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VIEWS AND REVIEWS

ACUTE PERSPECTIVE

David Oliver: The Bawa-Garba case, doctors, and the GMC—what next?

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Since the High Court ruled in January that the trainee paediatrician Hadiza Bawa-Garba must be struck off the UK medical register, much has happened that may change how NHS doctors work, how we're regulated, and how we raise concerns.

The General Medical Council (GMC) and the government have both announced reviews of how gross negligence manslaughter is applied to medical practice.[1 2] Both reviews will make recommendations, but neither will have the power to make coroners' decision making fairer to doctors. Nor can these reviews alter the common law tests for gross negligence or the fact that such cases are tried by juries without medical experience or expertise.

The GMC has put out a "frequently asked questions" document in response to concerns raised by doctors.[3] When conditions feel unsafe, the document says, doctors should definitely not refuse to work but should ensure that they've reported concerns about staffing levels and workload up the line.

They should write a reflective entry about how unsafe it felt working in difficult conditions and, whatever they do, they shouldn't stop writing open reflections on their practice or stop being open and candid in discussing risks, inadvertent error, and harm.

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After a summit with the BMA, the GMC also made a series of pledges. It would never ask doctors under investigation to provide their reflective statements; would collaborate with the Academy of Medical Royal Colleges and BMA in producing better guidance on reflection; would push for more standardised exception reporting throughout England; and would work with the BMA and wider medical profession to improve how doctors of all grades can raise safety concerns about working in an under-resourced environment.[4]

The Medical Protection Society agrees that doctors must continue to be open and honest and to write written reflections. It says that Bawa-Garba's reflective diary did not form part of the evidence before the court and jury, but it acknowledges that her reflections may have "fed into the trial."[5]

The GMC has also produced a "How do I raise concerns about inadequate staffing?" flowchart[6] to guide doctors on what to do if they arrive at work and find that conditions are unsafe or putting them or their patients at risk. I realise that the flowchart was produced in good faith, but it's been widely lampooned as being out of touch with daily realities on the front line, where rota gaps and short staffing are the new normal.

Do doctors in already short staffed teams really need to spend time on all of this documentation rather than seeing patients and supporting colleagues? Why can't reporting be just a one or two click app? Besides, hospitals already know how overcrowded they are, where the rota gaps are, and whether IT systems or equipment are broken. Why should doctors waste clinical time reporting staffing and workload pressures, when it seemingly won't protect them from being held individually accountable in criminal law anyway?

It will be interesting to see how much this all helps the profession or patients. If it throws a bright spotlight on our current NHS staffing crisis and increasingly unmanageable workload, as well as some of the broken systems in and around acute care, I'd welcome it. In the court of opinion of the doctors it regulates, the GMC has been found wanting. We should perhaps appeal to the profession to give those doctors a chance to clear their name and move us forward constructively.

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