Dear Mr Massey,

Thank you for your timely reply dated 13th September to our letter of 21st August.

Firstly, we welcome your apology for the anguish and uncertainty the GMC’s actions and subsequent proceedings have had on Dr Bawa-Garba, the wider profession, and of course Jack’s family. There is no doubt that doctors have been deeply affected by this case and the GMC’s actions have had serious ramifications for patient safety. We therefore very much appreciate the gesture that you are willing to meet The Doctors’ Association UK to discuss our concerns and our work on Learn Not Blame. We would like to take you up on this opportunity and would be happy to meet you at your earliest convenience.

We do, however, remain concerned. In your letter you mentioned that the issues raised in Dr Bawa-Garba’s case were fully considered by the Court of Appeal, and that the different roles of criminal courts of disciplinary tribunals in cases of gross negligence manslaughter were further clarified. You also mentioned that the judgment provides helpful guidance for further tribunals and that the GMC was carefully examining the decision to see what further lessons can be learnt.

It is therefore with marked concern that we greet the news that the GMC has continued to appeal MPTS verdicts following the judgment in Bawa-Garba v GMC. We are surprised that the GMC has continued to so, even following the report of the Williams Review, which recommended that the GMC be stripped of its power to appeal MPTS verdicts. Indeed we understand that this week Lord Justice Bean urged that the GMC show ‘restraint’ when exercising this power in the judgment of Raychaudhuri v GMC on the 14th September, and in discussing the case appeal judges expressed ‘regret that it was brought’. Whilst we note the original GMC challenge to the MPTS verdict in this case was in November, we understand that the GMC is currently appealing the MPTS verdicts of four doctors in the courts in order to impose a higher sanction. We would be grateful if you could clarify if this is indeed the case.
You mentioned that you share our objective of ensuring that doctors and the public at large are provided with a comprehensive understanding of the circumstances surrounding Dr Bawa-Garba’s case and the reasoning behind the GMC’s actions. Although these were partially addressed in your letter to us dated the 20th March we still do not feel that doctors, the patient safety community and the public, have been provided with a clear understanding of how the GMC came to the decision to appeal the MPTS verdict in Dr Bawa-Garba’s case, or indeed the processes which the GMC follows when deciding to appeal the MPTS verdicts of other doctors’ cases. Dr Sarah Wollaston has indeed confirmed the Health Select Committee will hold an evidence session on this in the Autumn, and we hope such a clear explanation will provided and the processes used to make these decisions in pursuing a sanction for a doctor will become more transparent.

In the meantime we will be urging the Government to move forward with the legislative changes needed to repeal the relevant amendment to Section 40A in a timely matter. But we feel it would restore trust in the GMC by the medical profession and patient safety community, and show significant reflection and learning on the part of the GMC following the Bawa-Garba case if the GMC were to cease appealing MPTS verdicts. We therefore call on you to do so urgently.

We further support the petition started by Dr Jenny Vaughan that calls on the GMC to ensure that the court fees awarded to Dr Bawa-Garba are not paid for from the subscription fees of the doctors who supported her. We understand that the GMC receives additional sources of funding outside of doctors’ subscriptions and would like to discuss this further with you when we meet if this is not resolved in your meeting with Dr Vaughan at the end of this month.

Finally, we very much hope we will be able to work together on driving forward the values of the Learn Not Blame campaign. We note your previous work and the contribution of Professor Terence Stephenson to patient safety working groups. With this in mind, we would like to extend both you and Professor Stephenson an invitation to the formal launch of our Learn Not Blame campaign in Westminster hosted by Dr Philippa Whitford MP in November. We should have a date set for this in the next couple of weeks but hope we have the opportunity to meet you before this.

Yours Sincerely,

Dr Samantha Batt-Rawden
Chair, The Doctors’ Association UK