

David Lammy  
Parliamentary Under Secretary of State for Health  
Richmond House  
London  
SW1A 0AA

23<sup>rd</sup> December 2002

Dear David,

I was very pleased to meet you on December 17<sup>th</sup> 2002. I felt the meeting was very productive and I hope that we will continue to work effectively to promote successful public involvement in the NHS.

I am writing to comment on *Statutory Instruments: 3007 and 3038 - The Commission for Patient and Public Involvement in Health*. Our comments are based on our detailed experience of governance arrangements necessary to ensure the independence of statutory bodies working both in the community and in the NHS. Our comments are designed to give advice to the Department that will support the ability of the Commission to carry out its work effectively on behalf of patients and the public.

One overriding concern that ACHCEW has is that there is no indication in SI 3007 or 3038 of how the Commission will be held accountable or report on its activities. We would therefore like the governance arrangements to be strengthened to ensure transparency and accountability.

**Annual Work Programme (SI 3007 - (2) sub para 2 (c))**

It is not clear whether the Commission work programme will include the establishing and enabling of ICAS in Patients' Forums.

**Annual Work Programme (SI 3007 - (2) sub para 3 and 4)**

We are very concerned that the rights given to the Secretary of State threaten the Independence of the Commission. The statement that 'The work programme shall be subject to approval by the Secretary of State' and in sub para (4) that 'The work programme may be varied – (a) with the agreement of the Secretary of State; or (b) as the Secretary of State may determine.' is in our view objectionable as it undermines the independence of the Commission and will



suggest to most people that the Secretary of State is likely to have undue influence over the content of the work programme.

We are also concerned that should the Secretary of State have any role in the determination or content of the work programme that he/she might inhibit the Commission from being reactive to problems and concerns raised by Patients' Forums.

**Persons to be advised by the Commission (SI 3007 - (3))**

ACHCEW would expect local health service bodies to be included amongst those person and bodies to be advised by the Commission.

**Charging for Advice and Services (SI 3007 - (7))**

It is not clear from the SI whether it is intended that the Commission will be able to charge Patients' Forums for services such as training and publications. Can you clarify this?

**Obtaining Information (SI 3007 - (8) 1)**

The Commission should have access to information concerning independent sector activity on behalf of or in conjunction with the NHS and in particular access to information that Trusts and their independent partners deem to be commercially sensitive

**Appointment of Members (SI 3038 - (3) 2)**

We advise that there should be a maximum of two terms of office for both the Commissioners and the Chair of the Commission. We are surprised that this matter is not included in SI 3038

**Termination of tenure of office (SI 3038 – para 7, (3))**

It is essential that should the appointment of the Chair or Commissioners of the CPPIH be terminated by the Secretary of State that his/her action must be seen to be free from political interference. The procedures must be open and transparent. We recommend that there should be a right of appeal against dismissal.

**Appointment of committees and sub-committees (SI 3038 – para 8, (2)(3))**

We believe that committees and sub-committees of the Commission should have at least one member of the Commission on them and we are disappointed that the Secretary of State has not conceded this point. Our view are founded on the strong belief that the accountability of the committees and sub-committees will be undermined if they do not included at least one person who has direct accountability to the Commission and the Secretary of State.



We note that coopted membership is governed by Regulation (5) and (6) of SI 3038, however we believe in addition that Directions need to be published by the Secretary of State concerning the appointment of co-optees to committees and sub-committees of the Commission, regarding their terms of service voting rights and accountability.

**Schedule Two – SI 3038 – Part 1 - Access to meetings and documents – 1.  
– (5) (a) (iii) 6B)**

ACHCEW is concerned that this paragraph could prevent public disclosure of vital information concerning the effectiveness or quality of NHS services and could serve to protect practitioners rather than patients. Information could be provided anonymously. We strongly recommend the deletion of section 6B.

**Drafting of SI 3038 - Gender**

We note that the male gender is used in SI 3038 to denote both male and female genders. We would like to recommend that in drafting Statutory Instruments that this practice is changed.

I hope you will find our advice helpful and constructive in the development of the new arrangements for public involvement in the NHS.

I hope you have a very happy Xmas and year.

Yours sincerely

Malcolm Alexander  
Director

Alan Hartley, Sally Brearley, Donald Roy, Graham Girvan, Meredith Vivian, Rob Thompson, Eileen Exeter, Lesley Hilton.