

**Cynulliad Cenedlaethol Cymru**  
Papur ymchwil

**Bil Tryloywder Lobïo, Ymgyrchu gan  
Grwpiau Di-blaid a Gweinyddu  
Undebau Llafur**

Medi 2013

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



**Y Gwasanaeth  
Ymchwil**

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Y Gwasanaeth Ymchwil  
Cynulliad Cenedlaethol Cymru  
Bae Caerdydd  
CF99 1NA

E-bost: [Research.Service@wales.gov.uk](mailto:Research.Service@wales.gov.uk)  
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Alys Thomas

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Cenedlaethol  
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# **Bil Tryloywder Lobïo, Ymgyrchu gan Grwpiau Di-blaid a Gweinyddu Undebau Llafur**

## **1. Cyflwyniad**

Cafodd y Bil Tryloywder Lobïo, Ymgyrchu gan Grwpiau Di-Blaid a Gweinyddu Undebau Llafur (*The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill* ["y Bil"]) ei gyflwyno yn Nhŷ'r Cyffredin ar 17 Gorffennaf 2013. Bu Ail Ddarlleniad y Bil ar 4 a 5 Medi 2013 a chafodd ei ystyried gan Bwyllgor o'r Tŷ Cyfan ar 9, 10 ac 11 Medi 2013. Bydd y Cyfnod Adrodd yn Nhŷ'r Cyffredin ar 8 Hydref 2013.

Diben y Bil yw cyflwyno cofrestr statudol o lobïwyr ymgynghorol a phenodi Cofrestrydd i orfodi'r gofynion cofrestru. Byddai gwariant ar ymgyrchoedd etholiadol gan y rhai nad ydynt ar dir i'w hethol, neu sydd heb eu cofrestru fel pleidiau gwleidyddol, yn cael ei reoli'n llymach. Byddai'r gofynion cyfreithiol a roddir ar undebau llafur o ran eu rhwymedigaeth i gadw rhestr ddiweddar o aelodau yn cael eu cryfhau.

Diben y papur hwn yw rhoi cefndir y Bil, a thynnu sylw at faterion a fydd yn effeithio ar Gymru.

## 2. Y Cefndir Polisi

### 2.1. Cynigion y Deyrnas Unedig

Ymrwymodd Llywodraeth y DU i gyflwyno **cofrestr statudol o lobïwyr** fel y nodir yn *Coalition: Programme for Government*.<sup>1</sup> Ym mis Ionawr 2012 lansiodd ymgynghoriad ynghylch ei chynigion, a ddaeth i ben ar 13 Ebrill 2012. Ceir mwy o wybodaeth am hyn yn [Nodyn Safonol Tŷ'r Cyffredin ar Lobïo](#).

Nod Llywodraeth y DU oedd:

increase the information available about lobbyists without unduly restricting lobbyists' freedom and ability to represent the views of the businesses, groups, charities and other individuals and organisations they represent or to deter members of the public from getting involved in policy making.<sup>2</sup>

Ar 20 Ionawr 2012 cyhoeddodd Llywodraeth y DU bapur ymgynghori, *Introducing a Statutory Register of Lobbyists*. Ym mis Gorffennaf 2012 cyhoeddodd grynodedb o'r ymatebion i'r ymgynghoriad, ac awgrymwyd y camau nesaf o ran datblygu'r polisi.<sup>3</sup> Yn y Cyflwyniad nodwyd y byddai cynigion polisi diwygiedig yn cael eu cyhoeddi ar ffurf Papur Gwyn a Bil drafft yn ystod y sesiwn hon o'r Senedd. Aeth Llywodraeth y DU rhagddi i bwysleisio ei hymrwymiad i gyflwyno cofrestr statudol heb gyfyngu'n afresymol ar ryddid lobïwyr a'u gallu i fynegi safbwyntiau'r grwpiau a gynrychiolir ganddynt, na rhwystro'r cyhoedd rhag cymryd rhan mewn gwneud polisiau.<sup>4</sup>

Ar 13 Gorffennaf 2012 cyhoeddodd y Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol ("Pwyllgor San Steffan") adroddiad o'r enw, *Introducing a statutory register of lobbyists, yr oedd y broses casglu tystiolaeth ar ei gyfer wedi cael ei chynnal ochr yn ochr ag ymgynghoriad Llywodraeth y DU*.<sup>5</sup> Argymhellodd Pwyllgor San Steffan y dylai'r cynnig i sefydlu **cofrestr statudol o lobïwyr trydydd parti gael ei ollwng o blaid cofrestr ehangach ar gyfer unrhyw un sy'n lobïo'n broffesiynol mewn rôl gyflogedig, ac y dylai felly gynnwys lobïwyr mewnol**.<sup>6</sup>

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<sup>1</sup> [Llywodraeth y DU, \*The Coalition: Our programme for government\*, Mai 2010](#) [fel ar 10 Mehefin 2013]

<sup>2</sup> [Swyddfa'r Cabinet, \*Introducing a Statutory Register of Lobbyists: A Consultation\*, CM8233, Ionawr 2012](#) [fel ar 10 Mehefin 2013]

<sup>3</sup> [Crynodedb o'r Ymatebion i Ddogfen Ymgynghori Swyddfa'r Cabinet \*Introducing a Statutory Register of Lobbyists\*, Gorffennaf 2012, Cm 8412](#) [fel ar 12 Mehefin 2013]

<sup>4</sup> [Nodyn Safonol Tŷ'r Cyffredin, \*Lobbying: June 2013 update\*, SN06660, 7 Mehefin 2013](#) [fel ar 11 Mehefin 2013]

<sup>5</sup> [Pwyllgor Dethol Tŷ'r Cyffredin ar Ddiwygio Gwleidyddol a Chyfansoddiadol, \*Ail adroddiad 2012-2013, Introducing a Statutory Register of Lobbyists\*, HC153, 13 Gorffennaf 2012](#) [fel ar 12 Mehefin 2013]

<sup>6</sup> [Nodyn Safonol Tŷ'r Cyffredin, \*Lobbying: June 2013 update\*, SN06660, 7 Mehefin 2013](#) [fel ar 11 Mehefin 2013]



Ar benwythnos cyntaf mis Mehefin 2013, daeth honiadau i'r amlwg fod pedwar o seneddwr o bosibl wedi torri codau ymddygiad Tŷ'r Cyffredin a Thŷ'r Arglwyddi drwy gytuno i weithredu fel eiriolwyr am dâl a/neu ddarparu gwasanaethau megis holi cwestiynau seneddol. Gwnaethpwyd yr honiadau yn un o adroddiadau rhaglen Panorama y BBC, a oedd yn ymchwilio ar y cyd â'r *Daily Telegraph*, am Patrick Mercer AS a'i ymateb i gwmni lobïo ffug a oedd yn esgus cynrychioli buddiannau busnes yn Ffiji. Ar 31 Mai 2013, cyn i'r rhaglen gael ei darlledu, ymddiswyddodd Mr Mercer o'i swydd fel chwip y Ceidwadwyr, cyfeiriodd ei hun at y Comisiynydd Seneddol dros Safonau, a dywedodd ei fod yn cymryd cyngor cyfreithiol.

Gwnaeth Panorama hefyd honiadau am yr Arglwydd Laird. Yn fuan wedyn, gwnaeth y *Sunday Times* honiadau bod yr Arglwydd Laird a dau arglwydd arall, yr Arglwydd Cunningham o Felling a'r Arglwydd Mackenzie o Framwellgate, wedi gwneud addewidion amhriodol i gwmni ffug arall, un a oedd y tro hwn yn ymwneud ag ynni'r haul. Gwadodd y tri arglwydd unrhyw gamymddwyn. Cafodd yr Arglwydd Cunningham a'r Arglwydd Mackenzie eu diarddel gan y Blaid Lafur, ac ymddiswyddodd yr Arglwydd Laird o fod yn chwip Plaid Unoliaethwyr Ulster nes y bydd canlyniad yr ymchwiliadau wedi'u cyhoeddi. Mae Comisiynydd dros Safonau Tŷ'r Arglwyddi yn ymchwilio i'r tri achos.

Ymddangosodd rhagor o honiadau am Tim Yeo AS ar 9 Mehefin yn y *Sunday Times*, sydd hefyd wedi'u cyfeirio at y Comisiynydd Seneddol dros Safonau.<sup>7</sup> Ildiodd Mr Yeo yr awenau fel Cadeirydd y Pwyllgor Dethol ar Ynni a Newid yn yr Hinsawdd ac yn sgîl hyn ysgrifennodd y Llefarydd, John Bercow AS, at gadeirydd y pwyllgor safonau yn San Steffan yn gofyn iddo ystyried a ddylai cadeiryddion pwyllgorau dethol fod ag unrhyw fuddiannau masnachol allanol.<sup>8</sup>

Gan ysgrifennu yn y *Daily Telegraph*, ymatebodd y Dirprwy Brif Weinidog Nick Clegg i'r honiadau drwy ail-bwysleisio ei gefnogaeth i bŵer i alw Aelodau Seneddol yn ôl<sup>9</sup>, ac am gofrestr statudol o lobïwyr. Fodd bynnag, pwysleisiodd fod angen i ni fod yn realistig: nid oes dull unigol, hud o warchod rhag gwleidydd unigol sy'n benderfynol o ymddwyn yn anfoesegol neu'n amhriodol.<sup>10</sup> Yn wir, nid yw'n sicr y byddai cofrestr statudol o lobïwyr yn atal y math o ymddygiad a honnwyd yn erbyn Mr Mercer a'r tri arglwydd, oherwydd bod yr honiadau'n ymwneud ag ymddygiad a fyddai'n torri codau presennol beth bynnag.

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<sup>7</sup> [Tim Yeo denies claims he offered to advise solar energy lobbyists for cash, Guardian, 9 Mehefin 2013 \[fel ar 10 Mehefin 2013\]](#)

<sup>8</sup> [Guardian, Speaker John Bercow raises concerns over MPs' commercial interests, 12 Mehefin 2013 \[fel ar 13 Mehefin 2013\]](#)

<sup>9</sup> Am ragor o wybodaeth am hyn gweler [Bil drafft Galw Aelodau Seneddol yn Ôl, 2012 \[fel ar 12 Mehefin 2013\]](#)

<sup>10</sup> [Daily Telegraph, Cash for access: Clegg pledges new regulation to tackle lobbying, 2 Mehefin 2013 \[fel ar 11 Mehefin 2013\]](#)

Cadarnhaodd Llywodraeth y DU y byddai'n cyflwyno deddfwriaeth ar lobïo cyn toriad yr haf. Dywedodd Chloe Smith AS, Ysgrifennydd Seneddol yn Swyddfa'r Cabinet:

The Government have repeatedly made very clear their commitment to introducing a statutory register of lobbyists. The events that have unfolded over the weekend demonstrate just how important transparency in political life is. We will therefore introduce legislation to provide for a lobbying register before the summer recess. The register will go ahead as part of a broad package of measures to tighten the rules on how third parties can influence our political system.<sup>11</sup>

Cyflwynwyd [\*Bil Tryloywder Lobïo, Ymgyrchu gan Grwpiau Di-blaid a Gweinyddu Undebau Llafur\*](#) ("y Bil") yn Nhŷ'r Cyffredin ar 17 Gorffennaf 2013.

## 2.2. *Cyd-destun Cymru*

Roedd papur ymgynghori gwreiddiol Llywodraeth y DU ar gofrestr statudol i lobïwyr yn cyfeirio at Gofrestr y DU o Lobïwyr ac yn dweud "we will now be taking forward discussions with a view to including the Devolved Administrations and Legislatures within the scope of a statutory register."<sup>12</sup>

Ar 15 Mawrth 2012, ar ran y Cynulliad, ysgrifennodd y Llywydd at Ysgrifennydd Gwladol Cymru ar y pryd, y Gwir Anrhydeddus Cheryl Gillan AS, yn dweud:

In my view the Assembly should be responsible for making any decisions on further governance arrangements [...]

We already have in place, in Wales, robust measures to govern the relationships Members have with outside organisations, but we must never be complacent. I believe that the Assembly's Committee on Standards of Conduct is likely to want to consider whether any further safeguards are needed, in conjunction with the Assembly's Commissioner for Standards, and, if so, whether these would require legislation.<sup>13</sup>

At hynny, roedd Pwyllgor Safonau'r Cynulliad yn cytuno â barn y Comisiynydd Safonau, sef:

bod y trefniadau presennol sydd yn eu lle ar gyfer rheoleiddio lobïo, fel y maent yn berthnasol i Aelodau'r Cynulliad Cenedlaethol, yn eu hanfod yn ddigon cadarn ac addas i'r diben.<sup>14</sup>

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<sup>11</sup> [Dadleuon Tŷ'r Cyffredin Colofn 1363 4 Mehefin 2013 \[fel ar 12 Mehefin 2013\]](#)

<sup>12</sup> [Swyddfa'r Cabinet. \*Introducing a Statutory Register of Lobbyists: A Consultation\*, CM8233, Ionawr 2012 \[fel ar 10 Mehefin 2013\]](#)

<sup>13</sup> [Dyfynnwyd yn Adroddiad 03-13 y Pwyllgor Safonau i'r Cynulliad ar Lobïo a Grwpiau Trawsbleidiol, Mai 2013 \[fel ar 11 Mehefin 2013\]](#)

<sup>14</sup> [Adroddiad 03-13 y Pwyllgor Safonau i'r Cynulliad ar Lobïo a Grwpiau Trawsbleidiol, Mai 2013 \[fel ar 11 Mehefin 2013\]](#)

Yn y Cyfarfod Llawn ar **26 Mehefin 2013**<sup>15</sup> cytunwyd ag argymhelliad y Pwyllgor Safonau i gryfhau'r canllawiau ar lobïo.

**Nid yw'r Bil Tryloywder Lobïo, Ymgyrchu gan Grwpiau Di-blaid a Gweinyddu Undebau Llafur yn cynnwys gofyniad i gyrff datganoledig fod â chofrestr o lobïwyr.** Serch hynny, bydd darpariaethau eraill y Bil yn cael effaith yng Nghymru.

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<sup>15</sup> [Cofnod y Trafodion, 26 Mehefin 2013 \[fel ar 6 Medi 2013\]](#)

### 3. Y Bil

#### 3.1. Nod a Strwythur

Mae'r Bil yn gwneud darpariaeth mewn tri maes:

- Mae'n sefydlu **cofrestr o lobïwyr proffesiynol a Chofrestrydd lobïwyr** i oruchwyllo a gorfodi'r gofynion cofrestru.
- Mae'n newid y **gofynion cyfreithiol ar gyfer pobl neu sefydliadau sy'n ymgyrchu mewn perthynas ag etholiadau** ond nad ydynt yn sefyll fel ymgeiswyr neu blaid wleidyddol gofrestredig.
- Mae'n newid y **gofynion cyfreithiol mewn perthynas â rhwymedigaethau undebau llafur** i ddiweddarau eu rhestr o aelodau.

Mae **pedair rhan** i'r Bil, a **phedair atodlen**, fel a ganlyn:

- Rhan 1 - Cofrestru Lobïwyr Ymgynghorol
- Rhan 2 - Ymgyrchu gan Grwpiau Di-blaid etc
- Rhan 3 - Cofrestr Aelodau Undebau Llafur
- Rhan 4 - Atodol
- Atodlen 1 - Cyflawni busnes lobïo ymgynghorol
- Atodlen 2 - Cofrestrydd y Lobïwyr Ymgynghorol
- Atodlen 3 - Gwariant a Reolir: treuliau cymwys
- Atodlen 4 - Gofynion adroddiadau chwarterol ac wythnosol ynghylch rhoddion.

Mae Rhan 1 ac Atodlenni 1 a 2 yn ddarpariaethau statudol newydd ac annibynnol. Mae Rhan 2 ac Atodlenni 3 a 4 yn diwygio ac yn mewnosod darpariaethau newydd yn *Neddf Pleidiau Gwleidyddol, Etholiadau a Refferenda 2000* ("PPERA"). Mae Rhan 3 yn diwygio ac yn mewnosod darpariaethau newydd yn *Neddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992* ("TULRCA").

#### 3.2. Cwmpas Tiriogaethol

Mae **Rhan 1** y Bil yn cwmpasu **pob rhan o'r Deyrnas Unedig**. Mae'r gofyniad i gofrestru yn gymwys i bob lobïwr ymgynghorol sy'n ymwneud â lobïo Gweinidogion ac Ysgrifenyddion Parhaol Llywodraeth y DU, ni waeth ymhle y digwydd y lobïo neu ymhle y lleolir y lobïwr ymgynghorol.

Serch hynny, nid yw **Rhan 1 yn gwneud unrhyw ddarpariaeth ynghylch y rhai hynny sy'n lobïo'r Gweinyddiaethau a'r Deddfwrfeydd Datganoledig**. Mae'n ymdrin â materion neilltuedig yn unig ac **nid oes angen caniatâd deddfwrfeydd datganoledig**.

Mae **Rhan 2** y Bil yn ymwneud a'r **Deyrnas Unedig gyfan**, yn ymdrin â materion neilltuedig yn unig ac **nid oes angen caniatâd y deddfwrfeydd datganoledig**. Mae rhai diwygiadau hefyd yn cwmpasu Gibraltar.

Bydd y darpariaethau ynghylch cofrestrï aelodau'r Undebau Llafur a fewnosodir yn TULRCA gan **Ran 3** yn berthnasol i **Gymru a Lloegr a hefyd i'r Alban** ond nid i Ogledd Iwerddon, lle mae hynny'n fater datganoledig.

### *3.3. Cynnwys y Bil*

Mae'r Bil yn rhoi grym i gynigion y Llywodraeth ar lobïo a nodir yn Adran 2 y papur hwn. Prif ddiben y darpariaethau ar lobïo yw sicrhau bod pobl yn gwybod **buddiannau pwy sy'n cael eu cynrychioli gan y lobïwyr ymgynghorol** sy'n gwneud sylwadau i Lywodraeth y DU. Bydd y Bil yn ei gwneud yn ofynnol i lobïwyr ymgynghorol ddatgelu enwau eu cleientiaid ar **gofrestr gyhoeddus**, a diweddarau'r manylion hynny bob chwarter. Bydd y gofrestr yn ategu'r trefniant presennol lle mae gweinidogion ac ysgrifenyddion parhaol y Llywodraeth yn datgelu'n wirfoddol wybodaeth am y bobl hynny y maent yn eu cyfarfod bob chwarter. Caiff y gofrestr ei chadw gan **Gofrestrydd y Lobïwyr Ymgynghorol**, a fydd yn annibynnol ar y diwydiant lobïo a'r llywodraeth.

Mewn perthynas ag ymgyrchu gan bobl neu sefydliadau nad ydynt yn bleidiau gwleidyddol, mae'r Bil yn newid y terfynau gwariant y caiff y cyfryw bobl neu sefydliadau eu gwario ar ymgyrch etholiadol, a'r lefel o wariant a fydd yn ei gwneud yn ofynnol iddynt gofrestru gyda'r Comisiwn Etholiadol. Hefyd, mae'r Bil yn newid y ffordd y caiff gwariant uwch na lefel benodol gan grŵp di-blaid ei drin at ddibenion terfynau gwariant plaid, lle caiff y gwariant hwnnw ei ddefnyddio i sicrhau llwyddiant etholiadol plaid wleidyddol. Mae'r Bil yn cyflwyno terfynau daearyddol ar y swm y caiff ymgyrchwyr di-blaid ei wario mewn etholaeth benodol. Hefyd, mae'r Bil yn ei gwneud yn ofynnol i ymgyrchwyr di-blaid gyhoeddi a chofnodi mwy o wybodaeth am eu gwariant, eu rhoddion, eu cyfrifon ac aelodau'r bwrdd. Yn olaf, mae'r Bil yn egluro ac yn ehangu dyletswydd y Comisiwn Etholiadol i fonitro ac i gymryd pob cam rhesymol i sicrhau y cydymffurfir â'r gofynion rheoleiddiol, gan gynnwys y rhai hynny a fewnosodir gan y Bil.

Yn Rhan 3 y Bil, cyflwynir **rhwymedigaethau statudol newydd ar bob undeb llafur sy'n ddarostyngedig i'r ddyletswydd** yn adran 24 TULRCA i **Iunio a chadw cofrestr o'u haelodau ac i gadw'r gofrestr honno yn gywir ac yn ddiweddar**. Bob blwyddyn, bydd gofyn i'r undebau llafur hynny anfon tystysgrif at y **Swyddog Ardystio** yn tystio iddynt gynnal archwiliad o'u haelodau. Mae'n ofynnol i undebau sydd â **mwy na 10,000 o aelodau benodi aswiriwr** a fydd yn darparu tystysgrif sy'n datgan a yw systemau'r undeb, ym marn yr aswiriwr, yn foddhaol at ddibenion cydymffurfio ag adran 24 TULRCA; bydd undebau eraill yn hunan-ardystio. Mae gan y Swyddog Ardystio bwerau i'w gwneud yn ofynnol i

undebau ddangos dogfennau os yw o'r farn fod rheswm da i wneud hynny, a gall benodi arolygydd i ymchwilio a gafodd adran 24(1) TULRCA ei thorri. Hefyd, mae gan y Swyddog Ardystio bwerau i ddatgan bod undeb wedi methu â chydymffurfio â'r dyletswyddau hyn, a chodi gorchymyn gorfodi oni fydd yr undeb wedi cydymffurfio. Gellir gorfodi'r datganiad neu orchymyn gan Uchel Lys neu Lys y Sesiwn yn yr Alban ("y llys"). Hefyd, mae gan y Swyddog Ardystio bŵer i godi gorchymyn gorfodi lle bo undeb neu unrhyw berson perthnasol arall wedi methu â chydymffurfio â chais am weld dogfennau neu â'r ddyletswydd i gydymffurfio ag ymchwiliad. Caiff y gorchymyn ei orfodi fel gorchymyn y llys.

## 4. Barn

### 4.1. Ail Ddarlleniad y Bil

Cafwyd Ail Ddarlleniad y Bil ar **3 Medi 2013**. Y prif faterion a gododd yn ystod y ddadl oedd y canlynol:

- Amseriad y Bil a'r diffyg cyfle i graffu arno cyn y broses ddeddfu. Roedd sawl Aelod Seneddol a gyfrannodd at y ddadl hefyd o'r farn fod y Bil wedi'i ddrafftio'n wael.
- Yn Rhan 1 dadleuodd y cyfranwyr nad oedd lobïwyr mewnol ar gyfer cwmnïau mawr wedi cael eu cynnwys ar y gofrestr arfaethedig.
- Yn Rhan 2 roedd barn gyffredinol y byddai hyn yn cyfyngu ar weithgareddau elusennau.
- Yn Rhan 3 cwestiynai'r Aelodau Seneddol Llafur y rhesymau am ofynion y Bil ar yr Undebau Llafur.
- Cwestiynai Aelodau Seneddol Cymru, yr Alban a Gogledd Iwerddon effaith Rhan 2 lle mae mwy ng un cylch etholiadol.

Wrth ateb pwynt a wnaed gan Chris Bryant AS, Arweinydd y Tŷ, esboniodd y **Gwir Anrhydeddus Andrew Lansley AS** resymeg y Llywodraeth dros gynnwys rhai, a pheidio â chynnwys eraill, yn y gofrestr arfaethedig o lobïwyr yn **Rhan 1** y Bil:

**Chris Bryant:** I am deeply grateful to the Leader of the House for giving way. He says this is all about transparency, but if I have got it right every single member of the public affairs team in-house at B Sky B will be able to visit as many Ministers as they want and every single lawyer employed by B Sky B to advance its case will be able to do so without any need to register. The only person who would have to register would be an independent consultant in a company that solely lobbies. How does that possibly afford greater transparency?

**Mr Lansley:** It promotes transparency because if a representative of Sky visits a Minister in order to discuss that business, it is transparent that they are doing so in order to represent the interests of Sky. However, if somebody from "XYZ Corporation", a consultant lobbying firm, visits a Minister in order to discuss somebody else's business but it is not transparent through the ministerial diary publication who they are representing, that is not transparent. We propose to remedy that by making it transparent. [...]

[...] Our proposal addresses a specific problem. It is designed to capture professional consultant lobbyists, and that will include multidisciplinary firms that run consultant lobbying operations.<sup>16</sup>

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<sup>16</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013, Colofnau 178-9 \[fel ar 9 Medi 2013\]](#)

## Yn ei hymateb ar ran yr Wrthblaid, dywedodd **Angela Eagle AS**:

I have two key points to make about the proposals on lobbying set out in part 1. The first relates to the laughably narrow definition of “consultant lobbyist”. Under the Government’s definition, someone will count as a lobbyist only if they lobby directly Ministers or permanent secretaries and if their business is mainly for the purposes of lobbying. It is estimated that that will cover less than one fifth of those people currently working in the £2 billion lobbying industry, and the Association of Professional Political Consultants estimates that only 1% of ministerial meetings organised by lobbyists would be covered. Moreover, it would be extremely easy to rearrange how such lobbying is conducted to evade the need to appear on the new register at all. The Bill is so narrow that it would fail to cover not only the lobbyist currently barnacle-scraping at the heart of No.10, but any of the lobbying scandals that have beset the Prime Minister in this Parliament.

My second point is that there is a real risk that the proposals will make lobbying less transparent than it is now. The Government’s proposed register would cover fewer lobbyists than the existing voluntary register run by the UK Public Affairs Council.<sup>17</sup>

## Dywedodd **Graham Allen AS**, Cadeirydd y Pwyllgor Dethol ar Faterion Gwleidyddol a Chyfansoddiadol:

[The] lobbying Bill [...] is very limited, not what we expected and, even more importantly, not what the public expect of us. We will seek to redefine issues such as those concerning who is lobbied. People who lobby the civil service do not go to the permanent secretary but talk to the desk officer or the director general. Those people are outwith the concept of the Bill. Let us also redefine who the lobbyists are. At the moment, estimates vary that between 1% and 5% of lobbyists will be caught by the Bill. Surely nobody out there will accept that as the basis of a lobbying Bill.

I have a pertinent and specific question for all Members of the House about their role and function as lobbyists. I hope we are the best lobbyists that can be found, particularly on behalf of our constituents. However, we should tread in that area carefully because as soon as we start putting the rights of Members of Parliament in statute per se, we allow justiciability to take place and people to say, “You did or you didn’t perform under your legislative duties.” That could have severe consequences, and we must explore that in great detail in Committee.<sup>18</sup>

## Mewn perthynas â **Rhan 2** y Bil, dywedodd **Mr Lansley**:

It is good that people are motivated to campaign for what they believe in, whether they do it inside or outside a political party. Campaign groups play an important role in the political process. That will continue and it has never been in doubt. The intention of this Bill is to bring greater transparency when third parties campaign in an election. Relevant expenditure on such campaigns will now be more fully recorded and disclosed. To avoid the situation we see in some other countries, where vast amounts of money are spent without any bar or regulation [...] the Bill strengthens the existing limits on the campaign spending of third parties. We have spending limits on parties at elections. That ensures a degree of equality of arms, and we should not see it undermined by distorting activity of disproportionate

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<sup>17</sup> [Dadleuon Tŷr Cyffredin, 3 Medi 2013, Colofnau 193-4 \[fel ar 9 Medi 2013\]](#)

<sup>18</sup> [Dadleuon Tŷr Cyffredin, 3 Medi 2013, Colofnau 205 \[fel ar 9 Medi 2013\]](#)



expenditure by third parties. The limits we are setting [...] will allow organisations that want to campaign still to do so. The expenditure thresholds at which third parties are required to register with the Electoral Commission are being lowered. That will allow members of the public better to identify the great number of organisations that exert influence in political campaigns.

The Government's clear view is that nothing in the Bill should change the basic way in which third parties campaign and register with the Electoral Commission. Currently, third parties register if they are campaigning to promote the electoral success, or otherwise enhance the standing, of a party or candidates. That will stay the same, so the argument made by the campaign group 38 Degrees that the changes stop campaigning on policy areas is not correct. The requirement to register applies only if the spending is for electoral purposes. The Bill does change the activities in respect of which spending may count towards the third parties' spending limits. Those activities are being more closely aligned with the type of expenditure that is regulated for political parties, a change that the independent regulator, the Electoral Commission, advocated to us in June. I understand that that particular provision has caused concern within the charitable sector. Charity law prohibits charities from engaging in party politics, from party political campaigning, from supporting political candidates and from undertaking political activity unrelated to the charity's purpose. The Bill does not change that.

Charities will still be able to give support to specific policies that might also be advocated by political parties if it helps to achieve their charitable purposes. The Bill does not seek to regulate charities that simply engage with the policy of a political party. It does not prevent charities from having a view on any aspect of the policy of a party and it does not inhibit charities attempting to influence the policy of a party. Such activity would be captured only if it was carried out in such a way that it could be seen also to promote the election of a political party or candidate or otherwise to enhance their standing at an election. The situation is the same as under the current legislation and remains unchanged by this Bill. That is a key point to allay charities' concerns.

I recognise that the wording of the clause has caused representative bodies to be concerned, and I am keen to continue the discussions with campaigners in which colleagues and I have already taken part. I can reassure them that we are not proposing a substantive change in the test of whether third party spending is considered to be for electoral purposes.

A number of third parties campaign in a way that supports a particular political party or its candidates. That is entirely legitimate, but it must not be allowed to become a vehicle for evading party spending rules. We believe that it is right that the political party should be able to oversee which organisations offer it significant campaign support. The Bill introduces a new measure that will require third parties that spend significant sums campaigning in a way that can reasonably be regarded as supporting a particular political party or its candidates to be specifically authorised by the political party to campaign in that manner. That spending will then be counted towards both the third party and the political party's spending limits.

The transparency of the regulatory regime is enhanced by the Bill. When third parties campaign to support political parties, expenditure will now be more fully recorded and disclosed. Donations to third parties will now have to be published in advance of an election, rather than after it. Third parties will have to provide a statement of accounts. Those measures can only be good for maintaining public trust in our political system.<sup>19</sup>

### Dywedodd Ms Eagle:

Part 2 covers third-party campaigning in the run-up to an election. All hon. Members will remember how the Prime Minister used to evangelise about the big society, but in one of the most sinister bits of legislation that I have seen in some time, this Bill twists the rules on third-party campaigning to scare charities and campaigners away from speaking out. It is an assault on the big society that the Prime Minister once claimed to revere. I say this because part 2 broadens significantly what activities will be caught by the phrase “election campaign”. That is set out in detail in new schedule 8A to the Political Parties, Elections and Referendums Act 2000.

Part 2 creates in clause 26 a new and extremely wide definition of “electoral purposes”. It is clear that these changes will have wide-ranging implications for many hundreds of charities and campaigners local and national, large and small. Some of them have told us that they will have to pull back from almost all engagement in debates on public policy in the year before the election. These changes have created massive uncertainty for those who may fall within the regulations in a way that the Electoral Commission has deplored. The changes will mean that third-party campaigning will be restricted even if it was not intended to affect the outcome of an election—for example, engaging in public policy debate. Staff costs and overheads will also have to be included in what has to be declared—something that does not apply in this way to political parties. The Electoral Commission has said that these changes could have a “dampening effect” on public debate. The National Council for Voluntary Organisations has said that the changes will “have the result of muting charities and groups of all sorts and sizes on the issues that matter most to them and the people that they support.”<sup>20</sup>

### Dywedodd Mr Allen:

On part 2 of the Bill, one of the most wonderful parts of my life experience as a Member of Parliament is when we come towards a general election, and all those different bodies start to get hold of us, lobby us, knock on our doors, phone us and send letters—“Come to our meeting. You will not get our vote unless we know exactly what you are doing on this.” Someone on the opposite side then says exactly the same thing: “What do you do? How do you think those issues through? Let’s understand those issues.” That is the lifeblood and rich diversity of our democracy, and we should be doing everything we can to improve and increase it, not to diminish and cast a shadow over it.

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<sup>19</sup> [Dadleuon Tŷr Cyffredin, 3 Medi 2013 Colofnau 180-3 \[fel ar 9 Medi 2013\]](#)

<sup>20</sup> [Dadleuon Tŷr Cyffredin, 3 Medi 2013 Colofnau 192-3 \[fel ar 9 Medi 2013\]](#)

I do not believe for a moment that the Leader of the House is trying to chill the voluntary and charitable sectors. However, in this case, I speak as a trustee of a charity. I will not put the money in that charity, which is for doing great things for kids, at risk. I will not authorise anything that even remotely possibly could risk that money—we are not sure what the Government mean or what they are trying to do. I will not do that, which dampens and inadvertently chills.[...]

[...] Who are we trying to constrain? I shall tell the House of just a few organisations that have sent evidence to my Committee. They include fringe organisations such as Citizens Advice, the Howard League for Penal Reform, the Royal British Legion and Oxfam. Those organisations have written to the Committee in the past week or so. Others include the Voluntary Sector North West, the Joseph Rowntree Foundation, Roald Dahl's Marvellous Children's Charity, the British Youth Council, the National Trust, the Women's Support Network, Christian Aid, the Stroke Association, Girlguiding and—this is the real hardcore—the Woodland Trust. Mencap and the Royal Society for the Protection of Birds have also written to the Committee. Surely we intend to make those organisations believe they have an increasing rather than a diminishing part in our democracy.

I ask the Government to think again and to do so seriously. The Committee will propose amendments on redefining terms. A number of colleagues have asked what the Government mean by “electoral purposes”. What does that capture? We want to give people reassurance on that.

The Committee has taken evidence from the Electoral Commission. The last thing the Electoral Commission wants is to be given responsibility for the measures and to be made the judge. It wants clarity and to remain impartial. It does not want to be drawn into arguments on freedom of speech. It does not want to be the arbiter of what is or is not quasi-political and of what is perfectly legitimate[...]

[...] I made a point briefly—I will not make it at length—about expenditure on campaigning. If that expenditure must also include staffing and a number of other things—material costs and so on—that it did not previously include, the pot for actual campaigning for charities and other organisations is diminished. We need to be clear about that but, having briefly studied it, I am not clear. Friends who have lobbied me, the Leader of the House and others are also not clear. If we make them risk-averse, we will diminish our democracy, not improve it.<sup>21</sup>

## Ar ran Plaid Cymru, cwestiynodd **Jonathan Edwards AS** effaith y Bil yng Nghymru:

As others have noted, part 2 will impede the ability of third parties such as charities, think-tanks and other groups to campaign in the year prior to a Westminster election. I would like to highlight the potential for chaos among civil society groups operating in Wales and the negative impact on Welsh democracy. We live in a state of near-permanent elections—local, European and Westminster elections, and, of course, those for the devolved legislatures. Yet, again, we have a Westminster Government proposing legislation that does nothing to consider its impact on Wales.

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<sup>21</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 205-6 \[fel ar 9 Medi 2013\]](#)

My previous employer is an England and Wales body, and in that post I would have been responsible for simultaneous UK-wide and Welsh campaigns, which often crossed over each other. How can organisations possibly dissect what aspects of campaigning work come under the provisions of the Bill, and how can the Electoral Commission regulate campaigning activity?

The rules would be far more wide-ranging than reducing the annual expenditure. Regulations would cover a wide range of activities carried out for election purposes, such as controls on spending on events, media work, polling, transport, policy documents, discussing party policies, election material distributed to the public, and staff costs. The only things missing are staples and Blu Tack. Welsh democracy could suffer as a result, as charity and campaign groups may have their campaigning activities restricted all because of a Westminster election, while the same rules will not apply during an Assembly election year.

**Wayne David (Caerphilly) (Lab):** Does the hon. Gentleman share my concern that part 2 applies not just to Westminster elections, but to elections for devolved institutions as well?

**Jonathan Edwards:** The hon. Gentleman makes a very important point. There has been little consultation in Wales, as reflected by the very strong correspondence we have received from bodies in our country.

Charities and campaign groups working in Wales could have their ability to interact with and make representations to the Welsh Government and the National Assembly for Wales curtailed, which could affect the quality of legislation designed in Wales. Critically, plurality in Welsh political life could be undermined. We have a very weak civil society as it is and many of the bodies in Wales are UK-wide or England and Wales bodies.<sup>22</sup>

### Gwnaed pwynt tebyg gan **Stephen Doughty AS:**

I also remain deeply concerned and confused about the differential impact this Bill will have in the nations of the UK, as we have heard from other colleagues, and especially in Wales, subject as we are now to multiple election cycles, different periods of purdah and regulated periods. We have also heard concerns about the run-up to the referendum vote. Can Ministers provide any assurance that campaigning by civil society and charities in Wales, Scotland and Northern Ireland will not be hampered by these measures even more than they appear likely to hamper that work in England?<sup>23</sup>

### Ynghylch **Rhan 3** y Bil, dywedodd Mr Lansley:

I am confident that the burden on trade unions will be very modest. As far as the certification officer is concerned, we are talking about only three additional members of staff as a consequence of all this. In future, unions will provide a membership audit certificate to the certification officer alongside their annual financial return. Unions with more than 10,000 members [...] will be required to appoint an independent third party, an assurer, to provide the certificate, which will state whether the union's systems for maintaining the register meet the statutory requirements. That independent assurance will be important to provide confidence in large and complex membership records.

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<sup>22</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 228-9 \[fel ar 9 Medi 2013\]](#)

<sup>23</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofn 263 \[fel ar 9 Medi 2013\]](#)

It will be the responsibility of the certification officer to make inquiries and to appoint an inspector to investigate possible discrepancies, if there are circumstances suggesting that a union has not complied with those requirements. That will complement the existing responsibilities for investigating complaints made by individual members. We expect that in most cases the inspector will be a member of the certification officer's staff, but it could be an expert third party.

The Bill sets out how assurers and appointed inspectors will be bound by duties of confidentiality in their handling of member data. Of course, existing safeguards in data protection and human rights legislation will apply in this case as they do elsewhere. Should the certification officer find a union to be non-compliant with these duties, he will make a declaration to that effect specifying where the union has failed to comply and the reasons for the declaration. In addition, he will be able to make a civil enforcement order, requiring the union to take steps to remedy the issue. However, prior to making a formal declaration and order, the certification officer will give the union an opportunity to make representations. This is not about making it harder for trade unions to operate. We are not requiring unions to collect more data or change the way in which they keep membership registers. Nor are we amending the requirements on industrial action ballots. The requirement to keep a list of member names and addresses is distinct from information that a union must supply to an employer when balloting for industrial action.

I have heard the claim that these measures represent an intrusion into trade unions' right to autonomy. Rules of operation will vary from one union to another. We are not interfering with that. Unions will continue to choose how they define a member, and we are deliberately not prescribing the processes that a union should adopt in their compilation and maintenance of member data. All we are doing is asking unions to provide an annual assurance that they are doing everything that they can to ensure that they know who their members are and how to contact them. I think members would be concerned if their unions felt unable to comply with that.<sup>24</sup>

### **Dywedodd Ms Eagle:**

These proposals seem deliberately designed to burden trade unions with additional cost and bureaucracy from a Government who claim they are against red tape. This is despite the fact that unions already have a statutory duty to maintain registers of members. I understand from the TUC that neither the certification officer nor ACAS has made any representations to suggest that that was not already sufficient. The Government have to date failed to provide any evidence or rationale for these changes, so I can only conclude that this is a deliberate attempt to hamper unions with red tape because a minority of them have the temerity to support the Labour party.

I have serious concerns about the implications of these changes for the security of membership data. We all know that the blacklisting of trade union members may well still exist in our country. Blacklisting has ruined many lives and these changes could have some very dangerous implications, especially in the construction industry, where many are afraid to declare their membership of a trade union openly for fear of the repercussions.

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<sup>24</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 184-5 \[fel ar 9 Medi 2013\]](#)

The Government have arbitrarily singled out trade unions for this attack but have given no reason why other membership organisations should not be covered by these costly and disruptive requirements [...] This is another in a long list of anti-employee proposals from a Government who always seem to want to make it easier to fire rather than hire workers and to weaken rather than strengthen their security at work. We will table a range of amendments to this part of the Bill to address concerns.<sup>25</sup>

#### Dyweddodd Mr Allen:

We need to look again at part 3. I am mystified as to why trade unions would not know where their members are—their lifeblood is ensuring they know where their members are because their members pay the subs and the wages and keep those organisations going. They have to know who their members are for industrial relations ballots, so it is in their interests to keep those records up to date.<sup>26</sup>

#### Cyfeiriodd Mr Doughty at effaith bosibl y Bil ar sefyllfa TUC Cymru:

I want to draw the House's attention to the concerns expressed by the Wales TUC, which has spoken out very clearly this week. It is deeply concerned that not only could the Wales TUC conference cease to be lawful in 2014, but that this Bill's provisions could undermine the special social partnerships the Wales TUC has with the Welsh Government, as enshrined in the Government of Wales Acts, and that it could damage their anti-racism campaigning work in constituencies across Wales from May 2014. That point has been made by Hope not hate and many other organisations.<sup>27</sup>

#### 4.2. *Rhanddeiliaid*

Barn y **Comisiwn Etholiadol**, sy'n cael mwy o rôl fonitro yn Rhan 2 y Bil, yw "as drafted, the Bill raises some significant issues of workability". Mynegodd hefyd bryderon am amseriad y Bil yng nghyd-destun rheoleiddio ymgyrchu gan grwpiau di-blaid adeg Etholiad Cyffredinol 2015, oherwydd os caiff ei wneud yn ddeddf, bydd y newidiadau wedi dod i rym erbyn mis Mai y flwyddyn nesaf. Golyga hynny mai rhai wythnosau'n unig y bydd gan sefydliadau i baratoi cyn i'r gyfundrefn newydd gael ei chyflwyno.

Mae'r Comisiwn Etholiadol yn pryderu am y meysydd canlynol:

- Mae'r Bil yn creu **ansicrwydd rheoleiddiol sylweddol i sefydliadau bach a mawr a fydd yn ymgyrchu ar faterion polisi cyhoeddus, neu hyd yn oed yn trafod materion o'r fath**, yn y flwyddyn cyn yr etholiad cyffredinol nesaf, ac mae'n rhoi beichiau newydd a sylweddol ar y cyfryw sefydliadau. Mae hefyd yn mynegi pryder y **byddai hyn yn broblem benodol yng Nghymru, yr Alban a Gogledd Iwerddon**.

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<sup>25</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 198-9 \[fel ar 9 Medi 2013\]](#)

<sup>26</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 206 \[fel ar 9 Medi 2013\]](#)

<sup>27</sup> [Dadleuon Tŷ'r Cyffredin, 3 Medi 2013 Colofnau 263 \[fel ar 9 Medi 2013\]](#)

- I bob pwrpas, mae'r Bil yn rhoi **disgresiwn eang i'r Comisiwn Etholiadol i ddehongli'r math o weithgaredd a gaiff ei reoleiddio fel ymgyrchu gwleidyddol**. Mae'n debygol y bydd rhai o'i ddehongliadau yn ddadleuol ac yn cael eu herio, gan greu hyd yn oed mwy o ansicrwydd i'r rhai hynny yr effeithir arnynt. Er ei fod o'r farn y dylai, fel rheoleiddiwr annibynnol, fod yn rhydd i benderfynu pryd y mae'r rheolau wedi'u torri, a sut i fynd i'r afael ag achosion o dorri'r rheolau, nid yw'r **Comisiwn Etholiadol o'r farn ei fod yn briodol iddo fod â disgresiwn eang i benderfynu pa weithgaredd a gwmpesir gan y rheolau**.
- **Yn ymarferol fe all y bydd rhai o'r rheolaethau newydd yn y Bil yn amhosibl eu gorfodi**, ac mae'n bwysig bod y Senedd yn ystyried beth, mewn gwirionedd, fydd y newidiadau'n eu cyflawni, ac yn pwysu a mesur hynny yn erbyn y beichiau newydd y mae'r Bil yn eu gosod ar ymgyrchwyr.<sup>28</sup>

Ychwanegodd hefyd "it has been suggested to us that these effects could be particularly significant in Scotland, Wales and Northern Ireland, where civil society has often had a prominent role in the development and discussion of new policy and legislation in recent years".

Cafodd yr Aelodau Seneddol eu briffio gan y **Cyngor Cenedlaethol Mudiadau Gwirfoddol (NCVO)** cyn yr Ail Ddarlleniad, a dywedodd fod y Bil fel y'i drafftiwyd yn gwbl anymarferol ac y gallai gyfyngu ar allu elusennau a grwpiau eraill i leisio barn ar faterion o bwys. Ym marn yr NCVO:

- Roedd darpariaethau'r Bil yn **eang iawn eu cwmpas** ac roedd yn pryderu y byddai gweithgareddau bob dydd elusennau a mudiadau gwirfoddol sy'n ymwneud â pholisi cyhoeddus yn cael eu maglu gan y rheolau hyn.
- Roedd y Bil yn **gymhleth ac yn aneglur**. Gallai fod yn anodd i elusennau a mudiadau gwirfoddol wybod a fyddai rhai o'u gweithgareddau'n rhan ohono, ac roedd perygl felly y byddai hynny'n llesteirio gweithgareddau ymgyrchu.
- Roedd y Bil yn rhoi **disgresiwn sylweddol i'r Comisiwn Etholiadol**. Mae hyn yn creu cyfundrefn reoleiddiol ddianghenraid o feichus, a gallai olygu bod elusennau, mudiadau gwirfoddol a'r Comisiwn Etholiadol yn agored i gael eu herio'n gyfreithiol.
- Roedd y Bil yn cyflwyno **llawer gormod o ofynion adrodd a therfynau gwariant llym** i'r rhai sy'n cael eu dal yng nghwmpas y Bil.<sup>29</sup>

<sup>28</sup> [Y Comisiwn Etholiadol, The Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill, Briff Ail Ddarlleniad Tŷr Cyffredin, 3 Medi 2013 \[fel ar 9 Medi 2013\]](#)

<sup>29</sup> [NCVO, Parliamentary Briefing, Second reading of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill, Medi 2013 \[fel ar 12 Medi 2013\]](#)

Mae'r farn gyfreithiol a roddwyd i'r NCVO yn awgrymu fod y rheolau newydd mor gymhleth ac aneglur nes eu bod, yn ôl y farn honno: "likely to have a chilling effect on freedom of expression, putting small organisations and their trustees and directors in fear of criminal penalty if they speak out on matters of public interest and concern."<sup>30</sup>

Yn dilyn cyfarfod rhwng Prif Weithredwr NCVO ac Arweinydd Tŷ'r Cyffredin, mae Llywodraeth y DU wedi ymrwmo i newid y diffiniad o'r ymadrodd 'at ddibenion etholiadol'. Dylai'r diffiniad diwygiedig sicrhau na fydd angen i'r elusennau sy'n gweithredu o fewn y gyfraith elusennau gofrestru gyda'r Comisiwn Etholiadol, ac felly ni ddylai eu gweithgareddau fod yn rhan o'r rheoliad a amlinellir yn Rhan 2 y Bil. Er bod yr NCVO yn croesawu hyn, roedd yn parhau'n bryderus am y materion eraill y tynnwyd sylw atynt.

Cynrychioli mudiadau gwirfoddol Lloegr y mae'r NCVO. Serch hynny, **mae Cyngor Gweithredu Gwirfoddol Cymru (WCVA)** yn gweithio'n agos gydag ef mewn perthynas â'r Bil. Awgrymodd WCVA fod y ffaith nad oedd Rhan 1 y Bil yn cynnwys gweinyddiaethau datganoledig:

wedi creu'r argraff gamarweiniol na fydd y bil yn cymhwyso at etholiadau'r Cynulliad. Serch hynny, mae Rhan 2 o'r bil yn effeithio ar weinyddiaethau datganoledig yn uniongyrchol, o ran (1) ymgyrchu yn ystod cyfnodau etholiadau San Steffan; ac (2) ymgyrchu yn ystod cyfnodau etholiadau datganoledig ac etholiadau'r Undeb Ewropeaidd.

Golyga hyn bod posibilrwydd y bydd rôl cymdeithas sifil mewn etholiadau i'r gweinyddiaethau datganoledig yn cael ei chyfyngu'n ddifrifol gan fil a basiwyd yn San Steffan, heb ddim ymgyngori, neu ddim llawer, â'r gweinyddiaethau hynny. Mae'n bosib iawn y bydd rhaid i fwy o fudiadau o Gymru gofrestru â'r Comisiwn Etholiadol, a gwneud cyfrif am eu gwariant, gan gynnwys digwyddiadau, maniffestos polisi ac amser staff a dreulir ar y rhain.<sup>31</sup>

Ynghylch Rhan 3 y Bil, dywedodd y TUC wrth Bwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin:

*Nigel Stanley:* Part 3 is a bit like part 2, because we cannot quite work out what exactly the problem is that it is meant to solve. We have asked BIS, the certification officer and ACAS through freedom of information requests whether they have received or made representations that we need to amend current powers to regulate union membership, which are there with a very strong duty in the Trade Union and Labour Relations (Consolidation) Act 1992. We cannot find any demand for part 3.

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<sup>30</sup> [In the matter of part II of the Transparency of Lobbying, Non-party campaigning and Trade Union Administration Bill and the Voluntary sector, Barn Gyfreithiol a roddwyd i NCVO gan Helen Mountfield QC, Matrix Chambers, 30 Awst 2013 \[fel ar 12 Medi 2013\]](#)

<sup>31</sup> [Newyddion WCVA, Y diweddaraf am y bil Lobio, 9 Medi 2013 \[fel ar 12 Medi 2013\]](#)



Again, there is a suggestion that the Bill is about Labour party internal union affiliation and the fact that a recent selection conference was all over the newspapers. Well, fair enough, but only 15 trade unions affiliate to the Labour party. There are 166 unions that make returns to the certification officer. I am sure that the Association of Somerset Inseminators, to take one name at random from that rather wonderful list, are completely perplexed as to why they now have to go through this legal process.

It is a legal process in which three new groups gain access to individual membership details, which we think should be confidential. The three bodies who will have access to union personal membership details are the certification officer, anyone appointed by the certification officer as an investigator and the assurer that unions have to appoint from a list published by the Government. It is not to say that the certification officer would have any intention of doing anything wrong with that data, but people are still concerned.

I am sure that members of the Committee will be aware that there have been recent debates about blacklisting, where employers have not wanted to employ people because of their union record. That has been widely condemned across the political spectrum and is not just a concern for unions. It is not surprising that unions are very worried about the implications of this section of the Bill, especially when they cannot find any reason why it is there. When you do not know what the problem is, it is very hard to come up with an alternative response to it. I am sure unions would be prepared to do that, if it was felt that there was a genuine public policy issue that required some kind of response, but we cannot see an issue.

The other theory is that it is about industrial action ballots, but I can tell you one thing: anyone who knows anything about the law surrounding industrial action ballots knows that they are most often challenged in the courts by employers who dispute the union's membership records for the members who are being balloted. There is an idea that there is some problem with that. Unions have very many strong incentives to keep their membership records accurate-it is how they get their income, for a start-but if they are one of those unions that engages in industrial action, they know that they have to have absolutely cast-iron membership lists in order to do that. Again, there is no suggestion that there is a problem here, but unions worry about privacy, and they worry about the fact that third parties will now be able to complain to the certification officer, which may result in all kinds of spurious and trivial complaints. As I say, they do not know what the problem is.<sup>32</sup>

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<sup>32</sup> [Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷr Cyffredin, Trawsgrifiad heb ei gywiro o dystiolaeth lafar. I'w gyhoeddi fel HC 601-iii, 29 Awst 2013 \[fel ar 16 Medi 2013\]](#)

### 4.3. Adroddiad y Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol

Derbyniodd Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin dystiolaeth am y Bil yn ystod yr haf, a chyhoeddodd Adroddiad ar 5 Medi 2013.<sup>33</sup> Roedd y Pwyllgor yn feirniadol iawn o'r modd y cafodd y Bil ei gyflwyno.

Dywedodd: "the Bill has been introduced without adequate consultation with those it affects and without the proper involvement of Parliament, not least through pre-legislative scrutiny."<sup>34</sup>

Mae'r Pwyllgor o'r farn fod gwendidau difrifol yn Rhannau 1 a 2 o'r Bil. Ei farn am Ran 1 oedd:

The definition of "consultant lobbying" in Part 1 is so narrow that not only would it exclude in-house lobbyists, which was the Government's intention, it would also exclude the vast majority of third-party lobbyists, and particularly the larger organisations. Many companies undertake lobbying as part of a wider communications and public relations business, and they spend very little of their time meeting directly with Ministers and Permanent Secretaries, meaning they could argue they were exempt from registering under the exclusion in Paragraph 3 of Schedule 1.

The Government should amend the Bill to:

- expand the definition of a lobbyist to include those who lobby on behalf of an organisation for which they work (in-house lobbyists);
- expand the definition of what constitutes lobbying to include the provision of lobbying advice;
- extend the list of people with whom contact counts as lobbying to include Senior Civil Servants and special advisors.

We think that the House should consider carefully the inclusion or exclusion of Members of both Houses in this context, because there are some difficult problems associated with this issue.

The list of information to be provided on the register should be expanded to include the subject matter and purpose of the lobbying, where this is not already clear from a company's name.<sup>35</sup>

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<sup>33</sup> [Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin, \*The Government's Lobbying Bill\*, Seithfed Adroddiad, 2013-14, 5 Medi 2013 \[fel ar 12 Medi 2013\]](#)

<sup>34</sup> [Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin, \*The Government's Lobbying Bill\*, Seithfed Adroddiad, 2013-14, 5 Medi 2013 \[fel ar 12 Medi 2013\]](#)

<sup>35</sup> [Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin, \*The Government's Lobbying Bill\*, Seithfed Adroddiad, 2013-14, 5 Medi 2013 \[fel ar 12 Medi 2013\]](#)

Ynghylch Rhan 2 dywedodd fel a ganlyn:

We do not believe that the Government has clearly communicated the need for Part 2 of the Bill, or has provided a satisfactory account of the basis on which the new levels for registration and expenditure by third parties have been set. The definition of spending “for electoral purposes”, in particular, is confusing. It is unsatisfactory that its interpretation should be left largely to the Electoral Commission—a state of affairs the Commission itself has criticised. Many charities and other organisations contacted us to express concern about the combined effects of new lower thresholds for registration, new lower limits for expenditure, and a wider, vague definition of what will count as controlled expenditure.<sup>36</sup>

Serch hynny, prif argymhelliad y Pwyllgor yw y dylai'r Llywodraeth dynnu'r Bil yn ôl wedi'r Ail Ddarlleniad, a chefnogi cynnig yn y Tŷ i sefydlu Pwyllgor arbennig i graffu arno cyn y broses ddeddfu, gan ddefnyddio testun y Bil presennol fel drafft. Dylai'r Pwyllgor fod gyfrifol am lunio Bil gwell cyn pen chwe mis. Yna dylai'r Bil gael ei ailgyflwyno i'r Tŷ a pharhau ar y llwybr priodol i'r llyfr statud cyn gynted ag y bo modd.

#### *4.4. Adroddiad Pwyllgor Dethol Tŷ'r Cyffredin ar Safonau*

Mae gan Bwyllgor Dethol Tŷ'r Cyffredin ar Safonau ddiddordeb yn y modd y bydd y Bil yn ymwneud â'r Cod Ymddygiad, a'r Canllaw i'r Rheolau sy'n ymwneud ag Ymddygiad Aelodau, a mynegodd bryderon ynghylch drafftio'r Bil. Lluniodd y Pwyllgor Adroddiad brys i dynnu sylw Tŷ'r Cyffredin at y pryderon hyn cyn yr Ail Ddarlleniad.

Roedd pryderon y Pwyllgor yn ymwneud â drafftio'r Bil a'r amwysedd ynghylch a fydd gweithgareddau Aelodau Seneddol yn dod o dan y diffiniad o “lobio ymgynghorol” yn y Bil. Daeth i'r casgliad canlynol:

We accept the Leader of the House's assurance that the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill was never intended to capture the normal work of Members as Members. Nevertheless we consider the approach the Government has taken to drafting the definition of consultant lobbying is unsatisfactory. The Bill is unclear in its definition of consultant lobbying and, in particular, about the way in which its provisions would apply to Members. The sweeping powers to refine this definition delegated to the Registrar of Consultant Lobbyists are unacceptable. It is perfectly possible that the courts and the Registrar of Consultant lobbyists will clarify that the definition does not extend so far. But primary legislation should be unambiguous about such matters.

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<sup>36</sup> [Pwyllgor Diwygio Gwleidyddol a Chyfansoddiadol Tŷ'r Cyffredin, \*The Government's Lobbying Bill\*, Seithfed Adroddiad, 2013-14, 5 Medi 2013 \[fel ar 12 Medi 2013\]](#)

In our view, the difficulties about the way in which this legislation applies to Members of Parliament would be swept away if paragraph 2 of Schedule 1 was removed. We consider it is necessary to make clear that Members' ordinary work is not caught by the Bill. A new subparagraph should be added to paragraph 6, stating that a reference to payment does not include a reference to the salary an MP receives as a Member of the House of Commons. We would be happy to work with the Government on this. We anticipate amendments at the Committee stage in the House of Commons.<sup>37</sup>

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<sup>37</sup> [Pwyllgor Dethol Tŷr Cyffredin ar Safonau, \*The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill\*, Adroddiad Cyntaf, 2013 HC638, 3 Medi 2013 \[fel ar 9 Medi 2013\]](#)

## 5. Y Camau Nesaf

Cafodd y Bil ei ystyried gan Bwyllgor y Tŷ Cyfan ar 9, 10 ac 11 Medi. Bydd y **Cyfnod Adrodd** yn digwydd ar **8 a 9 Hydref 2013**. Mae Arweinydd y Tŷ wedi awgrymu y bydd Llywodraeth y DU yn cyflwyno gwelliannau i newid y diffiniad o wariant 'at ddibenion etholiadol' yn Rhan 2 y Bil.<sup>38</sup>

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<sup>38</sup> [The Guardian, Lobbying bill U-turn after charities' campaign – but unions still concerned, 6 Medi 2013 \[fel ar 16 Medi 2013\]](#)