

Sir Peter Fahy Q.P.M., M.A.
Chief Constable

GREATER MANCHESTER
POLICE



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09 SEP 2014

Mr N Meadows
HM Senior Coroner
Manchester City Area
The Coroners Court Crown Square
Manchester
M601PR

18 August 2014

Dear *Mr Meadows,*

Re: Ashley Corin Winter De PONSONBY (Deceased)

Thank you for your report dated 27th June 2014 in respect of Ashley Corin De Winter PONSONBY pursuant to Regulation 28, made under paragraph 7, Schedule 5 of the Coroners and Justice Act 2009 and Regulation 28 and 29 of the Coroners (Investigations) Regulations 2013.

You asked me to consider the below matters:

"There was a concern that a lack of a coherent and mutually understood policy between the Mental Health Trust and the Police as to when they would become involved in illegal activity meant that neither the patients nor the staff had clarity on the position. Just because the patients have a mental disorder, does not absolve them of all legal responsibilities and indeed understanding and facing possible criminal consequences may be important in their overall clinical management and for the administration of justice. It was suggested that this was being considered by Greater Manchester Police and the local Police and Crime Commissioner, but no formal policy had yet been finalised. Once again, this has local, regional and national implications, and that the concern is without such policies being formulated and implemented, there is a continuing risk of future deaths which could be prevented."

I would like to confirm that I agree completely with your view that a mental disorder does not absolve individuals of the criminal consequences of their actions. It is often entirely appropriate and indeed necessary for legal proceedings to be pursued alongside and in support of an individual who is mentally ill. We take such action routinely, and in co-operation with the mental health services – who I must say also recognise the necessity for criminal proceedings in appropriate cases. This action can often be necessary to support health workers, so that they can carry out their duties as safely as possible.

Of course, sometimes there will be occasions when it is not appropriate for a criminal prosecution to be pursued, but that should be a considered decision after completion of the investigation, and should take into account factors such as the victim's best interests, the seriousness of the offence, the wider public interest, as well as the offender's mental capacity and health.

If criminal offences such as unlawful supply of drugs are reported to us, we will of course undertake an investigation – as we are obliged to do in any such case. Given that these offences are taking place wholly within the private space of a hospital ward, we are largely dependent on the hospital reporting these matters to us, and we are largely dependent on the support and co-operation of health staff in allowing us to conduct an effective investigation.

I would like to confirm that we have been working together in relation to criminal offences taking place within the hospital. For example, on 13th May 2012 and 14th May 2012 two unrelated drug offences were reported to the police by the trust and duly investigated by GMP. We have also deployed drugs sniffer dogs in the unit at the request of the hospital, and there is a good level of communication between the hospital and the local division when such issues are raised with us.

However, it is apparent that there is a desire for greater clarity among our partners about when criminal matters should be reported to the police. I also recognise and accept fully that there is an ongoing need for GMP officers and staff to develop their skills, confidence and knowledge in responding to incidents at mental hospitals and at incidents involving those who are mentally ill. The PCC and myself have identified this as one of our priorities, and we have been working with partner agencies across Greater Manchester to improve the responses of all agencies.

You will probably be aware of my own appeal recently for greater information sharing between health services and police and other agencies so that we can make better decisions about the care of individuals we come into contact with. That may well have assisted with decision making in this particular tragic case.

At the time of Mr Ponsonby's death on 4th July 2012, there was no formal policy in place between Greater Manchester Police and Manchester Mental Health and Social Care NHS Trust regarding the reporting of crime committed by patients or on hospital wards. There are 4 mental health trusts covering the area of Greater Manchester. In early 2012 it was recognised by GMP that there were a number of issues around mental health that needed to be addressed by the introduction of a formal policy. GMP recognised that to make this policy effective it needed to be created with the inclusion of inputs from partner agencies. GMP approached the Association of Greater Manchester Authorities (AGMA) to obtain a mandate to undergo such partnership collaboration around this policy.

I have appointed an Assistant Chief Constable to lead on mental health policy, and the PCC has also been actively engaged in this policy area. A Mental Health Oversight Group was been created, which was chaired by a GMP Superintendent and included Director level membership from NHS, AGMA, Adult Social Care, Acute Trusts, Mental Health Commissioners, Mental Health Trusts, NWS (North West Ambulance Service) and voluntary sector providers. Their work has focused on the response to 'crisis', and the priority areas were:

- Section 136 Mental Health Act
- Section 135 Mental Health Act
- Conveyancing
- Risk Assessment

The process was a thorough and at times complicated one and brought a much greater understanding of each agency's role in these issues. As a result in April 2013, a comprehensive Mental Ill Health and Learning Disabilities Policy was created to give clarity of how the police would work with other agencies in these areas.

Section 5.9 specifically relates to criminal offences within mental health establishments. There is guidance around action to be taken in these establishments and practical advice in relation to drugs offences. This section also states:

"Criminal law has equal application both inside and outside of mental health units. It should be assumed that all mental health patients have capacity in law for their actions unless proven otherwise. Such persons should be treated equally to other persons suspected of having committed or being witness to a criminal offence. The name and qualification of a person determining the mental capacity of that individual should be recorded on the FWIN or crime in auditable form. The NHS has a zero tolerance policy in place against abuse of any kind."

This policy will be regularly reviewed to ensure it remains current with regard to best practice and legislation. Indeed there has only recently been an update completed in relation to Mental Health Diversion Panels.

GMP is committed to working with partners around the whole mental health agenda. We continue to have a strategic lead at ACC level [REDACTED] with a dedicated resource and senior lead for mental health for the force [REDACTED] and this has led to the creation of robust governance to build upon the work of the Oversight Group. This is now linked into the GM Health and Wellbeing Board, with an executive group chaired by the Deputy PCC [REDACTED]. This has representation, at command level, from Police, Mental Health Trusts, AGMA, Local Authority, Public Health England, NHS, Acute trusts, New Economy and Voluntary Sector. The body will take ownership of policies across the partnership to ensure a synergy of practice which is efficient, effective and most importantly provides best support for service users.

Yours sincerely,

[REDACTED]
Sir Peter Fahy
Chief Constable