

For the attention of
James Bennett
Assistant Coroner
Birmingham and Solihull
03/10/2019

Care Quality
Commission
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Dear Mr Bennett

Re: Stephen Keith Harte (deceased) Regulation 28 report to prevent future deaths:

Thank you for bringing to our attention your concerns regarding the death of Mr Stephen Keith Harte. May I apologise for not responding on time to your previous request to the Regulation 28 notice we received.

Matters of concern:

- *Residents are allowed unsupervised telephone calls to order food from external 'takeaways' of their choice and the food is not searched upon arrival. Historically, residents were only allowed to order from an approved list of 'takeaways'. However, following a Care Quality Commission inspection the CQC deemed this was too restrictive and asked that the unit relax its rules. The evidence was unclear whether the CQC had similarly asked other units to relax their rules.*
- *Those residents allowed unsupervised leave are not typically searched upon their return. They walk through a scanner, but this is unlikely to reveal small quantities of drugs on their person.*
- *The author of Birmingham and Solihull Mental Health Foundation NHS Trust's Root Cause Analysis report gave evidence that in his opinion these two routes were the most likely mechanism by which Stephen Harte obtained the drugs that killed him, and that the rules around 'takeaways' needed revisiting.*
- *I also heard evidence that staff are not typically searched upon entering the unit. They also walk through the scanner, but this is unlikely to reveal small quantities of drugs on their person. Further, whilst they are required to leave personal belongings in lockers, they are allowed to take their own food on to the unit which is also not searched.*
- *My ongoing concern is that drugs can too easily enter the unit.*

The Care Quality Commission commenced a comprehensive inspection of Birmingham and Solihull Mental Health Foundation NHS trust 27th - 31st March 2017 and published the reports 2nd August 2017.

At that inspection we found the trust had implemented blanket restrictions with regards to the ordering of food from takeaways and in relation to patient searches. We informed the trust that it was appropriate for them to provide patients with information on hygiene ratings and to explain the benefits. However, patients with mental capacity had the right to order takeaways from the shop of their choice, and the policy did not promote an individualised approach to patient's choice or risk. We

informed the trust in our report that the decision of the trust board in relation to searches and ordering of food from take away restaurants did not take account of individual risk assessment or patient choice.

Because of our findings we told the trust that they must ensure that it undertakes active individual assessment of risks posed by patients returning from leave. We told the trust that they should review practice of not allowing patients to buy food from a takeaway shop of their choice.

We found that the blanket restrictions imposed on patients was a breach of Regulation 13 HSCA (RA) Regulation 2014 Safeguarding service users from abuse and improper treatment. A requirement notice was placed on the trust for them to address the breach of Regulation 13.

The Care Quality Commission did not ask the trust to relax its rules in relation to takeaways but as stated above the trust was asked to review its practice of not allowing patients to buy food from a takeaway shop of their choice if they had capacity to make that decision. In the case of other health providers who had similar blanket restrictions the Care Quality Commission would ask them to consider those restrictions in relation to people's capacity to make their own informed decision or where the organisations mental health assessment shows there is a risk to that patient.

The Care Quality Commission did tell the trust that it must ensure that active and individual assessment of risks posed to patients who return from leave and use this to base decision on searches. The trust carried out a comprehensive review of its search policy and implemented a security policy and a new search policy in response to our requirement notice. During our inspections we do not review the searching of staff entering units although for some services we would review the security arrangement. Any decisions to search staff would be a decision taken by each individual organisation. The Care Quality Commission would review what action an organisation was taking if they informed us they had a problem of drugs entering their units and would comment on the issue within our reports.

We visited the trust in November and December 2018 and carried out a comprehensive inspection as part of our regular inspection programme. At that inspection we found the trust had reviewed and implemented a new search and security policy based on risk assessment. We did not find any breaches related to blanket restrictions.

I hope this response helps to address your concerns. However, if you require any further information please do not hesitate to contact me.

Yours sincerely



Head of Hospital Inspection
Hospitals Directorate
Care Quality Commission