

UK GOVERNMENT ANTI-LOBBYING CLAUSE: Submission from The Royal Society of Edinburgh

Summary

- *The RSE urges the UK Government to suspend the introduction of the new “anti-lobbying” clause and enter into an open consultation on the issue.*
 - *Good decision making in Government and Parliament depends crucially on having access to objective and proven evidence. There are many valuable sources of such information outwith UK Government offered by a wide range of organisations on a non-partisan basis. Some receive part of their funding from public sources.*
 - *The RSE is firmly of the view that the introduction of this clause will constrain researchers from providing evidence to inform the policy development process and will be of detriment to well-informed policy making*
 - *Parliament and the Select Committees in particular need to be engaged in considering how this proposed change would impact on the effectiveness of their work.*
 - *The case has not been proven that there is a significant misuse of Government grants to lobby Government or Parliament.*
 - *Imposing a restrictive ‘catch all’ anti- lobbying clause as a standard condition of all UK Government grants is a disproportionate and excessive reaction to a very few questionable instances of organisations using public funds inappropriately for lobbying. The clause is a ‘sledgehammer to crack a nut’.*
 - *To deny public bodies and charities the right to make representations about matters where their competence and expertise can make a constructive contribution to public policy formulation is unnecessarily limiting. The boundary between communicating information or research findings, and what could be perceived as ‘lobbying and influencing’, seems very difficult to define, and this lack of clarity will be inhibiting.*
- *The “Anti-Lobbying” clause also runs counter to the requirements of the Research Excellence Framework (REF) which assesses the quality of the UK research base. A key factor is demonstrating the ‘impact’ of research beyond the academic community, and this includes impact on national and international policies.*
 - *If the UK Government does proceed as currently planned, it is essential that robust and clear exemptions are provided for researchers, universities and other bodies involved in communicating the output of their research to Parliament or Government.*
 - *The RSE is concerned that without a change in policy or effective exemptions, the clause will be detrimental to well-informed policymaking.*

The Royal Society of Edinburgh

- 1 The Royal Society of Edinburgh (RSE) is Scotland’s National Academy, established in 1783 by Royal Charter and is also a Scottish Charity. As part of its Royal Charter, the RSE is committed to *the Advancement of Learning and Useful Knowledge*. The RSE seeks to fulfil this Charter requirement in many ways, including providing advice on public policy issues to: the Scottish Government and Parliament; the UK Government and Parliament; and to the European Commission and Parliament. This advice is always offered on a non-partisan basis and is based on the expertise and knowledge of our diverse Fellowship.

Overview

- 2 The Cabinet Office recently announced proposals to introduce an “Anti-Lobbying” clause into grants given by the UK Government¹. This clause is intended to prevent these bodies from using public funds “to influence Parliament, government or political parties... or attempting to influence legislative or regulatory action”.

- 3 The Royal Society of Edinburgh is not directly affected by this policy decision, as it is not one of the national academies funded by the UK Government. Instead, the RSE receives public funding from the Scottish Funding Council and Scottish Enterprise. Commendably the Scottish Government has ruled out introducing a similar clause into its grants.
- 4 Concerns have been expressed about the adverse consequences such a clause will have on the ability of Research Councils, Universities and National Academies to provide research or evidence-based policy advice to help improve decision making by Parliament and Government.ⁱⁱ These concerns relate both to the principles behind imposing such restrictive conditions and to the practicalities of so doing. The issue has been raised in a petition to Parliament and through Early Day Motion 1138.ⁱⁱⁱ
- 5 Before the government proceeds any further, the RSE would urge the ministers to suspend the introduction of the clause and begin an open consultation on the issue. This would enable evidence to be gathered widely to establish whether a problem actually exists, and whether there are benefits to the policy process of the existing position.

What is the reason behind the proposal?

- 6 The stated intention of the Government, as expressed in the Implementation Guidance to Departments is as follows: “The purpose of the clause is to ensure that taxpayers’ money is spent appropriately in line with the intentions of elected government.”

Evidence that there is a serious problem is lacking

- 7 To date no systematic evidence has been produced to show there is a widespread problem of misuse of grants to lobby Government or Parliament inappropriately.
- 8 A Government press release of 6 February^{iv} refers to research undertaken by the Institute of Economic Affairs. In a series of reports issued between 2012 and 2014, it argued in favour of the type of measure currently proposed by the Government, but these do not provide convincing evidence that substantial amounts of Government grants are being directly used to lobby Parliament or Government. Many of the organisations quoted as examples of inappropriate lobbying received less than half of their funding from the UK Government. No systematic analysis was presented as to which

of their various sources of funding was used to support lobbying Parliament or Government. The assumption was made that it was Government grant, but this was not proven in most cases.

- 9 When questioned by the House of Lords Science and Technology Committee, the Science and Universities Minister Jo Johnson MP was unable to offer evidence of the scale of problem that the Government seeks to prevent by introducing this clause^v.
- 10 The IEA report also fails to take into account that many of the organisations providing advice to UK Parliament or Government do so from a non-partisan position and are using the expertise of their membership to inform policy formulation. Examples of these would include: The Royal Society; The British Academy; The Royal Society of Edinburgh; The Royal Academy of Engineering; and the Academy of Medical Sciences. The Fellowship of each of these organisations offer their advice on a pro-bono basis on behalf of the national academy to which they have been elected. Many in Parliament and Government welcome the informed contributions that such organisations make.
- 11 There are also many charities that deliver services on behalf of Government, but have parts of the organisation that engage with policy issues – often from the benefit of knowledge that they have gained in working in a particular field or research that they have commissioned.

Impact on the work of Parliamentary Select Committees and on responses to Government consultations

- 12 The RSE is firmly of the view that the introduction of this clause will constrain researchers from providing evidence to inform the policy development process and will be of detriment to well-informed policy making. This policy is an abrupt change to the long-standing trend, encouraged by Government, to increase sharing of information and ideas between charitable bodies and academic researchers and policy makers.
- 13 It is our understanding that Parliament was not formally consulted on the introduction of this Clause, nor has it had the opportunity to consider how a decision by the Government would impact upon the operation of the Select Committee system. Parliament as a whole should also be consulted, perhaps with the Speaker being involved in discussing with the Government how best this can be taken forward.

- 14** Select Committees in the House of Commons and the House of Lords regularly receive evidence to their inquiries, both in written form and oral evidence, from a wide range of organisations that receive funding from the Government. Examples of this include the national academies, charities that have both a service delivery role and a policy arm, or researchers who receive Research Council grants and then report the findings of their research to Select Committees. If these types of bodies are precluded from providing evidence to Select Committees, this would potentially deny Committees access to expert advice and undermine their ability to produce well researched, evidence-led reports.
- 15** The Select Committees' views need to be carefully considered on this issue and we are concerned that this did not happen in advance of the announcement. The Chair of the Commons Science and Technology Committee, Nicola Blackwood MP has written to the Rt. Hon. Sajid Javid MP, Secretary of State for Business, Innovation & Skills, raising concerns about the impact of the work of the Committee that she chairs^{vi}. This letter was also copied to the Minister for the Cabinet Office, Rt. Hon. Matt Hancock MP.
- 16** In her letter, Ms Blackwood states, *“The House of Commons Science and Technology Committee is concerned that the “anti-lobbying” clause to be inserted into new grant agreements will create a barrier to evidence-based policymaking and will have unintended effects on the work of select committees.*
- “As you know, scientists make a tremendous contribution to the development of policy in Government and much of their research is supported by Government grants through BIS, its agencies, and NDPBs. Researchers also make invaluable contributions to the work of select committees, and they must not be dissuaded from engaging with Parliament.”*
- 17** The “Anti-Lobbying” clause also runs counter to the requirements of the Research Excellence Framework (REF) which assesses the quality of the UK research base. REF requires universities to demonstrate the ‘impact’ of their research beyond the academic community. Some of this impact will be on business and industry and some, as it should be, will be on national and international policies. Would attempts to translate research and demonstrate impact by improving Government policy now be considered lobbying?
- 18** All of the organisations and researchers who will be affected by this clause also regularly submit responses to Government consultations – this could deny the Government access to the best available advice in considering responses to their own consultations. It is important for the independence and the integrity of the system that funds the research community that they are free to articulate where the evidence takes them, and not be constrained by whether it is consistent with Government policy or not.

Exemptions and qualifications

- 19** The Cabinet Office guidelines would allow Departments on an exceptional basis to remove or make qualifications to the clause. The guidelines envisage, however, that exemptions or qualifications will be exceptional, and all such cases will require:
- i) “explicit agreements from Ministers”; and
 - ii) to be “clearly outlined in the grant agreement”, and
 - iii) to be “reported to the Grants Efficiency Team”.
- 20** It is our understanding that the Department of Business, Innovation & Skills is pursuing the possibility of exemptions from this clause for researchers and other relevant organisations that provide informed advice to Parliament and Government.
- 21** During the evidence session at the House of Lords Select Committee on Science and Technology referred to in paragraph 9, Professor Sir Mark Walport commented, “There is an important distinction between the communication of the evidence, which obviously government wants to be done and needs to be done in as transparent a way as possible, and there is the lobbying for advocacy for individual policy positions, which is slightly different.” We agree that in many cases this distinction is slight and are concerned that, in practice, it will prove very difficult for organisations to know in advance whether their actions are construed as communicating evidence or treated as lobbying and hence lead to a breach of this clause.
- 22** If the Government insists on proceeding with this clause as currently envisaged, it is essential that robust and clear exemptions are established.

Enforcement and other practical issues

- 23** As public bodies and charities would be allowed to use their own (i.e. non-public) funds to lobby, if they so choose, this raises problematic issues such as:
- a) How will Government check in future that no public money has been used for lobbying and that the actual costs of lobbying are fully charged to a charity's own funds? Detailed checking of accounts will be required and this will be a time consuming process. Who will carry out this task? What will be the cost to the Government?
 - b) At a time of severe public funding restraint, will meeting this additional administrative cost result in a reduction in the grants made available? Since an intended purpose of introducing this clause is to increase the amount spent on service delivery, reduction of grants to meet increased accounting or audit costs would be a perverse outcome.
 - c) If the clause is introduced as proposed, this will result in organisations having to build "Chinese walls" into their internal accounting processes, in order to be able to demonstrate to the Government that no Government grant has been used to contribute to lobbying. Where staff at senior levels are involved in policy formulation and their costs are covered by multiple funding sources, this allocation process will not be simple. Some may be able to do it, however for others, it may result in them no longer being able to engage with the policy process.
 - d) There needs to be greater clarity about what would be reasonable sanctions to impose on any bodies that are proven to be in breach of this clause. Penalties would need to be proportionate and hence are unlikely to cover the overall cost of enforcement.

Additional Information

Consultation responses are produced on behalf of RSE Council by an appropriately diverse working group in whose expertise and judgement the Council has confidence. This Advice Paper has been signed off by the General Secretary.

Any enquiries about this response should be addressed to Bristow Muldoon, Head of Policy Advice (Bmuldoon@royalsoced.org.uk).

All Advice Papers and consultation responses are published on the RSE website (www.royalsoced.org.uk).

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The Royal Society of Edinburgh (RSE) is Scotland's National Academy. It is an independent body with a multidisciplinary fellowship of men and women of international standing which makes it uniquely placed to offer informed, independent comment on matters of national interest.

The Royal Society of Edinburgh, Scotland's National Academy, is Scottish Charity No. SC000470

i https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498271/Implementation_Guidance_for_Departments_on_Anti-Lobbying_Clause.pdf

ii <https://petition.parliament.uk/petitions/122957>

iii <http://www.parliament.uk/edm/2015-16/1138>

iv <https://www.gov.uk/government/news/government-announces-new-clause-to-be-inserted-into-grant-agreements>

v <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee-lords/relationship-between-eu-membership-and-the-effectiveness-of-uk-science/oral/30259.pdf>

vi <http://www.parliament.uk/documents/commons-committees/science-technology/Correspondence/Chair-Business-Secretary-government-grant-conditions-and-lobbying-15-03-15-16.pdf>