

# Devon Ethical Framework and decision-making guidance on the allocation and withdrawal of treatment during the COVID-19 pandemic

## Summary Document

### Background

Although it is very unlikely that demand for treatments will be higher than the available supply, it is ethically, legally and practically important to prepare for such difficult decision making.

### Summary of the framework and guidance documents

The ethical principles in the framework are based on a fundamental principle of equal concern and respect. This means that:

- Everyone matters
- Everyone matters equally – but this does not mean that everyone is treated the same
- The interests of each person are the concern of us all, and of society
- The harm that might be suffered by every person matters, and so minimising the harm that a pandemic might cause is of central concern.

The principles of the framework, which apply equally to patients with and without COVID-19, are set out under the following themes: respect; minimising the harm a pandemic could cause; fairness; working together; reciprocity; keeping things in proportion; flexibility; and good decision making.

Among the key points set out in the principles are:

- **Respect** – Where resources are constrained, it may not be possible to provide all the treatment that people would like and that might benefit them. In such difficult circumstances, decisions should be guided by a patient's capacity to benefit from the intervention.
- **Minimising the harm** – A person's capacity to benefit from treatment will be considered alongside the aims of the health system, which are:
  - To save the maximum number of lives.
  - Judgements of the social value of individual lives should not be made.
  - To prevent or reduce irreversible harm
  - To alleviate other suffering
- **Fairness** – Where resources are constrained, if the benefit gained from receiving a treatment is only likely to be marginal, the resource would be offered to a patient where the benefit gained is likely to be more substantial.

- **Good decision-making** – This is an inclusive process, meaning decisions will:
  - Involve people as much as possible in aspects of planning that affect them
  - Take into account all relevant views expressed
  - Take into account any disproportionate impact of the decision on particular groups of people
  - Try to ensure that no group is excluded from becoming involved.

The decision-making guidance makes it clear that ventilation, staffing and other resources for Devon’s seriously ill patients must be considered on a system-wide basis. This means that organ support or treatment should not be restricted or withheld in one hospital where it can feasibly be accessed in another, including outside of Devon using regional co-ordination mechanisms set up for the pandemic.

Other key points contained in the guidance include:

- These challenging decisions are stressful for teams and there must be real-time support for staff, patients and their families
- Discrimination in treatment decisions based on irrelevant characteristics is unacceptable and may be unlawful. Best use of resources, such as ventilators, is a relevant consideration
- ‘Best use’ in this context means maximising the prospects of a positive outcome based upon an individual assessment of the patients concerned and their capacity to benefit from clinical intervention
- Factors to consider include: likelihood of recovery, likely length of time to make that recovery and, of the greatest importance, the capacity of a patient to recover to a quality of life which is acceptable to them
- These considerations are not limited to starting treatments. In exceptional circumstances, the withdrawal of life-sustaining treatment may be necessary in order to maximise the beneficial treatment outcomes for the population as a whole. These difficult decisions need sensitivity, compassion, clarity, consistency, oversight and support
- There must be no categorical exclusion criteria (such as age). Capacity to benefit remains the key consideration in the scenario where the availability of a treatment or of organ support is insufficient for the number of patients
- Where restriction of ICU access takes place, it could be the case that a patient predicted to benefit from only a short stay on ICU should be taken ahead of a patient predicted to require organ support for many days or weeks
- It may be appropriate to make reasonable adjustments to the way that assessments are undertaken for patients with disabilities
- Patient views must be sought and taken into account.

The guidance also contains a section about what to do when a patient or their close family – or a clinician – disagrees with a treatment decision.