Agenda Item 8

Ethics Advisory Group

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Falkirk IJB Clinical and Care Governance Committee

26 June 2020

Ethics Advisory Group

For Noting

1. Executive Summary

1.1 The Covid-19 pandemic is a public health emergency on a scale that we have never experienced before resulting in changes to healthcare provisioning across Scotland. The Scottish Government issued directives on 03rd Apr 20 to establish ethical advice and support groups to help clinical decisions in a small number of challenging situations beyond the scope of national guidance or the experience of clinical teams.

1.2 Clinical decisions will continue to be guided by the principles of GMC Good Medical Practice, and available evidence to aid decisions at all levels including individual, group or population level. The guidance aligns with the work of the UK Medical Ethics Advisory Group, taking a coherent approach across the UK, adapted to the Scottish context.

1.3 The Forth Valley EAG was set into motion following the Medical Director's invitation for Dr Prakash Shankar to chair EAG, to be constituted according to SG directives. This involved information gathering from wider sources primarily from the chair of the Ethics and Professional Practice Committee at the Royal College of Psychiatrists, gaining membership of UKCEN membership and networking with neighbouring trusts to draw up Terms of Reference, Standard Operating Procedures and team composition.

1.4 Main pieces of evidence: Scottish Government Covid-19: Ethical Advise and Support framework

1.5 Good Medical Practice, General Medical Council, 2013 (accessed 25.3.20)

1.6 Terms of Reference UK Medical Ethics Advisory Group (accessed 1.4.20)

2. Recommendations

The Clinical and Care Governance Committee is asked to:

2.1 note the contents of the report

2.2 note assurance around ethical guidance on policy implementation during the Covid-19 pandemic to meet Scottish Government directives.

2.3 consider and review the provision of ethics advisory mechanism to further develop these arrangements.

3. Report

3.1 Introductory virtual meeting was held on 15/04/20 attended by Medical Director, EAG Chair, Head of Clinical Governance, Acute Medicine Lead, Consultant in Public Health, Nurse Consultant Dementia, Palliative Care Team Leader, Community Children's Nursing team leader, Consultant in Ageing and Health, Consultant Anaesthetist, Lay Member of Clinical Governance Working Group and a local GP. The group was later buttressed by addition of locality Social Work Manager, Health psychologist, Microbiologist, Lead for AHPs & Lead for Realistic medicine as reference experts. The ethical advice group has remained independent of senior decision-makers within the Health Board senior management team, to ensure that it is able to offer independent advice.

3.2 The group has reviewed recent Covid-19 related deaths to generate discussion around ethical aspects to consolidate the remit and agree thresholds for referrals to EAG. We were able to liaise with colleagues from established EAGs in Oxford to share cases and learning from ethical decisions and to liaise with other Medical Directors in the west of Scotland to explore consistency in decision making. Protocols for sharing documents with the group via MS Teams were established to facilitate simulation of test cases. The group discussed the framework for making decisions by following the principles recommended by the Scottish Government based on Respect, Fairness, Minimising harm, working together, Flexibility and Reciprocity.

3.3 The group was formally launched on 20/04/20 with information links made available on the intranet and to the Health and Social care partnerships. The group agreed on testing meeting forum (some limitations due to MS Teams/BT conference calling constraints), times, the role for external observers/experts, presence of referrer and emergency contact protocols.

3.4 The following ethical questions have been discussed at subsequent EAG meetings:

1. Is the use of sedation ethically justified in behavioural management of a 73 yr man with regards to the risk of wandering (falls, risk of acquiring and transmitting Covid-19 from/to other patients, the risks of 1:1 nursing (risk to staff of acquiring/transmitting Covid-19, the risk of sedation (may increase or reduce the risk of falls, may prolong delirium, may cause respiratory compromise).

2. What would be the recommendations for a group of patients with ambiguity around treatment refusal with intact capacity when becoming unwell with Covid-19 infection?
   The remit of the group was revisited and it was reiterated that EAG was not established to assess capacity, advise consultants on what to do or arbitrate. However, the group was able to reiterate the ethical considerations when presented with these dilemmas and feedback to the referrer.

3. How will a patient with acute reversible pathology, normally supported in ITU but in view of the excessive demand on this service managed? Would treatment escalation be declined in favour of other patients with a better statistical prognosis?

4. How are the uncertainties around CPR guidelines going to be addressed?
   It was acknowledged to be a difficult area to achieve the balance needed to conform to the guidelines against sometimes one's own conviction leading to a degree of moral distress. However, it was felt that it was probably not within the remit of this group to deliberate on how a particular health care professional might respond to such an event in the hospital or in the community given the complexities of service provisioning.

4. Conclusions

4.1 EAGs serve and important purpose to guide decisions around the fairness of healthcare distribution within the wider population during the times of the pandemic. There may be complex or challenging decisions around deploying finite resources to be most appropriately used and ethical advice or decision-making support will be useful. EAG provides psychological support to health and social care professionals when making difficult, complex or challenging decisions outside of their normal practice.

Resource Implications

There have been no additional resources expended in the constitution of Forth Valley EAG. Most of the members were providing their services voluntarily to meet the challenges of an emerging pandemic. However, if there is an escalating need for EAGs to meet more frequently, dedicated sessions and administrative support might need to be explored in the fullness of time.

Impact on IJB Outcomes and Priorities

The impact of EAG remains inline with plans, strategies and priorities of the IJB. Additionally, it may usefully be able to offer insight include:

- Complex decisions around withdrawal of care.
- Situations where clinical decision-makers feel uncomfortable with the application of national guidance.
- Challenging decisions around escalation planning and ceilings of care.
- Complex decisions related to patient discharge due to high clinical demand.
- Challenges related to reduced ability to provide normal standards of care, in particular in the community or for patients at the end of their lives.

Legal & Risk Implications

There is no legal input / representation at the local EAG meetings, therefore if this is felt to be essential in a particular case- either escalation to the national body or the clinical team will be encouraged to pursue legal recourse liaising with CLO. Liaison with wider UK Ethics network and additional inputs will be sourced as required.

Consultation

IJB might consider consultation if necessary with other stakeholders to explore ethical issues emerging in the context of Covid-19 pandemic.

Equalities Assessment

The IJB will be a public body, for the purposes of the Equality Act 2010. Officers must ensure that equalities implications have been considered and that an equalities impact assessment is completed, where appropriate. A combined NHS/Council tool is being developed for this purpose.

5. Report Author

Dr Prakash Shankar, Chair of the Ethics Advisory Group

6. Appendices

Appendix 1: None