

Open Letter to GMC Chair, Dame Clare Marx, from Dr Sarah Myhill (GP) Consent for doctors to administer and patients to receive CV19 vaccination

Dear Dame Marx

27 November 2020

Doctors are administering vaccines to patients without proper consent. Such is based on GMC Guidelines. The GMC is misleading doctors and patients. This makes the GMC jointly responsible for any harm resulting from CV19 vaccinations.

Proper consent for doctors to administer and patients to receive vaccination

Ref – The GMC Green Book “Immunisation against Infectious Disease”

<https://www.gov.uk/government/collections/immunisation-against-infectious-disease-the-green-book>

Ref - General Medical Council “Ethical guidance for doctors: Decision making and consent 2020”

<https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/decision-making-and-consent>)

I am concerned that the GMC Green Book and 2020 GMC Guidance for decision making and consent fails to properly address informed consent. Both are misleading to doctors and patients.

If GMC Guidance for informed consent for patients is inadequate and does not properly reflect the Montgomery Judgement, then the GMC will be jointly legally responsible for damages when doctors have not given proper consent to vaccination because they have been misled by GMC Guidance.

The GMC Green Book “Immunisation against Infectious Disease” is hopelessly out-dated

The Green Book is hopelessly out of date (2013) and does not reflect the Montgomery Judgement in any way. By letting this publication stand, the GMC is mis-leading doctors and patients.

*Before Montgomery, a doctor's duty to warn patients of risks was based on whether they had acted in line with a responsible body of medical opinion. This was known as the Bolam test. Now, doctors must provide information about **all material risks**; they must disclose **any risk to which a reasonable person in the patient's position would attach significance.***

The Green Book is based on Bolam **NOT** Montgomery. It does not address “*all material risks*” nor “*any risk to which a reasonable person in the patient's position would attach significance.*”

The 2020 Guidance is improved but still inadequate

Many doctors will be relying on GMC Guidance for informed consent for administering vaccinations to patients. This is reasonable. Busy doctors simply do not have the time or resources to obtain independent legal advice with respect to the above issues. They can reasonably expect GMC Guidance to properly reflect all aspects of their legal obligations to patients. Those doctors who fail to address the issues of proper informed consent will be found wanting under the 2017 Montgomery Judgement, if they fail to correctly consent patients receiving any vaccination including CV19 vaccine.

The 2020 update was clearly drawn up in response to the Montgomery Judgement of 2017, but that too is inadequate because it only part-reflects Montgomery. This is because an important part of the Montgomery Judgement has been over-looked vis:

*“The doctor is therefore under a duty to **take reasonable care** to ensure that the patient is aware of **any reasonable alternative or variant treatments.**”*

[<https://www.themdu.com/guidance-and-advice/guides/montgomery-and-informed-consent>]

This directive is a **MUST** (i.e. it is legally binding) and it is NOT reflected in the extant 2020 GMC Guidance.

Please can you update the GMC Guidance to include the need for doctors to advise patients of “**any reasonable alternative or variant treatments**” AND transpose ALL the changes above into the “Green Book”. <https://www.gov.uk/government/collections/immunisation-against-infectious-disease-the-green-book>

What the GMC must do now, urgently

Current versions of the Green Book must be withdrawn at once because it is misleading. The 2020 Guidelines must also be updated. THEN doctors and patients must be informed urgently in a high-profile publicity campaign.

Clearly this needs doing as a matter of urgency to protect all doctors and all patients since the CV19 vaccine program is being rolled out at such short notice. The GMC has been notoriously tardy in responding to my concerns so I shall be writing to the BMA to highlight this issue and placing this as an Open Letter in the public arena

The GMC ‘s slogan is “Supporting doctors, protecting patients”. With respect to the above the GMC is doing neither.

Yours sincerely

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(Sent by email to claremarx@gmc-uk.org on 27 November 2020)