legislative scrutiny and the bill is being rushed through Parliament. This is not the way to make good law, particularly not one with significant constitutional implications. The Electoral Commission has already highlighted the danger of this approached and emphasised that they have not had time to test what unintended consequences these proposals may have. Unlock Democracy campaigns for a stronger Parliament – even if we agreed with the proposals in this bill, we would oppose the process by which they have been introduced.