Department of Health & Social Care

From Nadine Dorries MP
Parliamentary Under Secretary of State for Mental Health, Suicide Prevention and Patient Safety

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Our Ref: PFD-1178841

Ms Emma Whitting
HM Coroner's Office
The Court House
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11th September 2019

Dear Emma,

Thank you for your correspondence of 4 June to Matt Hancock about the death of Matthew Jones. I am replying as Minister with responsibility for mental health and I am grateful for the additional time in which to do so.

Firstly, I would like to say how saddened I was to read about Mr Jones's death. I can appreciate this must be a very difficult time for his family and friends and I offer my sincerest condolences.

I have noted carefully the concerns raised in your report about a lack of recognition among mental health professionals and others of the importance of coordinated, multi-agency working in relation to patients for whom a Community Treatment Order (CTO) is in place.

It is not clear the circumstances under which Mr Jones was discharged from Ash Ward at Oakley Court, Luton. However, when discharging a patient from inpatient care, we would expect support to be provided to meet the individual needs of the person concerned. This might include liaison with community services providing treatment under a Mental Health Treatment Requirement[1].

[1] https://www.gov.uk/government/publications/mental-health-treatment-supporting-integrated-delivery-guidance

The National Institute for Health and Care Excellence (NICE) guidance, '*Transition between inpatient mental health settings and community or care home settings*'[2], advises that before discharging people with mental health needs, health and social care practitioners in the hospital and community should discuss the patient's housing arrangements to ensure they are suitable for them and plan accommodation accordingly.

Mental health practitioners should carry out a thorough assessment of the person's personal, social, safety and practical needs to support discharge. The assessment should include risk of suicide and cover aspects of the person's life including any pre-existing family and social issues and stressors that may have triggered the person's admission, as well as suitability of accommodation.

The guidance also requires mental health practitioners to give people with serious mental health issues who have recently been homeless, or are at risk of homelessness, intensive, structured support to find and keep accommodation. This support should be started before the patient is discharged and continue after discharge for as long as the person needs support to stay in secure accommodation. The support should focus on joint problem-solving, housing and mental health issues.

Organisations commissioning and delivering services are expected to take the recommendations within NICE clinical guidelines into account when planning and delivering services. We expect the local NHS to look closely at the circumstances of this case and to take action where necessary to ensure services are safe and of high quality.

You may also wish to note that when considering whether a patient should be detained in hospital or receive continuing treatment in the community, the Mental Health Act 1983[3] provides for three options. These are guardianship, leave of absence, and CTOs.

- Guardianship (section 7 of the Act[4]) is social care-led and is primarily focused on patients with welfare needs. Its purpose is to enable patients to receive care in the community where it cannot be provided without the use of compulsory powers. Such care may, or may not, include specialist medical treatment for mental disorder. A guardian may be a local authority or someone else

[2] https://www.nice.org.uk/guidance/ng53

[3] https://www.legislation.gov.uk/ukpga/1983/20/contents

[4] https://www.legislation.gov.uk/ukpga/1983/20/part/II/crossheading/guardianship

approved by a local authority (a 'private guardian'). Guardians have three specific powers as follows:

  - They have the exclusive right to decide where a patient should live, taking precedence even over an attorney or deputy appointed under the Mental Capacity Act 2005[5]. The Court of Protection also lacks jurisdiction to determine a place of residence of a patient whilst that patient is subject to guardianship and there is a residence requirement in effect;
  - They can require the patient to attend for treatment, work, training or education at specific times and places (but they cannot use force to take the patient there); and
  - They can demand that a doctor, approved mental health professional or another relevant person, has access to the patient at the place where the patient lives.

- Leave of absence (section 17[6]) is primarily intended to allow a patient detained under the Act to be temporarily absent from hospital where further inpatient treatment as a detained patient is still thought to be necessary. It is suitable for short-term absences for a fixed period or a specific purpose, i.e., to allow visits to family and to trial living more independently; and,

- A CTO (section 17A[7]) is used where it is necessary for the patient's health or safety, or for the protection of others, to continue to receive treatment after their discharge from hospital. It seeks to prevent the 'revolving door' scenario and the harm which could arise from relapse. It is a more structured system than leave of absence and has more safeguards for patients. A key feature of the CTO framework is that it is suitable only where there is no reason to think that the patient will need further treatment as a detained inpatient for the time being, but where the responsible clinician needs to be able to recall the patient to hospital if necessary.

When considering these options, clinicians should take into account the individual circumstances, and the likely effectiveness, for the patient in question.

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[5] http://www.legislation.gov.uk/ukpga/2005/9/contents

[6] https://www.legislation.gov.uk/ukpga/1983/20/section/17

[7] https://www.legislation.gov.uk/ukpga/1983/20/section/17A

The Mental Health Act Code of Practice[8] provides statutory guidance to registered medical practitioners; approved clinicians, managers and staff of providers; and approved mental health professionals on how they should carry out functions under the Mental Health Act in practice. It is statutory guidance for registered medical practitioners and other professionals in relation to the medical treatment of patients suffering from mental disorder.

All those for whom the Code is statutory guidance must ensure that they are familiar with its contents. Others for whom the Code is helpful in carrying out their duties should also be familiar with its requirements.

I hope that my response is helpful and provides assurance of the national guidance that is available to support mental health professionals and others in managing the transition of patients from inpatient to community care settings, and to ensure their individual needs are met. Thank you for bringing these concerns to my attention.

Yours, Nadine

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[8] https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983