

Scotland Evidence Session: Tuesday 26th November

Susannah Compton –	38 Degrees
Kerri Gallacher –	38 Degrees
Simon Tiller –	Friends of the Earth
Professor Andrew Chadwick –	Royal Holloway University of London
Francis Stewart –	Oxfam Scotland
Gillian Wilson –	NIDOS
Lloyd Austin –	RSPB Scotland
Juliet Swann –	Electoral Reform Society
Hona-Luisa Cohen-Fuentes –	Edinburgh University Students' Association
Lynn Williams –	SCVO Scottish Glasgow

Andrew: Do you agree with the government's argument that third parties have undue influence over the results of an election? Can you name any examples of where this has happened in previous elections?

Juliet: I was trying to think about this over the past few days. Basically my answer is no. There are elements of campaigning in election periods which will showcase parties' or individual candidates' commitments one way or the other. But the only time I can think of where they actually properly influenced the result in a constituency is when Chris Patten was shoved out of Bath. That was because it was a deliberate grassroots campaign by the Liberal Democrats and Labour voters. That's the only example I can think of, and it was very specific occasion and very grassroots-led. I was reading the example from Lord Tyler about the random leaflet he received when he was standing and that also sounds to me like it's a little bit crude and not something that would be led by a civil society organisation. Again I think that they are equating different civil activities which should be allowed under freedom of speech and trying to lump them all into 'third party campaigning', which they aren't.

Hona: I just want to express the idea that 'undue influence' is just the government saying 'we don't want any input from anybody, leave it to us!'. That's what they're saying. It's just to undermine all campaigning groups, whether that's religious groups or whatever it is. "We don't want anyone but our two parties to be able to fight on the public scene, we don't want anyone else to do much about it." It's just meant to undermine everybody who isn't already a party-politician. I think that it just shows the lack of any understanding of anyone other than themselves.

Gillian: It tries to make civil society organisations into parties because that's all they understand. That's not how we operate.

Lynn: There are clear guidelines from OSCR around dealing with these issues. You take a balanced impartial approach. That's how charities operate. This is about a challenge to democracy and being able to influence policy. I think that,

from your first report where you highlighted the Northern Ireland example where that influence has a positive impact on policy making. We lose that impact of giving people a voice. To me this is a straight challenge on our ability to change policy in a positive way. We already have clear guidelines. They were recently revised for the Scottish referendum. SCVO had an input into that to make sure that people can take part in these debates, with clear guidelines.

Lloyd: If we are being asked a question of what is undue influence, it makes you wonder what due influence is. That suggests that there is due influence. Trade unions and business groups are two types of organisations which tend to be more closely aligned with one party or another, although even they would argue that they lobby both sides, in accordance to the guidelines we just referred to, which I think addresses the questions of whether charitable activities are due or undue.

The other thing that crossed my mind when Juliet mentioned Bath, I wondered whether there was any issue with instances when hospital campaigners and so on have targeted particular constituencies. Often in those cases I would say that they're 'due', if there's such a word, because they have stood as candidates. So in that case they have turned themselves into a candidate and played by the rules that way.

I can't think of any case that is undue.

Gillian: I think that with trade unions, they are representing the views of lots and lots of individuals who have voted for one way or the other. It's not a party political position. It's the culminative voting of lots of individuals.

Lloyd: I think that business is the same to some extent. Like trade unions, they are led as much by their leaders as they are by votes. In both cases I would say that they seek to lobby both or all parties.

Hona: My problem with this kind of discourse is that it promotes the idea of neutral campaigning, which just not possible. The fact that certain groups will be attacking major political parties is not an accident. There are very specific policies which make one group worse than another. In my eyes they're all equally culpable but it doesn't make sense to water down campaigning and impose regulations that make people try to be party-neutral, lobbying both sides equally. That's not how it works.

Lynn: I understand what you're saying but I think there can be a balance. For instance, let's take welfare reform which is one of the biggest issues that most of us in the sector are dealing with. If the Coalition Government said 'let's have another look at one of these benefits' then you'd take the opportunity, but you'd still attack them for their other policies. There can be a balance around campaigning and challenging what's happening, but with the opportunities to shape policy and influence it for the better. I can't think of any cases of imbalance. Yes there are individual campaigns and so on but to my mind the third sector tends to be as balanced as it can be.

Francis: One of the problems I think is linking that phrase 'undue influence' to campaigning. Campaigning by its very nature is public, trying to influence people's

opinions. It's transparent. The problem is a lack of transparency not campaigning. I think we need more campaigning. The Bill doesn't tackle lobbying, that undue influence part is something we need to look at, not the public campaigning aspect of it.

Andrew: I get the sense that you're still scratching your heads in the same way that the commissioners are. We do not have a clear statement from the Government on what kind of activity or undue influence it seeks to regulate.

Hona: I just want to emphasise the point that the undue influence is the corporate influence, the idea that the government would try to undermine charitable organisations rather than corporate influence. That's the biggest problem.

Gillian: During the second reading debate the Government kept repeating themselves, saying something bad might happen. Like what? Lots of bad things might happen, we can't pre-legislate for all of them. Maybe we should just not do this.

Andrew: Given that the aim of today is to say 'how can we shape this area?', I get the sense that you don't think that there's a specific problem. The Government, however, does and they seem hell-bent on legislating in this area. I think that that then opens up what we're going to discuss in the rest of the question which is where we get into some of the detail. I think we need to think about how receptive the government is going to be to specific amendments. They are not going to rip up the legislation and walk away. It's not going to happen. We need to think about how we might provide constructive amendments that reflect the spirit of what NGOs and campaigning groups want to see. That's my sense. It could be that the political climate changes and defeat of part two of the bill becomes an option, however I'm not sure if we'll know about that until very close to the end of the consultation.

Gillian: I tend to agree. I hope that you reflect from at least our two opinions that we do not think that this should happen at all. That really is what we think. And almost that engaging too much in the minutiae is to go along with it. I think that it's important to say that we do not think that this should happen. That is the beginning of whatever your report is from Scotland.

General agreement in the room.

Lynn: At best this Bill is lacking in clarity.

Francis: I'd be very keen for there to be a preamble which says that Part 2 shouldn't exist, but that in the worst case scenario where it has to exist, here are some ways of making it less bad.

Juliet: There has been a draft proposal from one of the MSPs in Scotland for a lobbying bill in Scotland. There was a lot more about a register and it was about applying rules which would be different for different types of organisations. It was more about transparency, not about spending limit, staff costs or the stringent rules which would bring it into a political party environment. That's now with the

government and there's a consultation with finishes on the 10th of January. I'd be interested to know how we feel about that proposal. It's something that the Electoral Reform Society would support because it improves transparency across the board. It's like Part 1 of this bill except that Part 1 is so crap it doesn't really cover that.

Lloyd: Part 1 and that bill are trying to do the same thing. I think that that covers the issue that Francis said about transparency. That is an issue where there might be undue influence, and that's different to third sector organisations.

Juliet: Yes, but if we as third sector organisations volunteered to engage and improve our lobbying transparency, would that be a way of averting this bizarre bureaucratic evilness. And suggesting something so different that it is, in a way, a challenge.

Gillian: Would that be for private sector as well as public sector?

Juliet: Part 1 already covers corporate lobbyists. It would then just be a question of widening that out and improving Part 1. Then instead of Part 2, why can't we just be subject to something similar to Part 1.

I guess I'm just struck that there are parallel things going on in Scotland and the UK and it's really difficult because all the SNP say is 'vote for independence and you don't have to worry about it'. So it's trying to somehow make those things fit together in a way that means we have a sensible situation and a sensible proposal that comes forward that means that: a) third sector and charitable organisations aren't subject to these ridiculous specifications and considered akin to political parties, but equally that we acknowledge that there is some ground to be given on where lobbying is seen to be done. I don't think that would be too difficult for us because we already promote our activities, that's the whole point. We are happy that we have influenced a change.

Lloyd: I think that there's something in there because the Findlay bill does include in-house lobbyists in the third sector. We all put in different comments about the means by which that would work, as opposed to the principle. I think that the principle that third sector lobbyists are as transparent as commercial lobbyists is quite reasonable. That isn't in the UK legislation. I think there's something to say that Part 2 of this bill is poorly thought-out because Part 1 isn't broad enough. If Part 1 was more like the Findlay proposal then there might be less reason for Part 2.

Andrew: The view will be taken on board that you are in favour of striking Part 2 from the bill. Ultimately, that is still the overriding aim of almost everybody we've spoken to. My point was that, in the absence of that happening, the aim would be to improve the bill as much as possible so that it doesn't act as a break on what you do in your legitimate campaigning activities during election periods. There's lots of ways in which that could be achieved. The report sets out several of them.

The second thing is about ideas for shaping this area of legislation. The idea of a register and greater transparency is a really interesting one. You can see

how that principle would answer these questions of so-called undue influence, because it would just lay bare the whole process in a much more transparent fashion. I think that we can kind of feed that in as a response to question one on Part 2 of the bill. We're not concerned as a Commission with Part 1 or Part 3 of the bill – we're only concerned with Part 2. It's a balancing act. Any ideas like that, which are blue-sky thinking, can feed into a much more considered process as we go forward.

We will be feeding back very strongly that your view is that Part 2 ought not to stand as part of the bill.

Can I move onto question two? This is on the idea of issue-focused campaigning on the one hand, which all of you participate in in one way or another, but then there's campaigning for the electoral success of a party or candidate. Can you name any examples of where this confusion has arisen? Do you think there needs to be regulation of this area?

Juliet:

I had an interesting experience during the Dunfermline by-election when there was a radio broadcast with all the candidates. The Green candidate Zara Kitson actually said something which was literally picked out of Democracy Max, some work we have done. I know she did that because I speak to her a lot. I tweeted that it was good to see her promoting this. Someone from the Labour Party came on and said, 'you're promoting the Green candidate!'. But I was just saying that I was happy about something that they'd said in public, and if a Labour candidate said that I would have said the same. I had a little bit of a to-and-fro with him and it struck me that if someone is mischievous and wants to cause problems for an organisation, they very easily can do so if we broaden out the concept of campaigning in that way. That annoyed me.

Lloyd:

I think that demonstrates the point I was going to make. What is the definition of an issue? If an issue is something that only one candidate has said, which is what Juliet just described, then that makes it look like the person advocating that issue is advocating that party. It's irrelevant as to which party it is. Whereas if you say that the issue is something generic, something that would make everyone happy, then it's different. You could come up with some bonkers issue and if a candidate supports it then are you supporting that candidate?

Gillian:

I think that the main approach that most organisations use is to put forward a whole platform of policy points and then we review how different political parties have and haven't responded to that set of ideas. Most of the time that's how we do it: put all the policies out and then review them at the same time so that you're seen to be doing it across the piece. It's different out of elections to in them. Most of us are careful about that during election periods. We try to comment on the response of lots of parties all at once.

Hona:

It doesn't make sense to talk about not attacking specific parties. Groups like the National Union of Students and the National Campaign Against Fees and Cuts will be openly anti-Tory. That's not a question of whether it's the specific issues or the party as a whole – they are going to be attacked as a whole.

Andrew: The problem is that there are already regulations around non-party campaigning during elections. The change in the law happened 13 years ago and now it's going to be tightened up further.

Lynn: What's the rationale for this bill? Can the government give examples? The whole platform on which this bill is built frankly is crumbling away.

Lloyd: There's this business with 'for the purpose of and in connection with electoral success'. I'm not sure that on the type of issues that we have described and the way in which we address those issues, that that is promoting electoral success. It's promoting the issue and telling the punters which parties support it. If only one is supporting it, are you promoting the success of that one party? It's not your fault that there's only one party which supports it. Perhaps you should create another one!

Kerry: Just for clarification, this also applies to other organisations which aren't parties. This might be why Hona is differing, student campaigns are often very anti- whoever is pushing a thing right now. It's important to remember that this is not just specifically about charities.

Lynn: But you get charities which campaign actively against, welfare reform for instance. These coalitions exist. Yes they will engage fairly with every party but they will also actively stand up and say 'what you're doing is wrong'.

Juliet: The most obvious one is Scottish CND. There are only two parties who support nuclear disarmament are the SNP and the Green Party. Theoretically Scottish CND will be able to do nothing at all. Everything they do is about getting rid of nuclear weapons.

Andrew: Would you be happier with a piece of legislation which allowed you to set out the different candidates and their positions but without falling foul of the regulations? There is some uncertainty at the moment about whether that kind of activity would be counted. I take it that you would like to continue to do that as it is in the current law where you are not taken to be advocating a particular candidate. So as long as you don't name a party or candidate you should still be allowed to educate the electorate about what the choices are. Is that a fair reflection?

Lloyd: Yes I think it is. Even then we still think very carefully about how we phrase it. There may be issues where we say 'we think X'. If Party 1 has said they think X as well because they have been very sensible and have listened to us in the pre-manifesto discussions we have with them, and the others say that they'd consider it, if we put that out in a table it still may look like we support Party 1 because they've used our words. We need a situation where that is not seen as supporting a vote for that party. In most cases we try to find something that the others parties have said which we agree about so that we can put them in too. We're more bland in that respect.

Lynn: It comes back to the question of what is the government's rationale. If the current system is working then why change it?.

Lloyd: It's trying to solve a problem which they don't know exists.

Francis: I think that might be helpful for large charities like Oxfam but we also work with a lot of local community groups, some are charities, some are not. We support them through funding. An example is Clydebank Independent Resources Centre. They are very outspoken, they get contacted by local papers asking for quotes, and they are very radical. They often criticise the Tories for example. That has an issue for Oxfam and for them. Another example is Sunny Govan Radio, they have all sorts of people coming through their doors to do radio programs. How does that impact on both that organisation but also Oxfam if we work in coalition with them. What you suggest wouldn't help with that problem.

Gillian: It's the policy we're pushing not the party. That's what we have to emphasise.

Juliet: I think the point comes back down to freedom of speech. The guy from the Scottish Refugee Council who was here last time said that they were the voice of the voiceless, if they can't speak for them then who can? Also one of the reasons in the report was that 10% of charities have spent 90% of the money in the run up to the last election. Why don't we talk to that 10% then? They're the problem, not the 90%.

Andrew: Let's move onto question three. This is about the kind of activity which you conduct in the background when you're running campaigns. The bill defines these activities more widely than in current law: for instance staffing costs and market research. Should these things be subject to regulation? Can you give any examples of activities which you spend a lot of money on which would be impossible to achieve if the law were to change.

Gillian: If the threshold is as it stands that would be one member of RSPB policy staff. Everybody else would have to stop work. It would effectively cut down some organisations. They wouldn't be able to do their regular work challenging government policy. And then there's the overlap: can you challenge Scottish policy during a UK election? This is unclear. Even thinking about that could be super scary for small charities, so they wouldn't do anything. They just wouldn't engage with the regulation. They wouldn't say anything.

Lynn: I agree. If small charities just give up then you've lost the war. I was at an event last week where we had charities from across Scotland looking at a piece of legislation which would integrate health and social care in Scotland. That's a massive piece of legislation which impacts, not just the sector, but also people who we speak for: people with MS or cancer etc. That again would not have happened if the threshold had been in place. That kind of positive influencing of policy would not happen. This bill has the fear factor already, before it even becomes legislation. It's challenging effective democratic processes already.

Hona: I guess the answer to the question would be 'none'. This is exactly the kind of legislation which would impede us from being able to run our campaigns. Not just students' association campaigns but also our affiliated campaigns, like women's campaigns which oppose the Conservative government for obvious

reasons.

Lloyd: Two things. So, you mentioned polls and surveys on what your members think. Actually organisations are interested in what their members think on lots of things. What they think about policies is one aspect of those. Is that expenditure which steers your work in an election or is it about working out what your organisation should do and what it should think? They overlap so much, how do you distinguish between them? Charities which have a view on how the world should be run are talking about these things all the time. Most of their work could be caught in this. But most is not actually about elections.

Another example of a contradiction in their own rules is the period of time is longer than purdah. SO if you respond to a consultation and then the work you did on that could count as influencing the election and could be seen as campaigning. They're seeking views and if you respond they could count it as campaigning.

Andrew: Let's jump to question ten. It's about the length of the regulated period. What are your thoughts on how long it ought to be?

Juliet: Even if it was just purdah, how boring would that make elections? You'd just have politicians shouting at one another and no one offering any other opinions. There should be no constraints.

Lloyd: So just get rid of Part 2.

Everyone agrees.

Lynn: This is basically a bad bill. Part 2 is the worst part.

Gillian: This is the problem. When you look at the detail to see what is acceptable, very little is acceptable. This is why I think that suggesting something completely different is really the only 'amendment' that one could make. The answer to all these questions is 'no' or 'none' or 'shut up, go away'.

Hona: The government clearly aren't interested. That's the sad truth.

Andrew: In an ideal world what would your period of regulation be if the bill is going to pass?

Lloyd: The only period which is consistent with their rational, notwithstanding that we do not think that is logical itself, is purdah. When political parties are tied to the same rules.

It's worth saying from a devolved country point of view, that with the 12 month thing that means that we are regulated three years out of five. Here, 12 months is even worse.

Gillian: If it includes local government elections then we have a referendum in 2014, the UK in 2015, Scotland in 2016, and locals in 2017. Theoretically, I'd have to stop talking now. For four years.

Lloyd: The Lords can be a good place for killing things with loads of alternative amendments to the same thing. Guillotines don't work in the same way in the Lords and lords can talk for a really long time which all adds to the lack of

progress on the bill, which builds up the pressure on the thing itself, not just on the issue they are talking about.

Hona: It should be limited to the normal election period.

Juliet: Given how little engagement there is in elections, and how few people turn out, the idea of making it even more boring than it is already is a little bit disingenuous.

Andrew: The next question is to do with thresholds. Is the £2000 threshold for Scotland appropriate?

Hona: Why should it be different for different countries at all?

Juliet: How can you have less money when you are campaigning on different fronts? We should say that it should be linked to MPs' expenses. The bigger the expenses the bigger our budgets. Two to one for example, everything we spend they can have half of that.

Francis: If there was a link to politicians then surely it should be to political parties.

Juliet: Yes I was just being facetious. But there is a case for that. There's a good question about party-political funding at the moment given how little they get from the membership, and everything that's going on with the trade unions at the moment. Labour has to worry where their money comes from. We're looking at a debate which could go into public funding of political parties. That's when it becomes an issue, when the private sector would seek to fund campaigning through third party organisations. SuperPACS. But that depends on the first thing happening, which it isn't. It's pre-empting a problem which doesn't currently exist and might not exist in the future. And doesn't address the problem of how political parties are funded, which is a much bigger issue.

Andrew: Question 5 then. What do you think the principles should be that underlie this area? It's currently 5% of party spending. Do you think that that's the right way to decide on these things?

Lynn: I think this is the wrong strategy. We have five and a half weeks and the government are trying to push us into negotiating on these things when we know the whole thing isn't going to work.

Kerry: I think that the best thing we can do is give examples of exactly why it would be a disaster.

Hona: For Edinburgh University Students' Association even if we had the money to spend on our campaigns, some of which will be implicitly targeted at certain parties, this stops our work. It makes it incredibly difficult. We already don't have the money that we want to devote to campaigning and having legislation surrounding it too is incredibly detrimental.

Gillian: I didn't know that there was already a limit of 5% but I think that's really interesting. Why are they so scared of something that's only 5% of political party spending? That's ridiculous. That's really low anyway. They could outspend you easily, and they do. And corporations outspend you. And trade unions outspend

you. This underlines the ridiculousness of it. The previous limit was 5% and we want to make it less?

Lloyd: Is it 5% of the Conservative Party or 5% of the Cornwall Nationalist Party?

Gillian: I think there are two things. It depends which government you'd be lobbying. If Scottish organisations are lobbying the UK parliament would they still be limited to the Scottish amount anyway? It shouldn't be based on the origin of the organisation, it should be based, if at all, on the parliament which you are lobbying.

Lloyd: There is confusion with the distinction between different numbers for different countries. In essence, I think it should be about whether it's the Westminster election or the Holyrood election. Not whether it's England or Scotland.

Gillian: It's the target of the lobbying which should depend the amount of money.

Lloyd: So it should depend on which election period you're in. In a UK election period there should be a high UK-wide limit. In a Holyrood election you might have a lower limit but just for expenditure in Scotland.

Lynn: But Holyrood decides policies which affect our lives in many ways. Why should the threshold be any less?

Gillian: Why should we spend less given that they have the policy to decide things that we are campaigning on? It's about which powers are devolved and which aren't. There would be no point in campaigning at Westminster on something that is entirely in the gift of the Scottish Parliament. That's another area where a lobbying transparency register would provide the transparency whereas however much you spend is kind of irrelevant. It's who you're choosing to speak to and about what that's interesting.

Juliet: Also, you could list how much you're spending on the register as well. Instead of a limit you could just be public about it.

Gillian: If you're a Scottish organisation lobbying Westminster, that costs just getting there.

Francis: Am I right that the limits are applied to voluntary time? That sort of typifies the civil society charity response to it. We're about public good, we should be regulating the corporate sector. There should be amendments about that.

Andrew: Let's move onto the question about working in coalitions. Do you think that this is an area which should be regulated or not?

Gillian: The CBI is a coalition. The trade unions working together is a coalition. I think that non-party campaigning coalitions should not be restricted. That's ridiculous. You have a shared interest which you're choosing to work on across the board, usually because there's small groups who want to campaign with large groups, it's about increasing the diversity of the discourse and that's a good thing in a democratic society. We wouldn't have got a good climate change act without coalition working. That would be out. The Scottish Parliament basically exists because of coalition campaigning. We wouldn't have that.

- Francis: I think the key point around this is that I can't see how it would be workable. Oxfam funds lots of different partners groups, if that counts as a coalition then we can't do anything. We're also a member of Scottish Council for Voluntary Organisations, Scottish Campaign on Welfare Reform, Poverty Alliance, a partnership with the University of West of Scotland. If suddenly this was regulated I don't know how we'd get around that to be honest.
- Gillian: One of the things that they keep throwing at the charity sector is that we don't collaborate enough.
- Lynn: It makes their job easier having coalitions, people come with one voice and one message. To regulate this works against them, absolutely.
- Lloyd: Not only are they interested in coalitions bringing single perspectives, they fund these groups. It's much easier to have a meeting with delegates from a coalition than to have 15 meetings with 15 separate organisations.
- Juliet: Especially in the early stages of this bill, how many times did they meet with NCVO? That would be completely out of the window.
- Hona: Coalitions are formed to amplify people's voices. This is a blatant attack on that.
- Juliet: The spending of each organisation would count towards the spending of SCVO and vice-versa.
- Gillian: There would be real confusion as to whether you are a constituted coalition or a coalition in practice.
- Francis: The coalitions that exist in Scotland tend to be more effective, probably because of the size of the country and the type of work.
- Lynn: There's the Scottish Campaign on Welfare Reform, the National Carer Organisation, Stop Climate Chaos Scotland.
- Gillian: When it comes to policy making that is a really interesting point. If a coalition of interests get together and agrees how it's going to shape its influence on government then instead of having 18 different ideas, you have one much better formulated idea, which has gone through a policy-making process in civil society before it gets to government. If they had showed us this bill we could have told them it's rubbish.
- Andrew: How would you like to see this work in devolved elections?
- Juliet: It looks like there is going to be specific Scottish legislation, so how would it clash or not clash?
- Hona: It should be based on where the lobbying is being done rather than where the organisation comes from.
- Lloyd: At the very least it should be expenditure as related to what the election is for not country. There should be a total figure for money spent in the UK on that election. It may be that a Northern Ireland organisation would focus all their efforts in Northern Ireland. In a UK election an organisation wouldn't divide their expenditure up as that much in England, that much in Scotland, that much in Wales and that much in Northern Ireland. In a Scottish election for Holyrood, you

would spend that money in Scotland. The geographic location of the expenditure isn't the point. It's the legislature which is the point which should be dealt with.

Juliet: And then, it would have to be based on what policies are being decided. It would have to look at what policies are devolved and what policies your organisation campaigns on. What should you be able to spend? If you're an environmental organisation based in Scotland, most of the policies you're interested in are decided in the Scottish parliament. If you're a welfare organisation and you're based in Scotland then most of the stuff you're interested in is decided at Westminster. So how do you then divvy that up? How you decide? It betrays a complete lack of understanding of devolved politics.

Lloyd: But you could also argue that everything in Holyrood is affected by the budget, which comes from Westminster. So there's an argument that you can talk to Westminster about anything because Westminster can create a budgetary or political climate. We do a lot of work on agricultural and fishery policy which is technically devolved but it's Westminster who deals with the EU.

Andrew: What is the division of campaigning between devolved nations in your organisations?

Hona: The students' association organises on a national level but we are affiliated to organisations with members in Wales and the rest of the UK. It's completely mixed.

Lynn: Some charities in Scotland might do more lobbying of Westminster but the focus tends to be on Scotland.

Lloyd: Even a lot of Scottish-only charities have sister organisations in the south who they work with. For the likes of us, who are UK organisations and part of an international network as well, we have colleagues who we go through to lobby Westminster and the EU and so on.

Juliet: Non-devolved issues will be more with the UK. SCVO deals a lot with welfare and social reform but lots of other NGOs in Scotland deal with undeveloped things who will be doing a lot with UK.

Francis: I think it's massively geared towards the Scottish parliament, and that's for independent Scottish charities as much as it is for charities who are part of a UK group. Oxfam have 20 or 15 staff in Scotland, we do very little focused at Westminster, even in terms of Scottish MPs to be honest. It's where policy is made but also the whole bubble is in Scotland.

Juliet: But there is overlap. The Electoral Reform Society is only small in the UK, then there's two of us in Scotland and two of us in Wales. All of our work interlinks. One of our big campaigns is to abolish the House of Lords – obviously I have to work at Westminster on that. Friends of the Earth Scotland, a Scottish charity, mainly focuses on issues in Scotland but when they tackle electricity market reform it is a Westminster issue.

Francis: But when you do that you lobby the Scottish government to lobby Westminster. You don't lobby Westminster directly.

Juliet: This is a side issue anyway, the point is that Scottish charities shouldn't have less money to lobby. It's about the target of the lobbying.

Francis: Charity regulation is devolved to Scotland. If there were amendments to the Bill that might require a legislative consent motion at the Scottish parliament. The Scottish parliament would have to approve Part 2 of the Bill if it refers to charity regulation. That could then mean that the Scottish parliament could not pass that legislative consent motion and it wouldn't apply to Scotland.

Juliet: That doesn't always work. They rejected one for housing or welfare. There was something else they rejected.

Francis: It might also be that some of the parts apply and it could even be in a worse fashion if some of the amendments are brought in to improve the impact at UK level and then Scotland didn't pass the legislative consent motion we could potentially be left with a worse bill.

Lloyd: I think there's a potential wrecking amendment in there. If a peer recommended an amendment which would require a legislative consent motion in Scotland and Wales then those two parliaments might not agree to pass such a motion. Particularly in the next ten months the government might be inclined to not ignore the views in the Scottish parliament.

Lynn: The LCM for the welfare reform bill was refused and it led to some changes and allowed Scotland to legislate in a better way in some ways. To plug some of the gaps. It could work for or against us.

Francis: A wrecking amendment could be in the short title and extent clause to simply say 'Part 2 does not apply to Scotland'.

Lloyd: And then UK charities just put their expenditure through their Scottish books.

Lynn leaves.

Andrew: The last question is on the reporting requirements that the Electoral Commission will supposedly have to uphold. If you widen the range of activities and lower the thresholds then once an organisation has to register with the electoral commission and report its finances then how do you see this? Is it something you're geared up for?

Juliet: I think that this will kill small organisations. They just won't participate. There is just too much bureaucracy. They've never had to register before. They just applied OSCR regulations. I think the reporting requirements are way too stringent and also this is where the Lobbying Transparency bill would fit. You'd just have an annual return which you'd fill in and that would be it. One one-off document rather than this six-weekly reporting.

Andrew: It would be weekly during an election.

Juliet: So the Church of Scotland, every week, would have to say how much money they've raised when they put the collection plate around.

Lloyd: RSPB has a collecting tin in a reserve in Cornwall, in the Scottish elections we'd have to tell someone how much goes in that tin every week.

Andrew: So does this come back to the idea of a register?

Juliet: Yes, it would tie into your annual report. That's something you'd be doing anyway for your finances. Alongside that you'd produce your lobbying transparency report. "Of the income we raised, this percentage was spent on lobbying activity. We spoke to these departments about these issues.

Lloyd: Even without the lobbying bill, or Part 1 of this and the Scottish government's one here, in a way it's regulated anyway by OSCR and the Charities Commission. A good charity reports what range of its expenditure is spent on what kind of issues in their accounts. Another wrecking amendment might be that Part 2 doesn't apply to organisations already registered as a charity.

Hona: That would throw everyone else under the bus.

Gillian: Even if you aren't a charity, don't you have to be registered with someone?

Hona: Promoting this kind of transparency in these organisations should be happening anyway, and not have to be buried in bureaucracy.

Juliet: I think it's interesting that they want donations to be registered. It's conflating political parties with campaigning organisations. If you're a political party and money is coming in during an election period, you're pretty likely to send it back out again and spend it so you can get elected, but charities raise money all the time. Some gets spent on lobbying and some of it doesn't. RSPB aren't going to stop managing bird reserves during an election period.

Andrew: We need to draw to a close. Is there anything else that you'd like the commission to be aware of?

Juliet: A lot of this has been around election periods but both private companies and any other third parties are lobbying most of the time. A lot of our influencing is outside of an election period. So something like the transparency report ought to be annual, not just during elections. Some kind of annual register which is not just for the private sector but for ourselves, I think would cover that. Otherwise you could just spend a huge amount during the purdah period.

I do think that the whole bill betrays a misunderstanding on part of Westminster of how the third sector works. It conflates it with how they do political party campaigning. I work with lots of political party people and I can see how they want to campaign in that way, I can see the difference. It's not the same thing. The same things don't apply, the same time limits don't apply, the same desperation during election period doesn't apply. You're working all year. Of course you promote your policies during election period because the public is more interested in politics during election period and the media pays more attention to politics during election period but it doesn't change anything you say. It doesn't change your policy just because there's an election.

Francis: There's a real issue with policing or compliance. Some charities will just stop what they do but others won't. Lots of Oxfam partners will just keep doing what they do. I don't know how you'd regulate it. That might be worth highlighting, this won't just silence civil society.

Kerry: I'd just like to raise some points about grassroots organisations. For instance people campaigning against the bedroom tax. We're talking about tiny little communities around Scotland who are forming a coalition. They will be liable to all the restrictions, the budget and whatever, so one of the things which will catch them is that they will have to hire someone to figure out the legalities of all of it. By the time they've done that their spending threshold is gone. That eliminates their ability to do anything.

Gillian: They either see charities as public service providers who don't need to campaign, or evil charities who campaign against them. They forget that there are hundreds and hundreds of grassroots organisations across Scotland and Wales who are working so hard for their communities and this will scare them stupid.

Kerry: Especially with the thing about coalitions.

Hona: It blatantly attacks the most vulnerable groups.

Simon: Do you think that if a private company put lots of money into a campaign which mentioned a specific candidate or party, do you think that should be regulated?

Gillian: Yes, but that has never happened.

Hona: Corporate campaigning is very different to grassroots third sector campaigning.

Juliet: That would be buying people's votes, that would fall under existing legislation.

Simon: There's also the question of parties setting up front groups to campaign for them and avoid legislation.

Juliet: That's where transparency comes in, we are not saying there shouldn't be transparency, just that there shouldn't be a bureaucratic set of spending limits and restrictions. If you had to be transparent and it turned out that your organisation just gave money to a candidate, obviously that would be a problem. It would be transparent that it's a problem. If you're RSPB and you say that a party is generally not good for the environment, that's not promoting a candidate.

Lloyd: If that's a problem then it's an issue of existing legislation not being implemented properly. That seems to be about a spinoff from a political party.

Andrew closes the session and thanks the participants.