

Cynulliad Cenedlaethol Cymru / National Assembly for Wales
Y Pwyllgor Safonau Ymddygiad / Standards of Conduct Committee
Ymchwiliad i Lobïo / Inquiry into Lobbying
Ymateb gan Cytûn / Evidence from Cytûn

This submission is made by Cytûn – Churches Together in Wales – following consultation with our members. Cytûn is an umbrella body for the principal Christian denominations and organisations in Wales. Our 16 member denominations claim some 172,000 adult members, and they and the other member organisations have substantial contact with many more adults, children and young people in every community in Wales. A complete membership list can be found on our website at: www.cytun.org.uk/us.html

Cytûn employs a part-time Policy Officer to maintain contact with the Welsh Government and the National Assembly on behalf of its members. The current officer (Revd Gethin Rhys) is a member of Public Affairs Cymru and is committed to its [Code of Conduct](#).

Cytûn is a registered charity, and its member churches and organisations are either registered or excepted charities. They are therefore restricted by charity law in terms of the kind of lobbying in which they may engage, especially in election periods. Each member denomination and organisation has its own internal arrangements for coming to and publicising its opinions on public policy. Cytûn expresses a view on controversial policies only when its members have asked it to do so. On other occasions, we enable our members to express their own distinctive opinions, and this may on occasion mean enabling the expression of contradictory views. When Cytûn responds to public consultations on behalf of its members, it always permits the publication of these responses in full.

Cytûn helps its members to co-operate in public affairs by convening a Laser Group of its members' church and society officers (paid or voluntary), and the Evangelical Alliance Wales is also a member of this group. Its meetings are an opportunity to exchange information, and it does not form a collective view on policy matters nor make public statements.

Here are our initial responses to the questions asked by the Committee:

1. Is there a need for change?

In outline, our response to this is 'No'. We believe that the National Assembly for Wales has established a pattern of open and inclusive government which

gives the opportunity to all kinds of organisations, as well as individual electors, to influence in an open and democratic way elected representatives and government. The existence of a post within Cytûn liaising with the Assembly since its foundation in 1999 means we have established a healthy direct relationship with the institution and its members. Being a small country of 3 million people enables a close relationship between government, civil society and people, and we are proud of that culture. On the whole, we have not come across any examples of misuse of the current open governance culture by organisations within or beyond our sector.

2. What do you understand by the term lobbying?

We accept the definition of lobbying used by Public Affairs Cymru, viz. “All activity associated with representing the interests of a client, employer or organisation as regards any matter of public policy. This includes the provision of information and advice, as well as the actual advocacy of a point of view.” However, “lobbying” is not the word we would choose to describe the work which we do. ‘Lobbying’ is, in some people’s minds, a pejorative term implying undue influence. Instead we might describe our work as liaison, engagement, information sharing, advocacy or relationship-building. We are much more comfortable with the Australian parameters, which specifically exclude from the [lobbying code of practice](#) charities, not-for-profit organisations, professional associations etc. and confine the term ‘lobbying’ to the profit-making side of the profession.

3. How is lobbying regulated at the moment?

We are aware of the non-statutory [National Assembly For Wales’ Guidance on Lobbying and access to Assembly Members](#), which we consider offer sensible guidelines for individual AMs. We are not entirely clear, however, why a distinction is drawn in these guidelines between paid and voluntary advocacy. Third sector organisations such as ourselves often use a mixture of paid and voluntary advocates, and we would expect the same guidelines to apply to engagement with all. If a distinction is to be drawn, we suggest that it should be between organisations which contact AMs in order to gain financially and those that do not (for example, there is a difference between a church which is engaging with a view to itself benefiting from a grant programme and a church which is lobbying on behalf of a section of the community which is in need and would itself gain nothing by success).

The principle legislative requirements affecting our work are charity law and the guidance issued by the Charity Commission, and Part 2 of the Transparency in Lobbying, Non-party Campaigning, and Trade Union Administration Act 2015. The trustees of Cytûn, and the trustees of our members, are all careful to keep within the constraints of charity law in their work, and we believe that the regulation of lobbying and partisan activity contained within this legislation is proportionate.

The 2015 Act, however, is a different matter. We made extensive contributions to [the fourth report of the Commission on Civil Society and Democratic Engagement](#) (September 2015) expressing deep concern about our experience of seeking to work within that Act during the 2015 General Election.

“As an umbrella body we regularly publicise campaigning activity by member churches and bodies, and sometimes provide some resource support for these. We were very unclear as to whether this amounts to a ‘common plan’; or what counted as a ‘committed supporter’ – do all supporters of all our member bodies so count? (This is difficult to define in the case of churches anyway). Trustees decided that during the regulated period we should send out only factual information about our members’ campaigns, rather than anything implying endorsement for the campaign.

“We were unclear whether promotion of campaigns at a stage removed was regulated activity or not. Because of this, it was difficult to conceive of a way of documenting compliance”

“Local groups organising ‘selective’ hustings of parliamentary candidates required considerable guidance with regard to how to select the candidates to include, the nature of local publicity and the recording of expenses”

We have subsequently gained further experience with the Assembly election and European referendum in 2016, which reinforce our initial conclusions. In 2016 two “regulated periods” overlapped, creating further difficulty. We are clear that the National Assembly should not seek to go down a similar road, and that extending the kind of regulation contained in this Act beyond election periods would create a bureaucratic nightmare.

4. Do you consider yourself a lobbyist? How is lobbying regulated within your sector at the moment? E.g. if you are a private business, third sector, professional organisation.

It is a statutory requirement for the Welsh Government to have a Third Sector Scheme, and the Third Sector Partnership Council established as a result gives a formal opportunity to engage with Welsh Ministers in every policy area. Cytûn currently leads for the 'Religion' sector of TSPC on behalf of the Inter-faith Council for Wales, and this gives us direct access (with others) to every Welsh Minister. These meetings are minuted and the minutes are published, but these formal meetings often lead to further informal activity. Any attempt to include such meetings within a definition of regulated 'lobbying' would create enormous difficulties. For example, volunteers from other religions assist us in this work. Any requirement upon them to register would make it far harder than it already is to find willing volunteers.

5. Have you encountered any problems with the current arrangements?

In the case of the Assembly, no. With regard to the 2015 Act, see our answer to Qn 3.

6. Are there any areas you consider to be unregulated in this area which pose a risk to the accountability and reputation of governance in Wales?

- a. We note the statement of the First Minister that ministers of the current Welsh Government do not meet with professional lobbyists. There have been calls by some AMs to publish the diaries of Ministers, in order that it may be seen with whom they have met, and we would not object to that.
- b. We are concerned at some aspects of the arrangements for the unofficial Cross-Party Groups which meet in the Senedd. We work closely with the Cross-Party Group on Faith and believe that it is a useful forum for sharing ideas and to invite faith communities to contribute to public debate. The same is true of a number of other such groups which are supported by the third sector. However, we have the impression that some groups are being financed and serviced by commercial companies which use them to gain access to AMs and other attendees. We wonder if the term 'Cross-party

Group' adequately distinguishes these informal groupings from official Assembly Committees, and we believe that further consideration might be given to regulating the access of commercial organisations to such groups.

7. What would you consider to be the impact of introducing a new regime to deal with lobbying?

In our response to the Harries Commission (Qn 3), we said:

"We are deeply concerned at the 'chilling' effect of the [2015] Act and the consequent reduction in third sector campaigning in the run-up to the election. This may well be one reason for the restricted and repetitive nature of most media coverage and the stranglehold of the political parties' machines on the news agenda"

In addition to the practical difficulties for organisations such as ours (see Qn 3 above), we are concerned that the regulation introduced by the 2015 Act impacted severely on public discussion around the 2015 and 2016 elections and the 2016 referendum. We published a substantial amount of material for the two elections, but we were very aware of the need to be scrupulously unbiased, especially as the definitions in the 2015 Act do not relate to the motivations of those who publish material, but whether they might have influenced the result in the view of a "reasonable person". This makes it very difficult to predict how a court might decide should a case be brought. We believe that at times this may have made our material rather dull, as we were so careful to avoid expressing any kind of opinion. We believe that this created a contrast with previous campaigns, when the voices of charities, voluntary organisations and trades unions could be heard intervening in the discussion between political parties, and adding new and different dimensions to media reporting.

We know that many of our third sector partners, including some of our member organisations, felt that they did not have the resources of staff or finance necessary to meet the registration requirements for the election, nor to keep records of expenditure. Consequently, they chose either not to take part in the 2016 election campaign at all, or published their material before the end of 2015, to avoid the regulated period, and then did not update it subsequently. Some also decided that they could not respond to media requests to comment during the campaign, inhibiting efforts by the media to

hear voices beyond those of political parties, paid commentators, and those individuals who ring in to phone-in programmes.

Many commentators have expressed the view that the 2016 referendum campaign was unsatisfactory in terms of the range of voices heard and the repetition of the same issues for many weeks. The effect of the 2015 Act and the restrictive advice offered by the Charity Commission created a similar effect to that seen in the 2016 election, and the two events meant that the voice of the third sector in Wales was effectively silenced for six whole months in 2016. We believe that the democracy and public life of Wales were injured as a result.

In attempting to regulate inappropriate influence on the electoral process, the unintentional result of the 2015 Act has been to restrict the ability of the public to hear a multi-faceted public discussion on contemporary issues and to avoid repetitive debates on the media. We would wish to warn the Assembly therefore against any legislation or regulation which might exacerbate this situation further.