

# Wilful neglect of any patient should be criminal offense for doctors and nurses

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The wilful neglect of any patient should become a criminal offence for doctors and nurses in England, as it is in France, suggest ethicists in a leading article published online in the *Journal of Medical Ethics*.

Normally, healthcare professionals in England can only face prosecution if a serious error results in the death of a patient, say the authors from the University of Manchester's Centre for Social Ethics and Policy.

But under current mental health legislation, nurses, doctors, and managers can be charged with the criminal offence of wilful neglect, which is a 'conduct' rather than a 'result' crime, meaning that there is no need to show that tangible injury has been caused, say the authors.

This type of legislation should be applied to all categories of patient, they suggest.

The call comes in the wake of last year's Francis Report into the well publicised failures of basic care and standards of hygiene at Mid Staffordshire NHS Foundation Trust, and the authors' concern that this particular episode of "abysmal care in an NHS hospital" is neither unique nor preventable by oversight and regulation alone.

The conditions detailed in the report are thought to have contributed to the excess deaths of between 400 and 1,200 [patients](#) over four years at the trust. But should intolerable suffering of vulnerable people be deemed any less reprehensible than death, ask the authors?

Extending the legislation could put an end to "the current discrepancy whereby a doctor who finds himself in a difficult situation [and] makes a badly negligent error [could] find himself facing a manslaughter charge, yet a professional who persistently neglects a patient with no justification or excuse, need not fear the criminal law," write the authors.

And it would boost accountability. "Ensuring that those responsible for harm suffered are held to account is crucial to delivering acceptable patient redress," they say, drawing parallels with the French legal system which has a range of criminal offences of varying severity for which the death of a patient is not a requirement.

This "sends a message that there are certain categories of blameworthy conduct on the part of an individual, whether in their professional, representative, or public capacity, that should be punished in this way for reasons of social utility," they say.

Such legislation in England would not only be symbolic but would act as a deterrent and help ward off "the sort of appalling failures revealed in the Francis Report," they suggest.

"In the event of conviction, it would send a clear societal message to those with managerial and professional responsibility within the NHS that this sort of conduct is not acceptable and indeed undermines the very basis of the social contract on which the NHS was originally founded," they conclude.

Provided by British Medical Journal

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