

Inquest into the Death of David Gray Media Briefing Notes

Background

The inquest into the death of Mr David Gray, who died following a massive overdose of diamorphine administered by an overseas doctor during an out-of-hours visit, will begin on Thursday 14th January 2010.

Mr Gray, 70, from Manea in Cambridgeshire, had suffered with kidney stones and kidney infections for many years. Occasionally in severe pain, he was treated by his GP and the local out-of-hours service, Take Care Now (TCN) on a number of occasions with injections of pain-relieving drugs.

On Saturday 16th February 2008 his partner, Lynda Bubb contacted TCN who provided out-of-hours medical cover on behalf of the Cambridgeshire Primary Care Trust.

TCN arranged for Dr. Daniel Ubani, the on-call doctor to visit Mr Gray at home. Dr Ubani, 66, from Witten in Germany, was on his first ever shift in the UK having arrived in the UK the day before to work for TCN.

It is alleged that without seeking further professional opinion, reviewing Mr Gray's medical history, performing any physical examination or consulting guidelines on the selection and use of medicines, Dr Ubani gave Mr Gray an injection of 100 mg of diamorphine, ten times the maximum dose of 10 mg usually recommended. Dr Ubani then left without waiting to see how Mr Gray responded to the injection. Dr Ubani admits that he had no knowledge of the drug diamorphine.

Mr Gray died within a few minutes. The family understand that Dr Ubani was advised to leave the country "as soon as possible."

Key Issues

The case has raised serious concerns and questions nationwide about the provision of out-of-hours care and the use of EU doctors in the NHS without proper training.

1. Calls for a NHS investigation into the use of EU GPs for out-of-hours services. Are there sufficient safeguards in place for the checking and monitoring of GP out-of-hours services? Should there be a national system for the vetting and registration for out-of-hours doctors from the European Union?

The Care Quality Commission's interim findings on the service provided by TCN concluded that primary care trusts were failing to consistently and routinely look at the quality of care provided by out-of-hours services and stated that they are "concerned PCTs across the country may not be monitoring GP out-of-hours services closely enough".

2. There are concerns about the employment of out-of-hours doctors from the EU in the NHS without the proper training. Doctors coming to work in Britain from the EU should be tested to prove they have the knowledge and skills needed for the job in question and that they are fit to practise in the UK.

Following Mr Gray's death, Dr Ubani wrote to Mr Gray's family and admitted that he was unfamiliar with diamorphine, the drug used.

3. Dr Ubani never appeared before a German court and was never interviewed by police but received by post a 9 month suspended sentence and costs of 5,000 euros (£4,500) from the District Court in Witten, Germany for causing actual harm/death by negligence.

Why has nobody been held accountable in an English court for the death of David Gray? Why was the European arrest warrant issued to bring him back to the UK to face possible charges refused? Why was Dr Ubani never questioned by police despite returning twice to the UK during 2008? What breakdowns and miscommunication between the UK and German authorities led to this immunity from prosecution in the UK?

Quotes/Comment

Mr Gray's son, Dr Stuart Gray a general practitioner from Kidderminster in the West Midlands:

"In essence we have a German doctor, Ubani, who has retrospectively been given GP registration in Germany despite there being no evidence of him actually having either obtained GP specialist qualifications, or indeed having practiced in General Practice in his own country, being mainly an 'anti-aging doctor'. Because of an EU directive regarding the employment of EU doctors, he has been automatically registered by the GMC onto the UK GP specialist register.

He has arrived to do locum out of hour work in the UK after being taken on by a locum agency who has contracted him out to a private out-of-hours provider who themselves are subcontracted by the PCT. He was on his very first shift in the UK after having had a few hours induction by TCN, the out-of-hours provider, by a doctor who has written he did not have time to assess him properly, was not expecting to do an induction and was under a heavy workload commitment at the time. Despite this TCN still sent him out the next day on his first shift. During this shift he killed my father with ten times the maximum dose of diamorphine; a pain killing drug he readily admits he had no knowledge of or any idea of the normal dose. He is also under investigation regarding a patient that he saw the same day who subsequently died.

The next day, when concerns were expressed about his performance, we then have the locum agency and TCN telling Ubani to go back to Germany as soon as he can, despite a police investigation having started. Subsequently, we have Ubani returning to a GMC hearing both two weeks and six months later but never being questioned by the police. Not until over twelve months later was a European Arrest Warrant issued by the CPS. Once received by Germany we then have the Germans issuing a conviction for negligent killing by post to Ubani themselves, despite having no evidence on the case but being aware of the UK police's investigation.

They deliberately then conceal their prosecution from both the UK police and us, as relatives. We eventually find out, through media sources, that Ubani was given a nine month suspended sentence and ordered to pay nominal costs. He never has to answer any questions to either British or German police or the medical authorities in Germany. He remains free to practice without restriction in Germany.

The CPS then tell us, the family, that the case is closed and the police tell us not to go to the press as they will not be interested in the case and it could cause distress to the families of other victims. On subsequently writing to the Health Minister responsible for out-of-hours care requesting a national investigation and review of out-of-hours care I eventually receive a reply stating the system is satisfactory and there are no plans for a review."

Dr Stuart Gray added:

"It is disappointing that, but for certain national media support, in particular James Meikle of the Guardian, it is unlikely any further action would have been taken by the authorities responsible for the registration of doctors, the overseeing of the out-of-hours service and the implementation of the law.

I feel we have been constantly hitting barriers in our fight to get heard and attempt to get changes made to the present system to make the out-of-hours service safer. There seems to be an endemic attitude of defensiveness, deflection of blame, and evasion of responsibility and accountability for actions that pervades these organisations, and until there is a shift in these attitudes then, regrettably, I can see no effective changes for the improvement of patient safety in out-of-hours care occurring in the near future."

Mr Gray's son, Rory Gray:

"The uncovering of such a vast quantity of unnecessary systematic failures and the lack of transparency and deceitful barriers put up by so many organisations who we thought we could trust, has greatly compounded the very difficult last two years following my Dad's tragic and avoidable killing.

The way forward now, and certainly what my Dad would have wanted, is to try to address the issues involved and see required changes implemented which would minimise the chances of such a tragedy befalling anybody else.

I hope this inquest provides a broad and thorough examination of the wide range of factors which have directly contributed to the death of my Dad."

Inez Brown, Associate Solicitor at Anthony Collins Solicitors:

"This case has unearthed concerning aspects about the use of overseas doctors to deliver out-of-hours medical care in the UK. Of particular concern is the process for vetting the doctors beforehand, their level of training in comparison to the NHS, and the information and training given to ensure the safe use of medicines and controlled drugs like diamorphine."

Diamorphine

Diamorphine is not registered for use in Germany.

It is a Class A controlled drug, used as an analgesic at times for severe pain in certain conditions. Its supply and use is regulated by the Misuse of Drugs Act 1971 and by the controlled Drugs Regulations 2006, which stipulate that primary care trusts must ensure its secure and safe management and control.

In May 2006, the NHS' watchdog, the National Patient Safety Agency (NPSA), which leads and contributes to improved, safe patient care issued a Safer Practice Notice, '*Ensuring Safer Practice with high dose ampoules of diamorphine and morphine*'. This alert called for the NHS in England and Wales to review and improve measures for safer practice in prescribing, storing, administering and identifying high dose morphine and diamorphine injections; a key problem being that they the different strength ampoules have similar packaging, making it difficult to tell them apart.

A key risk identified in the alert is the insufficient therapeutic training and understanding on the part of the healthcare staff of the risks and precautions when prescribing and administering higher doses of diamorphine and morphine injections. The NPSA advised all NHS organisations to put measures in place to protect patients from simple but potentially fatal mistakes.

In February 2008 when Dr Ubani visited David Gray he was equipped with a drug box which included diamorphine in a separate box of controlled Class A drugs with advice attached to the outside and copies of the British National Formulary (BNF) relating to diamorphine on the inside. The BNF provides healthcare professionals with authoritative and practical information on the selection and use of medicines in a clear, concise and accessible manner. The drug box did not comply with NPSA guidelines.

100mg of diamorphine is ten times the maximum dose usually recommended; a dose as high as this given as a single injection causes the patient's breathing to be depressed and would be fatal. There is no need to carry 100mg vials in an out-of-hours GP box; it would only ever be used in a syringe driver over a prolonged period for terminally ill patients.

Dr. Daniel Ubani

Dr Ubani, 66 from Witten in Germany, undertook his medical training in Germany qualifying as a general surgeon in 1980 and becoming a practising doctor on the German doctors' register in 1986, after which he set up his own practice for "anti-ageing medicine" and cosmetic surgery in his home town.

The General Medical Council has suspended Dr Ubani's registration to practice medicine in the UK although he is still practising in Germany.

In July 2008 Dr Ubani sent a letter of apology to David Gray's family in which he stated that his; "nerves were over stretched", that he was "too tired and lacked concentration" and that he had no knowledge of the drug diamorphine; factors which he said contributed to the mistake.

Out-of-Hours Services

Most primary medical care takes place during the working day, but patients sometimes need care at other times as well. Such care is known as out-of-hours care. Out-of-hours services provide a full range of both routine and urgent primary care for patients during evenings, weekends and bank holidays.

When GP surgeries are closed, the local Primary Care Trust (PCT) takes over responsibility for the out-of-hours service and will commission an agency such as Take Care Now (TCN). These agencies employ locum doctors, doctors who temporarily fulfil the duties of the GP.

Current regulations specify that these locums must:

- Be fully qualified as General Practitioners
- Be registered on the General Medical Council (UK) GP Register and PCT GP Performers List in England
- Have a valid registration on the General Practice Register
- Have valid Criminal Records Bureau approval
- Have a certificate of professional insurance
- And, if trained in a language other than English, have a certificate of competence in the English Language

Take Care Now

Take Care Now (TCN) is an independent healthcare provider, employed by a number of PCTs to provide out-of-hours care. In 2008, this included East Cambridgeshire and the Fenland area.

The Care Quality Commission

www.cqc.org.uk

The Care Quality Commission (CQC) is the independent regulator of all health and adult social care in England. It inspects all health and adult social care services in England, whether they are provided by the NHS, local authorities, private companies or voluntary organisations, ensuring that essential common standards of quality are met everywhere care is provided.

The CQC's enquiry into Take Care Now was triggered by the case of Mr David Gray although subsequently, other Primary Care Trusts identified further incidents involving TCN.

In June 2009 the CQC announced the scope of its enquiries. It had been asked to review the out-of-hours arrangements in relation to these specific cases and generally, to ensure that all lessons have been identified and appropriate action taken.

In October 2009 the CQC issued interim findings, stating that "early observations from the enquiry into out-of-hours provider, Take Care Now, may indicate a nationwide gap in monitoring," and that it "fears Primary Care Trusts (PCTs) may not be effectively monitoring performance of GP out-of-hours services, and risk failing to spot patient safety concerns as a result."

The CQC is expected to publish its final report early in 2010.

Inquest

The inquest, which will begin at 10am on Thursday 14th January, will be held at Wisbech Magistrates Court, The Court House, Lynn Road, Wisbech, Cambridgeshire, PE13 3DE and will run as follows:

Thursday 14th January 2010
Friday 15th January 2010
Monday 18th January 2010
Thursday 21st January 2010
Friday 22nd January 2010
Monday 25th January 2010
Thursday 28th January 2010
Friday 29th January 2010
Monday 1st February 2010
Thursday 4th February 2010

Its purpose will be to determine the facts surrounding Mr Gray's death, not to apportion blame. However the Coroner, W R Morris, does have the power to investigate not just the main cause of death, but also the wider circumstances, acts or omissions which directly led to the cause of Mr Gray's death; examining in detail key aspects of the case which ask serious questions about the provision of out-of-hours care in this country.

Further Information

Updates will be posted on Anthony Collins Solicitors website no later than 6pm every day throughout the course of the inquest, www.anthonycollins.com/news-and-events/news.aspx.

It is proposed that a press conference will be held at the conclusion of the inquest, details of which will be posted on www.anthonycollins.com.

For further information please contact the Anthony Collins Press Office.

For general enquiries contact Simeon Ling on 07841 499693 or for media enquiries contact Jo Garner on 07717 897991 or 01527 888992, email media@anthonycollins.com.

Anthony Collins Solicitors

Anthony Collins Solicitors is a full service law firm with a national reputation for advising individuals, businesses, not-for-profit organisations, local authorities, and public sector bodies throughout the UK. For nearly four decades, it has been successfully combining market-leading legal expertise with a commitment to excellence and long-term relationships underpinned by a strong ethical position.

Chambers UK, the leading guide to the legal industry, recently praised the firm across its broad range of practice areas, singling out an outstanding 20 leaders in their fields.

Its Clinical Negligence team has also been recognised by members of the legal profession. In particular, the Legal 500 and Chambers UK guides recommend Anthony Collins Solicitors as one of the leading law firms in clinical negligence in the West Midlands.

Inez Brown, Associate Solicitor, is the lead solicitor acting on behalf of the Gray family working alongside the team's two partners, Tony Hall and Rankeshwar Batta. Profiles for each of these individuals are available at <http://www.anthonycollins.com/who-we-are/our-people.aspx>.