

Memorandum

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**General
Medical
Council****Regulating doctors
Ensuring good medical practice****To:** Niall Dickson**From:** Julian Graville [Code A]**Copy:** Luke Bruce

[Code A]

Date: 17 September 2014**Department of Health: 2014 Stakeholder Survey****Time:** Friday 19 September from 3.00 – 3.45pm**Location:** By telecom ([Code A] will put [Code A] through when she calls)**Attendees:** [Code A] & Niall Dickson**Issue**

1. You have agreed to take part in an IPSOS Mori stakeholder interview as part of the Department's annual exercise to obtain feedback from its partners and to find ways of working more effectively together. You will find a copy of the invitation letter at Annex A.

Background

2. In advance of your interview, we canvassed opinion from Directors and Assistant Directors so that you have a cross section of views on our engagement with the Department of Health with particular reference to:

- What is working well in our relationship with the Department?
- What could work better and how can we continue to work together to develop health and care policy in the coming years?

3. We received a variety of responses from senior management within the organisation as follows:

What works well-

Very good relationships with officials and lawyers. We work closely with Code A (and currently Code A Code A and, while the content of discussions is at times fraught, the relationships are strong and work well.

We have shared objectives on a number of issues in relation to effective regulation and protection of the public.

What doesn't work well-

The process of obtaining legislative change. The resource available is limited and it is too difficult to obtain vehicles for legislative change. As society's expectations change, this process is becoming increasingly restrictive.

Sometimes the DH approach to reform can be legalistic where we sometimes need practical solutions. For example, it was difficult to persuade them to make changes to the Medical Act to address our issues about the impact of the Cohen jurisprudence as a result of their legal analysis

I think relationships are generally good on a personal level. We still sometimes get unwelcome surprises (eg the announcement of the investigation the other week into Gosport).

Re working better, we all have a tendency to get into silos. It sometimes feels that – for eg – DH see Education as somehow separate to professional regulation rather than an integral part of it. Would be good to see this feeling all joined up in future. On similar lines, would be good to create opportunities for blue skies/scenario based discussions about systemic risks and how they can be addressed

I suggest that a more regular for a between colleagues at the level below Code A/Niall/Code A would be helpful for us all – working well with LC Bill work so could be extended to other matters

Other thing I might add is that better DH England working with counterparts in other UK countries would be helpful. Too often appears lack of outreach to NI, Scot and Wales on matters of DH E policy that

also impact them and we have to help join dots

On European matters. There has been too much churn in that team and they are under resourced to deal with the serious issues presenting themselves in particular RPQ. We are often having to assist DH colleagues in understanding legislation etc

Not sure if it is helpful but without doubt personal contact works best. The ability to contact a person with whom one is acquainted is worth far more than anything else. A few bullets;

- **Code A** arrival has made a huge difference because of her background knowledge and her ability to signpost and inform. The Care meeting with SoS last week is a recent example
- Recent contact with **Code A** and **Code A** (NHS England) has been very helpful
- Sharon's very patient work with DH on their abortion guidance is another positive example where we were able to influence and work collaboratively, largely due to **Code A** contacts and expertise.
- What doesn't work well is the last minute summons to meetings with very limited information about the agenda. The Care meeting was an example of that

In Education we find some of the peremptory assumptions fed by HEE to the DH very unhelpful. It would be much more helpful if the DH spoke directly to us but I guess that is not going to happen

Things work well when there is an open line of communication – in particular, we really appreciate their willingness for us to have lawyer to lawyer discussions which help to narrow issues and agree solutions, particularly when dealing with draft legislation (I personally have worked very well with a number of lawyers including, most recently, **Code A** **Code A** on English Language testing, and **Code A** on FTP and Reval rules).

It is always helpful when we are given a chance to review and comment on draft documents. The flip side, as **Code A** states, is when we are invited to meetings with little opportunity to understand or consider the matters to

be discussed – for example, we were only sent details of the way the new EU directive will be implemented the day before a meeting scheduled in July to discuss. Therefore, the meeting itself was of little use and we were only able to consider and pass on comments in writing at a later date.

Might be worth saying that working on joint enterprises – such as supportive/joint statements – the relationship has worked well, but that we would like to develop a more proactive relationship, sharing information and plans early on so that we can be aligned, while remaining independent of each other

*Generally they seemed very well informed and understood our aims and objectives. **Code A** point about the timescales is right as we do seem to go from no contact to everything having to be done immediately. Changes of staff sometimes seem to be problematic. Our Section 60 and Law Commission work seemed to take people in and out of project which made continuity difficult*

DH engagement over things like the Bill, and their willingness to speak and listen to us (as evidenced by themed meetings) has been refreshing. But it's sometimes been frustrating that information you feed into one part of the Bill team on a particular issue isn't necessarily picked up by others.

For example, immediately following the publication of the Bill we were given a tight deadline for getting in our preliminary responses to all 250+ clauses. Which we did. But on several occasions subsequently, whether in conversation with DH or in requests for info they've made, it's been obvious that the person you are dealing with has not had sight of material/thinking you've previously submitted. So you have to re-send to make sure they are up to speed with what you said last time. Sometimes this is because personnel have changed, but it can lead to regulator unease about whether you've actually been listened to when you've made comments. And this is a shame because I think they are genuinely trying.

Second, DH often makes short notice requests for information. And that's fine. But when you've dropped everything else to comply with their request it would be nice occasionally just to get an email which acknowledges receipt and says simply 'thank you'. It's a small thing, but when you've bust a gut to help someone, it matters.

Third, I think DH (and perhaps DH lawyers) are still struggling

conceptually with a Bill philosophy which is about not over-regulating the regulators and allowing us greater freedom to run our business, while all the time their instincts and DNA tell them they mustn't let go of the reins. You see this constantly in the way they are all over the policy as well as the rules and regulations which underpin the legislation, as well as the legislation itself. They can't help but be detailed and prescriptive even though they are supposed to be committed letting us get on with it and then holding us to account if we get it wrong

4. Interestingly, some of the observations are repeated. The following points might be derived from these responses:

- the relationship is generally strong and usually works productively – there is a good degree of mutual respect and shared objectives
- some frustration at urgent DH request with sometimes 'same day or next day' responses required
- a suggestion of more regular contact at a level below Code A Niall/ Code A would be beneficial
- a suggestion that the relationship might benefit from sharing plans at an earlier stage of projects