

11th December 2020

To: Critical Care Lead Unit Consultant and Senior Nurse:

Dear All,

Following recent discussion at both regional and national level regarding the ethics and legal position in relation to load levelling, specifically the transfer of critical ill patients identified as appropriate for transfer but whose relatives are against this action, discussions have been held with senior colleagues alongside legal advice. Below is a summary of the national discussion which we have been asked to share throughout the network.

As a reminder from a legal view point nothing has changed, keys points are summarised below including best practice principles.

One of the key take away messages is discussion with families early to introduce the concept their relative may need to be moved across the network and/or talking to a patient before they are intubated, if that is an option.

Professor Moonesinghe (National Clinical Director for Critical and Perioperative Care) has agreed to look at a national family information leaflet and communication guide for critical care clinicians – as moving patients to load level and to maintain critical care staff ratios is new for many. We will share these when they are available, however the following principles should be considered.

* Full legal guidance on this issue not possible.
* Principle of ‘patient’s interest’ is paramount, but when patient lacks capacity this is a clinical decision.
* Families need to be fully consulted on what they think the patient would have preferred – not what they prefer per se.
* Good practice to explain on admission that there is a network of ICUs (across the East) and that a transfer to another unit might be requested if needed to help another critically ill patient.
* Moving a patient is a legally ‘defensible position’, though this cannot be assumed to be without challenge.
* Full documentation should be maintained in patient records.
* The patient should be moved to the closest place available/appropriate. (but we can only offer what is available).
  + An example of a difficult situation is where stable patient, who is identified as best to be transferred but family against the transfer vs next one in, particularly if family in agreement.
  + It may seem easier to go for next one in but this isn’t always the right decision for that patient, however best clinical practice would be to move the most appropriate patient even if this family is opposed.
  + Front loading – talking to patients and families on admission, will all help.
  + Each patient transfer needs to be considered on a case by case basis.
  + There may be circumstances where involvement in the local ethics committee or hospital legal services would be of value at an early stage.

Please disseminate this information to your critical care colleagues.

Best wishes

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Dr Mark Blunt: Network Clinical Director

Melanie Wright: Network Director

cc: Dr Melanie Iles: Medical Director, System Improvement and System Lead

Director, Herts and West Essex. NHSE&I - East of England

Dr Ellen Makings: Clinical Lead, COVID19 Critical Care Cell, NHSE&I

Dr Sean O’Kelly: Regional Medical Director & Chief Clinical Information

Officer: NHSE&I - East of England