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Lord Harries of Pentregarth
House of Lords
London
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Friday 6 December 2013

Dear Lord Harries,

I wanted to take the opportunity during the pause of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill to set out Shelter's view of the legislation surrounding non-party campaigning – both the current Bill, and the Political Parties, Elections and Referendums Act 2000. We have some concerns about both pieces of legislation, and believe that the current pause provides an opportunity to improve the legislative framework for non-party campaigning significantly.

To be clear, Shelter agrees with the need for legislation in this area. It is right that non-party campaigning should be transparent, and that the law should be able to capture those types of activity that may have an undue influence on the political process. However, we believe that the legislation as it currently stands is too restrictive in terms of the financial limits it imposes for registration, and too broad and ambiguous in terms of what it defines as being in and out of scope. The end result is an incredibly uncertain landscape for charities and campaigning organisations, in which it is not clear whether and when the new rules would apply – but one in which, if those rules were deemed to apply, the limits subsequently imposed would be highly restrictive.

Charities like Shelter play a vital role in the democratic process, by campaigning for change that will improve the lives of the millions of people who come to us for help and support every year. An active civil society, engaged in a healthy and open debate with government, can only be a good thing for our democracy as a whole and for good government. We are very concerned that the Bill as currently drafted could impair our ability to take part in this kind of debate, and even to provide the services that Shelter delivers across the country.

To take an example: we offer advice and support to people in receipt of Housing Benefit, many of whom may be concerned about how they will be affected by forthcoming welfare changes. We best serve these people by providing advice and information to them in terms they with which they are most familiar. With reference to one particular welfare reform, people are most familiar with it as the 'Bedroom Tax' and so this is how we refer to it on our advice pages. However, Government Ministers have made clear that this is not the official title of the policy, and instead claim that it has been used by the Opposition as a way of making a political point. If we continue to refer to the

Bedroom Tax – in our advice and support materials, or in any campaign materials – we could at present potentially be subject to the restrictions of the Bill. Yet it would not be in the best interests of the people we exist to help if we insisted on referring to the policy in terms they do not recognize (“the spare room subsidy”). We do not believe this level of ambiguity in the legislation is helpful.

To address these issues, we would recommend the following changes be made to the Bill:

1. Amend the definition of controlled expenditure. The current legislation around non-party campaigning leaves an enormous amount of uncertainty over what would and would not require charities and campaigning organisations to register. This, combined with the lowering of spending thresholds at the same time as the definition of types of relevant activity is broadened, is what we fear will create a “chilling effect” of self-censorship to offset the risk of possible legal action on the charity sector. We strongly believe that there should be clarity around what is and is not in scope. We recommend achieving this by ensuring that charities and campaigning organisations only need to register their activity if there is bias towards a particular party or candidate, and where the clear purpose is to advocate support or directly benefit such a party or candidate. Activities which do not set out with this clear aim should not be in scope. In other words, the legislation should focus on *intent*, not *effect*.
2. A substantial increase to the registration thresholds. We are concerned that if the spending thresholds were to remain at £5,000, then far too many charities and campaigning organisations would be impacted by the legislation and incur significant bureaucratic burdens – especially as the reduction to the spending threshold sits alongside a broadening in scope of the type of activity covered elsewhere in the Bill. Factoring in this broadening of scope, as well as inflation, we agree with the NCVO that the registration amounts should rise to £20,000 in England, and £15,000 in Scotland, Wales and Northern Ireland. These thresholds should then be reviewed in line with inflation every five years.
3. Staff costs should be excluded from the range of activities that fall within the remit of the Bill. To include staff costs would significantly add to the bureaucratic burden placed on those charities that did need to register as a result of the legislation. It might result in the need to hire new staff and create new systems purely to monitor and report on the staff costs associated with any relevant campaigning activity. It is worth noting that staff costs are not included in the range of activities for which political parties themselves have to account. The inclusion of staff costs for political parties was proposed when the Political Parties, Elections and Referendums Bill was first drafted – but this was removed from the legislation as it passed through Parliament precisely because MPs felt it would be too complex and burdensome.
4. Remove constituency limits. The recommended limits of £9,750 in each constituency in the country in the year before an election could severely inhibit our ability to campaign. The housing shortage is by its nature a geographic issue, meaning that certain areas have a more acute housing shortage and therefore more acute housing problems than others. Shelter might therefore choose to campaign about the need for more homes in one area which was

particularly badly affected, using local data to convey the gravity of the situation. If we were to do this, and one political candidate came out in support of a particular new housing development while another opposed it, we could be compelled to register and potentially immediately exceed the constituency limit. In addition, the proposal for constituency limits could place enormous pressure on the Electoral Commission, who would have to look at potential breaches in 650 constituencies – and there are likely to be a large number of such breaches if the limits are set as low as currently planned.

We believe that, taken together, these changes represent a proportionate and reasonable solution to the challenge of regulating non-party campaigning activity. They would allow for greater transparency, without placing unnecessary limits on campaigning activity and inadvertently stifling free expression and debate as part of the democratic process.

I hope you find this letter a useful contribution to the debate. We would be happy to discuss any of the issues above in more detail, or to provide more information if that would be helpful. You can contact our Public Affairs Manager, Adam Terry, on 0344 515 1182 or adam.terry@shelter.org.uk.

Yours sincerely,

Roger Harding