

E ethics@bma.org.uk

Rebecca Hilsenrath
Chief Executive
Equality and Human Rights Commission
Fleetbank House,
2-6 Salisbury Square,
London,
EC4Y 8JX

24 April 2020

Dear Ms Hilsenrath

Thank you for your letter of 22 April regarding the British Medical Association (BMA)'s ethics guidance for doctors responding to the COVID-19 pandemic. As I am sure you realise, our guidance is anticipatory. It refers to circumstances in which the need for critical care might overwhelm available resources such that not everybody who could benefit from treatment can receive it. We are not in such a position, and the Government's efforts to reduce infection by social distancing, and to increase the supply of critical care, mean we may not find ourselves in such a position. We all passionately hope this will be the case.

Given the extreme uncertainty about the pandemic, however, and concerns raised with us by our members about ensuring they make appropriately lawful and ethical decisions, we decided to bring out this guidance. We considered it preferable to issue it in advance, rather than waiting for a time when doctors were already forced to make such difficult and weighty decisions. We also hoped that our guidance would help bring about a vital public debate about these issues.

From the outset, we were extremely concerned about the potential for resource allocation decisions to disproportionately impact on certain groups. In response to some misunderstanding about aspects of our guidance, we subsequently published an explanatory [note](#) addressing in more detail the relationship between our guidance and those patients who are elderly or who have disabilities. It emphasises that neither age nor disability are in themselves relevant criteria for making decisions about treatment.

It has always been our intention that our guidance would be a living document, open to constant review. Following publication, we have been in wide correspondence with a range of people and groups interested in the guidance and its impact and we have carefully considered all of the feedback we have received. As a result, we are in the process of making some amendments to the guidance. The updated guidance will address in more detail the questions

Chief executive officer: Tom Grinyer

Registered as a Company limited by Guarantee. Registered No. 8848 England.
Registered office: BMA House, Tavistock Square, London, WC1H 9JP.
Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



of discrimination you raise and will be published imminently. We will also be putting a link on our website to a powerful statement from Disability Rights UK on the impact COVID-19 on the rights of people with disabilities, which we believe to be entirely consistent with our own guidance.

The amendments we are planning will provide greater clarity about the requirements of the Equality Act 2010 and I believe will address the concerns you have raised.

Finally, you suggest the possibility of withdrawing our guidance and relying on the NICE guidelines as definitive on these issues. As you will know, the NICE guidelines refer to the BMA's guidance. Additionally, we represent and provide guidance for doctors throughout the UK, whereas the NICE guidelines are recommendations for health and care in England.

With best wishes

Your sincerely

A handwritten signature in blue ink that reads "John Chisholm". The signature is written in a cursive style with a long horizontal line underneath the name.

Dr John Chisholm CBE

Chair, Medical Ethics Committee