

UK Legal News Analysis - 09 February 2010

Title:

Out-of-Hours Cover For GPs to Be Overhauled After Inquest Verdict Found German Locum GP 'Unlawfully Killed' Patient

Digest Citation:

LNB News 09/02/2010 61

Importance:

1

Relevant Legislation:

[SI 1984/552](#); [SI 2004/585](#)

Jurisdiction:

European Union; Germany; UK

Article:

Out-of-hours cover for GPs is to be overhauled following an inquest verdict that a locum GP from Germany 'unlawfully killed' his patient David Gray by injecting him with a lethal overdose of diamorphine. Barrister Barbara Hewson discusses the inquest with **Grania Langdon-Down**

In an inquest verdict given on 4 February 2010, William Morris, the Cambridgeshire North and East Coroner, made 11 recommendations on improving the out-of-hours system to the Department of Health; one to the Strategic Health Authority on supervision; and one to the Royal College of General Physicians to draw up a national training programme for doctors who qualified abroad but have not worked in general practice in the UK before. These are being studied alongside the 24 recommendations drawn up by an official review ordered by the government, which has promised to implement them in full.

The case may also raise wider issues over working hours. Barbara Hewson of Hardwicke Buildings is instructed by solicitors Anthony Collins for Mr Gray's family. She says the coroner was concerned Dr Daniel Ubani was tired after flying to England and having only a few hours sleep before starting a 12-hour shift.

"This raises questions about the Working Time Directive ([Directive 2003/88/EC](#)) and whether it is being implemented for people working out-of-hours shifts," she continues. "Some doctors work a normal day as a GP and then nights for an agency providing out-of-hours cover. As they are working for them on a self-employed basis, the directive technically doesn't apply but it does raise the question whether GPs generally should be required to limit their working hours in the interests of patient safety."

Turning to the inquest, Hewson says: "The coroner made it very clear from the beginning he wanted to approach this as a case of possible systems failure."

Under the Coroners Rules 2004, [SI 1984/552, r 43](#) coroners can make reports to public bodies to ensure similar events don't happen again. The Ministry of Justice published details of r 43 reports for the first time last summer which showed between July 2008 and March 2009 coroners issued reports in 207 inquests. Most related to hospital deaths (28 per cent); a fifth to road deaths; and ten per cent in respect of deaths involving either an accident at work or health and safety issues.

These reports are an important safeguard, says Hewson. "This case involved a very complex scenario starting with [Council Dir 93/16/EEC](#) which allows the free movement of doctors. Then there are the very detailed NHS (Performers Lists) Regulations 2004, [SI 2004/585](#) which deal with the conditions under which doctors are admitted to the lists held by PCTs enabling them to work for the trust. Regulation 6 says the PCT must refuse to include someone on its lists if it 'is not satisfied he has the knowledge of English which, in his own interests or those of his patients, is necessary in performing the services'.

"The problem is the regulations have not been applied consistently so while Dr Ubani was refused admission to the list in Leeds because of his poor English Cornwall didn't apply the same standards. And once he was on their list he was able to apply to work in another part of the country for a PCT which didn't know his application hadn't been processed rigorously. This is a systemic problem and Mr Gray's family want to see the regulations applied stringently in future."

They welcome the coroner's recommendation that all doctors who apply to go on the performers lists are logged onto a national database which will highlight if anyone's application is withdrawn or refused.

Hewson says the family are also pleased the coroner has asked the Health Secretary to review [Council Dir 93/16/EEC](#) so people understand how European law is being applied when a doctor is allowed to practice in the UK. "There is a provision allowing member states to test language skills but there seems to have been a perception on the part of some bodies they couldn't test language. But communication is a vital part of delivering care," she says.

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Published Date:
09 February 2010

