

November 2013

WELCOME TO OUR LATEST UPDATE ON ISSUES CONCERNING PATIENT SAFETY AND JUSTICE

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'DUTY OF CANDOUR' STILL ON A KNIFE-EDGE

One of the measures announced in the Government's response to the Francis report on Mid Staffordshire was a statutory Duty of Candour on organisations - something which AvMA has campaigned for for years. However, as things stand, the duty would be limited to fatal cases and those resulting in 'severe' harm only. In our view, such an arrangement would actually make things worse rather than better - effectively legitimising the cover up of all incidents deemed less 'severe' than this. As a direct result of intervention by AvMA, the Secretary of State, Jeremy Hunt, has agreed to review this arrangement and consider bringing all incidents suspected of having caused significant harm ('moderate harm' and worse as defined by the NHS) within the scope of the duty. Mr Hunt has asked Norman Williams (President of the Royal College of Surgeons) and David Dalton (CEO of Salford NHS Foundation Trust) to report back to him before Christmas. He is worried that an 'unintended consequence' of including all incidents of significant harm would be to over-burden healthcare providers with bureaucracy. AvMA has pointed out that NHS bodies already have a contractual duty to disclose significant incidents of harm, and have been practising "Being Open" guidance which also covers these incidents for years. The Duty of Candour will take the form of statutory 'fundamental standards' for registration with the CQC. Read [AvMA's briefing](#) for more information on how the Duty of Candour should be framed.

GOVERNMENT RESPONSE TO FRANCIS MID STAFFORDSHIRE REPORT

Jeremy Hunt delivered to [Government response to the Francis report](#) on 19th November.

AvMA is continuing to press for the statutory Duty of Candour on organisations to include all incidents of significant harm (see separate article). We are also seeking to persuade Ministers that a creative drafting of the CQC regulations, which will encompass the new duty, could go a long way to meeting the objectives of Francis's recommendations which have not been accepted. For example, the recommendations for an individual duty of candour and offence of preventing others from complying with their duty were not accepted. However, AvMA is calling for the organisational Duty of Candour to include a requirement to discipline or refer to regulators any individual who prevents the organisation from complying with its duty. We are also asking for an explicit requirement on employers to support and train staff in complying with the duty. Other recommendations which AvMA were disappointed not to see accepted include:

- national guidance on minimum staffing levels (however we are assessing the Government's alternative proposals, which Robert Francis QC himself seems quite content with)
- regulation of healthcare assistants
- ring-fenced funding and consistent national model for Healthwatch
- regulation of managers.

The Government has made much of only having rejected 12 of the 290 recommendations. However, a closer look reveals that many are only agreed 'in principle' or partly agreed.

DH AGREE TO ISSUE CLEAR GUIDANCE ON COMPLAINTS AND LITIGATION FOLLOWING THREAT OF JUDICIAL REVIEW

The Department of Health has agreed to issue new clear guidance making it clear that NHS bodies must investigate complaints, notwithstanding any intended or actual legal action by the complainant. This followed a threat of judicial review by AvMA. AvMA has come across a number of examples of NHS bodies in England wrongly insisting complaints are put on hold purely because litigation is intended or taking place re clinical negligence. The DH removed the bar on complaints being investigated whilst litigation was in train or intended, after lobbying by AvMA, when it revised the complaints regulations in 2009. However, the lack of clear guidance has meant that some trusts are unaware of the change, whilst others have chosen to use the loophole to put complaints on hold simply because of litigation. In a test case AvMA helped a claimant take to the Ombudsman, she could not intervene because under existing arrangements trusts had a right to do so.

HELP AvMA MEET THE 'BIG GIVE' CHALLENGE

AvMA is one of the charities chosen to benefit from the Big Give challenge this year. By donating on line, on 5th, 6th and 7th December, you can help AvMA double the value of your donation by drawing on anonymous donors as part of the scheme. Please donate whatever you can on 5th, 6th or 7th December and it will make a huge difference to our work. For full details [click here](#).

RESEARCH PROJECT ON ADVERSE DRUG REACTIONS:

The Medway School of Pharmacy, University of Exeter Medical School and the Centre for Health and Social Studies at the University of Kent are undertaking a research project on patients' experiences of a suspected adverse reaction to a medicine.

If you would be interested in taking part in their research project please click [here](#)

AvMA RECRUITING TRUSTEES:

Due to recent retirement of trustees, AvMA is looking to recruit new trustees to join its board. This is a voluntary position but all out-of-pocket expenses are paid. In addition to a strong commitment to the aims of AvMA and relevant experience, we are looking for people who can add diversity to the board which is currently light on younger adults; people from ethnic minority backgrounds; and disabled people. Click the following for more information: [Role Description](#).

If you are interested please write in with your CV and covering letter explaining why you would like to be a trustee and how you think you could contribute: Trustee Position, AvMA, Freedman House, Christopher Wren Yard, 117 High Street, Crokydon CR0 1QG.

AvMA IN THE NEWS:

29.05.13: re: : surgery mortality end of week

- BBC Radio 5 live
- BBC TV News Channel
- ITV News
- Sky News
- The Guardian
- 16 x BBC Radio regional stations!
- 'Voice of Russia'!

06.06.13 BBC Radio Wiltshire: Never events

06.06.13 BBC Radio Bristol: Never events

19.06.13 re CQC/Morecambe

- BBC Breakfast News
- ITV News
- C4 News
- Sky News
- BBC Newsnight
- BBC NW Regional TV news
- BBC radio NW/Cumbria
- BBC Online
- 20.06.13 The Guardian Online PW article Re CQC/Morecambe
- 22.06.13 Daily Mail (Sunday) re Morecambe Bay
- 23.06.13 Sky News re CQC/Morecambe (inc others at conf')
- 27.06.13 Aljazeera: CQC / Morecambe scandal:
<http://www.aljazeera.com/indepth/features/2013/06/2013625213140576330.html>
- 30.06.13 Sunday Express: Morecambe/CQC
- 01.07.13 WHO Patients for Patient Safety Newsletter: Duty of Candour article by PW
- 03.07.13 Daily Telegraph: AvMA legal challenge to DH re comps guidance:
<http://www.telegraph.co.uk/health/healthnews/10155578/Hospitals-block-patient-complaints-on-legal-grounds.html>
- 04.07.13 The Independent: New CQC powers to prosecute
- 10.07.13 Daily Telegraph – Health Care Assistants
- 14.07.13 SKY News: Keogh review of 14 trusts
- 15.07.13 Re Keogh review of 14 Trusts
- BBC News Channel
- Sky News
- Daily Mail
- 10 Regional BBC Radio stations
- Radio Five Live
- LBC radio
- BBC Website
- ITV Website
- 16.07.13 The Guardian: Keogh
- 16.07.18 BBC website Keogh
- 18.07.13: BBC 1 News : chief inspector hospitals
- 18.07.13 BBC News Channel : chief inspector hospitals
- 06.08.13 Berwick report:
- BBC Breakfast
- BBC News at Ten
- BBC News Channel
- BBC Newsnight
- BBC Online
- BBC Radio 4
- BBC radio Merseyside
- BBC radio Coventry & Warwickshire
- Daily Telegraph
- The Guardian
- The Independent
- 03.09.13 Daily Telegraph, increase in Never Events:
<http://www.telegraph.co.uk/health/healthnews/10281888/Potentially-fatal-never-errors-double-in-year-on-NHS.html>
- 12.09.13 Channel 4 News, Hospital mortality rates
- 15.09.13 Sunday Mirror: bed sores: <http://www.mirror.co.uk/news/uk-news/nhs-700-victims-bed-sores-2276548>
- 17.09.13 Pulse (GP mag): bed sores
- 25.09.13 The Times: Patterson inquiry
- 26.09.13 BBC Radio SE: Ombudsman report on Maidstone complaints

30.09.13 BBC website: Patient Safety Alerts Wales
BBC Radio Wales: Patient Safety Alerts Wales
BBC TV news Wales: Patient Safety Alerts Wales
ITV News Wales: Patient Safety Alerts Wales
BBC 1 Wales: Health Debate
09.10.13 Guardian: Mid Staffs / Staffing levels:
<http://www.theguardian.com/society/2013/oct/08/nhs-wards-mid-staffs-hospitals>
18.10.13 HSJ: Duty of Candour – Care Bill
18.10.13 Nursing Times : Duty of Candour – Care Bill
20.10.13 Sunday Express: number of patient safety incidents:
<http://www.express.co.uk/news/health/437933/EXCLUSIVE-Tragic-Andrea-Green-shows-toll-of-hospital-errors>
21.10.13: The Guardian: our JR of DH re complaints & Duty of Candour:
<http://www.theguardian.com/society/2013/oct/20/hospitals-investigate-all-patient-complaints-possible-lawsuit>
21.10.13: Daily Mail: our JR of DH re complaints & Duty of Candour:
<http://www.dailymail.co.uk/news/article-2469755/Jeremy-Hunt-NHS-hospitals-told-probe-ALL-complaints.html>
21.10.13: Law Society Gazette: our JR of DH re complaints & Duty of Candour:
<http://www.lawgazette.co.uk/practice/nhs-complaints-to-be-investigated-irrespective-of-claims/5038295.article>
24.10.13: Daily Express: CQC 'intelligent monitoring' report
24.10.13: BBC Radio 5 Live: CQC 'intelligent monitoring' report
25.10.13: The Guardian: CQC intelligent monitoring report on risky trusts:
<http://www.theguardian.com/society/2013/oct/24/patient-safety-under-threat-say-staff-english-nhs-hospitals>
27.10.13: Sunday Telegraph: Duty of Candour/complaints report
<http://www.telegraph.co.uk/health/healthnews/10406635/NHS-complaints-review-will-be-rendered-useless.html>
28.10.13. BBC Radio 5 Live: Clwyd complaints report/Duty of Candour
29.10.13 Guardian <http://www.theguardian.com/society/2013/oct/28/nhs-complaints-review-ann-clwyd>
29.10.13 Irish Times: re Dublin conference
28.10.13 BBC News Online <http://www.bbc.co.uk/news/health-24669382>
31.10.13 BBC Radio Wales: Ind review of Abertawe Health Board / Putting Things Right scheme
5.11.13 BBC News Channel: Colchester Hospital
6.11.13 Guardian Online: PW article re Colchester/Duty of Candour:
<http://www.theguardian.com/commentisfree/2013/nov/06/colchester-general-hospital-nhs-mid-staffs>
7.11.13 Guardian: Colchester hospital:
<http://www.theguardian.com/society/2013/nov/06/colchester-hospital-patient-review-cqc-report>
8.11.13 BBC Radio Wales: Health Inspectorate Wales/Patient safety
10.11.13 Mail on Sunday: death rates
11.11.13 C4 Dispatches: Dr Ian Patterson scandal (4 clips)
12.11.13 The Guardian: staff shortages|:
<http://www.theguardian.com/society/2013/nov/12/nursing-cuts-putting-nhs-patients-at-risk>
13.11.13 Health Service Journal: Duty of candour:
<http://www.hsj.co.uk/news/legal/duty-of-candour-plans-legitimise-cover-ups/5065280.article#.Uo4hMsuYZjU>
15.11.13 Nursing Times: Duty of Candour <http://www.nursingtimes.net/nursing-practice/clinical-zones/patient-safety/plans-for-duty-of-candour-hanging-on-knife-edge-warns-charity/5065380.article?blocktitle=News&contentID=4385>
16.11.13 BBC1 News: Wilful neglect

ITV News: Wilful neglect
Sky News: Wilful neglect
BBC R4 Today: Wilful neglect
BBC News Channel: Wilful neglect
BBC Website: Wilful neglect
17.11.13 The Guardian : Govt response to Francis/Duty of Candour
19.11.13 ITV News: Govt response to Francis/Duty of Candour
BBC News Channel: Govt response to Francis/Duty of Candour
Sky News x 2: Govt response to Francis/Duty of Candour

ITV Daybreak: Govt response to Francis/Duty of Candour
LBC Radio: Govt response to Francis/Duty of Candour

BBC, ITV, Sky Websites: Govt response to Francis/Duty of Candour
20.11.13 The Gardian: Govt response to Francis/Duty of Candour

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FORTHCOMING EVENTS:

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