

Your right to free speech is about to be taken away. Yo...

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I admit to being a little surprised by how little publicity has been given by many in civil society to the [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#).

This Bill was published by the Cabinet Office just before the summer recess and is supposed to create a register of political lobbyists - which by universal consent it fails to do. It also imposes new and onerous conditions on trade unions, none of which are intended to do anything but make it harder for them to take effective action on behalf of their members, but the most worrying section is Part 2 of the Bill.

[38 Degrees are lobbying hard on this section of the Bill](#) but unfortunately have not produced a really good summary of what it is about. The [NVCO have done a good briefing on it](#), and the [TUC have summarised it well](#):

The Bill does this by making three changes to the regulation of campaigning by non-party organisation in the 12 months before a general election — breaching these will become a criminal offence:

- * **Changing the definition of what counts as campaigning** — at present only activities designed with the **intent** of influencing an election result are regulated. The new Bill will instead regulate activity that may **affect** the result of an election. As any criticism of government policy could affect how people vote, this will severely limit any organisation's ability to criticise government policies in the run up to an election — not just unions, but charities, NGOs and local campaign groups.
- * **Reducing the spending limit for third party campaigners to £390,000** — the amount that third party campaign groups can spend in the year before an election will be reduced by more than half to £390,000.
- * **Including staff time and office costs in expenditure limits** — currently only the costs of election directed materials, adverts and activities are regulated. The Bill proposes that staff time and other costs should now also be included in the limit. £390,000 may buy a lot of leaflets but any major event involves significant staff time.

As they add:

Organisations that campaign locally face even tougher challenges. Spending has to be allocated under tough limits by constituency. Every penny of spending will have to be tallied and reported — this will severely limit campaigns such as those run by Hope Not Hate against the BNP, or local grass-roots campaigns such as those against hospital closures or road building.

And as they note:

It is an [open secret at Westminster](#) that this rushed Bill has nothing to do with cleaning up lobbying or getting big money out of politics. But it has been drawn so widely that its chilling effect will be to shut down dissent for the year before an election.

What is quite surprising is that even though the restrictions on third party campaigning make the Bill a constitutional measure, there has apparently been no consultation process or cross-party talks. Indeed, ***according to the Political Scrapbook the Electoral Commission, who will have to regulate this new law, have not been consulted either, but when asked about it said:***

In our view it is not at all clear how that test will apply in practice to the activities of the many third parties that have other purposes beyond political campaigning. For instance it seems arguable that the new test could apply to many of the activities of charities, voluntary organisations, blogs, think tanks and other organisations that engage in debate on public policy.

All of which is quite astonishing, in my opinion, but confirms a trend about which I have been blogging today, where it is clear that ***freedom of speech is in crisis with a growing commentariat potentially seeking to restrict debate to the very parties who are failing us.***

And its not alarmist to say that this Bill would, if enacted, severely restrict our freedoms. [Civil Society Governance web site notes that:](#)

[Rosamund McCarthy](#), a partner at [Bates Wells Braithwaite](#), has said new laws on non-party campaigners will have a “chilling effect” on charities campaigning, and could be in breach of article 10 of the Human Rights Act.

She warns that the threat is not only to large charities, but also to coalition and grassroots local activity, as each entity, no matter how small, has to report the entire spend on campaigning in the run-up to a general election if it is considered to be for 'election purposes' in law.

The same site also points out that:

Charities should remember that because of the European elections, the regulated period for the next election begins in January 2014. The expenditure limits are ludicrous for the period of time up until May 2015.

That means we could suffer an every 16 month campaigning silence before the next general election - which is a threat to the very core of democracy itself. However, according to **Civil Society Governance** the Cabinet Office does not agree, **saying:**

We are not significantly altering the test that relates to what charities or anybody else spend campaign money on.

The changes do not prevent charities from supporting policies that are also advocated by political parties. A charity's activities would only be caught by the provisions in the Bill if they were doing so 'for election purposes'.

If they are campaigning for election purposes then it's right that they are covered by the regulatory regime.

But that's, at best, a gross simplification of what the Bill (which I have read, in detail and think I have pretty well grasped) seeks to achieve. As Rosamund McCarthy put it:

The definition of "election purposes" potentially catches situations in which there is no intent to support a political party.

The aim of charities campaigning is that all political parties and candidates adopt their policies. This would be the win-win for them.

Unlike a political party they are not looking for the 'killer' policy, so they should not be penalised if their policies do not have cross-party support.

At the very least the huge uncertainty and the cautiousness of trustees who do not want even the suggestion of criminal liability, could be a major deterrence from planning campaigns.

And it's the fact that a policy may not get cross party support which is key here. Pursuing a goal which only some parties support is under the terms of the Bill political and support for a party, even if that is simply incidental to seeking to secure the goal. So, for example, a charity with concern on the environment is deemed to be undertaking political campaigning if some election candidates do not support its position on the subject, which is likely.

The result is obvious. Free speech will be lost as a result of this Bill under a welter of regulation that will make it hard for anyone supported by donations to campaign from January 2014 onwards (me included).

The threat to our society is enormous. No wonder the government want to get this through parliament in the first week of September before anyone really notices - and before the TUC has its Congress this year.

Your rights are at risk here. Your freedom of speech is under threat. Your right to campaign may be lost.

Please do something about this. At the very least, please support the 38 Degrees mailing to Chloe Smith. Better still, mail her direct at the Cabinet Office where her address is [**psc correspondence@cabinet-office.gsi.gov.uk**](mailto:psc correspondence@cabinet-office.gsi.gov.uk)

I will be publishing my own letter to Chloe Smith shortly.