

# **STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE**

## **INQUIRY INTO LOBBYING**

### **SUBMISSION RECEIVED FROM BMA SCOTLAND**

#### **BMA Scotland Submission to the Standards, Procedures and Public Appointments Committee inquiry into lobbying January 2014**

The British Medical Association (BMA) is a registered trade union and professional association representing doctors from all branches of medicine. The BMA has a total membership of around 150,000 in the UK and in Scotland represents around 16,000 members.

#### **Background**

The BMA welcomes the opportunity to submit evidence to the Committee's inquiry into lobbying to "examine whether there is a problem, either actual or perceived, with lobbying" and to consider whether a "register of lobbyists" would improve probity and transparency of lobbying in the Scottish Parliament.

This inquiry is related to a proposal for a member's bill in the name of Neil Findlay MSP to create a register of lobbyists in Scotland. The BMA provided a written submission to Mr Findlay's consultation in 2012.

#### **Introduction**

The BMA recognises that lobbying is an essential and legitimate activity which forms part of the democratic process and is a fundamental part of the political process in developing and implementing well considered public policy and robust legislation.

The BMA is supportive of the principal aims of transparency in lobbying that appear to be motivating the proposal to introduce a register of lobbyists, but is not convinced that a register is required.

As a trade union, the BMA already operates in a highly transparent sector. The Trade Union and Labour Relations (Consolidation) Act 1992 as amended by the Employment Relations Act 1999 requires the BMA to adhere to a number of regulations and standards.

The BMA undertakes lobbying activities to inform MSPs of the medical profession's views on certain policy areas ranging from medical workforce issues, public health matters and wider NHS policies. We also provide a practical perspective on how certain policy proposals will impact on NHS services and patient care. The BMA does not have any commercial interest, nor does it seek to gain a financial advantage as a result of its lobbying activities. However where there are lobbyists representing commercial industry that seek to influence policies in order to protect profit or maximise financial opportunities, then it is clear that this activity must be

above board and in line with the existing professional guidelines applied by the majority of public affairs professionals. It is also the responsibility of MSPs and Government Ministers to behave in a manner appropriate to their elected positions.

### **The need for change**

As stated above, the BMA is unconvinced of the need for a register of lobbyists in Scotland. We recognise that at Westminster there has been a number of high profile lobbying 'scandals' in recent years, which have reduced the credibility of some politicians and diminished the public's trust in the democratic process as a result. However, no such concerns have been expressed in Scotland regarding the behaviour and conduct of public affairs professionals or the organisations that they represent. Therefore it is difficult to see what problem a register is trying to resolve. If such concerns exist, however, it would be beneficial to address these openly as part of this inquiry process.

Since devolution, there has been an open and transparent approach to engagement of the public and professions in the development of policy by all administrations, past and present. The consultation process is often set out very publicly and many organisations, including the BMA allow responses to be published. The legislative process too is very open, particularly during stage 1 with the publication of evidence received by external organisations and the public forum in which the Scottish Parliament Committees meet.

### **Definition of lobbying**

Whilst the BMA does not consider the introduction of a register of lobbyists necessary, the following comments reflect our views, should a register be introduced.

In order to establish a register there must first be a clear and unambiguous definition of lobbying. The BMA undertakes a range of activities to help shape and influence policy but would not necessarily be considered 'lobbying' and therefore would not be appropriate for inclusion in a 'register'.

Mr Findlay's consultation did not include a definition of 'lobbying', but his proposal suggested that the register would include all those who take part in lobbying in its widest sense and all meetings with MSPs, Ministers and Government officials would be included. For an organisation like the BMA, this could be problematic and overly bureaucratic. For example, the BMA employs a public affairs manager and two public affairs officers who provide much of the routine briefing and contact with MSPs, and organise meetings with elected BMA members (i.e. practising doctors who also represent their profession as trade union officials). Would these doctors have to submit to registration on a register of lobbyists?

The BMA as a trade union, often meets with ministers and government officials for the purposes of negotiating contractual issues. These meetings are attended by elected members and secretariat staff. Under Mr Findlay's proposals, it would appear that this activity could also be considered as 'lobbying' requiring further BMA staff to register. The BMA does not believe this would be appropriate and is firmly of

the opinion that negotiating activities with government officials and ministers should not be defined as lobbying as they are completely separate and different activities, subject to existing legislation and which are part of the routine work of a trade union.

The BMA is often invited to nominate representatives from the medical profession to attend national-level, government-led meetings to develop policy e.g. health and social care integration, death certification, workforce planning etc. Our presence at these meetings is to influence the shaping of policy to ensure it is practical and implementable from the professional perspective. However, these meetings are attended by elected representatives and, as invited participants, we do not believe they should be required to register these meetings as 'lobbyists' as this could undermine their professional requirement to be at these types of meeting. Attendance by BMA representatives at such government-level meetings is available publicly from the government or under a freedom of information request.

### **Register of lobbyists**

The BMA believes that, should it be introduced, all organisations who actively lobby would be included in any register. The BMA also accepts that as the main conduit between the BMA and MSPs in the Scottish Parliament, public affairs staff would be included on the register as 'in house' lobbyists. However as outlined above, the BMA has concerns over the requirement to register further staff/officials for the purposes of negotiations or providing professional input into the development of policy.

The BMA believes that the process of completing a register should be as straightforward and non-bureaucratic as possible. It should not act as a deterrent to smaller patient representative groups or third sector organisations taking part in lobbying activities. The requirement of a fee or the introduction of a bureaucratic process could prevent such organisations from having a voice in the democratic process, to the detriment of the Scottish Parliament.

Under Mr Findlay's proposals, the register would only be accessed in the event of the complaint rather than monitored on a proactive basis and the BMA raised some concerns with the enforcement powers suggested in this consultation. The removal of a person from a register by a third party, as a result of lobbying activity, could render them unable to do their job and affect their employment. In our view, this is not a decision for the register administrator, but one for the individual's employer. If the investigation relates to the behaviour of a company and its lobbying tactics then individual lobbyists should not be held solely accountable.

It is also not clear how the register itself could prevent individuals or organisations from contacting individual MSPs, should they be removed from the register (particularly if registration is voluntary).

### **Alternatives**

The proposal to regulate lobbyists by the creation of a register only addresses one side of the relationship between politicians and lobbyists. Whilst the BMA supports a transparent approach to lobbying, MSPs should also be held to account. The BMA

would suggest that there should be a mechanism for MSPs and ministers to record meetings with individuals/organisations which are in the public domain.

As a national, high profile and well-respected organisation, there are certain standards that the BMA expects of its public affairs staff, as representatives of the organisation. As such, the BMA supports them to become members of the Chartered Institute of Public Relations which has a code of conduct for members. Eligible staff are also voluntarily registered with UKPAC.

A code of conduct could be introduced as an alternative to a register of lobbyists. If the code of conduct is not adhered to, then sanctions could be imposed. Any such code should apply to lobbying organisations, lobbyists and MSPs alike.

**GAIL GRANT  
PUBLIC AFFAIRS MANAGER  
BMA SCOTLAND  
15 JANUARY 2014**