

Policy Suggestion:
**Introducing a Statutory Register
of Lobbyists in Wales**

Lobbying

Lobbying is a legitimate and valuable activity. It is a crucial part of a healthy democracy. The words lobbying and lobbyist can have negative connotations, implying deals done behind closed doors. The reality is that the more voices that inform the Government and the Assembly's thinking in Wales, the more informed politicians are to legislate, to develop new policy and to scrutinise. For this reason, and on the basis that the Assembly is founded on principles of openness and accessibility, lobbying should be actively encouraged. It is positive how open and accessible and willing to engage the Assembly and Government already are. No action should be taken that will change this or indeed put people off approaching politicians on any issue.

What is lobbying?

A fundamental question to consider when embarking on this discussion was what is lobbying? The answer is one of the most contested in political science. Adopting a broad definition can seem a straightforward approach. For example lobbying is a communication with a public office holder, whether directly or indirectly, in an attempt to influence. What is far more complex is deciding what forms of communication fall under such a definition. How do you decide, if you want to record lobbying activity and publish it, what activities should be captured? How do you identify the point at which information sharing becomes lobbying?

A further consideration is what information can effectively be captured? Lobbying activities are evolving. Advances in technology have allowed lobbying to become more sophisticated, not least as a result of the growth of social media. For example, there are methods that involve third parties such as astroturfing and grass roots mobilisation. In these forms of lobbying it is not immediately apparent who instigated a piece of work or campaign. The more lobbying develops, the more complex capturing some forms of it will become.

Who should the onus be on for recording lobbying activity?

Who should be responsible for making information about lobbying public – the organisation lobbying or the person being lobbied? The answer is both. Politicians and lobbyists share responsibility to apply the principles of good governance, in particular transparency and integrity, in order to maintain confidence in public decisions. The source of debate is deciding to what degree each side should contribute.

Suggestions

Suggestion 1 – There should be an online register of significant lobbying activity in Wales.

Suggestion 2 – The register would be launched with an awareness campaign clearly detailing who would and who would not be required to register.

Suggestion 3 – The register would be promoted by the Welsh Assembly on an on-going basis.

Suggestion 4 – The Assembly must be assured that the registration process does not inhibit engagement with the Assembly. The Assembly must be able to change this new system readily if it considers this is the case.

Suggestion 5 – Registering, and updating the register, should be free.

Suggestion 6 – Individuals acting in a personal capacity should never need to register. This includes those engaging with AMs as part of their constituency

Suggestion 7 – The proposed register is simple and targeted at organisations who have significant contact with AMs or who invest significant amounts of money into lobbying AMs on behalf of others.

Suggestion 8 – Only organisations that undertake significant lobbying activity involving AMs, need to register. Specifically, if an organisation is/does one of the following, it needs to register— a) is an organisation that includes commercial lobbyists;

a) Regularly arranges meetings with and/or holds events involving AMs (more than a prescribed number of times in the previous 12 months).

Suggestion 9 – The register should detail lobbying activity as opposed to simply being a list of names of lobbyists. The register should detail who is lobbying, how and why, including— a) the name of the organisation;

a) Names of individual lobbyists working for the organisation (if the organisation includes commercial lobbyists);

b) Meetings that have been pre-arranged by the organisation with AMs including detailing the issues discussed;

c) Events, including meals, arranged by the organisation that involve AMs, including details of the purpose of the event;

d) Secretary or other support to Cross-Party Groups valued above the threshold for disclosure in annual returns (currently £500);

e) Hospitality, visits or material support for an AM (in line with the financial thresholds in the Register of Interests for AMs);

f) Details of the aims of the lobbying.

Suggestion 10 – Updating the register should not be a disproportionate burden. For example organisations could be required to update their register on a quarterly, six-monthly or annual cycle. A distinction could be made between commercial lobbyists and in-house lobbyists, requiring commercial lobbyists to register more frequently.

Suggestion 11 –Centre for Welsh Studies has heard from organisations who are very keen to publicise their work so the new register could

- allow organisations that are not required to register under Suggestion 8 to register on a voluntary basis;
- allow organisations to update their register more regularly than the required timescales; and / Or
- allow organisations to detail more information than that required in suggestions 9.

Suggestion 12 – The Committee proposes this possible model for a compliance regime—

- Upkeep and oversight of the register by a registrar should have a very limited impact on the public purse. This is a priority.
- There should be a new duty requiring organisations that meet the criteria listed in recommendation 8 to register and to periodically update the register.
- The emphasis of the compliance system should be on assisting organisations in correcting unintended transgressions. The system should promote transparency and co-operation from organisations as opposed to seeking to punish unnecessarily.
- The role of the registrar would be to proactively support and encourage information sharing from organisations. For example prompts and advice would be given on: whether to register; what to register; and when to update the register. The responsibility to register would remain with the organisation.
- There should be a complaints system that allows anyone to highlight where an organisation may not have complied with the requirements of the register.
- The register should have proportionate sanctions. It should give organisations a fair opportunity to address inadvertent breaches before considering any public censure. Stronger sanctions should only be considered where there is evidence of any of the following—
 - a) Financial impropriety;
 - b) Deliberately providing misleading information;
 - c) Deliberately withholding information; and/or
 - d) Repeated failures to comply with the requirements of the register.

- The following steps could be taken in the event of transgressions—

a) Confidential prompts from the registrar to an organisation seeking resolution;

b) Referral by the registrar to the Commissioner (or a complaint could be made direct to the Commissioner by any member of the public). The Commissioner could then investigate the matter and, depending on the findings—

i. dismiss the complaint / decide to take no further action;

ii. refer to the Standards of Conduct Committee;

iii. report the organisation to the crown prosecution service for possible criminal prosecution, for example if an organisation is suspected of— - deliberately providing misleading information on **the** register; or - bribery (any interested person can report to the crown prosecution service on the grounds of bribery under existing legislation).

- On receipt of findings from the Commissioner, Assembly sanctions available to the Committee could include a report to Assembly recommending—

i. exclusion of an organisation from Cross-Party Groups;
exclusion of an organisation from hosting events in the Assembly;
and/or

ii. that AMs do not engage with a particular organisation.

Suggestion 13 –The Assembly should introduce a code of practice for those who lobby that includes advice on expected standards of behaviour. This would mirror the rules on lobbying in the Code of Conduct for AMs.

Suggestion 14 – The Code of Conduct for AMs should be revised to reflect how lobbying has evolved in recent years, ensuring the rules sufficiently cover contact with in-house lobbyists as well as those lobbying on behalf of third parties.

Suggestion 15 – AMs need to keep sufficient records which they must provide to the Commissioner on request.

Suggestion 16 – The Committee recommends that the Assembly should publish more information on events that have been held within the Assembly complex.

Suggestion 17 – Information published by the Assembly should be made more easily accessible to the citizen. Supports the work of the Assembly Digital Programme that has an emphasis on this aim.

- once a register is established, Assembly website searches should generate information on lobbying activity in a way that is as responsive as possible to what the citizen wants to know; and
- the Parliament should seek to provide information on lobbying activity in open data format as this could help the public to look at the influence of lobbyists across a number of political institutions.