AIMS For a better birth...

Consent to Medical Treatment UK 2023: Dream Mirage or Nemesis?

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Editor's note: *You may or may not hold strong views about vaccination, but at the very heart of AIMS ethos is the principle of informed consent and the legal right for people to accept or decline treatment on their own behalf and for their children. Parents contact us from all around the country to ask for detailed, evidence-based information to help them in their decision-making, often saying that their midwife or doctor was unable to supply this. Many parents contact us when they have been told that they do not have options or that their decisions will not be supported. We tell parents that their medical care providers have a legal duty to provide factual information about the full range of options, including any risks involved, and must support the parents' decision no matter how much they disagree with it. We say that we understand that midwives and doctors are under pressure to follow hospital policy or National guidelines but that nothing can be done without the woman or parent's willingly given and lawfully-gained consent. We reassure parents that the consent process protects both the 'patient' and the medical practitioner. BUT no - this is what happened to one family doctor when some of her patients asked her for more rounded information about their vaccination options.*[1]



By Jayne Donegan

I have been researching vaccination and disease: health ecology since 1994. This was eleven years after I qualified as a doctor at St Mary's Hospital where Alexander Fleming discovered penicillin. By then I had already completed GP training including post graduate qualifications in paediatrics, obstetrics and

gynaecology and had amassed considerable experience in neonatal intensive care in a range of hospital settings as well as conducting home deliveries and having given birth to two children myself.

Why would I need to research diseases and vaccines at this point – wouldn't I already know all about this? Surprisingly, not. At medical school students dissect dead bodies and learn about disease, not about health. When they qualify as doctors they prescribe drugs and vaccines.

Thirty or forty years ago if you became an enlightened doctor and supplemented your medical practice with supportive and life-enhancing rather than suppressive treatment, you could do so. Over time the Department of Health, the General Medical Council and their media accomplices have taken to searching out doctors who act with honesty and integrity in the best interests of their patients and fulfil the legal, moral and ethical requirement for informed consent, to expose them to public and professional ridicule as well as punitive sanctions.

My exploration of health, including collecting, processing and writing about raw data from the Office for National Statistics and sharing it in articles, lectures and consultations, led to my being asked to act as a medical expert for two mothers who were being taken to court by absent fathers to force vaccination on their children. I produced comprehensive fully referenced reports showing that the interplay between vaccination and health was not a black and white issue, that mortality from diseases for which there are now vaccines, was declining rapidly before the vaccines were introduced and even before antibiotics were available. This was also the case with diseases for which there were no vaccines. The reduced mortality was a result of improved social conditions – clean water, adequate food, ventilated housing, fresh air and sunshine, and someone to love and look after them.[2] Countries where social conditions are the same as those in the UK 150 years ago, have the same death rates as in the UK at that time, and for the same reasons. I made the point that all vaccines have adverse reactions that are not well documented or even acknowledged[3] and, most importantly, that there are ways of achieving health other than through vaccination. Crucially, though, in a situation where parents are separated and could not agree, I recommended that the parent with the day to day care of the child or children should make the decision as they would have to deal with the consequences.

By contrast, the experts for the fathers and on behalf of the children themselves, as they were minors, said the children should have all the vaccines decreed by the Department of Health – even one not recommended for that age group. Their reports, a few pages long, did not provide one reference.

None of this made any difference to the court. The mothers lost their case and at appeal, a judge called my evidence '*junk science*'. This led the General Medical Council which registers and regulates doctors to practise in the UK, to accuse me of serious professional misconduct in an attempt to strike me off the register and deprive me of my profession and livelihood. After a remarkable series of events (please see https://www.jayne-donegan.co.uk/gmc/) I ended up being completely exonerated by the GMC panel who stated:

> "*Taking into account the Panel's reasoning in 6(a), (b) and (c), the Panel is**sure** that in the reports you provided you did not fail to be objective, independent and unbiased.*

”

‘Sure’ is the new way of saying – beyond reasonable doubt.

The GMC were not happy about this outcome. They had the opportunity to appeal but did not – the verdict was too compelling.

After this commendation I continued to give people information they could use to give informed consent for medical procedures and I continued to have complaints made about me by doctors. A characteristic of uninformed doctors who do not take the trouble to investigate any other mode of practice than medicating all symptoms with drugs and vaccines, is the spite with which some of them try to stamp on any of what they regard as heresy in other health professionals. They seem to feel more threatened by colleagues whom they cannot dismiss with, *“Well, you are not a doctor.”*

Twelve years after my exoneration by GMC panel, in 2019, the Times and Telegraph sent reporters pretending to be patients and lecture attenders to chase me across the country attending multiple lectures so they could write disparaging articles and complain about me to the GMC. I was not the only health professional so targeted, but I was the only one registered with the GMC. As part of the early investigations by NHS England it was made clear to me by their Deputy Medical Director, London, that if there was a clash between NHS policy and the best interests of the patient, if I wanted to work in the NHS I had to follow NHS policy.

This is not what I signed up for as a doctor. I was taught *“Primum non nocere – First do no harm.”* That and not being deployable in the covid emergency due to being tainted with vaccination non-conformity, was the writing on the wall for me. In June 2020 I took myself off the NHS Performers’ List and applied for voluntary erasure from the GMC register as I do not need to be registered or practice as a doctor for my private practice in naturopathic and homeopathic medicine, nor to lecture.*But the GMC would not let me go*. They would not let me take my name off the register because they wanted to force me to a five week hearing in the hope that they would be able to make me ‘*the disgraced Dr Donegan*’. Once off the register they have no hold over me - or any doctor - so it was important to them to keep that hold on me.

The GMC bizarrely accused me of being dishonest, and knowingly dishonest, when I described my 2007 GMC win:

> ‘*It is a matter of public record that I am the only qualified medical practitioner in the UK whose medical advice on vaccination has been proven in an extensive examination to a standard of beyond a reasonable doubt before an English legal tribunal to be sound and based on peer reviewed scientific and medical journal published literature (GMC 2007).*’[4]

They were still miffed that I had not been struck off in 2007.

They also charged me with:

- Putting newborns at risk of serious harm by not recommending vaccines in pregnancy

Since thalidomide, pregnant women have been regarded as 'sacred' - they should not even be taking paracetamol.

- With failing to give balanced information on the risks and benefits of immunisation

Have you ever had 'balanced' information on vaccines from your healthcare provider?

- With failing to comply with NICE Clinical Knowledge Summaries on immunisation – regarding consent
- With making statements which encouraged parents to deliberately misinform healthcare professionals about their children's immunisation status and/or diet

The dishonesty charge was the most bogus and was specifically concocted to stop me from voluntarily removing my name from the register as a 'dishonesty' charge is one of the reasons listed for refusal of all such requests.

The GMC expert, a member of the Joint Committee on Vaccination and Immunisation since 2008, sometime deputy and acting chair, stated in emails to the GMC I obtained during pre-hearing access, was overtly biased. He stated that:

> ,"*...the report is going to be difficult to prepare, as most of what Dr Donegan says is correct…*"

He added:

> "*although she only tells half the story.*"

But on that basis all the GPs in the UK should be accused of serious professional misconduct.[5]

And then he also wrote:

> "*Whilst the lectures contain mis-information (which we have highlighted), in my opinion they are not misleading as a whole. I have therefore not added any comment on this.*"

If he were acting as a proper expert that should have been at the very beginning of his report – not omitted.

My case was made worse by the Medical Protection Society, my indemnifiers, acting to make me lose my

case. They hired a legal team who had no interest in understanding how to defend such a case. Worse, they refused to use the lawyer who could have won it – the lawyer who won my 2007 case. Then they cut my funding and 'dumped' me when I complained. This, after the thousands of pounds I had paid for indemnity cover over years. It is hard to think they were not working in concert with the GMC and Department of Health

Because of the continuing irregularities of my indemnifiers, the GMC and the Medical Practitioners Tribunal Service, I realised I had to boycott the case as there was no chance of a fair hearing. I sent the GMC an 80 page letter announcing this decision as my only defence (available here.)[6] This had the effect of shortening the hearing period from five to three weeks 19 June – 07 July 2023.

The only one of the GMC substantive charges that was found 'proved' was, "*you made statements which encouraged parents to deliberately misinform healthcare professionals about their children's immunisation status and/or diet*" for which the Medical Practitioner Tribunal ordered erasure from the GMC medical register ['striking off'] - the register I have been trying to be removed from for years.

My response to the allegations is here [Under the heading: 'D. Parents misleading health professionals – no wonder'].

I am not being struck off for the information I give on vaccination. On the contrary, this is the second time in 16 years this has been confirmed as 'correct'. In 2007 the GMC was forced by overwhelming evidence to concede that my opinions on vaccination were 'correct' and the charges were thrown out. I'm delighted my opinions are still 'correct' and that after years of trying to get off the GMC register I have finally achieved this. The worst possible outcome would be ten more years of compulsory registration.

While there are doctors who act unprofessionally, do not follow the GMC guidance on the Duties of a Doctor, nor the Law on Consent [Montgomery 2015][7], I support the right of every parent to do whatever is necessary to access timely and appropriate medical care for their children. When all doctors act like professionals parents won't have to. Being struck off by a corrupt GMC is a small price to pay for taking a lawful ethical stand for the safety of British children.

I continue to give lectures and see patients as a registered naturopath and homeopath, so the public can get the information they need to make informed decisions about vaccination, information they do not get from the NHS.

Although my 80 page 02 May 2023 'Boycott' letter was my only defence, the panel did not read it out in what was purported to be a public hearing. It is available here, nor did they play the full recordings of my lectures so the public were not able to hear them either. The submissions by the GMC barrister were ordered to be written, not oral - these were not read out so the public could not hear them. The number of observers was limited to 15 and these included the panel members! Those few people who were given permission to observe had to contend with incorrect start times, being logged out frequently, much of the hearing being *in camera*, and the hearing which could have been finished in a week being dragged out for almost three weeks. On some days there were only 30 minutes of public deliberation in the 'public'

hearing.

Not to mince words it was a shambles but that is OK when it is a political show trial with a foregone conclusion.

The most egregious miscarriage of justice was the accusation by the GMC that I had not followed the NICE Clinical Knowledge Summary (CKS) on consent to vaccination,[8] summaries that comply neither with the GMC guidance nor with the law. They state that healthcare providers must:

- *Explain the benefits of vaccination, in particular that it helps prevent serious illness in children, especially potentially severe disease such as meningitis, tetanus, and measles.*
- *Reassure that vaccinations are safe, and serious adverse effects are very rare*

[NICE Clinical Knowledge Summary revised July 2021]

The GMC's own Guidance on Consent[9] states:

> *23 You should usually include the following information when discussing benefits and harms.*
>
> *a Recognised risks of harm that you believe anyone in the patient's position would want to know. You'll know these already from your professional knowledge and experience.*
>
> *c Risks of harm and potential benefits that the patient would considersignificant for any reason. These will be revealed during your discussion with the patient about what matters to them.*
>
> *d Any risk of serious harm, however unlikely it is to occur.*

[Consent GMC 2020]

This, however, is only guidance. The actual law which must be complied with is the Montgomery v Lanarkshire Health Board[10] adjudicated in the UK Supreme Court in 2015 which states:

> *87….. An adult person of sound mind is entitled to decide which, if any, of the available forms of treatment to undergo, and her consent must be obtained before treatment interfering with her bodily integrity is undertaken.*[11]
>
> *The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment,and of any reasonable alternative or variant treatments.*
>
> *The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient's position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.*
>
> *89…… the assessment of whether a risk is material cannot be reduced to percentages. The significance of a given risk is likely to reflect a variety of factors besides its magnitude: for example, the nature of the risk, the effect which its occurrence would have upon the life of the*

> *patient, the importance to the patient of the benefits sought to be achieved by thetreatment, the alternatives available, and the risks involved in those alternatives.The assessment is therefore fact-sensitive, and sensitive also to the characteristics of the patient.*
>
> *93…..the guidance issued by the General Medical Council has long required a broadly similar approach.*
>
> *It is nevertheless necessary to impose legal obligations, so that even those doctors who have less skill or inclination for communication, or who are more hurried,are obliged to pause and engage in the discussion which the law requires.This may not be welcomed by some healthcare providers ;* [Montgomery 2015]

No, indeed it may not be welcomed, that is why the Appeal Court Judges felt constrained to make it a *legal requirement* - and note also the requirement for discussion of alternative treatments. This rarely occurs. People are told:

> "*The science is beyond doubt: vaccines are safe. They are effective and they save lives and there is no alternative. Vaccines are a miracle of modern medicine and I condemn anyone who suggests otherwise."*

This particular quote is from Matt Hancock,[12] disgraced former Health Secretary, whose behaviour led to me - a doctor who does exactly what the law and GMC guidance require - being subjected to a politically motivated GMC show trial to silence me.

Did the GMC expert - (JCVI (Joint Committee on Vaccination and Immunisation) member since 2008 and sometime deputy and acting chairman - point out the that the GMC was incorrect to be quoting the NICE CKS as the standard for consent as it fulfils neither the GMC's own guidance nor the law? No

The Legal Action Group states:

> "*About Us: The purpose of the Legal Action Group, a national, independent charity, is to promote equal access to justice for all members of society who are socially, economically or otherwise disadvantaged. To this end, it seeks to improve law and practice, the administration of justice and legal services.*"

Did the legally qualified Chair of the Medical Practitioner Tribunal, a practising solicitor in the UK and a member of the Legal Action Group point this out? No

Is it any wonder that the law on consent in the UK is honoured in the breach?[13] That doctors and other healthcare providers ignore their legal requirements? There is no penalty for those breaking the law, in fact the opposite, the penalties are for those who comply. This being the case, why would anyone want to put their head above the parapet? Is it any wonder that parents also find it easier and safer for their children not to put their heads above the parapet either and say,'*Up to date*' when asked about their

children's vaccination status. As Shakespeare says in the Merchant of Venice: *"The villainy you teach me, I will execute, and it shall go hard but I will better the instruction."*

And it is villainy. Too many times when medical professionals hear that children are not vaccinated, the children are swept away, admitted to hospital, have intravenous cannulas inserted and are given IV antibiotics for 48 hours until blood cultures come back negative; management is based not on a thorough history or competent clinical examination, but entirely on one factor – lack of or only partial vaccination. It is, of course, correct management for a severely ill child when antibiotics must be started immediately, no time to wait, but not when based on prejudice rather than clinical findings.

And when do GPs, practice nurses or health visitors, not to mention the English Family Court or the Court of Protection, give the option of an alternative?

How can parents help themselves? Know the law. Choose your words carefully. In most circumstances take your child to your GP. Not only are GPs senior doctors with more experience than most hospital staff who are only juniors, there is much less chance of a GP threatening to detain your child in their surgery, quite the opposite. GP's are always trying to get people*out* of their surgery so they can see the next patient in the waiting room. Nor do they have detention facilities or staff to apply them.

There are still doctors who respect their patients, honour the child parent bond and act ethically. Try to ensure that your doctor is one of these.

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1 Donegan (2023) The full account.

https://www.jayne-donegan.co.uk/gmc/

2 Editor's note: The author is referring to Government data that shows that the decline in infant and childhood mortality in the 20th century was happening at more or less the same rate before the widespread introduction of immunisation as it continued after it. This is generally attributed to improved living conditions, and the introduction of antibiotics in the second half of the century will have contributed to the continued decline.
https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/causesofdeathover100years/2017-09-18 (scroll to bottom of the page), and
https://www.gov.uk/government/publications/vaccination-timeline/vaccination-timeline-from-1796-to-present

Bhatia A, Krieger N, Subramanian SV. Learning From History About Reducing Infant Mortality: Contrasting the Centrality of Structural Interventions to Early 20th-Century Successes in the United

States to Their Neglect in Current Global Initiatives. Milbank Q. 2019 Mar;97(1):285-345. doi: 10.1111/1468-0009.12376. PMID: 30883959; PMCID: PMC6422600.

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6422600/#milq12376-bib-0002

3 Editor's note: All boxes of vaccines contain the manufacturer's leaflet that includes information about adverse effects. Here is the one for the whooping cough vaccine that is offered to pregnant women (actually whooping cough plus 3 other vaccines - all in one injection):BOOSTRIX, and here is the information about the MMR vaccine offered to babies:MMR

4 (2023) Record of Determinations – Medical Practitioners Tribunal

https://www.mpts-uk.org/-/media/mpts-rod-files/dr-jayne-donegan-05-july-23.pdf

5 Editor's note: Unless the advising doctor or nurse has explained all of the potential adverse effects of vaccination to the parent, which rarely happens, the parents have only been told half the story.

6 Jayne's 80 page boycott letter. https://jayne-donegan.co.uk/wp-content/uploads/2023/08/20230502_Donegan_to_GMC_re_GMC_vs_Dr_Jayne_LM_Donegan_final_BOOKMARKS.pdf

7 Montgomery 2015 United Kingdom Supreme Court 2015 Montgomery v Lanarkshire Health Board [2015] UKSC 11 (11 March 2015) https://www.bailii.org/uk/cases/UKSC/2015/11.html

8 NICE (2023) CKS guidance on consent for immunisation

https://cks.nice.org.uk/topics/immunizations-childhood/management/children-2-10-years-of-age/

9 GMC (2020) Guidance on professional standards and ethics for doctors: Decision making and consent

https://www.gmc-uk.org/-/media/documents/gmc-guidance-for-doctors---decision-making-and-consent-english_pdf-84191055.pdf

Editor's note: For the eagle-eyed reader points b) and e), which do not appear above, also address risk with b) advising a tailored discussion about the levels of risk for that particular patient, and e) talking about expected harms and common side-effects.

10 United Kingdom Supreme Court (2015) Montgomery *v* Lanarkshire Judgement https://www.bailii.org/uk/cases/UKSC/2015/11.html

11 Editor's note: When medical treatment and vaccination is being offered to a baby or young child, the parent has a legal right to consent or decline on their behalf.
https://www.birthrights.org.uk/factsheets/consenting-to-treatment/

The Government's own publication, The Green Book: Information for public health professionals on immunisation (Chapter 2 - Consent) says that, "For consent to immunisation to be valid, it must be given freely, voluntarily and without coercion by an appropriately informed person who has the mental capacity to consent to the administration of the vaccines in question. This will be…someone with parental responsibility for an individual under the age of 18 years (16 years in Scotland)..."
https://www.gov.uk/government/collections/immunisation-against-infectious-disease-the-green-book

12 Telegraph (2019) Homeopaths warning mothers not to have children vaccinated, investigation reveals

https://www.telegraph.co.uk/news/2019/11/01/homeopaths-warning-mothers-not-have-children-vaccinated-investigation/

13 Editor's note: 'More honoured in the breach' is a quote from Hamlet (Shakespeare). I think the author is saying that it is little wonder that doctors more often ignore the legal requirements for gaining consent, if to honour the law gets them into so much trouble.