

HM Coroner for Norfolk
County Hall
Norwich
NR1 2DH

Kingsley Healthcare Group,
Kingsley House, Clapham Road South,
Lowestoft, NR32 1QS

29 July 2022

[Kingsleyhealthcare.co.uk](https://www.kingsleyhealthcare.co.uk)

Dear Madam

Inquest touching upon the death of Lilian Behrendt – Rule 28 response

Thank you for your letter dated 9 June 2022.

Kingsley Care Homes Limited ('the Company') owns and operates Downham Grange Care Home and provides this reply in response to the concerns highlighted.

For completeness, following the inquest which was heard on 19 May 2022 Downham Grange has recently been inspected by the Care Quality Commission. Although the final inspection report is awaited, verbal feedback provided to the Home's management team has been positive with no breaches of regulations noted and the Company is now awaiting the draft report.

Concern 1

The records relating to Mrs Behrendt referred to her as being "content" throughout the 28 November 2021 and did not refer to her deteriorating condition. There was no record of the result of the observations taken throughout the day or why these were taken, i.e. Mrs Behrendt's condition was deteriorating and at the request of her family due to their concerns with regard to Mrs Behrendt's poor presentation.

The Company accepts that this was a limitation within its Person Centred Software ('PCS') electronic care management and recording system at the time of Mrs Behrendt's death, which restricted staff to a binary drop-down choice and did not always allow for nuance.

As a result of this concern the Company engaged with its external software engineers and requested that all pre-loaded emotionally-charged words within the PCS, including references to 'content,' be removed entirely from the drop-down lists within the programming. The word has not been replaced and instead staff are now required to manually enter into care records a description of each individual service user's presentation and assessment of their happiness rating. This change has been applied across all of the homes operated by the Company and the revised software has now gone live.

The Company considers that this software update avoids entirely the possibility of a repeat occurrence of the above scenario.

In addition, the use of indicative visual icons within the PCS has been significantly reduced so as to avoid miscommunication and again to encourage staff to write entries rather than reliance on visual indicators.

All staff who are required to create entries within the PCS as part of their role have received training in respect of the above revisions, as well being reminded of the need to fully record comprehensive and contemporaneous records. To ensure consistency of training across all sites, the Company has produced two training videos, which are delivered by the Director of Compliance and reflect real-life examples from within the Company as a whole. Each video is approximately two hours long and are shown to new starters as part of their induction. In addition, the videos are electronically stored in a central location and are accessible to staff whenever required to be viewed.

The videos cover all aspects of the PCS software and its operation, including detailing admissions processes, the requirement to undertake initial risk assessments, completion of the service user profile/ 'front page' information, care planning and updating of records in light of changing needs. These videos were in development prior to the death of Mrs Behrendt but have now gone live and are in use within the organisation. Specifically in light of the above concern, the videos advise and remind staff of the need to manually enter a description of each service user's presentation when care is provided, to ensure accuracy and that the entries are person-centred.

In respect of entries generally on 28 November 2021, the Company considers that it has been fundamentally let down by the Nurse in Charge ('NIC') and is disappointed as to her apparent disregard for her own professional obligations and adherence to the training that had been provided to her, both inherent within her professional qualification as well as that provided to her by the Company. The Company distances itself from her actions, submits that her omissions were not condoned by it and should be not vicariously ascribed to it.

At the time of Mrs Behrendt's death the NIC had been qualified and registered as a Nurse for around two years. She was considered experienced and, prior to working at Downham Grange, had worked in another adult social care home. She was deemed to be familiar with both the sector and her own professional obligations, including those contained within the NMC's Code of Conduct. There was no aspect of her application or previous experience which indicated or suggested that she was not suitable for the role at Downham Grange.

Despite her qualification and previous experience, and as per standard Company policy, the NIC's employment with the Company was subject to an initial probationary period of six months, during which time her suitability for the role was to be assessed. On the commencement of her employment the NIC received initial induction training from the Company, not only in respect of use of the PCS but also in relation to her specific role, responsibilities and duties including the importance of recording care provided. This initial training, which lasted for three days, was supplemented by work shadowing for her first three shifts and a subsequent supervision review after around four weeks. This session took the form of a sit-down meeting with the NIC to review both feedback provided in respect of her practice, as well as to further assess her ongoing suitability for the role.

For completeness, the Company expects registered nurses to have a level of competency and awareness of their own professional obligations. It was stressed to the NIC during her initial period with the Company that not only should she comply with her own professional obligations, as contained within the NMC's Code of Conduct (which includes, at paragraph 10, the requirement to keep clear and accurate records), but also the training provided to her by the Company.

Through the training and induction provided, the Company is satisfied that all staff are aware of the internal escalation procedure should they require a second opinion or advice. For example, within each Home a management on-call function is always available and provided by the Manager or Deputy Manager. In addition, the Company's senior Operations team are visible within the business and is also available to provide support and assistance when required. The availability of this support network is highlighted to staff, and has been reinforced since the recent inquest.

In addition to the above mandatory training, the Company provides regular refresher training, including in the use of the PCS. Staff are also able to request additional training should they consider this necessary for their own professional development.

The Company strongly disputes any suggestion that the NIC, or any member of staff who is required as part of their role to update the PCS, is unaware of how to use or upload comments into it.

Following the death of Mrs Behrendt, the Company has provided PCS refresher training to all staff who are required to use the software as part of their role. In addition the Company has this year created within all of its homes the new role of PCS Champion, to act as a first point of liaison for all staff should they have any queries in respect of the software. This role is undertaken by individuals in addition to their primary role within the business, and Champions are selected for the position based on their existing demonstrable understanding and proficiency with the software. The PCS Champions had training on 30 March 2022.

The role of PCS Champion is to provide an additional level of support – over and above the training and information provided by the Company – to ensure that staff are continually supported in their use of the software. For example, within each home the PCS Champion will undertake individual bitesize training sessions with staff, with the content being bespoke to each home and based on examples identified as a result of that site's own internal care record audits, to reinforce best practice. For the avoidance of doubt, if there are repeated issues of non-compliance by any member of staff, in respect of the PCS or more generally, then this can lead to disciplinary proceedings and/ or dismissal in appropriate instances.

The PCS Champions feed back to the Director of Compliance, to enable identification of recurrent or persistent issues across the Company's homes, and to take further actions if and when required to ensure that the training remains relevant.

The training delivered by each home's PCS Champion is provided on a rolling basis and when issues are identified, to ensure that there is on-going learning within each site which is specific to the issues identified at that site. The Company considers that this ongoing training negates entirely any future suggestions by staff that they are unsure how to use the software.

As a result of both observations of the NIC's practice during her probationary period, and following feedback received, the Company did not consider that it was appropriate for her to remain in its employment. Specifically as a result of her failure to abide by her own professional obligations and omission to contemporaneously record Mrs Behrendt's observations on 28 November 2021, the Company referred the NIC to the NMC.

In order to prevent a recurrence, and ensure that staff are compliant with the training which has been provided to them, the Company regularly audits care plans – at both local level by the home management, as well as the Company's Head Office. Both audits involve a thorough and wholesale review of records, to include reference to the inclusion of routine observations. Downham Grange's senior management dip sample audit the PCS records of three service users every month. Feedback from the audits is provided to staff, either individually or, where more general issues of practice are identified, to all relevant staff.

Where individual service users have specific care needs, for example fluid requirements or a need for turning, the PCS enables the home's senior management to access that individual's electronic records and review specifically the fluid or turn charts as required. The home's senior management check all such entries on a daily basis, to ensure that appropriate care is being provided and the needs of service users are being met.

By way of on-going monitoring, Downham Grange also conducts a daily '11 at 11' meeting which is attended by all heads of department, and will include consideration of any developing issues, concerns of service user-specific issues which may arise and require attention.

Concern 2

The evidence was that the Nurse taking the observations on 28 November 2021 did not have access to a mobile recording device, which staff are given to use at the Home specifically to record results, although she did have access to a computer on the Unit to input the information. Evidence was heard that the number of mobile recording devices has now increased to 12, which "should be adequate", but that "they do get lost and broken". As at the day of the inquest 10 were available to staff to use.

The mobile recording devices are allocated to care assistants during each shift for their use and ease of recording entries within service users' care records. In addition, the Company provides separate computers for each nurse within every home, for their specific use. Nurses are not assigned a mobile recording device as they are expected, and are directed during their initial training, to record their entries within the PCS software via the computers. The computers are located within the nursing stations. Although the NIC was not expected to have personal access to a mobile recording device, access to the PCS was available via the computers. Mrs Behrendt's room was located a few yards from the nurse's station and the Company is satisfied that this system is sufficient in the circumstances.

Had the NIC required immediate access to a mobile recording device then she could have asked to borrow a colleague's, or could have accessed the computer at the nearby nurse's station.

On occasion the mobile recording devices do become inoperable, as a result of software issues, and the Company does arrange for repair and replacement of them when required. The Company has also now provided training to its Deputy Managers so that they have the skills and knowledge to re-build the software within each handheld device should they become inoperable.

Downham Grange has purchased three additional devices for use following the recent inquest. In addition, the Company has also uploaded the PCS App onto its medication handheld devices, so that registered nurses are now able to access both the PCS and medication software on one device. The medication devices are in addition to the handheld devices and laptops for use by the nurses. The Company considers that the number of units available in the Home is sufficient for the number of staff on duty at any given time.

Concern 3

Evidence was originally heard that the Nurse in Charge had been “dismissed” following Mrs Behrendt’s death. At the inquest evidence was heard that “the probationary period had not been extended”. Evidence was heard that the nurse may not have been aware that she was required to record every action and it was accepted that the records in general were “abysmal”, namely those completed by other members of staff.

It is correct that following Mrs Behrendt’s death the NIC’s probationary period was not extended, and she was dismissed from the organisation.

Whilst the Company accepts that it was open to it to extend the NIC’s probationary period as an alternative to dismissal, in light of the concerns arising from Mrs Behrendt’s death the Company took the decision that this would not be appropriate. Given the extent to which she had failed to discharge her individual responsibilities, the Company decided to dismiss her and additionally referred her to the NMC.

The Company disputes the suggestion that the NIC – or any member of staff – was unaware of the requirement to record every action. Not only is this an explicit requirement within the NMC’s Code of Conduct (and in respect of which, the Company submits, the NIC would have been intimately familiar as a result of her professional training and qualifications), but was also included within the Company’s training, as detailed above. Following Mrs Behrendt’s death the Company has reinforced its expectation, by way of rolling refresher training, that all care provided and observations taken must be recorded within each individual service user’s care records.

This revised training programme is supplemented by the enhanced auditing system, as detailed above.

Concern 4

The Nurse in Charge had contacted another member of staff to comment on Mrs Behrendt’s general presentation as she [NIC] had not worked with Mrs Behrendt for over a month, having been placed on a different Unit.

The Company accepts that the NIC had worked on a different unit prior to 28 November 2021.

However, the Company considers that it is both appropriate and necessary for nurses within its homes to have experience of working across all units within each home (for example, residential, dementia and nursing) to both maintain their professional competency, and to also ensure their familiarity with all aspects of each individual home. The Company does not propose to revise this system and considers that it is of benefit to both the service users and home staff.

By contrast, care assistants do not move between units. This allows them to build meaningful relationships with their service users and enables them to develop a deep understanding and knowledge of their specific care needs. The Company encourages teamwork and for individuals to seek assistance when required.

Concern 5

It was unclear from the Home records whether a DNACPR and a ReSPECT form were in place. The Manager had not seen a paper copy and was unclear as to the position.

The Company is satisfied that the appropriate forms were in place in respect of Mrs Behrendt and refers to the read evidence of the training hospital clinicians, which confirms that a DNACPR form was available. Following internal review and audit the Company understands that on occasion, the paper DNACPR form may have been accidentally provided to ambulance crews on their attendance, rather than a copy being provided.

To avoid a repeat of this possible situation, the Company has revised its system to ensure that DNACPR and ReSPECT forms are retained at all times. For example, if a service user is admitted to Downham Grange from hospital, the relevant DNACPR/ ReSPECT form will accompany them to the Home in paper form. Conversely, if a service user is already resident within the Home and is placed on end of life care, the GP will complete the relevant form. In both instances, the paper form is now scanned and uploaded into the PCS. The paper versions will also be retained in each service user's dedicated papers file, which is kept in the Home Manager's office.

Once uploaded into PCS, the DNACPR will be populated into that service user's hospital pack. If that individual is subsequently admitted to hospital the hospital pack will be printed out and handed to the ambulance crew. The paper version will be retained by the home at all times for its records. There is no longer any need for the paper forms to leave the home, or any scope for individual forms to be misplaced as an electronic copy will always remain available to the home.

Following Mrs Behrendt's death the Company has provided all staff with training on the new procedure and has specifically directed them that original paper documentation is not to be supplied to ambulance crews, and that instead the electronic hospital pack must be printed from the PCS.

To ensure that all forms within its homes have been uploaded, audits have been undertaken at each site to identify all service users in receipt of the same. All families of service users with these forms in place have been contacted, to ensure that they are aware of their existence. In addition, to identify at a glance which service users have a DNACPR/ ReSPECT form in place, the PCS has been updated and the relevant section is now highlighted in red for those service users with a DNACPR in place; and blue for those without a DNACPR in place.

Training has also been provided to staff in respect of the completion of these forms, as well as the associated care plans, to ensure that there is no potential for confusion as to an individual's wishes.

The Company is confident that as a result of the above procedures, it has negated entirely the possibility of a repeat occurrence.

Concern 6

The evidence revealed a lack of ownership for overall running of the Home, with no one person having or taking responsibility and accountability for the residents, referring to, e.g. Nursing Lead being responsible for DNACPR, nurses "knowing" they should complete the results of observations taken and checking to see that action had been taken Downham Grange Care Home is a relatively small home with a maximum of 62 residents. At the time Mrs Behrendt was a resident the Home had in the region of 48 residents. She had been there since 2018 and the present Manager since May 2021. The Manager had little knowledge of Mrs Behrendt, knowing of her "in passing".

The Company does not consider that Downham Grange, as a 62-bed nursing home, can be accurately described as small within the sector and considers that it would be more appropriately classed as a medium to large home. Even with the 48 residents at the time of Mrs Behrendt's death, the Company submits that this would still be considered a medium-sized home.

The Company accepts that its Registered Managers each have ultimate responsibility for all aspects of their individual homes. That being said and due to the volume of issues and care needs to be addressed on any given day, the Company does not consider that it is practical or possible for any one individual to undertake all these roles and responsibilities, or for them to have an intimate knowledge of every single service user.

Home Managers are assisted in their day to day role by a Deputy Manager who, at Downham Grange, has taken responsibility for medication delivery and is the Home's Clinical Lead. In addition, there are multiple Heads of Department within every home, including housekeeping and activity co-ordinators and all homes must operate with a level of trust in each individual member of staff to fulfil their role to the best of their ability. At the risk of repetition, the Company considers that it has been fundamentally let down in respect of Mrs Behrendt's care by the acts and omissions of the NIC, who appears to have acted outside her own professional obligations despite the training provided to her.

To support staff, Home Managers offer guidance and support whenever required but the Company does not expect them to have an in-depth knowledge of each and every single service user within their home. It is not for individual Home Managers to perform all roles themselves. The Home Manager relies upon staff to relay any issues requiring further consideration, and one of the purposes of the '11 at 11' meeting is to provide a forum for all staff, via their Heads of Department, to raise any issues for discussion with senior management.

Each home is supported by the Company, which provides centralised support to all managers through its Operations and Area Managers. The Company's Operations Managers visit each home on a regular basis to provide hands-on support and to identify and, if necessary, address, any developing concerns.

Specifically in respect of Downham Grange, the home's staffing has now stabilised following events of the pandemic with the result that retention of staff has improved, which in turn has resulted in information relating to specific needs being retained within the business.

We hope that the above serves to address the Coroner's concerns, but should further information be required please do not hesitate to contact the Company.

