COVID-19 – BMA ETHICS GUIDANCE

Healthcare professionals are currently working under extreme pressure as they respond to the pandemic outbreak of COVID-19. At the time of writing, there is currently no effective vaccine or anti-viral treatment. The pandemic is fast-moving, relatively unpredictable and of uncertain duration. In many countries, it is placing an enormous stress on healthcare resources and providing care to existing standards is proving difficult. Unfortunately, in some countries, health services have been overwhelmed. The impact of the pandemic on resource-poor countries is of particular concern.

This extraordinary situation is raising, or has the potential to raise, many ethical challenges for doctors delivering care to patients. It is possible, for example, that there may be points in this pandemic where decisions need to be made about who should have access to finite specialised intensive care beds, drugs and equipment. This has happened in some countries and, despite efforts by the UK Government to reduce demand and increase supply, it is still possible that this could happen in the UK. Some hospital trusts in the UK are already reporting concerningly low supplies of oxygen and vital medicines such as propofol and alfentanil.[i]

In these circumstances, where not everyone can be treated, difficult ethical decisions will have to made. For example, can some patients be prioritised over others? How should a doctor decide on which patients to treat? Can treatment be withdrawn from patients who are currently being treated, but are not responding, in order to offer treatment to those who may have a better chance of benefiting?

The UK is also reporting concerningly low supplies of vital personal protective equipment (PPE) for frontline workers, raising the question - what are a doctor's obligations to treat patients, in circumstances that present a high risk of infection, when there is inadequate PPE and their own health and safety, as well as those of their family and friends, is being put at increased risk?

If the system becomes overwhelmed, doctors will be responsible for making and implementing these agonising decisions and they need support and clear guidance to help them to do so and to ensure that these decisions are made in a transparent, fair and consistent way. Similarly, patients have a right to know that decisions that affect them will be fair, lawful and based on the best available evidence.

In order to support doctors during the pandemic, the BMA has produced a range of guidance and resources, including ethics materials. The BMA also provides a range of counselling, peer support and well-being services to support doctors in the UK, along with specific guidance on their personal safety and well-being during the pandemic.[ii]

The ethics materials include a detailed guidance note outlining the BMA's basic ethical approach and FAQs covering the major ethical issues that doctors may encounter when providing care and treatment during the COVID-19 outbreak; and guidance on good decision making. Key information and guidance from other bodies is also signposted. The materials can be found on the BMA website at www.bma.org.uk/advice-and-support/covid-19/ethics/covid-19-ethical-issues

These are unprecedented times and the BMA is listening to feedback from individuals and organisations, as well as groups who have particular concerns about their care and treatment during this pandemic. It continues to work with specialist clinical, legal and ethics experts, to ensure the guidance reflects the most up-to-date evidence and advice as we develop a better understanding of COVID-19.

ABORTION - COVID-19

The delivery of clinical care has had to adapt in response to the COVID-19 pandemic and the significant restrictions placed on the public's movement and individual's physical proximity to minimise its transmission. Where appropriate and possible, clinical consultations have been conducted remotely and the roles and responsibilities of healthcare workers have been modified.

In some areas of clinical care this has not been an automatic switch over. This is due to tight controls under law and regulation on where and how some services must be provided, and who must provide them. There are tight controls, for example, on where abortion services can be delivered in all four nations under the Abortion Act 1967 (England, Wales and Scotland) and Abortion (Northern Ireland) Regulations 2020.

Prior to the COVID-19 pandemic, women were required to attend physical locations. Some aspects of abortion services can, however, be delivered remotely, both safely and effectively.[iii]

The English,[1] Scottish,[2] and Welsh[3] governments have all now temporarily approved some remote provision of abortion services under their individual powers to extend 'the class of place' where abortion can be provided and administered - to allow for telephone and video consultations and remote prescribing in some circumstances.

The Northern Ireland Department of Health now also has these powers to allow for some remote provision[iv] after the Abortion (Northern Ireland) Regulations 2020 came into force at the end of March but has not yet used these powers.

ABORTION - NORTHERN IRELAND

Previous Ethics briefings have charted the unprecedented developments in relation to the law on abortion in Northern Ireland.[v]

Hours before the UK parliament closed prematurely on the 25 March (due to the COVID-19 pandemic), regulations for a new legal framework for abortion in Northern Ireland were laid; coming into force on 31 March.

The new regulations[4] set out the grounds for an abortion; gestational time limits; where abortions can take place; certification and notification requirements when an abortion is carried out; and the ability for healthcare professionals to conscientious objection to participate in abortion treatment (except in cases where there is a risk to a pregnant woman's life or of grave permanent injury to a pregnant woman's physical or mental health).

[i] See, for example - Kirkland F and Titheradge N. Coronavirus: 'Local shortages' of intensive care drugs. *BBC Online*, 12 April 2020. Available at www.bbc.co.uk/news/health-52150861 (accessed 20 April).

[ii] The BMA's COVID-19 resources are continually being updated and can be found at www.bma.org.uk/advice-and-support/covid-19 (accessed 20 April)]. Details of the well-being services can be found at www.bma.org.uk/advice-and-support/your-wellbeing#wellbeing-support-services (accessed 20 April).

[iii] See, Royal College of Obstetricians and Gynaecologists, Faculty of Sexual and Reproductive Healthcare, British Society and Abortion Care Providers and the Royal College of Midwives. *Coronavirus (COVID-19) infection and abortion care* (2020). Available at www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-abortion/ (accessed 20 April).

[iv] Section 8 (3) Abortion (Northern Ireland) Regulations 2020.

[v] See, for example - Campbell R, Brannan S, Davies M, *et al*. Ethics briefing. *J Med Ethics* 2019;45:836–837.

Among other things, the Regulations permit abortion on request where one medical professional is of the opinion that a pregnancy has not exceeded its 12th week. Abortion is permitted later in pregnancy where two medical professionals are of the opinion that the continuance of a pregnancy involves a risk to the life, physical or mental health of a pregnant woman and on the grounds of severe or fatal foetal abnormality.

At the time of writing, the UK parliament had 28 days after it returned from the Easter recess - on the 21 April - to debate the Regulations and either retrospectively reject or approve them in their totality.

The Regulations reflect a huge step in providing a safe abortion service within Northern Ireland itself but they also re-introduce and omit some significant factors.

Despite not being part of the Northern Ireland Office (NIO) consultation on a new legal framework at the end of 2019,[5] criminal sanctions for healthcare professionals who breach the Regulations have been re-introduced (these will be in addition to other extensive regulatory, criminal and civil sanctions that apply in relation to the delivery of clinical care generally). The British Medical Association (BMA) is opposed to this re-introduction as it believes that abortion should be regulated in the same way as other clinical procedures. There is concern that additional criminal sanctions will seriously hinder the successful implementation of future abortion provision in Northern Ireland, which will ultimately be to the detriment of the health and safety of women and girls.

A notable omission in the Regulations is the lack of provision for exclusion zones outside confidential abortion services. Unacceptable intimidation and harassment of staff and patients who are providing a lawful and necessary service takes place in a variety of different ways in the rest of the UK. For example, filming individuals approaching and leaving abortion services and giving women unsolicited grossly erroneous 'advice'. It is highly likely that this type of activity will be replicated in Northern Ireland once abortion services are established. The Government has, however, committed to keeping this matter under review.[6]

Ruth Campbell, Sophie Brannan, Veronica English, Olivia Lines, Rebecca Mussell, Julian C Sheather

Medical Ethics, British Medical Association, London, UK

Correspondence to Ms Ruth Campbell, Medical Ethics, British Medical Association, London WC1H 9HW, UK; rcampbell@bma.org.uk

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