



Department
of Health &
Social Care

[REDACTED]
Parliamentary Under-Secretary of State for
Patient Safety, Women's Health and Mental Health

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Our ref: [REDACTED]

Michael Spencer
HM Assistant Coroner for East Sussex
Coroner's Office (East Sussex)
Unit 56, Innovation Centre
Highfield Drive
St Leonards on Sea
East Sussex
TN38 9UH

By email: [REDACTED]

28 February 2025

Dear Mr Spencer,

Thank you for the Regulation 28 report of 22 November 2024 sent to the Secretary of State about the death of Nicolette Elizabeth McCarthy. I am replying as the Minister with responsibility for patient safety and mental health.

Firstly, I would like to express how saddened I was to read of the circumstances of Ms McCarthy's death, and I offer my sincere condolences to her family and loved ones. The circumstances your report describes are deeply concerning and I am grateful to you for bringing these matters to my attention. Thank you also for the additional time provided to the Department to provide a response to the concerns raised in the report.

Your report raises concerns over the impact and implementation of the smoke-free policy in the NHS on mental health inpatients who smoke and on staff working practices within mental health inpatient units.

In preparing this response, my officials have made enquiries with NHS England to ensure we adequately address your concerns.

Under the 2006 Health Act, the inside areas of hospital premises are required to be smokefree. Whilst this does not cover outdoor areas, the National Institute for Health and Care Excellence (NICE) has set out in its quality statement *Smoking: reducing and preventing tobacco use* (QS82)¹, that healthcare services have a duty of care to protect the health of people who use or work in their services. Therefore, NICE recommends that healthcare setting should not allow smoking anywhere in their grounds and should seek to remove any areas previously designated for smoking. This should be reflected in the policies set up by individual NHS trusts. Although NICE guidance is not mandatory, we expect NHS organisations to take NICE's guidance into account in the delivery of their services.

¹ [Overview](#) | [Smoking: reducing and preventing tobacco use](#) | [Quality standards](#) | [NICE](#)

You may also be aware that the Department is currently taking action to tackle the harms of second-hand smoking through the Tobacco and Vapes Bill which is currently making its way through Parliament. Part of the Bill provides ministers with powers to expand the current smoke-free places provisions in the Health Act 2006 to more public places and workplaces, including outdoor spaces. In England, we have announced our intention to make outside hospital grounds smoke-free. This will be subject to a full consultation and as part of this we will consider whether designated areas for smoking are appropriate.

Research shows that people suffering from schizophrenia are 10 times more likely to die from respiratory disease than smokers without mental health problems, and people with serious mental illness die on average 15 to 25 years earlier than the rest of the population. Smoking is a major cause of that, and it is therefore important that hospitals do take action to promote and preserve the health of patients and staff and provide the necessary support to help people stop smoking, whether temporarily or permanently.

As NICE has highlighted in its response to your report, their Guidance *Tobacco: preventing uptake, promoting quitting and treating dependence* (NG209)²³ advises that there should be a discussion about any stop-smoking aids that the person has used before, and advice given on using nicotine-containing products including nicotine replacement therapy and nicotine containing e-cigarettes, and medication licensed for smoking cessation.

Turning to your concerns regarding a lack of clarity around using Section 17 of the Mental Health Act 1983 to allow inpatients a short leave of absence in order to take a smoking break. Under Section 17 of the Act, a leave of absence can only be authorised by the patient's responsible clinician and would require a risk assessment to be undertaken. The Care Quality Commission's guidance: *Smokefree policies in mental health inpatient services*³ makes it clear that Section 17 should not be used to facilitate smoking breaks.

I understand the concerns raised in your report about whether a smoke-free policy covering hospital grounds may place mental health inpatients at an increased risk from self-harm and suicide. However, research carried out on smoking bans in psychiatric inpatient settings⁴ indicates that smoking cessation does not exacerbate mental health symptoms. I am also aware of a number of mental health trusts that have implemented smoke-free policies successfully, resulting in high rates of compliance and few unintended consequences.

We recognise that there is a difficult balance to be had between protecting patients and members of the public by enforcing a smoke-free environment in hospitals and allowing those patients who smoke to do so. We also recognise that this can be particularly difficult for mental health patients. We believe that in this case, the balance lies in protecting the public, but we do expect NHS organisations to support such patients that smoke, either through smoking cessation measures or through safe leave arrangements.

I understand that, in its response to your report, NHS England will address your concerns around national guidance and policy and is also engaging with the Sussex Partnership NHS Foundation Trust to provide information about the local issues you have raised.

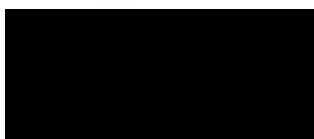
² [Overview | Tobacco: preventing uptake, promoting quitting and treating dependence | Guidance | NICE](#)

³ [Brief Guide Smoke Free Policy MH inpatient services.odt](#)

⁴ [Smoking bans in psychiatric inpatient settings? A review of the research - PubMed](#)

I hope this response is helpful. Thank you for bringing these concerns to my attention.

Yours sincerely,



**PARLIAMENTARY UNDER-SECRETARY OF STATE FOR
PATIENT SAFETY, WOMEN'S HEALTH AND MENTAL HEALTH**