NHS
East London
NHS Foundation Trust

Office of the Chief Medical Officer
Trust Headquarters
5th Floor
9 Alie Street
London E1 8DE

**Private & Confidential**

Ms Mary Hassell
HM Senior Coroner

7 August 2023

Dear Madam

**RE: Regulation 28 Response – Heather Findlay**

I am writing on behalf of East London NHS Foundation Trust ('the Trust') to provide a formal response to the Regulation 28 Report that you issued on 12 June 2023 following the inquest touching the death of Ms Heather Findlay.

I would like to offer sincere condolences to Ms Findlay's family from me, and also on behalf of the Trust.

The Trust has carefully considered your Regulation 28 Report at the most senior clinical levels. Your Report raised six matters of concern, and I have set out below details of the actions which the Trust has taken (or will take) in relation to them, or alternatively why the Trust does not consider that action is practically feasible.

In relation to your **first concern**, I note you received written evidence that *'it was expected practice for [the Healthcare Assistant] to return to the ward in the way she did rather than to try to chase after Ms Findlay, who was running at speed and who crossed a busy road. Pursuit could have put Ms Thomas at risk, and could have put Ms Findlay at further risk if she for example tried to cross other roads to evade her.'*

Although this was the practice in operation at the time, the Trust has taken action to review the relevant part of its Missing and Absent Without Leave (AWOL) Policy to reflect this practice. The updated version will read as below:

> *Where possible staff must always try to prevent people from absconding from escorted leave, whilst bearing in mind the safety of the individual, staff and public, and take into account:*

- *Use of non-physical interventions – e.g. asking the patient to return, providing reassurance etc.*

- *Staff may follow from a distance maintaining line of sight whilst requesting assistance via mobile telephone from other members of staff, hospital security or when appropriate the Police.*

- *Staff member to maintain line of sight of the patient until assistance arrives if it is safe for staff and the patient.*

*It may not be possible to keep patients in sight as for instance they may use public transport/ board a private vehicle or taxi/ or run at speed. In such circumstances staff should return to the ward as soon as possible to notify the appropriate staff and external agencies.*

*If the patient is out of sight or a long way from the hospital, the member of staff may consider to abandon the escort and return to the ward where they will need to access the grab pack for AWOL patient and seek assistance from the police especially if the risk is immediate.*

The Trust intends to incorporate scenarios involving patients going AWOL on escorted leave into its induction training for new staff in the relevant services. In addition there will be a 2-yearly refresher for Section 17 and Escort training. The scenario training will incorporate such situations and include reference to the information that needs to be considered by the escorting staff and fed back to staff on the wards to help in making a decision around risk and level of escalation needed. The Trust expects this to be in place in the next 3-6 months.

In relation to your **second concern**, the Trust believes that the appropriate response from a senior nurse in the envisaged 'line of sight' advice-giving scenario should be driven by that senior nurse's clinical judgement at the time of the event, and that attempting to prescribe a response in advance in a policy document would be unhelpful given the number of dynamic factors that could be relevant.

The Trust would like to emphasise the general principles espoused in the existing practice (to be consolidated in a written policy as above) namely that staff must attempt to prevent patients on escorted from absconding and may follow them if it is safe and feasible to do so, while liaising with suitable sources of support as necessary.

In relation to your **third and fourth concerns**, the Trust respectfully notes that it is an oversimplification to say that hospital staff have the same powers as the Police via section 18 of the Mental Health Act. Although s18 does confer legal authority on Trust staff to return a sectioned patient to hospital, it does not endow them with any authority to divert members of the public away who might attempt to intervene (on either a malevolent or well-intentioned basis) in the process of taking a patient into custody and returning them to a ward. The absence of such wider powers could put patients, members of the public and staff at risk if Trust staff were to exercise s18 MHA powers.

Furthermore, it should be noted that healthcare staff do not have the range of mechanical restraints (e.g. handcuffs) or personal protective equipment (e.g. stab vests) available to the MPS, which are occasionally needed. The Trust would find it contrary to its values as a healthcare provider to adopt such equipment.

Furthermore, it should be noted that mobilising a group of staff to travel off-site to take a patient into custody and return them to the ward would have significant resource implications and could impinge on the safety of patients on the ward.

The Trust notes that you are aware of the Affinity protocol which is already in place between the Metropolitan Police Service (MPS) and the Trust.

A meeting between senior ELFT and MPS staff (plus other local health stakeholders) took place on 24 July 2023. One relevant point discussed was the work of a pan-London group who will set standards for scenarios where patients are absent without leave, in order to move away from discreet Trust policies which may be inconsistent. Discussions about joint working and the roles of respective organisations will continue through these partnerships, with relevant implementation and monitoring of agreed arrangements arising from there too.

In relation to your **fifth and sixth concerns**, risk assessment and prediction in relation to suicide are complex areas that the Trust is determined to address appropriately and robustly. The National Institute for Health and Care Excellence (NICE) published guidance in 2022 suggesting that risk stratification (e.g. medium and high risk) should not be used to predict future suicide or self-harm, and that risk assessment tools and scales should not be used for those purposes either. The emphasis should be on supporting the person's immediate and long-term psychological and physical safety, and on risk formulation.

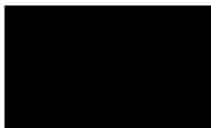
ELFT intends to review its policy for Risk Assessment and will consider recent NICE guidance in so doing. We will also be seeking an expert opinion from outside of the Trust about changes we then propose for our policy and procedures before a programme of work to implement changes is undertaken, with consideration given to the implications for other organisations at that point. The expected timescale for this programme of work is six months.

The author of the AWOL policy has been tasked with reviewing how the Grab Pack aligns with local polices, including what information is included. The expected timescale for this is three months.

Very respectfully, it is the Trust's understanding that the Serious Incident investigator's evidence was that she could not answer your question in relation to the HCA's telephone call to Police. This does not of course affect the Trust's consideration of your broader points, as reflected by the programme of work described above.

I hope I have provided reassurance to you and the family of Ms Findlay about the learning that has taken place as a consequence of her sad death.

Yours sincerely,



Chief Medical Officer

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