Memorandum

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Council

Regulating doctors
Ensuring good medical practice

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From: Stephanie McNamara

Copy: Press team

Date: 7 May 2009

Council Press Briefing 7 May 2009

We are expecting representatives from BMA News, GP, BMJ and possibly Pulse at the press briefing. The invite has been extended to national journalists.

The journalists will have a full set of Council papers however we are not expecting them to attend the Council meeting on the day.

Journalists have been asked to attend at 3.45pm for a 4pm start.

The briefing will be held in Room 2.08 of the London office.

Running Order

Jackie will chair the press briefing, welcome the journalists and introduce Peter. Jackie will discuss interviews – which are not yet booked – at the start of the briefing.

We have 45 minutes for the briefing.

Peter will highlight several Council papers discussed at the meeting (with support from the relevant Director), the main papers to highlight are:

Paper 4a - Licenses to Practise: Preliminary Analysis of the Consultation
Paper 4b - Revalidation: Progress Report
Paper 5 - Confidentiality Guidance
Paper 6b - Fitness to Practise Annual Statistics for 2008
Paper 7c - Further Development of Contingency Plans for a National Emergency

Peter

Welcome remarks:

- I am delighted to have been elected as Chair of the Council. I've been involved with the GMC for a number of years and, along with the new Council who have been in place since January, I am keen to deliver on the significant programme of work already underway, in particular revalidation, the merger with PMETB and the establishment of OHPA.

Paper 4a (Peter to introduce Neil to support)

Licenses to Practise: Preliminary Analysis of the Consultation

Key messages:

- Council heard the interim findings from the responses to the consultation on the introduction of the license to practice regulations.
- The consultation asked a number of questions about the options for doctors, the fees for those various options; the draft guidance for doctors and the impact on licensing.
- Preliminary analysis shows a good level of support for the proposals. 73% of respondents support the proposal to offer doctors three options: registration with a license; registration only and voluntary removal from the register.
- A final analysis of the responses will be taken to the meeting on the 8 July.

Q&A

Why aren't you publishing the final report now as you had previously planned to?
We received a large number of responses and its important that we take the time to analysis them thoroughly.

Doesn't this show that the profession are nervous about the introduction of licensing and unclear about what is expected of them?
We don't get the sense that doctors are nervous about the introduction of licensing – however we know there are a number of uncertainties still around revalidation.

When will you start telling doctors what they have to do to revalidate?
The primary thing for doctors to do at the moment is respond to the Choice campaign for the license to practise as this is the first step towards revalidation. We know that there is a huge appetite for information about revalidation and what doctors will have to do. It is vital that we get this right and that we communicate the right messages to doctors.

Paper 4b (Peter to introduce Paul B to support)

Revalidation: Progress Report

Key messages:

- The Revalidation Project Board has meet for the second time. The Council today received an update on progress of the various pilots that are running around the UK.
- The report shows good progress is being made with the pilots schemes.
- The breadth of pilots across both primary and secondary care and in the 4 countries of the UK is to be welcomed. The pilots demonstrate a real commitment to getting it right on the ground and for doctors in different clinical settings.
- A preliminary UK wide plan for the roll-out of revalidation will be brought to the Council meeting on the 8 July.

Q&A

Do you think enough progress is being made?
Yes. We have to keep building the momentum – and we're seeing that already with the number of pilots and the number of originations who are preparing for the introduction of revalidation.

Did you have to ask the DH(E) for extra time as reported by Pulse?
No.

Why have the RCGP said revalidation will begin in 2010?

Paper 5 (Peter to introduce Jane to support)

Confidentiality Guidance

Key messages:

- Confidentiality is central to trust between doctors and patients. However it is not absolute and we have sought, in this revised guidance, to balance the interests of society and the individual.
- Council today agreed the revised draft of the Confidentiality guidance *(subject to minor changes- check against decision of Council).*
- The revised guidance will come into force in September 2009 and we will begin a programme to communicate with doctors about the new guidance.
- The revised guidance includes new or expanded advice on protecting information, sharing information with patients' partners, families of carers; genetic and other shared information and responding to criticism in the press.

Q&A

What is a 'safe haven'?

Safe havens are centres for holding securely patient information that can then be professionally anonymised or coded in a secure environment for use by researchers and others without unnecessarily disclosing identifying information. There is a *de facto* safe haven in NHS Scotland's Information Services Division, a point worth remembering since most of the discussion centres on England, where the NHS Information Centre is leading the work on developing the structures and guidance for safe havens.

Why have you ignored the concerns of the BMA about the inadequate efforts made, in practice, to obtain patients consent for secondary uses of information?

We consulted very widely on this piece of guidance and have sought to balance the views of all the key interest groups, including the BMA. Of course we take seriously the view that inadequate efforts are made to inform patients about secondary uses of information about them or to seek their consent. The guidance emphasises that anonymised data should be used whenever possible and that it's usually 'perfectly practicable' to seek patients' consent when that's not possible. Safe havens provide another effective answer to this long-standing problem, and the BMA are supportive of this in principle, even if there are some outstanding concerns about the legal framework.

How many calls do you get about confidentiality each year?

Difficult to say, but consistently more than 10% of c1000-1200 enquiries each year are specifically listed as about confidentiality, while another 10% are about related issues, including data protection, DVLA, access to records, etc.

What's the biggest change you're going to be asking doctors to make?

There is no major change to principles or the ways most doctors work; rather clarification of the principles in a number of specific areas, e.g. gun and knife wounds, genetic information, responding to press criticism, disclosures after a patient's death.

Paper 6b (Peter to introduce Paul P to support)

Fitness to Practise Annual Statistics for 2008

Key messages:

- Council have agreed the Fitness to Practise statistics for 2008.
- There is no significant change from 2007.
- We continue to see an over representation of IMGs at all stages of our procedures, from referral to hearing.
- We have conducted research over a number of years to try and understand why this is. Until very recently we did not have the ethnicity of doctors on the medical register – however after a successful campaign in 2007 we now have a near complete set. This information is being used by the ESRC in the programme of research they are undertaking jointly with us. We expect the findings by the end of the year.
- What we do know is that research previously conducted by York Health Economics Consortium and the PSI has found no identifiable bias within our procedures.

- Top line results for 2008:
    - We received 5195 enquiries or complaints in 2008, up very slightly on 2007 (5168).
    - We conducted a full investigation of around 1465 complaints, referred 1655 back to local procedures and closed 2022 without investigation.
    - 42 doctors names were erased from the medical register following fitness to practise hearings compared with 60 in 2007.

Q&A

Why do you think IMGs are overrepresented?
This is a long standing question – we do not yet have an answer. What we do know is that several independent pieces of research have been undertaken which show no basis within our procedures. Further work is being undertaken with the ESRC and this is due to report late 2009/2010.

Do you think that you are closing too many complaints in the early stages?
No. We do keep our processes under review to ensure that we are making the right decisions – however we know the vast majority of complaints are best dealt with locally so it is right that we refer some complaints to local procedures.

What impact has the civil standard of proof had on fitness to practise decisions?
It is probably to early to say – however the number of erasures has clearly not risen as some predicted.

Paper 7c (Peter to introduce Paul P/ Neil to support)

Further Development of Contingency Plans for a National Emergency

Key messages:

- The possibility of a worldwide influenza pandemic presents a significant challenge to the health and well being of any country and its populations.
- *Check current status of pandemic in the UK – comment on 2nd wave?*
- We have plans in place which are ready to be activated should we be required to do so.

GMC Statement (Issued to Pulse magazine Friday 1 May 2009):

"The GMC was given powers to grant temporary registration in an emergency by Parliament and the Privy Council last summer.

"The power to grant temporary registration will be activated if the Secretary of State advises the Registrar that an emergency is occurring or may occur.

"The GMC is ready to grant temporary registration should we be required to do so. Temporary registration can be granted to individual doctors or classes of doctors without the need for doctors to apply or pay a fee.

"We will make a formal announcement about the process if the powers are activated.

"In addition the GMC has specific guidance for doctors, *Pandemic Influenza: Good Medical Practice – Responsibilities of doctors in a national pandemic* which is available on our website."

http://www.gmc-uk.org/guidance/news_consultation/medical_pandemic.asp

Other issues (only if asked):

Code A

Code A is currently suspended from the medical register by the Interim Orders Panel. This indicates we are investigating concerns and as a result the doctor could face a public hearing into his fitness to practise.

- **Code A** was granted registration with the GMC on the 27th October 2006.
- was suspended from the medical register by the GMC's Interim Orders Panel on the 29th February 2008.

Dr Jane Barton

We have issued a press release about the Fitness to Practise panel hearing of Dr Jane Barton. There is no further information available at this stage however the hearing will begin here in the London office on the 8th June and will run for several weeks.

AvMA Judicial Review

We have stepped aside from the JR – which is still being pursued by two of the doctors involved.

Code A

The appeal has been heard and we are awaiting the outcome. We do not have a date.

Code A et al hearing

The hearing for Code A and Code A Code A is ongoing.

Baby P

A second doctor has been suspended by the IOP and the media are linking him to the Baby P case. We have not commented on any aspect of the investigation but have confirmed the suspension of Code A on the 17 February by the IOP for a period of 18 months.

Code A **remains suspended by the IOP.** 'Our priority is to protect the public interest, including patient safety. When an interim order has been imposed, we keep the details under close review. The Interim Orders Panel decided on Friday 21 November to suspend Code A registration. Our investigations are continuing and it would be inappropriate to comment further at this stage.'

Remedy UK
In a letter dated October 2008 Remedy UK lodged a complaint with the GMC about doctors involved in MTAS, including the Chief Medical Officer. The GMC responded to Remedy UK in a letter dated 12 December 2008 with the decision not to refer the allegations to for further investigation.

On 8 January 2009 Private Eye ran an article regarding the GMC's response to Remedy UK's complaint. The GMC quotation in the article was incorrect and may be the result of an incorrect posting on Remedy UK's website. It said that the GMC rejected the complaint from Remedy UK because the allegations of misconduct against the doctors must be related to a clinical setting.

Suggested line to take:

"We readily acknowledge the strength of feeling about MTAS among those for whom the action group, Remedy UK, was established. However, we do not comment on individual complaints as we have a duty of confidentiality to both doctors and complainants."

ARF (Neil Roberts to handle)

- Council has endorsed as part of their regular business the Business Plan and budget for 2009. As we've said previously the ARF will be reviewed on an annual basis in order to deliver a balanced budget rather than a surplus.
- Council has decided to increase the ARF by £20 from April 2009, for the vast majority of doctors the ARF is a tax deductible expense so the increase amounts to £1 per month whilst for those on lower incomes (below £21,862) a discount of 50% is available giving an ARF of £205.
- Council takes its responsibilities to control costs very seriously and has again taken further steps to improve the economy and efficiency of the organisation through reducing the cost of legal services, constraining overhead expenditure and focusing resources on our frontline services.
- The change to the ARF took effect in April 2009.
- The change to the ARF does not reflect the cost of Licensing and Revalidation.