



## Media briefing: The Lobbying Act and 2017 snap general election

The 2017 snap election has demonstrated how unclear, unfair and unnecessary the Lobbying Act, dubbed the ‘gag law’, is for UK charities. These charities represent the poorest and most marginalised people around the world. But rather than being able to inform public debate throughout the election, charities have had to waste time, money, resources to ensure they do not fall foul of the law. This is hugely detrimental to the public, political parties, and the very people these organisations represent.

Bond has been collecting case studies from its members to illustrate exactly how far reaching the impact of the Lobbying Act has been at the 2017 general election.

### **Background to the Lobbying Act**

The Lobbying Act 2014 provides a set of rules to govern people and organisations that publicly campaign on issues in the run up to elections but are not standing as a political party or candidate. The rules seek to ensure that no one individual or organisation can have an undue influence over an election.

The Lobbying Act was initially intended to tackle corporate lobbying and stop wealthy pressure groups and individuals from influencing election results, but in practice it has had a disproportionate impact on British charities.

Research from 2015 shows that the Lobbying Act caused widespread confusion, which resulted in charities withdrawing from the public debate in the run up to the 2015 general election.

The snap election has exacerbated the adverse effect of the Lobbying Act. Under fixed term parliament rules it was envisaged that organisations would know when the period of regulated spending came into force ahead of a general election. But following a snap election the Electoral Commission announced that the regulated period came into force retrospectively – and started in June last year, despite charities being unaware that election would be announced.

### **What are the main issues with the Lobbying Act?**

**Year-long regulated period:** The idea that charities could be penalised for campaigning the year prior to an election they didn’t even know about is incredibly harsh. This effectively means that in the future, charities may need to constantly work within the confines of the Lobbying Act just in case a snap election is called and the Act is then retrospectively applied.

**Bureaucratic and costly:** The level of red tape involved in complying with the Act is excessive and the cost of legal advice is expensive and often unaffordable for smaller organisations. Charities are playing catch-up in terms of putting systems and processes in place to ensure they don’t unintentionally fall foul of the Lobbying Act. Some have had to go back through all their spending on campaign activities over the past year to see if they might have been inadvertently caught by the Act. Ultimately, this is money and time which could be used to help tackle climate change, poverty and humanitarian crises.



**Confusing and vague tests:** Activities pass the ‘purpose’ test if they can reasonably be regarded as intended to influence voters to vote in a particular way. Many of Bond’s members would argue that they never try to influence voter choice during an election. They are simply trying to inform public policy around issues such as poverty, climate change, humanitarian crises, or have a discussion, or advocate for vulnerable people around the world. But these activities could be caught by the Act if they are ‘reasonably regarded as intended to influence voters’ even when that’s not the intention.

**Calculating the cost of “regulated campaign activities”:** The Lobbying Act limits what a charity can spend on regulated campaign activities. If a charity in England doesn’t want to register with the Electoral Commission they must keep their spend on regulated campaign activities under £20,000. This is harder to calculate than it sounds because it includes spending on staff time. Even things like how much time is spent drafting a tweet can fall under regulated activity and would need to be accounted for. A 30 second tweet could cost 45 minutes of staff time when you factor in drafting, checking it meets the Lobbying Act criteria, sign off etc.

### **Why don’t charities just register with the Electoral Commission?**

Charity regulation already stops charities from endorsing political parties and deliberately seeking to influence voter choice. Charities are reluctant to register with the Electoral Commission because as far as they are concerned they aren’t trying to influence the outcome of an election, and are not party political. However, they are concerned that by registering with the Electoral Commission, they will be perceived as trying to influence voter choice during the elections, even if that is far from being the intention.

### **What impact is the Lobbying Act having on charities working in the UK?**

#### **Case study from Christian Aid:**

*“Christian Aid Week engages 20,000 churches and over 50,000 supporters in active volunteering including knocking on doors to fundraise.*

*It falls annually every May, as it has done for 60 years, and this year’s snap election meant it was right in the middle of the campaigning period.*

*All the activity is public in churches and on billboards; all the materials are printed and distributed months in advance.*

*This has always included a postcard to your MP or the Prime Minister, and this year a petition to the Government about the plight of refugees, a controversial issue between the political parties. 20,000 churches were using the same petition. As the Lobbying Act swung into force, it created a red tape nightmare to cover our largest fundraiser of the year. We had to create a huge amount of additional bureaucracy to monitor activities, to make sure Christian Aid Week was not seen as political. We spent a huge amount of staff time managing and recording all of this, just in case there was an accusation of being party political.*

*Our supporters and staff were filled with fear and worry about the consequences of accidentally breaking the rules - there was a definite chilling effect. When even personal tweets are potentially liable, they were very nervous about what they could and couldn’t do and how that might accidentally get the charity into trouble. We had many inquiries from supporters like: ‘Can we invite an MP? Can we organise a hustings? We’ve invited the MP already, do we have to invite every candidate in the area?’ Even though MPs have been invited to their local churches for years to show their support, and the vast majority of hustings happen in churches at every election.”*



*The Lobbying Act is almost entirely a grey area - potentially 150,000 Christian Aid Week leaflets could have been deemed election activity simply because political parties don't agree on how to deal with the refugee crisis and may have felt our stance was more in line with one party over another, when in fact it is simply our long-standing humanitarian position as a charity.*

*The retrospective nature of the Act has serious implications. Staying on top of the requirements of the Act essentially means we could have to maintain a constant rolling record of all public activity just in case, as we have seen this year, a snap election is called. That is an intolerable burden for a charity that has been speaking out for justice for over seven decades, and amounts to an attack on democracy.*

*The Government knows there are problems with the Act. A Government-backed committee found the same. But the Government has sat on those recommendations for far too long, without doing a thing about it."*

#### **Case study from Friends of the Earth:**

*"Friends of the Earth runs Basecamp, an environmental festival, every year at the beginning of June. It's a lovely friendly weekend in Derbyshire with about 500 attendees, offering everything from training sessions and debates to music and creative workshops for children. This year Basecamp is the weekend immediately before the election.*

*We were initially advised by the Electoral Commission that because the event included sessions which might compare parties' policies on the environment, or discuss issues - like air pollution - on which parties disagree publicly, all of it might be 'regulated' under the Lobbying Act. This was extremely worrying for us. As one of our main events of the year (Basecamp is a large event) and involves a great deal of staff time, and we were concerned that as a result we might suddenly be at risk of falling foul of the strict limits on regulated spending. Eventually it became clear that only those sessions which were about controversial issues count as regulated, but it was a very stressful time.*

*The administrative burden caused by the Lobbying Act has had a significant impact on our work. Since the election was called, a member of staff has had to work almost fulltime to audit our campaigns for the last year, and provide ongoing internal advice and guidance to ensure we continue speak out on the environment in the run-up to the election while remaining within the law. Our campaign teams have also had to spend significant time on this, as has our finance team. This means that important work which our local volunteers and supporters want us to do, has been delayed.*

*The Electoral Commission have tried hard to be helpful, but from some of our experiences and those of others it seems that several staff may have been parachuted into the advice team at short notice when the election was called, and did not know the regulations well enough. This has caused confusion at best, and at worst is highly likely to have added to the 'chilling effect' on charity campaigning which the Lobbying Act has brought about."*

#### **Case study from Global Citizen:**

*"For a small operation like Global Citizen in Europe, the Lobbying Act and its administrative and financial requirements have put an incredible strain on resources. The time taken simply to understand the act, let alone track expenditure, has put unnecessary pressure on our organisation at an already busy time.*

Amy Agnew, Global Citizen Europe Director said,

*"Global Citizen's resources have been diverted from our core mission - to build a movement of people to help tackle poverty, gender inequality and climate change - to ensure compliance with the Lobbying Act. The run up to an election is the exact moment when we want to engage young people, inform and inspire them to take part in the political and democratic process. Instead, we have been gagged and our activities curtailed. The fact that we have had to assess activities carried out before we even knew an election would be called is frankly indefensible. The Act should be overhauled."*

### **What have others said?**

**UN Special Rapporteur on Freedom of Assembly's report** on the UK, which was published earlier this week, has [said](#):

*The Special Rapporteur is concerned that the Lobbying Act has a disproportionate impact upon civil society and trade unions vis-à-vis businesses. This is because Part 1 of the Act does not restrict the activities of in-house lobbyists, who enjoy the most influence in the UK government by far, and who overwhelmingly work for business interests. It is important that the Government follow a policy of sectoral equity in its treatment of businesses and associations, so that civil society organisations are able to operate in an environment at least as favourable as the one provided for businesses.*

After his visit to the UK in June 2016, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association [said](#):

*'The UK is regarded as a model in democracy and human rights, and actively works at the UN Human Rights Council to support efforts for broader enabling environments for civil society. It is imperative that the same standards that the UK calls for internationally on civil society space are implemented domestically'.*

**The Labour Party** committed to repeal the Lobbying Act in their [manifesto](#). Steve Reed, the shadow minister for civil society, has [said](#)

*"Here is this disastrous U-turn on social care and we are not hearing much from the charities that are working on the ground with older people and those with dementia because the Tories have shut them up. They've been banned from pointing out the negative consequences of government policy."*

**Baroness Parminter, The Liberal Democrat Spokesperson for Environment, Food and Rural Affairs** [publicly committed](#) to revising the Lobbying Act at a national hustings in London on Tuesday 30 May, organised by the environmental coalition, Greener UK in association with CAFOD and Christian Aid.

Previously, the **Liberal Democrat health spokesman, Norman Lamb**, has [said](#) the Act had caused an "extraordinary chilling effect on charities' willingness to challenge government", which was "particularly pernicious during an election".

**The SNPs** committed to revising the Lobbying Act in their [manifesto](#).

**The House of Lords Select Committee on Charities** has [said](#):

*The Government needs to improve the way it consults the charity sector when developing new policies. It caused unnecessary concern and pressure as a result of the proposed "anti-advocacy" clause in grant awards and in relation to the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, both of which threatened the vital advocacy role of charities.*



In a Government commissioned review of the Lobbying Act, the conservative peer **Lord Hodgson** stated that:

*“Effective regulation which maintains public trust in our electoral system is in the interest of us all: it should not prohibit third parties from participating in public discourse at election time but it must ensure that the elections cannot be “bought”... I do not believe the right balance has been struck in the rules as presently drafted.”*

His review of the Lobbying Act, [Third Party Election Campaigning – Getting the Balance Right](#), recommended:

- Changing the “purpose test” which states that any activity which appears intended to influence elections could be caught by the Act.
- Reduce the regulated period prior to an election covered by the Act. At present, it covers the period a year before elections, but Hodgson recommends reducing this to four months.
- Reforming complex rules on joint campaigning, which effectively requires charities who are working together to double-count their spending on campaign activities.