



**Proposals for a Lobbying Transparency Bill**  
**Response from the Scottish Council of Jewish Communities**

[Click here](#) to read the consultation paper.

The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland. SCoJeC advances public understanding about the Jewish religion, culture and community, by providing information and assistance to educational, health, and welfare organisations, representing the Jewish community in Scotland to Government and other statutory and official bodies, and liaising with Ministers, MSPs, Churches, Trades Unions, and others on matters affecting the Jewish community. SCoJeC also provides a support network for the smaller communities and individuals and families who live outwith any Jewish community, and assists organisations within the Scottish Jewish community to comply with various regulatory requirements. SCoJeC also promotes dialogue and understanding between the Jewish community and other communities in Scotland, and works in partnership with other organisations and stakeholders to promote equality, good relations, and understanding among community groups.

In preparing this response we have consulted widely among members of the Scottish Jewish community.

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The Scottish Council of Jewish Communities welcomes the opportunity to comment on these proposals. As can be seen from the above summary of our activities, the Council regularly engages with the Scottish Parliament and Scottish Government in order to represent the views of the Jewish community of Scotland on a wide range of issues relevant to the community. During the last two years, these have included, amongst others, Organ and Tissue donation, Marriage and Civil Partnership, Assisted Suicide, Burial and Cremation, Religion or Belief in the Workplace, Age and Social Isolation, and how the Scottish Government and its agencies engage internationally. Neither the Council nor any of the individual local Jewish communities, nor indeed any individual within the community, derives any commercial or financial gain from this activity.

For the avoidance of doubt we wish to make clear that the Scottish Council of Jewish Communities would not have any objection to registering if required to do so, and we do not believe that our ability to represent the Jewish community would be adversely affected by the creation of a register. However, we strongly believe that there would be a significant and unwarranted adverse affect on many other small, especially voluntary, Third Sector organisations, and that this would in turn have a detrimental effect on the quality of political decision-making.

**1. Do you agree that the Government's three core principles are appropriate to inform the delivery of an effective and proportionate lobbying registration regime in Scotland?**

We agree with the core principles. In particular, we agree that “*any erosion of the Parliament's principles of openness, ease-of-access and accountability must be avoided.*” and that “*measures must be proportionate*”, and we are therefore concerned that the proposals may reduce the level of public engagement, particularly among small community organisations. From discussion with representative organisations in England, we are very aware that the Scottish Parliament and Government have been much more accessible from the outset than their UK counterparts. It has been, and remains, easier for both individuals and small organisations to express their views, and to feel that those views have been given full consideration, although, naturally, these are not always accepted. This has always been regarded as one of the strengths of the Scottish political system since Devolution, and through our strong links with other ethnic, cultural, and faith communities, we know it is something we all greatly value, and we would regret any change that might make it more difficult for the Scottish Parliament and Government to hear the full spectrum of views on any particular issue.

**2. Do you agree that a publicly available register of lobbyists should be introduced in Scotland?**

We are not aware that lobbying has caused any actual or perceived problems for either politicians or public in Scotland, but we recognise the importance of transparency in reassuring the public that Ministers and MSPs have not been subject to undue pressure. Provided that our concerns regarding small organisations are met, and that the regulations are proportionate and straightforward, we do, therefore, support the introduction of a publicly available and free-to-search register along the lines of the register of charitable organisations that is maintained by OSCR.

However, although a register would provide greater transparency, it would be naïve to expect it to prevent off-record ‘chats’, and should not be relied upon as in itself preventing the exertion of undue pressure; indeed, by discouraging due diligence, it could in fact increase the opportunity for abuse.

Moreover, it is not clear how these proposals for a register will achieve the stated objectives. Registration does not answer any of the key questions that are necessary for openness and transparency, and indeed to assist the decision-maker: in what capacity a particular representation is being made (e.g. whether personal or representative, and if the latter who has been consulted), on what basis the comment is made, the reason for interest in the field, as well as whether the approach has been made as a service for payment, and if so who has made the payment.

**3. Do you agree that no fee should be payable by lobbyists for registering or updating the register?**

We strongly agree that there should not be any fee to register or to update an entry in the register, but in our view, the requirement to register should not be on individual lobbyists (except for freelance lobbyists who are not attached to any organisation but act on behalf of third parties), but on organisations that engage staff (paid or as volunteers) to carry out lobbying activity, whether on the organisation's own behalf or as agents for third parties.

**4. What are your views on whether the onus to register should lie with individuals who lobby as part of their work, or organisations who lobby? Please provide reasons in support of your response.**

We are concerned that the proposals as presented in the consultation paper are unclear and ambiguous, and might therefore result in people or organisations inadvertently failing to comply with the regulations.

We agree that “*individuals who directly engage with MSPs as part of their constituency work*” should not have to register. If, however, the onus to register were to lie with individuals, a person who worked, and was registered, as a lobbyist might feel inhibited from making representations about a sensitive personal matter in case their motives may be misconstrued, or out of anxiety that these might require to be registered, and therefore become public.

Furthermore, there is not sufficient distinction between “*groups of citizens engaging with MSPs and Ministers on their own behalf [who] should not have to register*” and representatives nominated by their community or community of interest who engage with MSPs and Ministers on behalf of their community. Since such representatives may be in doubt as to whether or not they should register, we suggest that the register should list:

- Organisations, except *ad hoc* groups, that engage in lobbying activity (whatever their size and legal status) whether acting on their own behalf or as agents for third parties. The staff of such organisations (whether paid or volunteers) should be required explicitly to identify themselves as representing the relevant registered organisation when acting in their professional capacity.
- Freelance lobbyists. i.e. individuals who provide or facilitate access to Ministers, MSPs, or civil servants as a service, whether paid or unpaid.

Individuals (other than freelance lobbyists who act on behalf of third parties) and, as proposed in the consultation paper, *ad hoc* groups, should not be required to register.

**5. Should both consultant lobbyists and in-house lobbyists be required to register? Please provide reasons in support of your response.**

As we have already stated, we do not believe that individuals other than freelance lobbyists who act on behalf of third parties should be required to register, since this might inhibit them from engaging with Ministers and MSPs on their own behalf, in case their motives might be misinterpreted.

In our view, the register should comprise organisations that “*include commercial lobbyists*” where that is interpreted to mean employees of companies set up to lobby for whatever they are paid to lobby for, or that employ staff “*regularly [to] arrange meetings with and/or hold events involving MSPs (more than a prescribed number of times in the previous 12 months)*”. Relevant staff of such organisations should be required to identify themselves as such to Ministers, MSPs, and civil servants when working in an official capacity. Freelance lobbyists – i.e. individuals who provide or facilitate access to Ministers, MSPs, or civil servants as a service, whether paid or unpaid – should also be required to register.

Even the above qualifications, however, would not necessarily make clear which organisations are currently lobbying Ministers, MSPs, and civil servants, since the level of contact that organisations that are not professional lobbyists have with the

Scottish Government and Parliament varies widely, largely depending on what Bills happen to be before the Parliament, and what Government policies are being considered or implemented at the time. It is, for example, conceivable, that a community group that has not previously engaged with Ministers and MSPs might provide written and oral evidence and hold a significant number of meetings with Ministers and MSPs during the passage of relevant legislation, but then not have any contact with Ministers or MSPs for a matter of years. Not having engaged in previous lobbying activity, they would not be listed on the register during the year that they were actively lobbying, but would then be required to register the following year, after their lobbying activity had already ceased.

It should therefore be acknowledged that, like the Charity Register but unlike the Register of Members' Interests, the proposed register would be purely of retrospective value and would not assist anyone seeking information about current lobbying activity.

**6. Should any types of in-house lobbyist be exempt from registration? Please provide reasons in support of your response.**

We are concerned that apprehension about registering would deter some groups and individuals from engaging with Ministers, MSPs, and civil servants about legislation and policy relevant to their community, with the result that the Government and Parliament would not receive a fully rounded picture of the implications of the relevant proposal, thus “*ero[ding] of the Parliament’s principles of openness, ease-of-access, and accountability.*” For this reason, as we have already stated, we do not believe that individual members of staff of lobbying organisations should be required to register, but only organisations that carry out lobbying activities, and freelance lobbyists who are not attached to any organisation but act on behalf of third parties.

**7. Do you agree that the register should cover the lobbying of MSPs and Ministers? Please provide reasons in support of your response.**

Provided that individuals seeking to engage with Ministers and MSPs about matters of concern to them as individuals are exempt from the requirement to register, we agree that lobbying of both Ministers and MSPs should be included in the register, and suggest that the scope should be extended also to include civil servants.

**8. What types of communication do you think should be covered by a statutory register?**

We disagree with the proposal that “*a lobbyist would be required to register before engaging with an MSP or Minister (in relation to their functions) at a pre-arranged meeting, or before meeting the MSP or Minister in any other circumstances.*” (our emphasis). As we have stated above, lobbyists are also individuals, with concerns separate from their work activity, and this requirement would oblige a lobbyist in a company concerned with, for example, the oil industry, to register a meeting with his or her MSP to discuss a high hedge dispute with a neighbour, or even private and potentially sensitive information concerning access to medical treatment for him- or herself, or a family member. This conflation of official and personal engagement with Ministers and MSPs would be avoided by our proposal that only organisations that carry out lobbying activities, and freelance lobbyists who are not attached to any organisation but act on behalf of third parties, should be

required to register. The staff of such organisations (whether paid or volunteers) should be required explicitly to identify themselves with the relevant organisation when acting in an official capacity whether face-to-face or “*by writing a letter, e-mailing, taking part in a video conference, or speaking by telephone.*”

A requirement to register before a contact takes place would also frustrate the intention of the legislation, as it would increase the likelihood that lobbyists would not record one-off or opportunistic contacts in order not to incriminate themselves, whereas a retrospective record of contacts would carry no such risk.

**9. Do you agree with the Government’s view that paid lobbyists should be required to register? Please provide reasons in support of your response.**

As we have already stated, we do not believe that individuals other than freelance lobbyists who are not attached to any organisation but act on behalf of third parties, should be required to register. They should, however, be required explicitly to identify themselves as representing the relevant registered organisation when acting in their professional capacity.

We are aware of a number of organisations that employ volunteer staff – in some cases on a full-time basis – to engage with Ministers, MSPs, and civil servants. Exempting organisations from listing such staff would negate the purpose and diminish the effectiveness of the register, and we therefore recommend that registered organisations should be required to list all relevant staff, whether paid or volunteers, in their report to the Registrar.

**10. Do you agree that the register should also allow for voluntary registration by lobbyists not required to register? Please provide reasons in support of your response.**

We do not have any objections to voluntary registration by organisations or individuals. On the contrary, a regime in which someone who is not required to register is prohibited from doing so would be disproportionate.

**11. What are your views on what kind of information each lobbyist should be required to provide on registration? Please provide reasons in support of your response.**

As we have already stated, it is our view that, with the exception of freelance lobbyists who are not attached to any organisation but act on behalf of third parties, the register should not be a register of individuals, since this may inhibit people from engaging with Ministers and MSPs on their own behalf. We suggest that organisations could be required to provide:

- the name of the organisation (or freelance lobbyist);
- contact details including, where relevant, the organisation’s web address;
- if relevant, a charity, SCIO, or business registration number;
- the objectives of the organisation and a short summary of its activities;
- a list of current staff whose role is to engage with Ministers and/or MSPs.

**12. How often should lobbyists be required to provide a return detailing their lobbying activity? Please provide reasons in support of your response.**

As we have already stated, we do not believe that individual members of staff of lobbying organisations should be required to register, but only organisations that carry out lobbying activities, and freelance lobbyists who are not attached to any organisation but act on behalf of third parties.

While it may not be unreasonable for commercial lobbying companies to update the register on a six-monthly basis, we are concerned that this frequency may be so onerous as to deter some small organisations from engaging with Ministers and MSPs. (It is, for example, clear from the OSCR website that many charitable organisations struggle to produce annual returns on time.) We therefore suggest a tiered approach, whereby commercial lobbying companies would be required to update their entry six-monthly, but registered charities and small formally constituted community groups should only have to do so annually. Where relevant, it may facilitate compliance among such organisations if the date could be tied to the end of each organisation's financial year, so that the register could be updated at the same time as compiling the annual return to OSCR, and if the tiers were similarly aligned to turnover.

**13. Do you agree that the Parliament should introduce a Code of Practice for lobbyists setting out guidance on the registration regime and expected standards of behaviour? Please provide reasons in support of your response.**

We would welcome the introduction of a Code of Practice, but urge that any such code recognise the significant differences between representative community organisations and commercial enterprises for which lobbying is a primary activity.

**14. Do you agree that a register should include the facility for lobbyists to indicate if they already subscribe to any industry Codes of Conduct? Please provide reasons in support of your response.**

We agree that organisations should be able to indicate if they subscribe to any other Codes of Conduct.

**15. Do you have any views on the Committee's proposals for who should be responsible for upkeep and oversight of the Register?**

We do not object to the proposal that the Standards, Procedures and Public Appointments Committee Clerks could administer and advise on the Register. We would, however, urge that appropriate training should be provided to all new Clerks in order to ensure efficient management and the provision of consistent advice.

**16. Do you have any views on what enforcement mechanisms and sanctions should be available in connection with the registration regime? Please provide reasons in support of your response.**

We strongly agree that "*the emphasis of the compliance system should be on assisting lobbyists in correcting unintended transgressions ... as opposed to being unnecessarily punitive.*" and are therefore concerned that the inclusion of "*criminal offences and penalties*" among the "*tiered process in the event of transgressions*"

may deter some small organisations from engaging with Ministers and MSPs, and therefore prevent them from hearing hear the full spectrum of views on any particular issue.

However there may well be grounds for concern that some commercial organisations could manipulate the proposed system by not filing reports, winding up the business, and then establishing a new business with a different name. To guard against this there may be a case for criminal sanctions to be available against the Directors or Trustees of large commercial organisations.

**17. Do you have any views on whether Parliament, by resolution, should be able to adjust the scope and operation of the registration regime once established?**

We strongly agree that not only “*the Parliament*” but also the general public “*must be assured that the new registration process does not inhibit those seeking to legitimately lobby Parliament and Government.*” We agree with the proposal for the legislation to be amended by SSI, but suggest that this should be by affirmative procedure in order to ensure full consideration of any proposed changes.

**18. Do you have any views on whether there could be impacts on equalities groups as a result of the proposals outlined? Please draw on specific evidence and/or wider knowledge, experience and expertise.**

We have already stated our concern that these proposals are likely to deter some community groups, particularly those that do not have English as a first language, or that are unused to engaging with statutory organisations, from raising relevant issues with Ministers and MSPs, and that this could prevent Government and Parliament from hearing a full range of views on any particular issue. This could be the case even if organisations without paid lobbyists were not required to register, since, as is the case with, for example, the Protection of Vulnerable Groups Act, and Points-Based Immigration System, even several years after the introduction of the legislation, many smaller organisations are unsure of their obligations. Some of these may be apprehensive of approaching statutory organisations even to ask advice, as we know from the fact that we are frequently approached by organisations in other minority communities (not only from the Jewish community) for guidance as to whether particular courses of action are permitted.

**19. Do you have any views on whether there could be any additional costs or other implications for businesses as a result of the proposals outlined? Please draw on specific evidence and/or wider knowledge, experience and expertise.**

We do not have any comments on this question.

**20. Do you have any other comments on the general operation of a register of lobbyists, or on any of the proposals put forward by the Committee or the Government?**

While we recognise the importance of transparency, and, in general terms, support the principle behind the proposed introduction of a Register, we are concerned that the current level of access to Ministers and MSPs should not be impaired, and that the legislation should not be such as to inhibit small organisations from engaging with a wide range of issues, since this would detract from the valued ability of Government and Parliament to hear the full range of public opinion.