



The Royal British Legion – Written Evidence

For the Political and Constitutional Reform Select Committee

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

I. Executive Summary

The Royal British Legion (the Legion) is concerned that provisions in the *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill* will:

- i. Significantly and, in our view, unacceptably widen the scope of activities which are likely to be caught by the new rules.
- ii. Dramatically reduce expenditure thresholds.
- iii. Significantly increase the regulatory burdens placed on charitable organisations

The Legion consequently proposes that the Government reconsiders its proposals and:

- i. Provides a clearer definition of what constitutes ‘activity for election purposes’ and therefore reduce the need for the Electoral Commission to exercise discretion and discuss individual campaigning actions with charitable organisations;
- ii. Maintains existing and workable limits on how much money can be spent on non-party campaigning;
- iii. Removes the disproportionate and burdensome requirement for charities which receive no reportable donations to have to submit nil returns;

or, in the alternative-

- iv. Reduces the period of control of expenditure to coincide with the traditional period of pre-electoral purdah;
- v. Revises the proposed expenditure controls to relate to a percentage of total annual expenditure of the charity; and
- vi. requires reports on donations to be made within 35 days of the declaration of the result of a general election.

II. About The Royal British Legion

The Legion aims to be, ‘The No. 1 provider of welfare, comradeship, representation and Remembrance for the Armed Forces community’. We are one of the UK’s largest membership organisations and provide financial, social and emotional support to millions who have served and are currently serving in the Armed Forces, and their dependants. In

2011/12 the Legion awarded grants to 25,300 beneficiaries and spent on average £1.6m per week on its welfare work.

III. Introduction

The Legion works tirelessly to promote the interests of the Armed Forces community through high profile lobbying of government and other policymakers. Throughout our history our voice has helped to ensure that the nation provides a fairer deal for its Service personnel, veterans and their families, and this was most famously demonstrated when the principles of the Armed Forces Covenant were written into law in 2011. Other campaign successes include saving the post of Chief Coroner from the Public Bodies Bill in 2010/11 and installing the new Chief Coroner in his post in 2012; defending funding for Disabled Facilities Grants; and ensuring that Armed Forces injury compensation payments are ignored when calculating entitlement for Universal Credit.

The Legion is deeply concerned that provisions in Part II of the *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill* will severely restrict our ability to carry out our charitable function and campaign on behalf of the interests of our beneficiary community. We have outlined below our views in relation to the proposed amendments to the rules on non-party campaigning, and we urge the Government to reconsider its proposals to ensure that charities are not prevented from undertaking legitimate campaigning in the run up to future elections.

IV. Scope of the Bill

The Legion is concerned by the broad scope of the proposed changes to the Political Parties, Elections and Referendums Act 2000, and by their lack of clarity in particular. The new definition of the term 'for election purposes' is cast so broadly that it captures all expenditure incurred for the purpose of, or in connection with, promoting or procuring the electoral success or enhancing the standing of a political party or candidate. The intention of the third party, i.e. the campaigning organisation, is irrelevant - only the effect is taken into account.

We are concerned that in widening the range of activities which are regulated by the Electoral Commission, to include not only published materials but also events, media work and manifestos, the proposed new rules could apply to normal and legitimate awareness-raising activities which were intended to be party-politically neutral. To ensure that charitable organisations do not find themselves caught out by the new rules, the Electoral Commission will be required to analyse and discuss individual campaign actions with the organisations concerned, thereby increasing the bureaucratic burden placed on both the Electoral Commission and individual charities. We seriously doubt that the Electoral Commission has the resources to undertake this responsibility in timely fashion. If that proves to be the case, affected charities would almost certainly feel forced to suspend otherwise perfectly legitimate activity.

The Legion is always careful not to align itself with any one political party or particular party's policy, and we pride ourselves on our ability to work with all parties to advance our charitable objectives. However, as the example below demonstrates, had we conducted some of our campaigns under the new rules, it is highly likely that we would stand accused of influencing a candidate's election result, despite our campaign being entirely party politically neutral.

'Time to do your bit' Campaign

In the build up to the 2010 general election, the Legion successfully persuaded almost three quarters of MPs, including the leaders of the three leading political parties, to sign up to our 'Time to do your bit' campaign. The campaign was not policy-specific; rather it simply invited candidates to pledge to do their bit – whatever that might be – on behalf of the Armed Forces. MPs that made a pledge had their photo taken with a pledge card and this was then used as publicity in constituency media. A list of those candidates who had signed up to the campaign was also published on the Legion's website.

The Legion has also previously produced General Election Manifestos outlining our key policy asks and suggestions for action. In keeping with our policy and practice, these documents are party-politically neutral and do not endorse any one party's policy over another's. Under the terms of the new rules, however, should the Legion decide to produce a similar document for the next general election, we would first need to determine whether any of our policies are **likely** to become political during the election period, or adopted by any one particular party. If there is any chance that they will, it is likely that the Legion would have to refrain from producing a manifesto or else stand accused of producing material 'for election purposes' or trying to influence the voting intentions of the electorate by endorsing a particular party. We believe this would be a nonsense and find it difficult to believe that it is the intention of the government to regulate such activity by charities and particularly those charities, like the Legion, where campaigning activity represents only a relatively minor part of its annual expenditure.

In light of the above, the Legion urges the Government to reconsider its proposal to expand the definition of 'activities for election purposes'. The definition as it is currently drafted will encompass charitable activities which are intended to advance the interests of our beneficiaries and severely hamper our ability to react to important public policy developments during an election period defined as the period of 12 months prior to a general election. So that charitable campaigning is not discouraged in the run up to an election, we urgently call on the Government to clarify its definition of 'activities for election purposes' and reduce the definition of 'election period'.

V. Restrictions on spending

The Legion is concerned by the Bill's proposal to dramatically reduce existing limits on how much a third party can spend on campaigning activities in the twelve months prior to an election. Under the terms of the Bill, non-party campaigners who spend more than £5,000 in England or £2,000 in Wales, Scotland and Northern Ireland, will now have to register with the Electoral Commission as a 'recognised third party'. Previously this has been set at £10,000 in England, or £5,000 in Wales, Scotland and Northern Ireland.

The Legion maintains that such a significant reduction will result in many more charitable organisations being required to register with the Electoral Commission, thereby unnecessarily increasing the bureaucratic burden placed on both the Electoral Commission and individual charitable organisations.

The Bill will also restrict the spending of registered campaigners on regulated activity deemed to be 'for election purposes'. In England, the proposed changes to spending limits

will result in a 60% reduction in permitted expenditure on campaigning activities, whilst in Scotland the reduction is nearer 70%. This is all at a time when what is deemed to constitute 'activity for election purposes' is being broadened.

Given that total expenditure is calculated over the course of a year and all relevant costs associated with these activities, including staff costs, will count towards the new thresholds, it is inevitable that the Legion should expect to exceed them. Whilst the Legion has a relatively small campaigning budget and advocacy team compared to other comparable charities, staffing costs alone would force us to halt our campaigning activities in the run up to an election, lest we risk falling foul of the new rules. It would not only be our mid to high profile work which would be halted. The proposals may also result in us being unable to play an active role with Government. It may, for example, mean that we are unable to respond to Government consultations or attend departmental or Ministerial working groups as there is a risk that our support for a particular policy or proposal may become public, and our activities therefore be deemed to be 'for election purposes'. If this were the case, it would potentially render our small Public Policy and Public Affairs team redundant for one year in five.

The Legion further maintains that the Bill's new rules on expenditure will discourage cooperation between charitable organisations. Under the new proposals, expenditure by charitable coalitions will be aggregated, meaning that each member has to account for the full amount spent for the joint campaign, regardless of the individual contribution, thus misrepresenting the level of activity. Had these rules been in place when we ran our highly successful 'Leave it out, Ken!' campaign, it is unlikely that we would have been able to rely on the invaluable support and expertise of the specialist organisation, Inquest, as they would have been deterred from working with us out of fear of the financial burdens incurred.

'Leave it out, Ken!' Campaign

In 2010/11, the Legion successfully persuaded the Government to leave the Chief Coroner out of the Public Bodies Bill. Parliament, the public and bereaved Armed Forces families were all agreed that the post of the Chief Coroner, which would oversee inquests into the deaths of those military personnel killed in action, would drastically improve the experience of bereaved Armed Forces families.

Judge Peter Thornton QC was eventually appointed to the post and began work in September 2012.

In light of the above, the Legion urges the Government to reconsider its unworkable reduction in expenditure levels, and in particular its inclusion of staff costs within the scope of its revised spending controls. The current proposals concerning spending restrictions impose excessive burdens on charities and the Legion therefore calls for the current reasonable levels of permitted expenditure to be maintained.

VI. Regulatory Burdens

The Legion is concerned by the Bill's assumption that an election period is certain and definite. Despite the introduction of fixed term parliaments, the precise date of an election is still more often than not the decision of the government of the day. This makes it difficult for charitable organisations to understand how and when the rules would apply. The Legion is therefore concerned that the proposals in the Bill will increase the administrative burdens

placed on charities as it will be hard to know with any degree of certainty whether or not they are acting within the law.

The Legion is also concerned by the Bill's requirement that reports of donations to recognised third parties be submitted quarterly. During 'regulated periods', namely once Parliament has been dissolved, the frequency of reporting increases substantially to once every week. Even if charities do not receive a reportable donation, the regulations require them to submit a nil return for the relevant period. What is the purpose of this proposed requirement? How is it anticipated that the data will be used? The Legion maintains that such requirements are disproportionate and unnecessarily burdensome, and especially at a time when the Government has committed itself to reducing regulation.

The Legion therefore urges the Government to reconsider the introduction of extra administrative and regulatory burdens, in particular those relating to reporting requirements. The Legion maintains that charities should not have to submit nil returns, and instead argues that reports should only be necessary when there is actually something to report and that, in common with the requirement for candidates at elections to submit returns on electoral expenses incurred, such returns should only be required to be made within 35 days of the declaration of the result of an election. Further, the period within which activity is regulated should be limited to the traditional period of pre-electoral purdah i.e. the period between the calling of a general election and the formation of a new government. This will reduce unnecessary costs and red tape for charities, freeing them up to pursue their charitable objectives.

VII. Conclusion

The Legion calls on the Government to reconsider its proposals in Part II of the *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill*. In particular it urges the Government to make the rules clearer and less restrictive, so that charities are able to undertake legitimate campaigning in the run up to elections, and thereby fulfil their charitable function.

ⁱ This submission draws upon NCVO's 'Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill – Non-Party Campaigning briefing', 2013 and the Electoral Commission's 'UK Government proposals on regulating non-party campaigners at Westminster general elections', August, 2013.