



Department of Health

*Rt Hon Alistair Burt MP
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Mrs L. Hunt
Senior Coroner
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20 JUL 2015

Dear Mrs Hunt,

Thank you for your letter of 20 May 2015 following the inquest into the death of Kingsley Burrell in March 2011. I was very sorry to hear of Mr Burrell's death and wish to extend my sincere condolences to his family.

You note that Mr Burrell was restrained for a total of two and a half hours during a period of detention under the Mental Health Act. The inquest jury found that this was an unreasonable period of restraint which, together with the covering applied to his head, the delay in instigating resuscitation and neglect, contributed to his death.

You raise a number of concerns, some of which are for our response:

- Mr Burrell struggled against his restraint as a result of suffering an acute behaviour disturbance. The West Midlands area now has a crisis team that work with people in mental health crisis – this involves mental health workers and ambulance crew working together with Police to help patients with acute mental health disorders. You are concerned this is not a national system.
- This case has resulted in a local multi agency review of how mental health crisis patients are managed between services and a new policy for conveying patients has been devised. This means that police only attend a mental health ward if patient is threatening staff or disorder on the ward. You are concerned that this policy is not reflected nationally.

On restraint, both statutory and non-statutory guidance exists. The Mental Health Act 1983 Code of Practice (the Code) was revised in 2015 and provides statutory guidance on the appropriate use of restrictive practices that protect the dignity and safety of patients. The Code is clear that any restraint should be the least restrictive,

proportionate to the risk of harm to the person and others, and used for the least amount of time appropriate to manage the risk. The Code states that there should be local policies in place between NHS bodies and the police which should have a clear protocol about the circumstances when, very exceptionally, police may be asked to use physical restraint in a health-based place of safety.

The Department of Health has also published guidance on the reduction of restrictive practices which sets out the appropriate use of restraint. The Department's [*Positive and Proactive Care: reducing the need for restrictive interventions*](#) (2014) guidance echoes the requirements of the Code and sets out guidance in more detail around the use of restraint.

During restraint, people must not have their mouths and/or noses covered. The use of mechanical restraint must be exceptional, as a response to extreme violent behaviour, to ensure the safety of the person and professionals.

The guidance also states that, when confronted with acute behavioural disturbance, the choice of restrictive intervention must always represent the least restrictive option to meet the immediate need. It should always be informed by any particular risks associated with the individual's general health and an appraisal of the immediate environment. Factors which suggest a person is at increased risk of physical and/ or emotional trauma must be taken into account when applying restrictive interventions.

Both the Code and the guidance make clear that all types of restraint should be used for the least amount of time needed to manage risks to the individual and others. Department officials continue to work with the police, the Royal Colleges of Nurses and Psychiatrists, and Mental Health Trusts to develop further guidance and training to support local protocols, so that all partners are clear about what should happen in these circumstances.

The Department published "*Positive and Safe*" in April 2014. This is a two-year programme which aims to end unnecessary use of restrictive interventions across all health and adult social care. The programme incorporates two key pieces of guidance – the Positive and Proactive Care guide mentioned above and [*A Positive and Proactive Workforce*](#).

Whilst we aim to reduce restrictive practices, there will always be circumstances in which it is necessary to use restraint. When restraint is used on patients who are suffering a period of conflict or disturbed behaviour, their physical responses to stress and anxiety may be heightened and a worsening of pre-existing medical conditions can occur. It is therefore vital to observe the patient to monitor for deterioration in health.



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NHS England has responsibility for patient safety and is aware of the importance of performing physical observations during and after physical intervention or restraint. Discussions are currently focusing on the risks posed to patients in mental health care where continued physical observations are not undertaken during and following a period of restraint.

NHS England shared the details of Kingsley Burrell's death with the Expert Safety Group for Mental Health (a group with representation from the health and voluntary sector) on 29th June 2015. They discussed the wider issues this case highlights for all care settings across the NHS.

The Expert Group has helped support the development of a "Mental Health Patient Safety Thermometer". This measures the prevalence of specific types of harm for every patient including use of restraint. This helps local teams to develop and implement improvements to restraint practice. Teams using the survey tool can access data from other teams to provide a wider picture of the prevalence of restraint across NHS organisations.

The National Reporting and Learning System (NRLS) is a comprehensive database of patient safety information. From April 2015 it became a requirement to report all incidents where harm has been caused by restraint as separate patient safety incidents. In this way, important patient safety issues can be identified and tackled at the root cause.

You highlight the need for cross-agency working to safely manage people being moved between services when a mental health crisis occurs and when police attend a health setting. The Code states local policies should be in place between providers, the police and other agencies with protocols covering all aspects of the use of section 135 and 136 powers. Sections 135 and 136 give the police powers to temporarily move people, who appear to be suffering from a mental disorder, and who need urgent care, to a 'place of safety' so that a mental health assessment can be carried out and appropriate arrangements made for care. Local policies should include arrangements for police attend a health-based setting and transporting people between places of safety.

The Department published the Crisis Care Concordat in 2014 to ensure that anyone experiencing a mental health crisis receives the right support in the right place. The Concordat is a cross-sector agreement which ensures that local areas provide the

appropriate response to people in mental health crisis. Every local area in England now has a local mental health crisis plan in place to ensure this happens.

The Department has also funded a number of street triage pilot schemes where mental health professionals provide on the spot advice to police when dealing with people with possible mental health problems. These pilots are currently being evaluated so that this approach can be rolled out more widely.

The Association of Ambulance Chief Executives (AACE) is developing principles and policies for the conveyance of mental health patients and restraint which will cover the importance of physical observations during and after physical intervention.

AACE recommends that awareness of acute behavioural disturbance is raised with front line and control room staff at all ambulance trusts. AACE reports that there are a number of schemes for multi-agency working at ambulance trusts. AACE has worked nationally with the National Police Chiefs Council (NPCC) to improve inter-agency working and the efficiency of responses to the public, particularly to those patients experiencing mental health crisis.

AACE will be responding separately to your concerns and will no doubt provide you with further detail about their work.

I hope that you find this reply helpful and I am grateful to you for bringing the circumstances of Mr Burrell's death to my attention.

Yours sincerely
Alist Burt

ALISTAIR BURT