

5 May 2022

Chris Morris
Area Coroner for Manchester South

Sent via email: coroner.office@stockport.gov.uk

Dear Mr Morris

Regulation 28: Report to prevent future deaths

Thank you for your letter dated 23 March 2022, addressed to my colleague [REDACTED] [REDACTED] requesting the GMC's response to a regulation 28 report. Your letter has been passed to me to respond. I was sorry to hear of the tragic circumstances that led to the death of Billy Longshaw. I extend my sincere condolences to Mr Longshaw's family, and all others affected.

You raise concerns in your report about medical education and standards required for doctors. Perhaps I can summarise the role of the GMC as set out in the Medical Act (1983) and how it relates to; the education and training of medical students and doctors; and setting the standards all doctors need to follow throughout their careers.

Our role as a medical regulator: Education and Standards

Education

Our powers in medical education, are two-fold: to set the outcomes for graduates of UK medical schools leading to entry on to the medical register and to approve the curricula and programmes for postgraduate training of doctors. We quality assure all stages of undergraduate and postgraduate medical training against our standards for the management and delivery of medical education and training.

Standards

We also publish guidance for all doctors setting out the principles of good practice and the professional standards expected of them in the course of their work. The principles set out in our guidance are consistent with the law in all countries of the UK, including the provisions of the Mental Capacity Act 2005. All doctors must be aware of and follow our guidance and we have powers to take action if those standards are not met.

Addressing your specific concerns and recommendations

Your report raises a concern regarding the adequacy of education provided to medical students about the Mental Capacity Act 2005, and concerns regarding doctors' of all levels familiarity of this legislation in clinical settings.

Undergraduate education

Our regulatory powers don't extend to mandating specific content in undergraduate curricula, but we determine and publish the high-level outcomes all medical students are required to demonstrate in order to graduate and be awarded a Primary Medical Qualification (PMQ).

These outcomes are our [Outcomes for graduates](#), which sets out what newly qualified doctors, from all [medical schools that award UK primary medical qualifications](#), must know and be able to do. All undergraduate medical curricula have recently been approved against the *Outcomes*.

In the appendix to this letter, I have included extracts from the *Outcomes* which relate to legislative requirements (including the Mental Capacity Act) and assessing mental capacity. We have also included extracts relating to caring for, safeguarding, and communicating with patients with learning disabilities.

Postgraduate education

Our standards, [Excellence by design](#), require organisations responsible for developing postgraduate medical curricula to:

CR3.1 Include [Good medical practice](#) and the content of the [Generic professional capability framework](#).

The Generic professional capabilities (GPCs) framework gives a detailed description of the interdependent essential capabilities that underpin professional medical practice in the UK and are therefore a fundamental and integral part of all postgraduate training programmes.

All postgraduate medical curricula have recently been approved against *Excellence by design* and have the GPCs mapped to their learning outcomes. All doctors in training across all specialties will receive training underpinned by the GPCs.

In the appendix to this letter, I have included extracts from the GPCs which relate to legislative requirements (including the Mental Capacity Act) and assessing mental capacity. I have also included extracts relating to caring for, safeguarding, and communicating with patients with learning disabilities.

Standards required of all doctors

Your report recommends that consideration be given to ensuring doctors at all levels are familiar with the practical application of the Mental Capacity Act 2005 in clinical settings, and accompanying guidance such as that produced by us (the General Medical Council). As such, this recommendation applies to all GMC registered doctors, including those who are no longer in training.

In order to address this recommendation, I will outline:

- Scope of our guidance
- relevant expectations (as set out in GMC guidance) of all GMC-registered doctors
- relevant resources and support we provide doctors, to help them apply the principles of our guidance into practice

Scope of our guidance

Given the scope of our guidance, and the fact that we do not specifically advise doctors on how to apply the principles of the Mental Capacity Act 2005 into clinical practice, this specific part of the recommendation may be better addressed by bodies such as Health Education England, NHS England, or as you have identified, the employing trust in this case.

Our expectations

Our guidance is clear that doctors must ensure they are familiar with relevant legislation and guidance that affects their work. Paragraphs 11 and 12 of [‘Good medical practice’](#), which is our core piece of guidance that describes what it means to be a good doctor, states that doctors must ‘be familiar with guidelines and developments that affect [their] work’ and ‘keep up to date with, and follow, the law, our guidance and other regulations relevant to [their] work’.

Our guidance on ‘Decision making and consent’ is the most relevant piece of guidance where it comes to issues around mental capacity and [paragraphs 76-93](#) set out our expectations where a patient may not have capacity to make a decision. This also makes clear (at paragraph 78) that doctors ‘must be aware of [their] duties under the relevant legislation, and have regard to the relevant code of practice, wherever [they] practise in the UK.’

Supporting doctors

We also offer a number of resources to help doctors apply the principles of our guidance into practice. This includes organising [workshops](#) on a range of topics, including decision making and consent, and providing a significant number of [online learning resources](#) via our website. The latter includes resources on our ethical hub with extensive sections dedicated to [mental capacity](#) and [learning](#)

[disabilities](#). These pages also signpost to a range of other relevant sources of information.

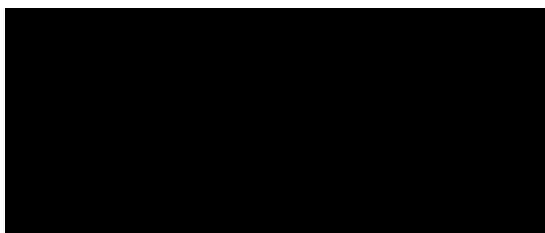
We are always open to making improvements to these resources – and we encourage and welcome any feedback. Finally, we also have an [enquiry service](#) for anyone (including doctors) to seek advice about our ethical guidance.

Final reflections

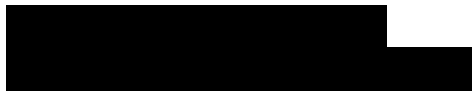
This case illustrates the complexity of making decisions about mental capacity in the context of learning difficulty. We recognise the importance of the issues raised in the report and we ensure that mental capacity issues are well understood by GMC staff – for example through training and establishing mental capacity leads for Fitness to Practice decision makers. We have also worked collaboratively with various charities to develop media content addressing mental capacity issues.

We have carefully considered your concerns. I hope this information provides reassurance of the actions we have been taking and will continue to take with medical schools and postgraduate training organisations, and to support doctors through our guidance to ensure a similar incident does not happen again.

Yours sincerely

A large black rectangular redaction box covering the signature of the Medical Director and Director of Education and Standards.

Medical Director and Director of Education and Standards

A black rectangular redaction box covering the contact information of the Medical Director and Director of Education and Standards.

Appendix 1 – relevant extracts from our regulatory standards for undergraduate and postgraduate medical education and training

Extracts from *Outcomes for graduates* (undergraduate medical education and training)

National legislative requirements

With respect to appropriate knowledge of their legal responsibilities, our *Outcomes for graduates* state that:

4. Newly qualified doctors must demonstrate knowledge of the principles of the legal framework in which medicine is practised in the jurisdiction in which they are practising, and have awareness of where further information on relevant legislation can be found.

To support 4, above, we have [supplementary guidance](#) to be read alongside our *Outcomes for graduates* in which we reference mental health and capacity as one of the specific areas of legislation that we expect newly qualified doctors to be able to understand the principles of.

Assessing mental capacity

With respect to assessing mental capacity, we expect newly qualified doctors to be able to do the following when they start practising for the first time:

2. Newly qualified doctors must behave according to ethical and professional principles. They must be able to:

[...]

1. Explain and demonstrate the importance of:
 - seeking patient consent, or the consent of the person who has parental responsibility in the case of children and young people, or seeking the views of those with lasting power of attorney or independent mental capacity advocates if appropriate[...]
 - assessing the mental capacity of a patient to make a particular decision, including when the lack of capacity is temporary, and knowing when and how to take action.

Safeguarding vulnerable groups

It may also be relevant to note our expectations about caring for patients with learning disabilities. With respect to caring and safeguarding patients with learning

disabilities, we expect newly qualified doctors to be able to do the following when they start practising for the first time:

7. Newly qualified doctors must be able to recognise and identify factors that suggest patient vulnerability and take action in response. They must be able to:

[...]

- d. Assess the needs of, and support required, for people with a learning disability

Communication

With respect to communicating with patients with learning disabilities, we expect newly qualified doctors to be able to do the following when they start practising for the first time:

10. Newly qualified doctors must be able to communicate effectively, openly and honestly with patients, their relatives, carers or other advocates, and with colleagues, applying patient confidentiality appropriately. They must be able to:

[...]

- b. Communicate by spoken, written and electronic methods (including in medical records) clearly, sensitively and effectively with patients, their relatives, carers or other advocates, and colleagues from medical and other professions. This includes, but is not limited to, the following situations:

[...]

- When communicating with people who have learning disabilities

Extracts from the *Generic Professional Capabilities framework* (postgraduate medical education and training)

Consent

Doctors in training must demonstrate and understand the professional requirements and legal processes associated with consent, including:

[...]

- Considering and addressing mental capacity issues

National legislative requirements

Doctors in training must be aware of their legal responsibilities and be able to apply in practice any legislative requirements relevant to their jurisdiction of practice, for example

[...]

- Mental capacity and deprivation of liberty safeguards
- Mental health
- The legal requirements about patient and carer involvement in shared decision making
- Safeguarding of vulnerable children and adults

Capabilities in safeguarding vulnerable groups

Doctors in training must demonstrate they can:

[...]

- Apply the mental capacity legislation in clinical practice, to protect the safety of individuals and society.

[...]

- Understand the needs and support required for people with learning disabilities

Communication and interpersonal skills

Due to the complex nature of medical practice, doctors in training must develop high levels of communication and interpersonal skills. Doctors in training must demonstrate that they can communicate effectively and be able to share decision making, while maintaining appropriate situational awareness, professional behaviour and professional judgement. They must do this with patients, relatives, carers, guardians and others by:

[...]

- Making arrangements to communicate effectively with someone one who:

[...]

- Lacks mental capacity or has a learning disability