

Chapter 14 of the Code concerns applications for detention in hospital and sets out making an application for detention. Section 14.105 under the heading, *Action when it is decided not to apply for admission*, states the steps to be taken to put in place any new arrangements for the patient's care and treatment and any plans for reviewing them. These should be recorded in writing and copies made available to all those who need them (subject to the normal considerations of patient confidentiality).

Thus, in Mrs Hayward's case, a clear communication should have been made to her husband relating to those aspects of her care plan that he needed to understand and agree. It appears that this was not done, but without knowing the full details of the procedures undertaken by the health professionals on 21st and 22nd May 2014 it is not possible to ascertain where the Code's statutory guidance was not followed.

The details of events describe a set of circumstances which, on the information available, do not appear to be consistent with the way in which the Code expects professionals to carry out their roles and responsibilities under the Act.

Where a mental health professional departs from the guidance in the Code, beyond the legal duties imposed by the Act, they must have cogent reasons to do so. A court reviewing any departure from the Code should scrutinise the reasons for the departure to ensure that there is sufficiently convincing justification in the circumstances.

The Care Quality Commission (CQC) is the regulator of the Act. Where the procedures under the Act which safeguard patients potentially subject to the Act appear to have been incorrectly applied, then that should be reported to the CQC. I am therefore copying this letter to David Behan at CQC.

I am grateful to you for bringing the circumstances of Mrs Hayward's death to my attention and hope that you find this reply helpful.

Cc David Behan CQC

ALISTAIR BURT

Alistair Burt
1/10/14



Department of Health

POC3000954181

Mr S. Wickens

Area Coroner

HM Coroner's Court

Station Approach

Woking

Surrey

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Dear Mr Wickens,

Thank you for your letter of 17 August 2015, following the inquest into the death of Julia Hayward. I was extremely sorry to hear of Mrs Haywards' death and wish to extend my sincerest condolences to her family.

You raise concerns about the Care Plan that is agreed for a patient following assessment and discharge under the Mental Health Act (MHA).

In this case, Mrs Hayward was discharged home following mental health assessment, into the care of her husband. You explain that her Care Plan was agreed orally but was not documented for her husband. It was therefore not clear to her husband what his obligations were.

You consider that when a care plan is agreed, following MHA assessment and discharge, this plan should be clearly documented and a copy provided to both carer and discharged patient.

Such protocol is already expected from mental health professionals as outlined in the Mental Health Act 1983 (the Act) and the Mental Health Act 1983 Code of Practice (the Code).

The Code gives statutory guidance how to proceed when it is decided not to apply for compulsory admission of a patient for assessment or treatment for mental disorder. The Code of Practice was revised during 2014, after extensive consultation, and the revised version came into force on 1 April 2015.

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