National Guidance for fair resource allocation during the COVID-19 pandemic?

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The Quest for National Guidance

‘Rather than being guided, professionals confront information-overload, which might leave them distrustful of issuing agencies and, fundamentally, unsure of which guidance to follow and, correspondingly, of their obligations.’ Huxtable BMC Ethics 2020

Solution: National Guidance with

(1) headline principles,

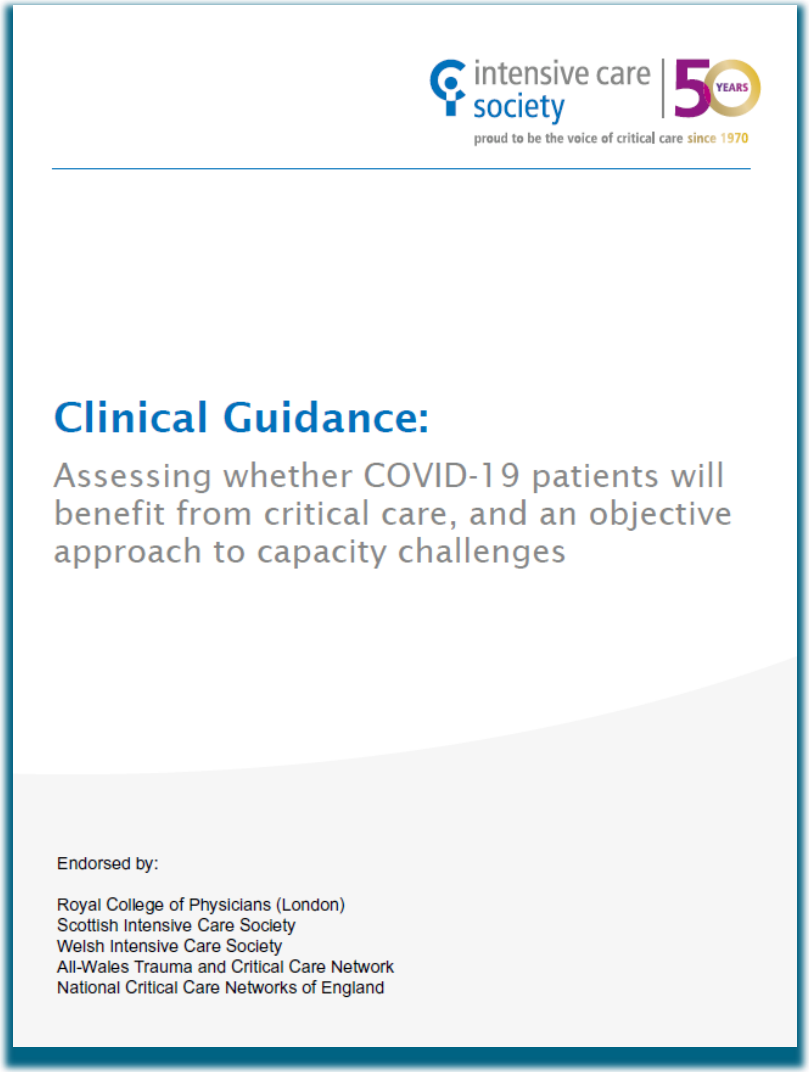
(2) ‘cashed out’ in relation to anticipated decisions,

(3) localised decision-making (including clinical ethics committees)

The Quest for National Guidance

- Need for clarity, consistency and fairness
- Proliferation of national, regional and local advice
  - BMA, RCP, NICE, NHS England
- Risk of formal injustice & substantive unfairness
  - Age & disability discrimination?
  - ‘blanket exclusions’ ‘unacceptable & illegal’ (BMA 2020)
- Rights violations?
  - To be treated? (Burke v GMC)
  - To participate (Tracey v Cambridge)
  - To court oversight? (Glass v UK)

An Attempt….



- Process
  - Need (20/3)
  - Commissioning
  - ‘One guidance to rule them all’
  - Decommissioning (1/4)
  - Private continuation
- Content
  - Principles
    - Equal value
    - Capacity to benefit
  - **Capacity management**
  - Decision-support
    - **speed & objectivity**

COVID-19 DECISION SUPPORT AID

1

AGE	POINTS
<50	0
50-60	1
61-65	2
66-70	3
71-75	4
76-80	5
>80	6

2

CLINICAL FRAILTY SCALE[1,2]	POINTS
VERY [illegible] people who are robust, active, energetic and motivated. These people commonly [illegible] regularly. [illegible] are amongst the fittest for their age.	1
WELL – people who [illegible] active disease symptoms but are less fit than category 1. Often, they exercise or are very active occasionally (e.g. seasonally)	2
MANAGING WELL – people [illegible] medical problems are well controlled, but are not regularly active beyond routine walking	3
VULNERABLE - While not dependent on others for daily help, often symptoms limit activities. A common complaint is being "slowed up" [illegible] being tired during the day.	4
MILDLY FRAIL – These people often have more evident slowing, and need help in high order IADLs (finances, transportation, heavy housework, medications). Typically, mild frailty progressively impairs shopping and walking outside alone, meal preparation and housework.	5
MODERATELY FRAIL – People need help with all outside activities and with keeping house. Inside, they often have problems with stairs and need help with bathing and might need minimal assistance (cuing, standby) with dressing.	6
SEVERELY FRAIL – Completely dependent for personal care, from whatever cause (physical or cognitive). Even so, they seem stable and not at high risk of dying (within ~ 6 months).	7
VERY SEVERELY FRAIL – Completely dependent, approaching the end of life. Typically, they could not recover even from a minor illness.	8
TERMINALLY ILL - Approaching the end of life. This category applies to people with a life expectancy	

3

CO-MORBIDITY	POINTS
In last 3 years, cardiac arrest from any cause	2
Chronic condition causing: • ≥3 hospital admissions in the last year • ≥4 weeks continuous admission for current inpatients	2 2
Congestive heart failure with symptoms at rest or on minimal exertion	1
Chronic lung disease with symptoms at rest or on minimal exertion	1
Hypertension	1
Severe and irreversible neurological condition including dementia	1
Chronic Liver Disease with Child-Pugh score ≥ 7	1
End stage chronic renal failure requiring renal replacement therapy	1
Diabetes mellitus requiring medication	1
Uncontrolled or active malignancy	1

TOTAL = SUM OF THE 3 DOMAINS ABOVE (-1 FOR FEMALE SEX)

Scoring frailty in people with dementia

The degree of frailty corresponds to the degree of dementia. Common symptoms:

- **In mild dementia** include forgetting the details of a recent event, though remembering the event itself, repeating the same question/story and social withdrawal.
- **In moderate dementia**, recent memory is very impaired, even though they usually can remember their past life events well. They can do personal care with prompting.
- **In severe dementia**, they cannot do personal care without help

*There may be situations arising that are outside the scope of the framework that **require special consideration**, thus clinical discretion will continue to apply. **Frailty scoring** is used as a proxy for physiological frailty which leads to reduced chances of recovery in ICU, therefore where conditions pre-exist impact on physical activity but are stable and inappropriately affect the score, **then that situation requires special consideration.***

	TREATMENT	FAILURE OF FIRST LINE MANAGEMENT	NOTES
Group 1	ICU-based care	Palliation or ECMO	Usual criteria for ECMO and <60 years
Group 2	Ward-based care	Step 3	Consider trial of CPAP
Group 3 ***Patients not normally for full active management or failed CPAP trial***	Facemask oxygen	Palliation	Consider domiciliary care

1. Canadian Study on Health & Aging, Revised 2008.
2. K. Rockwood et al. A global clinical measure of fitness and frailty in elderly people. CMAJ 2005;173:489-495.

Appendix 2 – COVID-19 Decision Support Aid

Only valid if used as part of 'Clinical Guidance: assessing whether COVID-19 patients will benefit from in critical care, and an objective approach to capacity challenges', ICS 2020.

COVID-19 DECISION SUPPORT AID

AGE (Decreasing likelihood of benefit)
16-39
40-49
50-59
60-69
70-79
80+

CLINICAL FRAILTY SCALE (Decreasing likelihood of benefit)
VERY FIT - people who are robust, active, energetic and motivated. These people commonly exercise regularly. They are amongst the fittest for their age.
WELL - people who have no active disease symptoms but are less fit than category 1. Often, they exercise or are very active occasionally (e.g. seasonally)
MANAGING WELL - people whose medical problems are well controlled, but are not regularly active beyond routine walking.
VULNERABLE - while not dependent on others for daily help, often symptoms limit activities. A common complaint is being 'slowed up', and being tired in the day.
MILDLY FRAIL - these people often have more evident slowing, and need help in high order IADLs (finances, transportation, heavy housework, medications). Typically, mild frailty progressively impairs shopping and walking outside alone, meal preparation and housework.
MODERATELY FRAIL - people who need help with all outside activities and with keeping house. Inside, they often have problems with stairs and need help with bathing and might need minimal assistance (cuing, standby) with dressing.
SEVERELY FRAIL - completely dependent for personal care, from whatever cause (physical or cognitive). Even so, they seem stable and not at high risk of dying (within ~ 6 months).
VERY SEVERELY FRAIL - completely dependent, approaching end of life. Typically, they could not recover even from a minor illness.
TERMINALLY ILL - approaching the end of life. This category applies to people with a life expectancy <6 months, who are not otherwise evidently frail.

CO-MORBIDITY in six months prior (One or more = less likelihood of benefit)
CARDIAC ARREST from any cause in last 3 years
CHRONIC CONDITION causing: • ≥ 3 hospital admissions in the last year • ≥ 4 weeks continuous admission for current inpatients.
CONGESTIVE HEART FAILURE with symptoms at rest or on minimal exertion.
CHRONIC LUNG DISEASE with symptoms at rest or on minimal exertion.
Severe and irreversible **NEUROLOGICAL CONDITION** including moderate to severe dementia.
CHRONIC LIVER DISEASE with Child-Pugh score ≥ 7.
END STAGE CHRONIC RENAL FAILURE requiring renal replacement therapy.
MALIGNANCY haematological or metastatic with distance metastases
IMMUNOCOMPROMISE congenital, acquired, or secondary to Rx (last 6/12)

Note (i) this is not a ranked list, and (ii) inclusion on list does not imply equal weighting.

Outcomes in critical care

AGE	DIED
16-39	22.1%
40-49	26.6%
50-59	42.3%
60-69	57.4%
70-79	68.6%
80+	67.3%

Source: www.icnarc.org Interim data 17 Apr 2020 showing deaths to date of report, not final mortality

Caveat: interpretation of frailty scale in people under 65, or in those of any age with stable disability

The Clinical Frailty Score is a global clinical measure of frailty in older people, reflecting a lifelong accumulation of physiological insults that leads to reduced physiological reserves, associated with poor outcomes.

It has not been validated for use on people under the age of 65, and when used in this context, is more likely to reflect a person's disability.

Therefore individual assessments must be made on the case of people under 65, or those of any age with stable disability (e.g. cerebral palsy) and learning disabilities or autism. In these contexts, dependency on carers or diminished ability to mobilise or exercise may not be an accurate indicator of poor biological reserve or capacity to recover from acute illness.

Outcomes in critical care

Any severe comorbidity*	Died (COVID-19 2020 to date)	Died (viral pneumonia 2017-19)
No	50.2%	19.3%
Yes	60.7%	33.9%

*Indicative information only, list of conditions may differ. Source: www.icnarc.org

Interim data 17 Apr 2020 showing deaths to date of report, not final mortality

Use decision support aid + clinical judgement to assess likely outcome:

Expected to survive / Likely to survive / Outcome uncertain / Not Likely to survive / Not expected to survive

Apply in the context of a recognised decision-making frameworks[1,2] to identify, communicate and document treatment goals, alternative treatment options, timeline for review of goals, and additional support requirements. Ensure current CRITCON-PANDEMIC level is accurate, and seek colleague and Trust support as needed.

1. https://www.nice.org.uk/guidance/ng159 (accessed 20 Apr 2020)
2. www.criticalcarenice.org (accessed 20 Apr 2020)

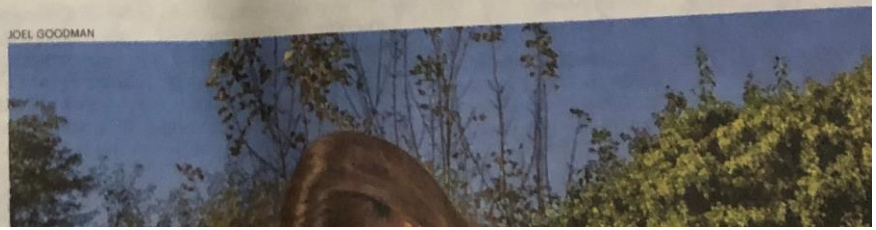
Reflections: three problems for public ethics

- What is fairness? Value Pluralism and Legitimacy
  - Expertise? Process?
- Politics
  - Off ‘message’?
  - ‘Death panels’
  - Judicial Review
- Democracy
  - Urgency and Deliberation
  - ‘Publicity’ and the degradation of ‘public reason’

Revealed: how elderly paid price of protecting NHS from Covid

▶Over-80s were denied intensive care

▶Drastic steps to stop wards being overrun



IT WAS TOTAL ANARCHY

The evening of March 23 was an extraordinary moment in the nation's history. The prime minister had been at his most headmasterly when he sombrely announced from his antique desk in Downing Street: "From this evening I must give the British people a very simple instruction – you must stay at home."

Two days later, Whitty dialled into an important meeting. He had asked the members of Meag, who include academics, medics and faith leaders, to consider a controversial document that had been prepared in response to his request for ethical guidance on how to select which patients should be given intensive care in the pandemic.

Twenty members of Meag attended the meeting, with Whitty acting as an observer. Some of those present expressed concern about the use of age as an "isolated indicator of wellbeing" and questioned whether such selection might cause distress to patients and their families. One member later expressed their outrage that the triage tool discriminated against the weak and disabled.

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Legitmation in public bioethics

Functions	Context	Legitimacy
Deliberative	Government	Authority
Determinative	Legislature	Process
Advisory	Independent	Endorsement

Key Problems		
Pluralism	Relativism	Nihilism