

Memorandum

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COUNCIL**Regulating doctors
Ensuring good medical practice**

To: Paul Philip
From: Code A
Laura Nelson
Copy: Code A
Date: 16 June 2009

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

1. On 12 May the Liberal Democrat Shadow Secretary of State for Health Norman Lamb MP issued a press release criticising the cost of suspended doctors. In response to this the public affairs team contacted his office to request a meeting.
2. Mr Lamb has also recently criticised the GMC's operational procedures and called for a public inquiry into deaths at Gosport War Memorial Hospital.

Logistics

Date: Thursday 18 June 2009

Time: 11:00-12:00

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 clarify the GMC's processes in relation to suspended doctors – when we usually become involved, the options available to us and the steps we take to ensure patient safety at all times.
 - b. To reassure Mr Lamb of the robustness of our fitness to practise procedures.
 - c. To explain the GMC's position in the case of Dr Jane Barton.

Key messages on Dr Jane Barton case

4. The key messages in relation to Dr Jane Barton's 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 elderly 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.

Background information

Cost of suspended doctors

5. 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 (please see Annex 1 for the full text of the press release).

6. Norman Lamb is quoted in the press release saying '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.

7. 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.

Gosport War Memorial Hospital and Dr Jane Barton

8. In an article entitled '*Relatives of Gosport dead demand new police inquiry*' in the Independent on Sunday on 17 May 2009 (please see Annex 2 for the article in full), Norman Lamb is described as adding 'his voice to the mounting condemnation of the GMC'. The article also quotes Mr Lamb saying that this case "raises fundamental concerns about the way the GMC operates and its apparent failure to protect patient safety".

Whistleblowing in relation to Stafford Hospital

9. During a Commons debate on Mid Staffordshire NHS Foundation Trust on 18 May 2009, Mr Lamb criticised the behaviour of clinicians at Stafford Hospital. He argued that clinicians have a duty of responsibility and that some must have failed this by not reporting "the serious concerns they must have had" – and that this "in itself is a scandal that should be investigated by way of a public inquiry".

10. The Liberal Democrat Party also produced a number of press releases on events at Stafford Hospital. These criticised the continued shortage of staff and equipment at the hospital and called for a complete cultural change at the Trust with the establishment of open and transparent systems. The press releases also criticised the four hour target as this distorts the work of staff, and called for a full and independent inquiry, arguing that 'this scandal has undermined confidence in the regulatory system'.

Code A and out-of-hours care

11. In a Liberal Democrat press release on 5 May 2009 Norman Lamb called for an independent review of the out-of-hours care system following the death of Code A Code A died when he was prescribed 10 times the maximum dose of a painkilling drug by Code A a German locum doctor providing out-of-hours cover for a Cambridgeshire NHS Trust.

Liberal Democrat health policy – key points

12. Speaking at a recent Reform conference (9 June 2009), Norman Lamb outlined some of the key points of the Liberal Democrat's health policy which argues for the pursuit of improved efficiency through a liberal and people focused health service.

13. These include: decentralising power to elected local health boards; better preventative care which focuses on keeping people healthy and managing chronic conditions; managing care closer to home; integrating health and social care;

liberating workforces to run and improve their own organisations; and empowering patients by giving them the budget to determine priorities (where appropriate).

14. 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.

Norman Lamb Biography



15. 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.

16. 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).

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

18. 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 1 – press release on the cost of suspended doctors (12 May 2009)

Suspended GPs costing £60,000 each - Lamb

134 GPs have been suspended on pay in the last three years, at a cost of £8.2m - or £60,000 each - research by the Liberal Democrats has revealed. 28 GPs were suspended for over a year, and one Birmingham GP was suspended for four and a half years.

The information, revealed in Freedom of Information requests to primary care trusts (PCTs), shows that:

- 25 GPs were suspended for over 6 months
- 28 GPs were suspended for over one year
- A South Birmingham GP has been suspended for over 4 ½ years at a cost of at least £600,000
- South Essex suspended two GPs for 33 and 27 months respectively at a cost of over £310,000
- Newham suspended seven GPs, three for over a year at a total cost of £1.1m
- In Haringey, four GPs were suspended at a cost of £1.4m

Commenting, Liberal Democrat Shadow Health Secretary, Norman Lamb said:

“These figures are scandalous. It is clear that something is going badly wrong with the way that allegations against GPs are being handled.

“The process of investigating and dealing with complaints is failing badly and must be speeded up urgently.

“A system which is leaving doctors on suspension for over four years at taxpayers’ expense is not fit for purpose. It is a staggering waste of money and unfair on doctors and patients.”

Notes to Editors

The suspensions refer to GPs who are under investigation because of complaints.

The Liberal Democrats surveyed every Primary Care Trust (PCT) in England asking for the number of staff employed by the PCT (including GPs) who had been suspended over the past 3 years. 108 PCTs responded with 7 PCTs declining to provide information due to exemptions under the Freedom of Information Act.

Further FOI requests to the GMC which regulates doctors show that the number of all doctors suspended in the UK has risen from 216 in 2004 to 388 last year. The number struck off rose from 26 to 74. The response is attached.

Data from the GMC shows that there are over 1000 doctors currently on suspension, 50 of whom who have been suspended for over four years.

Annex 2 – Independent Article (17 May 2009)

Relatives of Gosport dead demand new police inquiry

Families threaten to boycott General Medical Council probe into deaths of elderly patients at Hampshire hospital

By Nina Lakhani

The Crown Prosecution Service (CPS) has been asked to reopen its investigation into a series of controversial deaths at Gosport War Memorial Hospital. Relatives are asking it to revive the inquiry after several pieces of new evidence emerged during recent inquests.

Norman Lamb, the Liberal Democrat health spokesman, last night became the most senior MP to call for a public inquiry into the 92 deaths, which were investigated by Hampshire police between 1998 and 2006.

Mr Lamb told *The Independent on Sunday* that he will this week write to Jack Straw, the Secretary of State for Justice, and Alan Johnson, the Health Secretary, supporting calls from relatives, the Portsmouth coroner, Hampshire police and lawyers for an independent investigation into the deaths at Gosport.

His move comes just weeks before the General Medical Council will hear an inquiry into Jane Barton, the doctor at the heart of many of the allegations about the deaths at Gosport. Several families are threatening to boycott the proceedings in a vote of no confidence after the GMC refused to allow them legal representation.

Mr Lamb added his voice to the mounting condemnation of the GMC, which stands accused of failing to deal properly and promptly with serious complaints of professional misconduct against Dr Barton.

John White, a solicitor from the law firm Blake Laphorn, said: "The medical evidence in these cases and the GMC processes are all so complicated that legal representation would enable the relatives to participate fully. By saying no, the GMC is effectively shutting them, and all their vast knowledge, out, which poses a risk to achieving a successful prosecution."

He added: "We are in this for the long haul. If the CPS refuses to re-open the criminal case and the Government refuses calls for a public inquiry, then our only option will be to get all the evidence in front of a judge through a group clinical negligence claim. We will get the answers whatever it takes."

The GMC's disciplinary panel, to be convened on 8 June, will examine Dr Barton's role in 12 cases in which patients died. The hearing comes seven years after the GMC was first warned about the deaths of elderly patients under her care. Relatives are angry that the GMC allowed Dr Barton to continue working unrestricted as a GP until last July.

Several earlier dates for a disciplinary hearing, going back to 2002, were postponed while investigations continued. It was deferred last September after the GMC decided to wait for the inquests to take place.

But Gillian Mackenzie, who was the first to raise the alarm after the death of her mother, Gladys Richards, aged 91, in 1998, is outraged because her mother's inquest is still outstanding. Mrs Mackenzie believes the GMC's refusal to reschedule her mother's case could jeopardise the inquest.

Peter Walsh, from Action Against Medical Accidents, said: "First, why were the original concerns of patients' relatives dismissed? Second, why did it take so long until the GMC imposed an interim order to protect the public? If they were right to act to protect the public in 2008, this means that they have left the public at unnecessary risk for years when they already had the information they needed from relatives, if they would only listen.

"There should be a wholesale review of the procedures to refocus them on what should be the overriding priority – protection of the public."

The GMC would not comment on any aspect of the case against Dr Barton but insists all its decisions have been based on the evidence available to it and in the public's best interests.

A spokeswoman defended the decision to refuse relatives the right to legal representation. The relatives will face questions as witnesses but cannot make available information they have discovered through their own investigations.

Mr Lamb said: "This case raises fundamental concerns about the way the GMC operates and its apparent failure to protect patient safety. While it is absolutely right to follow the principle of innocent until proven guilty, this does not mean steps to protect the public from potential risks cannot be taken, something which has clearly not happened in this case.

"Given that lives were lost in circumstances which cause serious concern, it is truly extraordinary that this has dragged on for so many years."