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New Jessica,

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

Thank you for your letter of 1 November 2013 to Lord Wallace of Saltire and myself, regarding the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill. Please accept this as a response on behalf of the Government.

The legal advice received by numerous bodies is consistent in terms of what is covered under current legislation, and this Bill. A third party, be it a charity or campaign group, will only have to register if it incurs a certain level of controlled expenditure. Controlled expenditure can only be incurred on certain activities and where it can reasonably be regarded as intended to promote or procure the electoral success of a party or candidate. This is the same test that was in operation in the 2005 and 2010 General Elections – elections which did not see groups, such as the Quakers, or other campaign groups prevented from engaging with, commenting on or influencing public policy.

The Government agrees with the legal advice received by campaigners, which states that the rules can cover campaigning that is not explicitly 'party political'. This is correct and an important part of the regulatory regime since the passing of the Political Parties, Elections and Referendums Act (PPERA) in 2000. PPERA took forward the recommendations of the Fifth Report of the Committee on Standards in Public Life (CSPL), which looked at the area of third party campaigning in great detail.

The CSPL recommended that activities that are implicitly in favour of, or hostile to the election of a particular party should be covered by the provisions relating to third parties in general. This was subsequently included within PPERA.

The Electoral Commission states that controls on campaigning which is not explicitly 'party political' are a necessary part of the regime. Without them, it would be easy to evade the rules by framing political campaigning in terms of policies.

The Government acknowledges that charity law is already very clear in restraining charities from supporting individual candidates or parties. However, the Electoral Commission and Charity Commission agree that a charity campaigning on a policy issue may in some circumstances legitimately fall within the scope of the rules on third party campaigning, even though its activity is fully compliant with the restrictions that charity law places on party political campaigning. For example, if a charity invites election candidates to say whether they support its views on a policy issue and then publicly distributes a leaflet setting out the names of candidates from different parties who express support, then this could reasonably be seen by others as intended to encourage the public to vote in a certain way in relation to the candidates and parties named on the leaflet, even though it is not the charity's intention.

The Government acknowledges the importance of campaigners understanding how to comply with the provisions of the regulatory regime as amended by the Bill. Just as they have for previous elections, the independent regulator, the Electoral Commission, will develop and produce guidance to inform campaigners what expenditure the Commission is likely to consider to be regulated, or not regulated. The Government stands ready to support this work.

However, following debate about the impact of Part 2 of the Transparency Bill, the Government has committed to revise the order of consideration in the House of Lords so Part 2 will not be debated at Committee stage before 16 December. This will give the Government more time to listen to the concerns of organisations which are affected by Part 2.

The Government also announced the intention to table an amendment to raise the spending threshold at which third parties have to register with the Electoral Commission - and therefore be subject to controls on donations and spending. This amendment will mean that those organisations which spend the smallest amounts will not be required to register with the Electoral Commission as third parties at elections – therefore addressing concerns about how the Bill will affect the smallest charities.

I would like to reiterate that the Bill, put simply, requires those who want to influence the outcome at a General Election to be transparent in doing so, while preserving the freedom to speak out on issues which Civil Society has always enjoyed in this country.

Yours sincerely,



Rt Hon Andrew Lansley CBE MP
Leader of the House of Commons