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General Medical Council guidance in relation to testing for HIV in patients lacking mental capacity: a national survey of opinion from Intensive Care

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Background

- 40% ICU patients with HIV unaware of status\(^1\)
- Critically ill: capacity issues, limited history, multisystem disease
- Targeted testing poses limitations
- Interpretation of legislation and guidance variable

Legal framework and GMC Guidance

- **Mental Capacity Act 2005**
  - Act in order to sustain life or prevent serious deterioration
  - Protection from liability

- **Human Tissue Act 2004**
  - Testing infection status of patients lacking capacity solely for benefit of healthcare worker involved in patient’s care not permitted by law

- **GMC consent guidance: capacity**
  - Overall clinical benefit
  - Lack of capacity temporary or permanent
  - Least restrictive of patient’s future choices
Methods

- National survey developed in collaboration with Intensive Care Society (ICS)

- 120 ICUs contacted by email to complete online, pre-piloted questionnaire at dedicated website

- Data collected from 1st August to 31st October 2011
  - Opinion regarding GMC guidance and legislation
Results 1

- Response rate 44% (53/120)

- 36% (19/53) thought ‘the patient’s best interests’ should be defined by presence of HIV indicator disease or ‘high risk’ behaviours

- 70% (37/53) agreed ‘critical illness’ should be nationally recognised as indicator disease

- 57% (30/53) believed GMC regulations should be changed to allow for global testing of all patients lacking capacity irrespective of diagnosis
Results 2

- 92% (49/53) supported change to GMC regulations to allow testing of all patients lacking capacity following needlestick.

- 9% (5/53) believed that HIV testing should only be performed when assent from next-of-kin obtained.
Discussion

- Clinical benefit: life-saving, prevent serious deterioration
- Compromises future options?
- Following needlestick test ‘in patient’s best interests’ (HTA, MCA)
- Next-of-kin assent
Conclusions

- ICU speciality specific guidelines
  - National Guidelines for HIV Testing
  - ICS Guidelines

- Global testing model vs indicator disease model

- Inclusion of ‘critical illness’ as indicator disease?

- Revisit legislation regarding testing index needlestick patients²

Further reading

- p152 Pryce A, Dodd M. A national survey of HIV testing practices within Intensive Care Units: a need to standardise patient care?

- p150 Collini P, Dodd M, Dockrell D, Scott C. A retrospective study of HIV testing in intensive care: significant numbers meet testing criteria according to national testing guidelines.