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[redacted]
T/Assistant Commissioner
Metropolitan Police Service
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Date: 12th July 2023

Dear Ms Hassell

I am the Temporary Assistant Commissioner for the Met Ops Chief Officer Team in the Metropolitan Police Service ("MPS"). On behalf of the Commissioner of Police of the Metropolis, I write to provide the response to the matters of concern addressed to the MPS in your Report to Prevent Future Deaths dated the 12th June 2023.

On behalf of the MPS may I first of all express my sincere condolences to the family and friends of Heather Findlay, our thoughts and sympathies are very much with them.

The "MPS" has acknowledged and reviewed all the matters of concern raised in your Regulation 28 Report and responds to points 3, 4 and 5 as follows:

The Coroner's "Matters of Concern"

The Prevention of Future Deaths report records:-

(3) Moreover, one of the MPS policy leads in this area gave evidence that in such a situation the police would not necessarily attend, even if called direct by a hospital staff member in the street following a patient about whom they are worried. I spent some time examining the police regarding this point, and I was left with the impression that a clinician calling the police in what the clinician perceived to be an emergency situation might not be assisted by the police."

MPS Response

The MPS currently has the Affinity Protocol in place and has done since September 2021.This is a collaborative partnership between local policing, NHS Trusts and mental health service providers, the aim of which is to achieve mutual understanding of each partner's responsibilities in respect of those patients detained under the Mental Health Act and who may abscond. This could be from a health care professional whilst under *s17 Mental Health Act* escorted leave; by not returning from authorised leave or simply leaving the premises without permission. The Protocol relies on our commitment to existing policy rather than necessitating new policy.

The Affinity Protocol utilises a Joint Responsibility Agreement outlining the key functions, roles and responsibilities of both the MPS and NHS Mental Health Providers. The ELFT have been signatories to that agreement since April 2022.

The implementation of the national Right Care, Right Person model into the MPS is in line with the National Partnership Agreement being developed by the College of Policing, National Police Chiefs Council and NHS which is supported by the Home Office and Department of Health and Social Care. The model will formalise the principles in the Affinity Protocol and make clear the expectations of each agency in caring for those with mental ill-health. Right Care, Right Person will create a single interpretation of an emergency situation requiring police assistance for both police and mental health trusts. Where there is an immediate threat to life to the patient or another, or the patient is restricted under Part III Mental Health Act the police will support mental health partners in re-taking a patient that is absent without leave.

(4) I heard that Right Care, Right Person is an operational model developed by Humberside Police that changes the way the emergency services respond to calls involving concerns about mental health. I understand that it is in the process of being rolled out across the UK as part of ongoing work between police forces, health providers and government. I heard that the MPS has already created a similar model under the resource and demand team. The protocol is called Affinity. It attempts to target preventable demand from the mental health trusts.

I was told that ELFT and the MPS work in partnership, so I asked the MPS what is meant to happen if an escort is following a patient who has run away and about whom the escort is worried.
I was told that this is primarily a health problem. It was pointed out that doctors, nurses and other hospital staff have the same powers as the police under section 18 of the Mental Health Act.

Hospital employees have the legal authority to take a sectioned patient into custody and return them to hospital.

However, I heard nothing of an ELFT protocol that would advise staff on the ward to come out to assist an escort who already following a patient. I heard nothing of a trust contingency plan that would allow a ward to function without the doctors and nurses needed to undertake such a task. I heard nothing of any training given to doctors and nurses in how to restrain a patient in the middle of the street and to transport them back to the ward.

From the evidence I heard, the police / health trust partnership working allows each agency to regard such a situation as the other's responsibility, whilst nobody is on the ground attempting to retrieve a seriously ill patient who is meant to be inside a locked ward for their own safety.

Whether this is a matter of policy or practice, the result is the same. If partner agency working is to be effective in caring for this extremely vulnerable cohort of patients, there needs to be crystal clear understanding by all those involved, from the highest policy maker to the most junior member of a team at the sharp end, of how to tackle these difficult situations and exactly who is meant to be doing what.

MPS Response

The core responsibilities of the police are to prevent and detect crime, protect life and property and maintain the Kings Peace. The retrieval of persons sectioned under the Mental Health Act, who have left the medical setting in which they reside, is a health care responsibility unless the need to locate them and/or take them into police custody, falls into one of the core policing duties. Involving the police in mental health issues where there is no crime or threat to life risks criminalisation of patients, and in London in particular, where there is a higher percentage of mental illness within some minority communities, has a disproportionate criminalising effect on them.

The MPS and medical agency partners already work to an existing framework which sets out roles and responsibilities. They are:

National Missing Adult Framework

The National Missing Adult Framework was published in August 2020 by the Home Office. It sets out the need for joint working between Police and other agencies and has been signed up to by

National Police Chiefs Council, NHS England, Public Health England, HMICFRS and others. This document underpins the Affinity Protocol and the Joint Responsibility Agreements that the MPS Police have in place with the nine Mental Health Trusts including ELFT.

Joint Responsibility Agreement - CM6 signed April 2022 by ELFT and MPS

The MPS has, since September 2021, had in place a prevention and information sharing strategy for patients who are Absent Without Leave (AWOL) from a NHS Mental Health facility. This is named the Affinity Protocol and is underpinned by a Joint Responsibility Agreement (JRA) between the MPS and NHS Mental Health Service providers. This JRA allows both partners to identify their own areas of responsibility, areas of joint responsibility and for each agency to have a mutual understanding of the others area of responsibility.

The Joint Responsibility Agreement sets out that where possible prevention of a person becoming Absent Without Leave (AWOL) is the optimal response. However this is not always achievable and therefore planning for that eventuality should take place by the NHS Mental Health provider for all patients granted leave under section 17 Mental Health Act 1983. This planning should allow for any critical concern for safety to be effectively communicated to the police, should a patient abscond. By sharing this information with police, it allows for a risk assessment to be made and targeted enquiries to be undertaken where appropriate to locate the missing person as quickly as possible. Information provided should include an up-to-date clinical risk assessment and an information pack that includes known risks, relevant history and prescribed medication.

The Joint Responsibility Agreement sets out where police should always and immediately be called by health partners under the Mental Health Act 1983: Code of Practice –

- Patients subject to Part III MHA 1983 – this means patients connected to criminal proceedings, either before or after trial or conviction
- Patients who are dangerous
- Patients who are particularly vulnerable

The JRA asks the NHS to set out rationale to the police where the above is not met to assist the police in assessing the risk and determining the level of response.

The police response on receipt of this information is determined by the Approved Professional Practice set by the College of Policing for Missing People. For this reason the information provided by NHS partners is critical to ensuring the most appropriate response is undertaken.

In instances where police do respond, unless the patient is subject to criminal proceedings (e.g. Part III MHA 1983), or S18 MHA applies, then police will generally not provide transport for the purpose of returning patients from the location they are found. This is clearly set out in the National Missing Adult Framework and is therefore a position which makes clear with which partner the responsibility sits. The National Missing Adult Framework also highlights that for many patients, being transported in a police vehicle is a traumatic experience and the most appropriate professional should return the patient.

In cases where risk is mitigated on locating and speaking with the patient (e.g. at home), then police will inform Clinical staff of the patient's location and police involvement will end. Requests for police to assist further (e.g. attending a S135 (2) warrant) will be dealt with outside of the MPS Missing Persons Process.

The need for clarity of expectation, roles and responsibilities is at the core of the Right Care, Right Person approach and seeks to ensure that patients receive the right care, from the right person rather than police officers who are not trained specialists in dealing with mental health being used inappropriately. This furthers clarifies and supports the agreements and guidance already in place.

Right Care, Right Person (RCRP)

In February 2023 the Home Secretary wrote to Chief Constables and Police and Crime Commissioners to ask them to work with health partners to implement Right Care, Right Person in their area. To underpin this model, a National Partnership Agreement is being drafted between the Home Office, Department of Health and Social Care, National Police Chiefs Council and NHS England and is expected to be signed by all parties this summer.

The Commissioner of the Metropolitan Police, [redacted], wrote to Health and Social Care Partners on 24th May 2023, to set out the Met Police's intention to implement the national Right Care, Right Person approach. Under Assistant Commissioner [redacted] a team is now working to put this in place, and an initial senior board has taken place with senior health and social care providers to work towards RCRP implementation. This is also in parallel with the work being done by health care providers on the London mental health concordat. A key aspect of this is working with all of the

Mental Health Trusts to ensure that all agencies understand their responsibilities. The Police nationally under the NPCC lead, are developing the policies that sit behind Right Care, Right Person and the MPS is heavily engaged in this development.

The preparatory work being done on implementing Right Care, Right Person provides the Mental Health Trusts with the opportunity to refresh their policies and training to allow them to meet their legal obligations under s18 Mental Health Act and Article 2 and 3 ECHR, in respect of someone who has absconded. In many cases this will be about asking trusts to implement in practise policies that currently exist. The MPS will be meeting with Health and Social Care partners from July to establish a RCRP External Partner Delivery Group to allow all parties to be clear on roles and responsibilities and for health and social care partners to develop their contingency plans to respond to patients who are Absent Without Leave from Mental Health facilities and the other pillars of Right Care, Right Person.

(5) Evidence was given that the police classify a person at high risk as: the risk is immediate and there are substantial grounds for believing immediate risk of self-harm.

I was told by the MPS that, at the time of reporting to the MPS, trusts should volunteer their own grading of the patient's risk. The police said that they will not necessarily following the trust grading, but they regard it as a significant factor and it should form part of the MPS thinking. ELFT witnesses told me that if the police did not ask for the trust's grading then the trust would not offer it.

I was told that, until April 2022 the grab pack prepared by ELFT for the MPS in such a situation was printed out and handed to police if & when the police attended the ward. It is now filled out on a portal as part of the reporting procedure. However, it is not clear to me how far the grab pack aligns with local policies, whether all useful information (including the trust's grading of risk) is recorded as a matter of routine, and how far the police and the trust are using the same terminology with the same definitions. It seems that this would benefit from consideration.

<u>MPS Response</u>

It would appear this concern is focused primarily on the information sharing practice and policy the ELFT have with the MPS – what information is considered important and whether the assessment of importance and language to communicate that is common between both partners.

The work that the MPS, National Police Chiefs Council and Health and Social Care partners will be undertaking as part of the implementation of the Right Care, Right Person will ensure that the policies of all parties align and there is a clear understanding of definitions and terminology used within these. It will also provide an opportunity for the police and Trust to work together to clarify what information is required within the grab pack to allow the police to make an effective risk assessment and understand whether there is a real and immediate threat to life to the patient or others. A clear understanding of when police will support the Trust in locating and potentially re-taking the patient is an important objective for both partners.

Please do not hesitate to contact me should you have any queries.

Yours sincerely

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T/Assistant Commissioner Met Operations and Performance