

HM Coroner Senior David Donald William Reid

Worcestershire Coroner
The Civic
Martins Way
Stourport on Severn
DY13 SUN

25 May 2021

Dear Mr Reid

Inquest touching on the death of Rachel Johnston

Response to Regulation 28 Report

We refer to the Regulation 28 of the Coroners (Investigations) Regulations 2013 Report issued by HM Senior Coroner, David Donald William Reid following the investigation into the death of Rachel Bernadette Johnston. This response is provided on behalf of Pirton Grange Specialist Services (**'the Home'**). The Home is committed to the care, safety, and well-being of its service users.

Matters of Concern for HM Coroner

- 1. Following Rachel's death, there appears to have been no adequate internal investigation or disciplinary procedure which was able to identify the gross failings of the nurses mentioned above. Accordingly, both nurses continued working at Pirton Grange for some time, without any action being taken to ensure that patients were not put at risk by their actions. Furthermore, no effort was made to report the conduct of the nurses concerned to the Nursing and Midwifery Council (**'NMC'**), the appropriate regulatory body, until February 2021, over 2 years after Rachel's death.*

Following Rachel's death, the Home introduced training for all nurses, reviewed its policies to ensure that there would be a consistent approach across the board.

Those concerned in carrying out the initial investigation believed that they had identified training issues and arranged for appropriate training to be provided. The Home became fully aware of the significance of the physiological observations on Rachel after her discharge following the dental surgery when it received the expert report prepared by Dr [REDACTED]. The Home received this on 3 September 2020. In the interim period, the Home had discussions with the CQC, was involved in Learning Disabilities Mortality Review Programme (**LeDer**) meetings and was also in receipt of legal advice. At no time did anyone raise the issue that any member of staff should be reported to their professional body including the NMC. However, on full consideration of Dr [REDACTED] report, the Home informed the Agencies that it did not want either nurses to work for it again. This was in early January 2021.

- 2. Even now, there appears to be no Policy in place at Pirton Grange which sets out a suitable and robust procedure for:*

- a. *identifying and investigating possible misconduct by nursing staff, e.g. where they have ignored a Policy;*
- b. *imposing an interim suspension on a member of the nursing staff, pending the completion of such an investigation, if in the interests of ensuring the ongoing safety of residents;*
- c. *if appropriate after the investigation has been completed, ensuring that member of the nursing staff does not work at Pirton Grange again; and*
- d. *if the internal investigation has identified likely misconduct, reporting that member of the nursing staff to the NMC.*

As result of the HM Coroners concerns the Home has made its procedures more robust. This includes independent oversight to identify and investigate possible misconduct by staff, including nursing staff. This comprises of the engagement of a Solicitor's firm on a retainer basis to provide general employment advice, support on all HR matters and assistance and oversight with and/or advising on any investigation, disciplinary matters, and considering whether any reports to professional bodies should be made. The Home will engage its Solicitors at the very outset where there is an issue which may give rise to any misconduct issues by staff.

The Home has also recently changed its Registered Manager/Nominated Individual. The new nominated individual has introduced a Quality Assurance Audit to take place quarterly. This audit follows the same quality standards investigated by the CQC as part of its assessment (i.e. Key Lines of Enquiries). The CQC and local CCG, who place service users at the Home, will also continue to inspect the Home on a regular basis.

Enclosed alongside this letter are relevant policies from the Staff Handbook, namely:

1. Conduct and Standards Policy
2. Disciplinary Policy and Procedure
3. Handling and Security of DBS Disclosure Information Policy
4. Performance Management Policy
5. Professional Boundaries Policy
6. Safeguarding Service Users from Abuse or Harm
7. Staff Retention Policy

The Staff Handbook was prepared by an external company and was been in place prior to Rachel's death. The Staff Handbook is regularly reviewed and updates are communicated to all staff. All staff are taken through the Staff Handbook on induction. The Staff Handbook is made available to all staff, both employed and agency in the Home.

Conduct and Standards Policy

The Home's Conduct and Standards policy, which applies to all staff (including agency workers) sets out what is expected from its staff in terms of the provision of care so that it is safe, effective, caring and responsive to the service user's needs. Staff are required to comply with the standards of conduct and

practice of their respective occupation or professions and comply with the Home's Operating Policies and Procedures. This policy provides that if there is a failure to provide the required care resulting in any harm or near miss of harm, then this will be treated as misconduct, and will be fully investigated, instigating a disciplinary/performance management procedure. It also sets out that this may result in a report being made to a professional body in respect of the staff concerned.

This Policy sets out examples of care which fall below the required standard, such as omitting to carry out sufficient observations (check-ups, physiological observations), omitting to call emergency services or external support when necessary.

It also includes a non-exhaustive list of actions which are considered to constitute gross misconduct, this includes, serious or gross negligence and serious breach of policies and procedures. This policy also covers the consequences of failing to provide adequate care.

Disciplinary Policy and Performance Management Policy

The Disciplinary Policy applies to the Home's employees and addresses the Home's disciplinary procedures and sanctions. The Policy also addresses interim suspension from work, which is immediate if a service user has been seriously harmed, or if there is a risk to service user safety. The possible sanctions include dismissal.

The Performance Management Policy, which applies to all staff (including agency workers) deals with how the Home investigates adverse events, near misses, staff performance, competence and conduct issues. The policy also covers the outcomes and sanctions and is to be considered alongside the Home's Disciplinary policy.

In accordance with the Performance Management Policy, if a service user has suffered significant harm or there is a risk to service user safety, then the Home's Senior Management team, in conjunction with the Quality Assurance Manager and external advisors will implement: -

- Immediate suspension of the member/s of staff involved, including agency staff, with notification to the agency, or other relevant party (if appropriate), that the worker is being investigated for possible misconduct/lack of competence.
- Immediate referral of the member(s) of staff involved on determination that the issue is one of lack of competence or misconduct to regulatory or other bodies, such as the NMC or GMC, in accordance with fitness to practice requirements.

In terms of procedure to be followed in respect of disciplinary considerations, the employment status of the individual dictates how the Home deals with any resulting action. In respect of employees of the Home, where misconduct is both contemplated and/or identified, there is a HR procedure to be followed in line with the Home's Disciplinary Policy and Procedure which includes suspension of the employee during an investigation. If the investigation concludes misconduct, disciplinary actions can result in dismissal of the employee. Furthermore, the Home will report the employee to the appropriate professional body on concluding that there has been misconduct in accordance with the Professional Boundaries policy.

Pirton Grange Specialist Care Centre
Worcester road
Pirton,
Worcester
WR8 9EF

In relation to agency staff, where the agency worker is part of an investigation (internal, poor performance or disciplinary investigation) in which their conduct may be called into question, the Home's Staff Retention policy states that it shall not use their services and shall notify the agency that the agency worker shall not carry out any work for the Home until the investigation is completed. If the investigation concludes misconduct, the agency will be informed that the agency worker is not permitted to carry out any future work for the Home again. Furthermore, the Home will report the agency worker to the appropriate professional body on concluding that there has been misconduct.

Professional Boundaries Policy

The Home's Professional Boundaries policy provides that care, nursing and any other professional staff must comply with the standards of conduct and practice for their respective profession/occupation. The policy sets out that where the Home's investigation concludes a finding of misconduct of any member of staff, a report will be made to the relevant professional body.

The Home feels that all of the measures outlined above will effectively deal with the areas of concern raised by HM Coroner. We trust that this response is to the satisfaction of HM Coroner as to the procedures in place at the Home which will ensure that any failures are identified which have the potential of leading to risk of service user safety.

Should HM Coroner have any further queries arising from this response, we will be happy to assist.

We would also like to take this opportunity to express, once again, the Home's sincere condolences to Rachel Johnston's family and friends for their loss.

Yours sincerely

██████████

CEO

Holmleigh Care Homes Limited