

Response to the Birmingham and Solihull Coroner's Regulation 28 Report to Prevent Future Deaths- Nigel Byron Abbott

1. Introduction

1.1 This report provides a response to the Area Coroner for Birmingham and Solihull Coroner in respect of the Regulation 28 report issued to:

- NHS Birmingham and Solihull Clinical Commissioning Group
- NHSI/E
- Clive Heaphy, Acting Chief Executive, Birmingham City Council
- Roisin Fallon-Williams, Chief Executive, Birmingham and Solihull Mental Health Foundation NHS Trust
- Dave Thompson, Chief Constable, West Midlands Police.

1.2 This response is submitted jointly on behalf of:

- NHS Birmingham and Solihull Clinical Commissioning Group (the CCG)
- Birmingham City Council (BCC)
- Birmingham and Solihull Mental Health Foundation NHS Trust (BSMHFT)
- West Midlands Police (WMP).

2. Background and context

2.1 This response to the Coroner relates to the death of Nigel Byron Abbott who died on 27th July 2018. All of the agencies that have contributed to this response offer a sincere and unqualified apology to the family and friends of Mr Abbott, as well as the friends and family of the service user.

2.2 On 22nd October 2019, the above agencies received a Regulation 28 Report to Prevent Future Deaths from the Area Coroner for Birmingham and Solihull. This report followed an earlier Regulation 28 report issued on 31st July 2019 to BCC, BSMHFT and WMP. This response covers issues raised in both of the Regulation 28 reports.

2.3 The Regulation 28 report related to the death and subsequent inquest into the death of Nigel Byron Abbott who died on 27th July 2018. Mr Abbott was killed by an individual, unknown to him, who was in acute mental health crisis and whose family had sought care from Birmingham and Solihull health and care services.

2.4 The agencies do not seek to recite the tragic events of that night in this response, save to say that it is recognised that failings occurred at both an individual agency and system wide level.

2.5 This response will respond to specific concerns raised by the Coroner but also provides an update on the learning that has taken place outside of the specific concerns.

3. Improvements in System Wide Working

3.1 In response to this serious incident the agencies listed, along with Birmingham Women's and Children's NHS Foundation Trust (BWCT), who provide mental health services to under 25s through Forward Thinking Birmingham (FTB), have formed a multi-agency working group to firstly respond to the issues that have been identified by this event, but also to ensure work in the future to ensure that multi-agency working is integrated into current learning and future improvement.

3.2 The working group, chaired by the CCG, has been set up to monitor actions arising from this event but to also explore options for multi-agency learning in relation to serious incidents that may occur in the future.

3.3 This includes carrying out joint investigations and preparing joint action plans where appropriate, in addition to multi-agency responses to Regulation 28 reports issued by the Coroner.

3.4 A Memorandum of Understanding for Joint Investigations around avoidable deaths is currently being developed and will be completed in January 2020, following review by the Multi-Agency Working Group.

3.5 The group is currently overseeing five main work streams in response to the Coroner's recommendations, which are:

- a. A collective process to investigating serious incidents
- b. Joint standards and policies
- c. The development of electronic 'action cards' to ensure that staff have clear processes to follow, including the points of interaction between the agencies
- d. Development of culture and workforce across all agencies, and
- e. A workshop to ensure awareness and embedding of the new processes.

3.6 Clarity has been introduced in relation to the use of sections 135 and 136 of the Mental Health Act. Section 135 requests are now subject to multi agency 'call in' and prioritisation at 10am and 7pm. This process has only recently been introduced, and it is recognised that a more robust escalation process is needed to determine priority cases.

3.7 In relation to Section 136 matters, the agencies are working to determine the management of these cases. This is likely to comprise a criterion for cases to be identified for urgent admission, with non-urgent cases being managed with positive risk processes and diversion to least restrictive options wherever possible.

4. Responses to the Coroner's Concerns

5. **The agencies involved in this area are not working together effectively and there is a misunderstanding around the *Joint Memorandum of Understanding for Mental Health Professional Requesting Police Assistance with Mental Health Act Assessments***

5.1 A new Memorandum of Understanding has been developed and agreed by all of the relevant agencies, WMP, BCC, BSMHFT and BWCH. This memorandum has been developed and will receive formal approval at the multi-agency working group on 22nd January 2020.

5.2 The revised memorandum has been developed following a partnership event in September 2019, which provided an opportunity to seek feedback from a range of agencies and to discuss the challenges that continue to exist.

5.3 The new memorandum provides clarity for front line staff working in pressured situations, is clear on the roles and responsibilities of the agencies involved and seeks to remove the ambiguity relating to the incorrect perception that WMP require 24 hours' notice when providing police support. This approach has been communicated to staff in advance of the final sign off of the full document.

5.4 The memorandum will be presented to frontline staff and the agencies will continue with a programme of engagement and support, as well as undertaking scenario testing in the first quarter of 2010.

6 There continues to be a chronic shortage of resources within the mental health services in Birmingham and Solihull. In particular, mental health professionals are operating caseloads well in excess of recommended levels and there is a chronic shortage of psychiatric beds.

6.1 The CCG and the health care agencies have previously provided the Coroner with information on the background to the increase in demand and for mental health services in the Birmingham and Solihull area, and steps that had either been taken or were planned to increase funding, as well as improve the system to ensure early intervention for those in crisis and to manage flow to ensure that beds are available for those for whom there is no alternative.

6.2 The agencies recognise that there has been increased demand for crisis mental health services since 2016, and the CCG has responded to this additional pressure with increased funding and through working with FTB (providers of mental health services across Birmingham and Solihull for those aged up to 25), BSMHFT and the local Sustainability and Transformation Partnership (the STP) to look at different ways of working throughout the system.

6.3 In addition, the agencies and system partners have been working to understand the reason for the increased need, and to look at how the system can be improved to make best use of the existing resources.

6.4 The system is committed to establishing and maintaining a mental health system which facilitates timely access to inpatient care for those who need it, whilst ensuring that community-based provision is adequately resourced to support recovery in the most appropriate environment. This is being addressed through the STP and the CCG Mental Health Programme Delivery Board. The ambition of the STP is to achieve sustainability, through a strong focus on prevention and recovery (ref 11.2).

6.5 Included in this programme is consideration of the need to reinforce services that already exist within secondary mental health services, by increasing the staffing levels in crisis resolution home treatment teams, whilst also understanding what an alternative crisis support service might look like.

6.6 System partners are working closely with both local mental health service providers and the third sector, with the aim of improving the service offer for people experiencing a mental health crisis.

6.7 As a result of partnership working and guidance from people with lived experience, the CCG has been successful in securing recurrent funding from two separate NHS England Transformational funds, totalling in the region of £2.9m, to make fundamental changes to how crisis is managed within the region.

6.8 Psychiatric liaison services within acute hospitals have received £1.15m to increase staffing levels within all hospitals which have an emergency department, with the aim of providing a more robust, specialist and diverse workforce, to help reduce waiting times, increase flow and improve patient experience.

6.9 A further £1.7m is being spent on the development of a crisis pathway to increase the capacity in secondary mental health crisis services.

6.10 We have developed plans for now and when, significant funding will be allocated towards the establishment of crisis houses, an evidence based initiative which will complement inpatient mental health facilities for those who may need support managing higher levels of risk (ref 7).

6.11 BSMHFT have determined the matter of patient flow and access to inpatient beds a key priority to the organisation, and this is also recognised as a risk within the wider health and social care economy across Birmingham and Solihull. As such, BSMHFT are working closely with system partners including the CCG to redesign and invest in both primary and secondary care interventions to try to meet the demands that are being faced today but also as part of planning for a sustainable future. The following new developments are key to improving urgent care for patients.

7 New Urgent Care Centre- expected completion autumn 2020

7.1 This centre will provide an appropriate clinical environment for the All Age Urgent Care Model (for those aged 12 years upwards), incorporating age appropriate place of safety suites and psychiatric decision units, together with an 'all age' integrated bed management function alongside flexible assessment suites.

7.2 This centre (based at the Oleaster Centre in Selly Oak) will provide a working base to enable improved integrated working and communication across agencies with facilities to locate the multi-agency street triage team, BSMHFT and FTB Crisis Services and Local Authority AMHP services.

8 Crisis House- expected completion spring 2020

8.1 Both BSMHFT and BWCT have agreed in principle to pool resources to provide a Crisis House. Such a facility will provide a viable alternative to a psychiatric inpatient admission for those who would benefit from psychological interventions during short term crisis.

8.2 There is substantial evidence that demonstrates Crisis Houses increase inpatient bed capacity, are more accessible, reduce bed days and improve flow. The Crisis House will be able to feed into this pathway for both service providers, for short term Crisis Admissions.

9 Crisis Café Expansion

9.1 MIND, the mental health charity, are currently running a Crisis Café in the North of Birmingham three nights a week, following a successful pilot in 2018.

9.2 There are plans to expand this model to a city wide service as a viable alternative for accessing support for those in crisis. There will be four cafes covering Birmingham and Solihull by Spring 2020, two of these opening in January 2020.

9.3 The service also provides advice and guidance to the network of third sector and charity organisations already in existence.

10 Improving Flow Internally at BSMHFT

10.1 BSMHFT have appointed independent experts to help them review their current internal pathways of care, with the aim of ensuring that they have the maximum capacity possible in the right teams to meet patient demand. This work is ongoing. They are also piloting an evidence based national initiative called 'Red to Green' aimed at improving flow and reducing length of stay within adult acute inpatient units, by ensuring pre-discharge planning and touch point reviews for all patients. This approach has already demonstrated success in partnerships with other providers.

11 Increasing Home Treatment Team Resource

11.1 BSMHFT have recognised the need for additional investment in the Home Treatment Team service and have committed in excess of £1m to create additional teams with smaller caseloads.

11.2 BSMHFT are currently recruiting additional staff within the Home Treatment Teams as follows:

- Five full time additional Staff Grade Associate Specialist doctors- this will effectively provide an additional 0.5 whole time equivalent (WTE) senior medical input to each team (locum doctors are currently in place until the substantive postholders start)
- One Senior Psychologist
- Five further psychology posts to allow a 0.5 WTE equivalent per team. Two individuals are already in post and recruitment is continuing.
- Four Senior Team Managers have now been recruited and have started in their roles
- Three senior out of hours' clinical coordinator posts- these posts will provide clinical leadership and expertise out of hours to Home Treatment Team staff. They will support senior clinician led assessments in line with protocol which will inform a quicker response out of hours for patients and relatives. The coordinators will also provide senior advice and support for complex crisis calls and will support supervision and monitoring of clinical practice out of hours. All positions have been filled and staff are now in their roles
- Four Team Administrators- these roles will support the current administrators in place with the increasing demand on home treatment and supporting the increase in phone calls
- One post to support families of patients accessing the Home Treatment Team with psycho-social education, emotional support, practical advice and signposting. Recruitment to this post will commence shortly.
- Two band 6 and two band 5 Home Treatment Team CPN posts- these posts are currently being recruited to

11.3 Since 1st August 2019 BSMHFT have been monitoring daily caseloads for each of the Home Treatment Teams and the actions set out above have led to demonstrable reduction in the average caseload of the teams.

12 Commissioning Funding

12.1 Using nationally benchmarked data the CCG can demonstrate that on overall weighted population the CCG is within the highest quintile of all CCGs for mental health and learning disability spend, and fifth highest from ten comparator CCGs using spend per 100,000 population.

12.2 Using mental health weight population, the CCG is the in third quintile for spend in mental health (compared to all CCGs).

12.3 The CCG has exceeded the mental health investment standard (MHIS) since its inception. The table below sets out the CCG's overall growth allocation for the next five years in line with the NHS long term plan and the level of growth planned for Mental Health. This meets the annual requirement within the Mental Health Investment Standard.

	2019/20	2020/21	2021/22	2022/23	2023/24
CCG Growth (Overall Allocation)	5.6%	4.4%	4.2%	4.0%	3.8%
Growth in Planned Mental Health Investment as per MHIS	6.3%	6.1%	4.2%	4.0%	3.8%

13 Birmingham and Solihull CCG have not provided section 140 beds for BSMHFT.

13.1 The CCG recognises the responsibility to provide emergency beds pursuant to Section 140 of the Mental Health Act.

13.2 The CCG has entered into local arrangements with both BSMHFT and BWCT to delegate the management of access to emergency beds, in accordance with the 2015 Mental Health Act Code of Practice.

13.3 In practice this means that both Trusts are able to access emergency beds through local arrangements. Both Trusts have autonomy and authority to admit patients to emergency beds available within the CCG, neighbouring CCGs or an independent sector placement, funded by the CCG.

13.4 The difficulties in implementing the Code of Practice was reviewed by Care Quality Commission in their report issued in June 2019, which recommended that *“local leadership teams work together to discuss the way this [Section 140 provision] is working for patients and how to improve any problems with local implementation”*.

13.5 The agencies believe that arrangements set out within this delegation arrangement reflects this recommendation whilst providing the flexibility to manage this emergency provision in the best possible way.

14 Whilst section 4 is available to be used, it is not used.

14.1 Section 4 of the Mental Health Act is a rarely used provision for admission to hospital, both nationally and locally. Good practice is that the provision should be used in exceptional circumstances only. The MHA permits an application for detention for assessment to be made under Section 4 on the basis of a single medical recommendation but only in very limited circumstances. The use of Section 4 would be considered as an emergency application for detention under the MHA and would need to meet the criteria of “urgent necessity”. Hospital Managers and Local Authorities are required to monitor the use of section to ensure it is not misused and to allow action to be taken to address issues of lack of resources.

14.2 BSMHFT and BWCT have joint policies and protocols setting out the application of the Mental Health Act, including the use of Section 4. Section 4 admission is an option for all clinicians in the

correct circumstances using clinical judgement and this is clearly set out in the Joint Assessment for Admission Under the Mental Health Act Policy.

14.3 The use of Section 4, as well as other Mental Health Act provisions is monitored through the West Midlands Mental Health Act Scrutiny Group.

15 The Home Treatment Standard Operational Procedure is inadequate to safeguard patients in the community who have been initially assessed and deemed detainable but are waiting in the community for a bed. This procedure is inconsistent with the corresponding safeguards for fully assessed and detained patients waiting in the community for a bed.

15.1 The Home Treatment Team Operational Procedure has now been revised, and approved through governance procedures to ensure that it fully corresponds with the safeguards for fully assessed and initially assessed patients waiting for a bed, as detailed in the Bed Management Policy. The revisions have been cascaded throughout the operational teams and the bed management team and highlighted through lessons learnt process.

16 Conclusion

16.1 The Birmingham and Solihull health and care system and partners are committed to providing the best possible care to people, at the earliest opportunity, it will do this by working in partnership through its governance framework via the oversight group chaired by the CCG.

16.2 System wide learning has taken place since this tragic incident and the agencies are now working closely to prevent a reoccurrence, underpinned with a commitment to prevent avoidable deaths in the region.

16.3 We hope this response goes some way to assuring the Coroner, but also the families and friends of those affected, that lessons have been learned and system wide improvements have taken place, and will continue through the ongoing work of the multi-agency working group.