

# Public Health: the risks of the UK's flying doctors

A perfect storm of legal, political and commercial interests came together with the result that two people who called for a home visit from a doctor are dead.

70 year old David Grey told his girlfriend that the injection of diamorphine given to him to ease pain in his kidneys and stomach was helping. A few hours later, he was dead.

The dose was prescribed and administered by Dr Daniel Ubani, who left the syringes behind on a windowsill as he moved on.

Post-mortem examination revealed a level of morphine that would have been sufficient to kill in very short order, survivable only by those who had built up a resistance through long term use as an addict or for serious pain relief.

The same evening, Dr Ubani treated other patients. Phyllis Fletcher suffered from a long-term lung disease called chronic obstructive pulmonary disease or COPD, a condition directly linked to smoking. She was prescribed a simple linctus to ease coughing. Her doctor told the inquest that there were at least seven options for treatment, none of which was a simple linctus.

A third patient, Sandra Banks, says that her doctors have prescribed a mix of nine drugs but Dr Ubani is alleged to have been in a hurry, not communicative, to have a poor command of English - and to be disinterested in a list of Mrs Banks' medicines. He prescribed and administered an injection but shortly after he left she began to violently vomit, resulting in her admission to hospital.

The inquest was told that Dr Ubani was one of a new form of "flying doctor," and had been in the UK less than 24 hours when the incidents happened.

A little over a year later, in April 2009, back in Germany, Dr Ubani was convicted of causing death to a patient by negligence and sentenced to nine months in jail, suspended for two years. The Inquest heard that he now practises as a cosmetic surgeon in Witten, Germany.

The circumstances leading up to the case are complex but not unusual.

Under European law, all EU citizens are allowed to ply their trade or profession (although some professions such as law are excluded) anywhere in the EU. As doctor, Ubani is entitled to work anywhere he can get a job.

Under EU - and, indeed, UK - anti-discrimination law, it is illegal to refuse to employ anyone on the basis of their nationality. A recent case involving a high-profile London law firm found against the firm who had said that trainee places were available only to those with the right to live and work in the EU.

It is also illegal to refuse to employ anyone on the basis that their language skills are insufficient: incredibly an English company cannot refuse to employ someone who cannot speak good enough English to properly perform their duties. This is regarded as tantamount to blocking the movement of labour and / or racial or national discrimination.

For many trades and professions, EU countries must recognise equivalent qualifications in other member states, even if the standards in the hiring state are higher than the standards in the providing state. So long as an EU doctor can prove he is who he says he is, and that he is certified by his local professional body, all EU states must accept him.

EU data protection laws prevent exchange of information between regulators although some make their findings public. However, Germany has an obsession with keeping disciplinary records private - and that goes for lawyers, financial institutions and doctors alike. Only if criminal charges are brought do professional disciplinary issues reach the outside world.

The end result is that there is a presumption of competence backed by a legal regime that prevents filtering on some essential level.

But that only explains why Dr Udani was able to work in the UK; it does not explain why he was needed.

For that, we need to look at the way the delivery of medicine has changed under the UK's Labour

Government since 1997.

In 1994, a complete revision of the terms on which General Practitioners operate their practices resulted in GPs being required to operate set surgery hours. Out of hours home emergency and home visits were transferred from GPs to the primary (regional) Health Trusts who have an obligation to provide home visits, unless a practice contracts out and undertakes to provide its own out of hours service. This led to a system of visiting doctors who have had no previous contact with patients and who have no access to patient records.

The out-of-hours service is routinely staffed with temporary doctors who may work in that role for only a short time, perhaps only days. The demand for out-of-hours doctors has led to widespread advertising for contractors with applications from all over the world.

The Trusts, or the companies to whom they contract out the service, must abide by the various laws listed above.

The company that engaged Dr Udani was contracted by the NHS Trust that covers the area in which the victims lived.

The company had no basis for refusing Dr Udani's application: he is an EU citizen and is qualified in Germany; his allegedly poor English could not be a bar to his engagement.

For the company and the Trust, there is a possibility of legal action, under which they may be held liable for the demonstrably poor care that the victims received, placing them in an impossible position.

They are unable, due to all the factors listed above, to properly filter applicants for competence and unable to insist that a doctor is able to communicate effectively with patients.

Worse, Dr Udani wrote to Mr Gray's sons, the Inquest was told, informing them that he was not familiar with the drugs available to him to prescribe and administer in the UK; he would, he said, have had a different range available in Germany.

That is a material difference, but one which is unlikely to protect the NHS Trust or the company if used as a reason to insist on UK trained doctors.

The end result is simple: patients, contracting companies and NHS Trusts are exposed to a risk that they cannot mitigate.

The NHS Trust has said that it decided not to renew the contract with the provider who engaged Dr Udani and replaced it with an alternative provider.

But the problems outlined above will remain.