FRIENDS OF THE SCOTSMAN /

What is in the 'best interests' of a patient where treatment is of no benefit?

Dr Gillian Wright discusses the thorny ethical question of those who are in left in a permanent vegetative state and its future effect on the profoundly disabled

It is nearly 30 years since the Hillsborough disaster. One of the teenage survivors, Tony Bland, had an extraordinary impact on English law. He suffered a catastrophic brain injury and was left in a permanent vegetative state. This meant that, although awake, he had no awareness of himself, nor of his surroundings. He was able to breathe unaided and his heart was strong. As he could not feed himself or swallow, he was fed via a tube.

After four years in this tragic situation, the hospital and his family approached the English courts to stop tube feeding.

This was granted because it was considered to be not in his best interests. The court found that the principle of the sanctity of life was not absolute in its eyes. It was not violated by stopping medical treatment to which he had not consented. Treatment gave, in the court's perspective, no benefit.

However, it recommended that such cases should continue to be brought to court. This was not the situation in Scotland where judicial review was not required. However, in 2018, the UK Supreme Court ruled that court review is no longer required in England either if the family and medical team agree to stop feeding. This also applied to patients in minimally conscious states.

Such a decision has been welcomed as sparing families the distress of a prolonged court case. Doctors can stop other treatments such as ventilation at the end of life. It means no longer treating permanent vegetative or minimally conscious states as isolated cases which need court approval. However, should we be concerned that such patients are different and should be treated differently?

The General Medical Council report Treatment and Care Towards the End of Life defines individuals who are approaching the end of life as those likely to die within the next 12 months. It includes the imminently dying, those with incurable conditions or the very frail, those with sudden events (such as a stroke) and extremely premature babies whose prospects of survival are poor.

However, the final category is a "persistent vegetative state for whom a decision to withdraw treatment and care may lead to their death". This is concerning as the reason is technical and not medical. These patients are profoundly disabled but not imminently dying. They may survive for many years if feeding was continued. It should be noted that the General Medical Council sees the need to include permanent vegetative state in the end of life definition. It acknowledges it is held there only by the decision to stop treatment, not medical deterioration.

It is considered good medical practice to withdraw fluids, or to stop medical treatments, such as ventilation, if they are no longer in the best interests of the patient. But are these the predicaments of the patient in permanent vegetative or minimally conscious states? The courts struggled over these two issues – 'best interests' and whether tube feeding was a medical treatment.

Lord Mustill in his ruling on the Bland case stated: "The distressing point, which must not be shirked, is that the proposed conduct is not in the best interests of Anthony Bland because he has no best interests of any kind."

But does that mean that he could have no interests at all? Is his best interest in being dead? The fabric of our society hangs on the fact that every human being has inherent and equal human dignity. This is regardless of ability, degree of consciousness, contribution to society or potential. The prohibition of killing is derived from the inherent value and worth of every individual.

Tony Bland did have intrinsic interests including an interest in life itself.

The second troubled issue is if tube feeding is considered to be medical treatment or basic care.

If it is medical treatment, in law it can be given or taken away in the best interests of the patient. On the other hand, all patients should be offered basic care. However, motive is the concern here. Regardless of whether tube feeding is basic or medical care, if the intention is to bring about death, its removal is the deliberate deprivation of life, whether by carer, doctor or the state.

In no way should one neglect the deep distress of the families who care for loved ones in this tragic scenario. But we have a responsibility to them and to society to uphold the inherent value and worth of the profoundly disabled in law.

Dr Gillian Wright, senior research fellow with the Scottish Council for Human Bioethics.

Scottish Council on Human Bioethics

↑ The Hillsborough disaster – where 96 football fans died in a crowd crush and more than 760 were injured – led to a landmark legal case over the fate of a man with a catastrophic brain injury

Worried about your medicines post-Brexit? We have systems in place

Harry McQuillan outlines how pharmacies will deal with any shortages

As the date set for the UK's exit from the EU looms ever closer, I thought this would be a good opportunity to explain how Community Pharmacy Scotland, along with the Scottish Government, the NHS and other key stakeholders, manages the availability of medicines and deals with any shortages that arise.

The potential issue of medicine shortages has been reported on in the media a lot over the past few months and so the time seems right to shed some light on how Community Pharmacy works hard to ensure your needs are met.

What do we mean when we refer to a 'shortage' of a medicine? The truth is that there is no hard and fast definition of a shortage, as medicines can be referred to as 'short' when they are low in stock, very hard to get hold of or out of stock altogether.

The reasons behind shortages are also varied and it's often not possible to pinpoint one cause.

They arise for a number of reasons such as issues with manufacturing, increased demand, and distribution. Plus, as medicines are sold on the international market, issues from outside of the UK and even the EU can affect which medicines are available in the UK.

It's not possible for us to say if Brexit is influencing this current situation as many factors can interplay to cause a shortage, but it is possible.

There are a number of medicines shortages in Scotland at the moment – however, it's important to know that this is not an unusual situation. Although not ideal, at CPS we are not overly worried or complacent about the current situation, as we have in place a system to monitor these shortages in partnership with the Scottish Government, and because community pharmacy teams are experienced in responding to changes in the medicines market.

Clearly, getting hold of medication is an extremely important matter and so preparing for a situation where the UK leaves the EU with no deal is vitally important.

The Department for Health and Social Care (DHSC) proposed a series of Statutory Instruments to change the law regarding medicines in this situation and one of these instruments is called the Serious Shortage Protocol (SSP). SSPs would be issued in the event that a medicine is completely out of stock in the UK and would outline the changes that can be made to a patient's prescription by a pharmacist without having to return to the GP.

There has been some controversy on this issue during the last couple of weeks and there seems to be some general confusion over the point of introducing this law change.

Pharmacists are the experts in medicines and have the clinical training required to be part of the solution if a no-deal Brexit were to arrive and bring with it an increased level of shortages.

Any medicines affected would be managed by the DHSC which would list which medicines were in serious short supply and, after consultation with experts, what the alternative actions should be, including a switch to another medication if appropriate.

This would only be used in the most urgent of cases. The main benefit of having the SSP is allowing pharmacists to spend more time with patients, rather than all their time on the phone to GPs asking for them to reissue prescriptions with alternative medicines – which clearly has an enormous impact on GP time and ultimately results in delays for the patient.

Currently, pharmacy teams already spend a considerable amount of time every day sourcing medicines and in extreme cases referring back to GPs, to make sure that people get what they need on time. As a word of reassurance, pharmacy teams will always go above and beyond to secure medication for their patients and ensure continuity of care – and have been doing so for years.

It is very rare for a patient to go without as in the vast majority of cases there will be a workable solution to the shortage.

Almost all of the effort that goes into sourcing the medication you need each month when supply is tight is done behind the scenes, without patients noticing any impact on their care whatsoever.

If you are worried, the best way for you to help your pharmacy team out is to try and order your medication in plenty of time, but remember – very few medicines are affected at any given time, and you each have a team of people behind you committed to working their socks off to keep you well.

Harry McQuillan is the chief executive of Community Pharmacy Scotland.

Community Pharmacy Scotland

HAVE YOUR SAY
www.scotsman.com

HOW TO BECOME A FRIEND

On these pages we present articles written by our Friends, with them setting their own agenda, using their own words. Being a Friend of The Scotsman is open to institutions, trade associations, professional bodies, societies, interest groups, charities and others. Individuals are not eligible nor, generally, are individual companies or political parties. The Friends of The Scotsman pages are a forum for discussion and debate and for the transfer of information rather than a marketplace. In return, the Friends sign up to a subscription package that ensures a supply of The Scotsman at a discount rate to the people in the organisation who require it. For more information, e-mail kerry.black@scotsman.com or visit www.scotsman.com