28 September 2018

Rt Hon Maria Miller MP
Chair, Women and Equalities Committee
House of Commons
London SW1A 0AA

Dear Mrs Miller,

**Sexual harassment in the workplace**

Thank you for your letter of 31 July. I am pleased to provide some further insight into the work the GMC is doing on this important issue.

As your committee’s report highlights, workplace sexual harassment is completely unacceptable. The GMC is clear that every effort must be made to eradicate it. We have therefore closely analysed your report and the implications its findings have for the delivery of our statutory responsibilities. In particular, your committee’s view that it ‘finds the passivity and indifference of regulators in the face of widespread workplace sexual harassment to be not only surprising, but gravely irresponsible’ has caused us to reflect on whether our existing approaches to addressing this issue are sufficiently robust.

My reply is therefore both a summary of existing activity, and a commitment to fully assess whether there is more the GMC can do to discourage instances of these kinds of behaviours. We will continue, in parallel with these efforts, to take action where we find that a doctor has behaved unacceptably in this way.

In the first instance, I should make it clear that our regulatory role extends to individual practitioners, but not employers. However, we are increasingly working in partnership with the Care Quality Commission (CQC), and other healthcare regulators who do oversee those employers. In collaboration with them, we are placing a clear focus on improving workplace environments and culture across the UK health system.

Within our remit, we have noted three areas of specific relevance that may be of interest to your committee: our standards and guidance, how we respond to fitness to practise concerns and our work on supporting professional behaviour. When looked at holistically, we believe this work is already allowing us to fulfil our...
responsibilities under the Public Sector Equality Duty to have due regard to the need to eliminate sexual harassment within the workplaces of the professionals that we regulate.

However, as I allude to above, we believe there is scope for us to take further steps in pursuit of this goal. You may be aware that the Equality and Human Rights Commission (EHRC) has convened a roundtable which consists of a number of regulators and representative organisations. Its next meeting, which takes place on 7th November, will be discussing issues arising from your committee’s report and what regulators should be doing to address them. The GMC will continue to contribute to the work of this group on an ongoing basis.

Our standards and guidance

Our standards define what makes a good doctor by setting out the professional values, knowledge, skills and behaviours required of all doctors working in the UK. We consult with a wide range of people, including patients, doctors, employers and educators in developing them.

The core professional standards expected of all doctors are set out in Good medical practice, which covers fundamental aspects of a doctor’s role. This guidance is not statutory, but it forms the basis of how we, and the Medical Practitioners Tribunal Service (MPTS), make an assessment as to whether a doctor’s fitness to practise may be impaired.

The specific guidance within Good medical practice on sexual conduct concerns doctors’ relationships with patients. In that guidance we say that doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them and must report colleagues who do so. This guidance reflects the imbalance of power that can arise between doctors and patients, and the potential vulnerability of patients seeking care, and applies whether or not the doctor’s actions could be regarded as sexual harassment.

We do not place similar restrictions on doctors’ personal relationships with their colleagues, but we are clear in Good medical practice and our Leadership and management guidance that doctors:

- must treat colleagues fairly and with respect
- must not bully or harass them or unfairly discriminate against them
- should challenge the behaviour of colleagues who do not meet this standard
- must follow and keep up to date with their organisation’s policies about employment, equality and diversity.

Our Leadership and Management guidance also tells doctors they:

- should promote a working environment free from unfair discrimination, bullying and harassment
must actively advance equality and diversity by creating or maintaining a positive working environment free from discrimination, bullying and harassment

must make sure that their organisation’s policies on employment and equality and diversity are up to date and reflect the law.

We undertake a range of activities to help doctors understand and apply the principles of our guidance in their daily practice. This includes free interactive workshops for doctors and medical students, on all areas of our standards and guidance, which are run by our liaison and outreach services across the UK. In our Leadership & Management sessions we have a specific video covering sexual harassment. This uses a case study of behaviour between one GP to another in a practice setting and these sessions also cover harassment and discrimination more generally.

The committee may also wish to note our ongoing collaboration with The Royal College of Physicians (RCP), Royal College of Surgeons, Edinburgh (RCSEd) and The Royal Colleges of Obstetricians & Gynaecologists (RCOG) to develop a Professional Behaviours Learning Series. This programme will be made up of three modules, supporting doctors to:

- identify unprofessional behaviours in practice and understand the impact of these behaviours on patient safety
- develop individual skills to deal with behaviours that have potential to cause harm, using the Vanderbilt University theory
- and create the right environment for professional practice, with a focus on leadership and just culture

This learning series will be delivered by the GMC’s Regional Liaison Service and Devolved Offices, who work with Trusts and health boards at a local level across the UK. We are currently piloting it and hope to be introducing the programme in full from the start of next year. Following your committee’s report, we are considering whether this series should have more specific content relating to sexual harassment in the same way our Leadership & Management sessions do.

Finally, we have attended a stakeholder roundtable hosted by RCSEd to discuss practical solutions for tackling bullying and undermining in the NHS, along with colleagues from numerous royal colleges, the British Medical Association (BMA) and the National Guardian’s Office. Again, your committee’s report has prompted us to assess whether we need to take a more tailored approach to sexual harassment in the course of delivering the extensive support we have provided to this initiative.

**Acting on concerns**

As noted, we will always take action where we find a doctor has behaved unacceptably and seek appropriate sanctions for registrants who have done so.

This means that when a serious concern is raised about an individual doctor's behaviour, health or performance, we investigate to see if they are putting the
safety of patients, or the public's confidence in doctors, at risk. This process could result in us referring a doctor to the MPTS, where they could be subject to a range of sanctions including removal from our register.

Sexual harassment is something we will always take particularly seriously and take action on. In our Sanctions Guidance we are clear that more serious outcomes are likely to be appropriate if there are serious findings that involve sexual harassment.

If a doctor is convicted of serious sexual offences we will always call for them to be removed from the register, which would in effect mean they would not be able to work as a doctor within the NHS. Where they are found to have sexually harassed or committed sexually motivated misconduct with a patient, work colleague or third party we would usually also refer them to the Disclosure and Barring Service. I hope this demonstrates the seriousness with which we respond to this behaviour.

We are also the only professional healthcare regulator to have powers to appeal the decisions on sanction made by our operationally independent tribunal, the MPTS, to the High Court. We have recently used these powers in cases of sexual misconduct by doctors that did not involve convictions for sexual assault but where we felt the misconduct was so serious that the doctor should no longer practise, and where the MPTS stopped short of applying this sanction.

You may be aware that in accepting the conclusions of a ‘rapid review’ conducted by Sir Norman Williams, Clinical Adviser to the Secretary of State for Health and Social Care, the government has announced that it intends to legislate remove the right for us to appeal in these and indeed all other situations where we feel it might be appropriate.

**Supporting professional behaviour**

I also wanted to update you on some of our wider work on improving professional behaviours. The data we have available highlights that unprofessional behaviours, bullying and undermining are significant issues across the profession. On an annual basis, we survey 120,000 doctors who are either in postgraduate medical training, or train such doctors, as part of our National Training Survey (NTS). In 2018:

- 6.1 per cent of respondents told us they had experienced bullying or undermining. Of the 188 respondents who chose to tell us about the incident they had experienced, only 5 specifically stated that it related to sexual harassment.
- 24.7 per cent of staff who completed the NHS Staff Survey (2017) said they had experienced harassment, bullying or abuse from a manager or another colleague. We are not aware of the proportion of these instances that were sexual in nature.
- 27 per cent of respondents to the BMA’s SAS doctor survey (2017) said they had been a victim of victimisation, harassment or bullying in the workplace in the last 12 months. We are not aware of what proportion of these instances were sexual in nature.
In developing future NTS reports, we will be looking at the reasons for disparity between what the data indicates in this area. As matters stand, completion of the NTS is a mandatory for doctors in training, and any comment they might make in response would be seen by senior staff. This may be a factor in the lower level of reporting that we currently see.

Following your committee’s report we have analysed our complaints data and you may be interested to know that since 2008:

- Of all recorded allegations, there were 185 doctors where the allegations related to sexual harassment towards a colleague, with an average of 19 per year
- Following a formal investigation and evidence gathering process, 68 of these cases resulted in a sanction or erasure

Among the 185 cases, the most common specific allegation types are indecent behaviour and inappropriate personal comments. In addition to the NTS, our work supporting doctors in training also involves visiting providers. We are able to identify and act on concerns we find and in at least one specific case, we have acted following concerns relating to sexual harassment made to us by staff.

We also conduct enhanced monitoring of training environments where there are persistent concerns about a site and this can escalate to placing conditions on a provider or, in severe cases, the withdrawal of doctors in training under the provisions of the Medical Act (1983).

Beyond doctors in training, we have a wide and ongoing programme of work to support the medical profession in raising concerns. We want to support them to raise these concerns whatever their circumstances, and ensure they know that when they do, action will be taken to resolve them. We are currently undertaking a review of our the ‘raising concerns’ workshops we run with doctors and will consider whether we need to develop specific resources around sexual harassment in the context of that.

As we take this further work, and continue to consider the recommendations of your committee’s report, we would be happy to discuss our work further with you.

Yours sincerely

Charlie Massey