Memorandum

Regulating doctors
Ensuring good medical practice

To: Professor Peter Rubin, Chair
From: Christine Payne
Code A
Copy: Paul Philip
Date: 7 September 2009

Briefing for Meeting with Professor Sir Liam Donaldson, 8 September 2009

Introduction

1. Following your appointment as Chair we arranged introductory meetings with key stakeholders, including Liam and the CMOs for Northern Ireland, Scotland and Wales.

Logistics

Date: Tuesday 8 September 2009

Time: 12:00-12:30

Location: Liam's office, Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS

Issues and Key Messages

CMO Roundtable: Achieving Racial Equality in Medicine

2. The roundtable group was set up following the publication of Liam's report, *Achieving Racial Equality in Medicine,* in 2007. Code A is a member of the roundtable group, as are Sam Everington and Iqbal Singh in their other roles.

3. Liam wrote to you (letter of 13 July 2009) about the recent roundtable discussion concerning routes to General Practice and Specialist Registration (minutes of the meeting on 3 June 2009). Your letter of 22 July 2009 in response is attached for reference. It would be helpful to re-affirm our commitment to ensuring that medical regulation is responsive and informed by the outcome of the research we commission and reviews undertaken, such as the Regulating Medical Education and Training Review led by Code A Since writing to Liam, the date for the joint meeting of the Equality and Diversity Reference Group and representatives of the PMETB Diversity Steering Group has been fixed for 22 September 2009.

4. We have offered to present to a future meeting of the roundtable group on these issues, and perhaps Liam could confirm if this would be helpful.

Merger of PMETB with the GMC

5. The draft Order that will transfer PMETB's functions to the GMC was published for consultation on 4 June 2009, and the consultation closed on 28 August 2009. Work is ongoing on the preparation of legislation, and we expect to bring rules and regulations to Council for approval on 22 October 2009. We will support the DH(E) by playing an active role in raising understanding of, and support for, the merger with stakeholders.

6. We are making good progress towards co-location and resolving other issues to ensure that we meet the merger target of April 2010. There are clear advantages in the merger taking place at the earliest opportunity, including having a single point of contact for key interests; the opportunity to share best practice and achieve improvements; an integrated approach to education and training; and access to greater resources through a wider cost base.

Pandemic Planning

7. We are working with DH(E) officials and stand ready to grant temporary registration to those who have recently relinquished their registration, through the powers set out in Section 18A of the Medical Act 1983 which allow the Registrar, when advised by the Secretary of State that an emergency, such as pandemic influenza, has occurred, is empowered to grant temporary registration to persons, or groups of persons, deemed fit, proper and suitably experienced.

8. In March 2009 we published *Pandemic Influenza: Good Medical Practice: Responsibilities of Doctors in a National Pandemic.* In many cases, we have recognised the pressures and restrictions that may accompany a pandemic by adding qualifying clauses to the guidance, recognising that constraints on time and other resources may limit doctors' ability to provide detailed information or help for patients. We do not expect it to be raised in discussion, but you will be aware that we are currently considering a number of options in relation to the trigger point for implementing *GMP: Responsibilities of Doctors in a Pandemic.*

9. We also have a Pandemic Response Plan, with policies and strategies, and incident management processes, applying across all areas of our work and including detailed plans for communications, information systems and HR pandemic policies. We continue to have discussions with the DH(E) on further possible amendments to the 1983 Act which would insert contingent provisions into the legislation in advance, for deployment in a national emergency.

Licensing and Revalidation

10. We have had an excellent response to our current campaign asking doctors to decide whether to choose to hold registration with a licence to practise when licensing is introduced on 16 November 2009 with a very good response rate of 91% of registered doctors having made their decision. Approximately 190,000 have opted for registration with a licence. We have a website *Licensing help,* which have FAQs, to help doctors make their decision, and regular reminder campaigns are in place. We have also organised a series of briefing events for employers and other organisations during September and early October 2009 in Cardiff, Edinburgh, Manchester, Belfast and two in London.

11. The UK Revalidation Programme Board, chaired by Keith Pearson (Chair of East of England SHA) is making good progress in drawing together the principle stakeholders in revalidation and overseeing the programme of work required for revalidation readiness. Council endorsed the UK-wide readiness plan at its meeting on 8 July 2009.

12. The GMC and others are undertaking a range of pilots to ensure we can be ready for revalidation to be rolled out from 2011. A key concern must be to ensure that the system is not overly bureaucratic or a burden on doctors or the NHS.

13. The cost to implement revalidation should not be high but we believe it is essential: to help ensure that clinical governance systems are up to scratch; provide a focus for doctors' efforts to keep up to date and improve their practice; and provide reassurance to patients that their doctor is up-to-date and fit to practise.

14. The introduction of revalidation has been a long standing policy decision and its successful implementation requires continued political support at all levels in the Department. You may wish to refer to your meetings with Andy Burnham, Edwina Hart, David Nicholson and Bruce Keogh. You may also wish to mention the series of visits you have planned in 2009-10 to engage with doctors working on the frontline of healthcare.

Tomorrow's Doctors

15. The new version of *Tomorrow's Doctors* was launched on 1 September 2009.

16. The principle change in approach in the draft document has been to ensure graduates are better prepared to work in the NHS, for example through a greater emphasis on clinical experience and patient engagement through "student assistantships".

17. Once we approved the final document later this year we will be working to ensure this is embedded in the curriculum but we will need considerable support from the NHS which will need to accommodate the new approach in its own work programme.

18. Following publication of the Health Select Committee report Patient Safety on 3 July 2009, we provided DH(E) with information about the contents of the new version of *Tomorrow's Doctors,* focussing on the concerns raised by the Committee in relation to the education and training of medical students. We have also offered to provide such further input as may be required as they prepare their response. We understand that the command paper is likely to be published mid October when the current Parliamentary recess ends.

Fitness to Practise

19. Liam has an interest in a number of high profile cases, and is regularly briefed by Paul Philip. Further information is set out below in case Liam raises anything.

a. Code A the Jordanian doctor resident in the UK, who was arrested after the attack on Glasgow Airport in June 2007, and subsequently found not guilty and acquitted on all charges. As with all doctors who apply for registration, Code A was asked to demonstrate that his medical skills are up to date and that he is fit to practise. He has satisfied us that he has the appropriate skills and that his fitness to practise is not impaired. As he meets the statutory requirements for registration he has been registered as a UK doctor.

b. Code A The Court of Appeal has allowed an appeal by Code A and granted permission to apply for judicial review of the Professional Conduct Committee determination made in her case in 1987. The hearing has been fixed for hearing on 23 November 2009. The other litigation pending relates to assessment and enforcement of costs awards by the GMC in relation to the previous civil claims for damages.

c. Code A is suspended from the medical register by the Interim Orders Panel, pending a fitness to practise panel hearing. No date has yet been set. As you know Code A gave an interview to the Guardian highlighting our long-standing policy position which is to have the power to systematically test the English language and medical skills and knowledge of EEA doctors wishing to seek registration for the first time. In the same article Code A called for a review of out of hours care. We did not comment on this but did say that primary care organisations and employers can test doctors, to satisfy themselves that they are fit to do the job. An article also featured in the Sunday Telegraph on 6 September 2009.

d. *Dr Jane Barton*: The hearing was recently adjourned part heard following a determination on facts and will be reconvened at a date to be confirmed. We will reconvene the case as soon as possible but need to find a time when all parties are available, including Panel members, the doctor, and legal teams. At this stage, a date in January 2010 is the most likely time for the hearing to reconvene. Dr Barton will remain registered subject to conditions until the case is reconvened to consider whether the doctor is guilty of serious professional misconduct and what, if any, sanction to impose on her registration.

e. *AvMA Judicial Review*: Code A died of Addison's disease in 1990. A test that could have diagnosed Addison's disease was not carried out and in 1996 the local health authority admitted liability for Code A death. The family asked us to investigate the case in 2003 after the CPS decided not to prosecute, and were advised that this exceeded the five year time limit for complaints. Earlier this year Action Against Medical Accidents gained permission from the High Court for a judicial review of the decision. We have agreed to step aside from the case which continues between AvMA and some of the doctors concerned. A hearing is listed for 21-23 October 2009.

f. Code A *and* Code A the panel has now heard all the evidence in relation to the facts for each doctor, and has adjourned until November 2009 when it will reconvene in camera on facts. The Panel is likely to announce its decision on facts at the end of November and submissions and determinations on serious professional misconduct and sanction will follow. The next session is scheduled between 19 November and 23 December 2009.

g. Code A *and* Code A referred to our procedures as a result of the Baby P case, have been referred for hearing by a Fitness to Practise Panel, and are interim suspended following IOP decisions, Code A is also registered in the Republic of Ireland. The Irish Medical Council is aware of the interim suspension order. The hearing into Code A case is scheduled to start on 22 February 2010 and we are liaising with the parties in Code A case although it is unlikely to be listed before 2010. Another case has recently been opened in relation to a Consultant Community Paediatrician. We have written to a number of the agencies to identify whether there are any other doctors whose treatment of Baby P may raise FtP concerns.