

October 2011

WELCOME TO OUR LATEST UPDATE ON ISSUES CONCERNING PATIENT SAFETY AND JUSTICE GOVERNMENT'S WATERED DOWN "DUTY OF CANDOUR" IS A 'COP OUT'

The Department of Health has this month launched a consultation on what it calls a 'Duty of Candour' with patients when things go wrong. However, no-one should be under any illusion that this is the statutory Duty of Candour or 'Robbie's Law' which AvMA and many others have been calling for. What is proposed is merely a "contractual" duty - a standard clause in NHS contracts with hospitals. To comply, hospitals would have to issue an annual statement to the effect they are complying. The 'duty' would not even apply to GPs! The DoH has said it is not prepared to listen to the evidence and arguments supporting the need for a duty of candour as a core standard in the CQC registration regulations - even though the Health Select Committee recommended this in June. However, all is not lost. Politicians of all persuasions are mustering around an amendment to the Health and Social Care Bill currently in the Lords which would create such a statutory, enforceable duty. It follows briefing from AvMA, National Voices and National Association of LINks Members. The Department of Health consultation can be found [here](#). For a copy of AvMA's briefing on this click [here](#).

OPPOSITION TO LEGAL AID BILL MOUNTS - MOMENTUM GROWS TO SAVE CLINICAL NEGLIGENCE CLAIMS

The controversial Legal Aid Sentencing and Punishment of Offenders Bill has its final reading in the Commons on 31st October. Substantial changes at this stage are unlikely as coalition parties have issued a three line whip to support the proposals. However, there are growing signs that the Lords may force significant changes, and Clinical Negligence is tipped as the most likely area to see changes. Politicians have been receptive to evidence from AvMA and others that scrapping legal aid will not only lead to unfairness with patients injured due to negligence being unable to make a claim, but would actually cost the NHS and taxpayer more than retaining legal aid, and damage patient safety. Influential Liberal Democrat peer and QC, Lord Carlile is the keynote speaker at a parliamentary briefing meeting organised in Westminster on 14th November. AvMA is also pushing for changes to the no-win no-fee reforms in the Bill which would effectively make claims impossible for many. See AvMA's campaign page [here](#). Meanwhile

JUDICIAL REVIEW HEARING AWAITED

AvMA is also seeking a judicial review of the Government's decision to scrap legal aid for clinical negligence. An oral hearing date in the High Court is awaited. AvMA argue that the consultation process was fundamentally flawed. It did not take account of the evidence submitted. The impact assessment ignored key factors and was inadequate. And the conclusions reached were based on false assumptions and are irrational.

HEALTH PROFESSIONALS AND PATIENTS UNITED OVER PROTECTING WHISTLEBLOWERS AND ENSURING OPENNESS

AvMA is proud to be working in partnership with Patients First - a new independent organisation for NHS whistleblowers. The organisation is being officially launched at a seminar jointly organised with AvMA on 14th December. The seminar, chaired by influential doctor and journalist, Dr Phil Hammond, will explore what is needed to support and protect whistleblowers better and ensure openness with patients. Health Secretary, Andrew Lansley, and key figures from the NHS, regulators and patients' groups, are expected to attend. Both AvMA and Patients First believe that the Government's current proposals concerning whistleblowing and a duty of candour with patients are inadequate.

MID STAFFORDSHIRE INQUIRY NEARS END

The Mid-Staffordshire public inquiry has finished taking witness evidence. As a core participant, AvMA is currently preparing its closing submissions to inquiry chairman, Robert Francis QC. AvMA will be concentrating on suggesting recommendations concerning the complaints procedure and independent support; the role of regulators such as CQC and the role of commissioners; patient and public involvement and Healthwatch; inquests and litigation; patient safety infrastructure and systems;

and measures to protect whistleblowers and ensure openness with patients. The inquiry report is expected in the New Year.

300 PATIENTS/FAMILIES SUPPORTED IN THE LAST MONTH

Behind the headlines, AvMA's staff and volunteers continue to deliver the charity's 'bread and butter' work in directly supporting and advising people affected by medical accidents. Our helpline currently advises around 250 people a month. Our casework services provides more in-depth support to an average 50 people each month. Recent examples from our work include

- The family of Mrs Smith (name changed) were supported and represented at the inquest into her death on a so-called "dis-established ward" in a London hospital. The inquest resulted in a 'Section 43' letter from the coroner making recommendations for improving safety, including protocols on dis-established wards and abolition of drugs. The family would not have been represented and, probably, the result not have been achieved without AvMA's help.
- A lady called the helpline regarding the death of her 48 yr old husband. He died after complications following a Hernia operation. She didn't know where to start! She called us for Complaints, Inquest and Legal Advice. She had contacted ICAS for help but was signposted to us. We advised her how to go about making a complaint and questions to ask, the Inquest process and what needs to be shown in a legal claim, finally signposting her to solicitors and sending her our information pack. By the end of the call she expressed how helpful it had been, she felt that she had at last got the information she needed to enable her to move forward with what she described was very daunting and confusing process.
- A gentleman called the helpline, he had an accident at home and suffered burns. He went to A &E and was told superficial and there would be no scarring and to go home. He returned to the hospital 3 days later for a follow up appointment and was admitted as an emergency due to the extent of the burns and the infection setting in. He had burns to his shoulder, chest and stomach and received multiple skin grafts; he was told he was lucky to be alive! He was off work for 7 months and was told that the scarring was much bigger than would have been if the infection had not set in and the burns had been dealt with sooner and more appropriately. We advised him how to make a complaint to the hospital, questions to ask, the legal process and signposted him to solicitors.

AvMA IN THE NEWS:

Please click [here](#)

FORTHCOMING EVENTS:

For information visit the [events](#) page of our website or e-mail conferences@avma.org.uk

WE NEED YOUR SUPPORT:

AvMA relies on its charitable fundraising to continue to develop and provide support to people affected by medical accidents and to campaign for patient safety and justice. If you would like to make an online donation to AvMA easily and securely, simply click [here](#). If you would like to make a regular donation please complete and return the form from [here](#). We have also developed a whole range of opportunities to raise money for the charity and have fun at the same time. These range from holding a coffee morning to doing a sponsored parachute jump. Some other ideas include organising a charity golf day or quiz night in support of AvMA, or doing a sponsored run or other activities. Our events team will provide you with all the help and support you need. Contact them at conferences@avma.org.uk or visit "[Support Us](#)".