

Memorandum

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CouncilRegulating doctors
Ensuring good medical practice

To: Paul Philip
From: Code A
Laura Nelson
Copy: Code A
Date: 15 January 2010

Background briefing for meeting with Norman Lamb MP**Introduction**

1. You previously met Norman Lamb on 18 June 2009 following his comments in the media on a number of GMC related issues. During this meeting, it was agreed that we would meet Mr Lamb on a twice yearly basis to update him on key GMC developments and other issues of interest.
2. Since the previous meeting, Mr Lamb has argued that the case of Dr Ubani should justify the testing of European clinicians before they practise in the UK and called for the GMC to complete the hearing of Dr Jane Barton as soon as possible following its adjournment part-heard in August 2009. He has also recently criticised the payments that doctors receive for signing cremation forms.

Logistics

Date: Tuesday 19 January 2010

Time: 14:00-15:00

Location: Portcullis House (opposite the Houses of Parliament and above Westminster tube station)

Accompanied by: Laura Nelson

Meeting objectives

3. The objectives of the meeting are :
 - a. To discuss any outstanding concerns Mr Lamb may have relating to Dr Ubani or European clinicians practising in the UK.
 - b. To update him on the case of Dr Jane Barton.

- c. To update him on key GMC developments and discuss plans for the introduction of revalidation including the revalidation consultation which will be launched shortly.

Update on key issues arising and interaction since previous meeting

Code A

Correspondence with the GMC

4. Since the previous meeting, Mr Lamb has written two letters to the GMC concerning Code A. Please see Annex A for copies of all correspondence.

5. In his letter of 22 October 2009, Mr Lamb asked the GMC to respond to a number of points he had raised with the Secretary of State for Health. Our response, dated 30 November 2009, outlined the steps taken by the GMC to share fitness to practise information with other national regulators, the registration arrangements for IMGs and EEA applicants and the free movement of labour within the EU.

6. Mr Lamb sent a further letter, dated 11 November 2009, seeking clarification on points raised during email correspondence between Anthony Egerton and Code A about the recognition of qualifications by the GMC. Code A is the son of Code A who died when he was prescribed 10 times the maximum dose of a painkilling drug by Code A.

7. Anthony Egerton responded to Mr Lamb on 15 December 2009, setting out the specific details of Code A qualifications, the European law around the recognition of professional qualifications and the requirements for registration with the GMC.

8. To date, we have received no further correspondence from Mr Lamb on this matter.

Comments in the media

9. Since your previous meeting Norman Lamb has commented on the Code A case on two occasions in the Guardian:

a. An online article (dated 11 January) on a Government safety review of out-of-hours work following the case of Code A included a quote from Code A Lamb. He argued that it was "scandalous" that a previous report had already identified weaknesses in the out-of-hours system but its recommendations had not implemented.

b. In an article dated 14 December 2009 on the prosecution of Code A by the German authorities, Mr Lamb argued that 'the Code A case should justify Britain suspending the system under which European clinicians can practise in this country without being tested first'.

Gosport War Memorial Hospital and Dr Jane Barton

10. Niall Dickson wrote to Norman Lamb on 6 January 2010 thanking him for correspondence concerning his time at the King's Fund and explaining the current stage of Dr Jane Barton's hearing. Please see Annex B for a copy of the letter.

11. The fitness to practise hearing of Dr Jane Barton adjourned part-heard on 20 August 2009. Following the adjournment, Mr Lamb commented in the Independent on Sunday (23 August 2009) that:

'It is intolerable that the relatives now have to wait till January for justice. The GMC has to see what it can move in order to complete the process as soon as possible. These findings reinforce the need for a public inquiry. It is scandalous that this doctor was allowed to keep practising for so many years.'

12. The hearing is scheduled to resume on Monday 18 January. It will consider whether Dr Barton has been guilty of serious professional misconduct in respect of the facts that have been found proved. Details of the allegations found proved by the panel are set out in the press release, which is included in Annex C.

13. The hearing is due to finish on 29 January 2010.

14. The key messages relating to this case are:

a. We offer our deepest sympathy to the families and friends of those who died at Gosport War Memorial Hospital between January 1996 and November 1999.

b. The fitness to practise hearing for Dr Barton relates to her treatment of 12 patients whilst working as a clinical assistant in geriatric medicine at the Gosport War Memorial Hospital, Hampshire between January 1996 and November 1999.

c. The GMC could not proceed with its investigation while two lengthy criminal investigations were underway. We also took the decision to await the outcome of the inquest into the death of 10 patients in case any new information, relevant to our investigation, came to light. As soon as the inquest was concluded we scheduled a fitness to practise hearing.

d. It is well established in law that a police investigation takes precedence over the investigation of a regulator. This is because an ongoing police investigation might be compromised by the disclosure of evidence in another forum such as a GMC hearing. The police were therefore unable, for a number of years, to release their evidence to the GMC because their inquiries were still ongoing. Nevertheless the GMC made a number of requests that the evidence be made available at the earliest opportunity.

e. Dr Barton had workplace undertakings and conditions which restricted her practice for a number of years. The IOP imposed conditions on the 11 July 2008. She is currently restricted by the GMC from prescribing diamorphine.

f. The GMC's solicitors are in regular contact with all of those complainants, including families, whose complaints are being taken forward in relation to Dr Barton.

Cost of suspended doctors

15. The Liberal Democrats published a press release on 12 May 2009 claiming that the suspension of 134 GPs over the last three years has cost the NHS £8.2m.

16. Norman Lamb was quoted in the press release stating 'It is clear that something is going badly wrong with the way that allegations against GPs are being handled'. Some of the information contained in the press release came from an FOI request made to the GMC about the total number of doctors suspended in the UK.

17. The story was picked up by the Health Service Journal and the Birmingham Mail (in relation to a Birmingham GP who has been suspended for over four and a half years at a cost of at least £600,000) but did not feature in the national media.

18. The quote above from Norman Lamb was included in a Manchester Evening News article on **Code A** (published on 30 November 2009), a GP suspended for three years after allegations of inappropriate treatment of 12 patients. **Code A** was erased from the medical register on 6 January 2010 as his fitness to practise was found to be impaired by reason of misconduct and deficient professional performance.

Payments to doctors for signing cremation forms

19. In an article in the Observer on 10 January 2010, Norman Lamb argued that payments to doctors by the relatives of the deceased for completing cremation forms cannot be justified as it 'involves nothing beyond most doctors' normal working hours'. Doctors are paid £73.50 for completing these forms.

20. The article followed freedom of information requests by the newspaper which revealed that doctors in England received £14.7 million in payments last year for filling out cremation forms. The BMA has called for the centralisation of all fees, arguing that the local authority should pay the fee and recoup the cost through taxation.

21. Please see Annex D for a copy of the article.

Background information

Liberal Democrat health policy

22. Norman Lamb's speech to the 2009 Liberal Democrat party conference outlined three key priorities:
- a. Dismantling bureaucracy to free up resources for patient care – including cutting the amount spent on quangos by a fifth, scrapping SHAs and cutting the Department of Health by 50%.
 - b. Liberating NHS staff – examples include giving ward sisters budgetary and staffing responsibility and empowering staff at every level to contribute to improvement through making every NHS hospital into an employee owned trust.
 - c. Ensure that NHS funds are used to keep the population healthy and avoid crisis admissions to hospital – bridging the gap between primary and secondary care and rewarding hospitals for keeping people healthy.
23. His conference speech built on previous policy announcements, including his comments at a Reform think tank conference in June 2009 where he argued for the pursuit of improved efficiency through a liberal and people focused health service. Code A
Lamb called for: a decentralising of power to elected local health boards; better preventative care which focuses on keeping people healthy and managing chronic conditions; care managed closer to home; integrated health and social care; and empowering patients by giving them the budget to determine their care priorities (where appropriate).
24. Norman Lamb has previously called for a shift of power from Whitehall to local communities and during his speech to the Liberal Democrat Party conference in 2008 he argued for the dismantling of 'wasteful and centralised NHS bureaucracy' including 'NHS quangos' such as CHRE.

Biography of Norman Lamb MP



25. A solicitor specialising in employment law and former local councillor, Norman Lamb has been the Liberal Democrat Shadow Secretary of State for Health since 2006.

26. He began his shadow ministerial career as the Liberal Democrat spokesperson for international development (2001-02) and then for the treasury (2002-05) before briefly becoming Liberal Democrat Shadow Secretary of State for Trade and Industry (2005-06).

27. Mr Lamb won his North Norfolk seat narrowly on his third attempt in 2001 and in 2005 increased his majority to over 10,000 votes despite a high profile campaign by the Conservative Party who considered this one of their top target seats.

28. Trevor Ivory, his Conservative opponent in the 2010 general election is also a solicitor. The Conservatives require a swing of 8.15% to gain this constituency and it is currently thought that Norman Lamb will retain his seat.

29. In February 2009 he tabled an Early Day Motion supporting the combined MMR vaccine and expressing concerns over comments made by Jeni Barnett, an LBC radio presenter, arguing that future reporting on this issue should be 'less sensationalist and more evidence based'.

Annex A – Correspondence between the GMC and Norman Lamb MP regarding
Code A

Annex B – Letter from Niall Dickson to Norman Lamb

Annex C – GMC press release on the reconvened hearing of Dr Jane Barton**Fitness to Practise Panel****Planned dates: 18 – 29 January 2010****Regent's Place, 350 Euston Road, London NW1 3JN**

The Fitness to Practise Panel will reconvene at Regent's Place, 350 Euston Road, London NW1 3JN to continue to consider one new case of conduct.

Please note that the Panel will sit in private on Monday 18 January 2010 and Tuesday 19 January 2010.

This case will be considered by a Fitness to Practise Panel applying the General Medical Council's Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988.

Dr Jane Ann BARTON**GMC Reference Number: 1587920****Area of practice: Gosport, Hampshire**

In August 2009 a Fitness to Practise Panel commenced consideration into allegations against Jane Ann Barton, a medical practitioner, relating to her treatment of 12 patients whilst working as a clinical assistant in elderly medicine at the Gosport War Memorial Hospital, Hampshire between January 1996 and November 1999.

The Panel found proved allegations that Dr Barton prescribed drugs, including Diamorphine and/or Midazolam, to be administered to the patients and that in some instances the dose range was too wide and the prescriptions created situations whereby drugs could be administered which were excessive to the patients' needs. The Panel further found proved allegations that Dr Barton's actions in prescribing the drugs were inappropriate, potentially hazardous and not in the patients' best interests.

The Panel also found proved allegations that, in respect of four patients, the lowest doses or lowest commencing doses of Diamorphine and/or Midazolam that Dr Barton prescribed were too high and that that in respect of four patients Dr Barton did not obtain the advice of a colleague when a patient's condition deteriorated.

The Panel further found proved allegations that Dr Barton failed to appropriately assess the condition of the 12 patients before prescribing opiates and that she did not keep clear, accurate and contemporaneous notes in relation to the patients' care.

The Fitness to Practise Panel will reconvene on 18 January 2010 to consider whether Dr Barton has been guilty of serious professional misconduct in respect of the facts that have been found proved and, if so, the Panel will go on to consider whether or not it should make any direction regarding her registration.

Annex D – Observer article on doctors fees for cremation forms

Doctors paid £15m to sign cremation forms (Observer, Sunday 10 January 2010)

'Ash cash' payments from grieving families treated as perk of job
Jamie Doward

Doctors are pocketing almost £15m a year from grieving families in return for filling in simple forms sanctioning the release of the bodies of loved ones for cremation.

"Ash cash" payments, as they are known by medical staff, are considered one of the perks of the job. Tales of junior doctors vying with each other to fill in the forms, for which they receive £73.50 a time, are legion. A junior doctor who blogs under the name "The Daily Rhino" has described ash cash "as the house officer's privilege, it is the fund for Thursday night drinks all over the country".

The unnamed doctor declares: "A colleague working on care of the elderly has effectively gone up a banding due to the vast amounts of ash cash he rakes in." The form filling – which takes around 10 minutes – is usually carried out during working hours, leading to accusations that doctors are earning extra money while carrying out their NHS duties. Bereaved families have complained about the practice and politicians and professional associations are now expressing concern.

Requests made under the Freedom of Information Act to hospitals across England show that doctors received £14.7m in payments for filling out cremation forms last year.

The figures reveal that doctors at two hospital trusts – Heart of England in the West Midlands, and University Hospitals of Leicester – shared almost £700,000 in "ash cash".

"This is a well-established practice but you really can't justify taking money off grieving relatives when this involves nothing beyond most doctors' normal working hours," said the Liberal Democrat shadow health secretary, Norman Lamb.

Legally, a deceased person cannot be cremated until the cause of death is known and recorded by two doctors. They must confirm that the deceased had not been fitted with a pacemaker, which could explode during the cremation process.

The fees – £73.50 to each doctor – can be charged for the completion of both forms as the work is not considered part of a doctor's NHS duties. Doctors normally charge the fees to the funeral director, who generally passes on the cost to the family. The British Medical Association has called for the centralisation of fees paid to doctors for death certification.

"Currently, the bereaved's family pays the fee. We feel this is another layer of bureaucracy at a difficult and emotional time," a BMA spokesman said.

"Given that this fee is applicable to all deaths, the BMA feels that local authorities should pay the fee rather than the bereaved, with the cost being recouped through general taxation."