



Department
of Health &
Social Care

*From Nadine Dorries MP
Minister of State for Patient Safety,
Suicide Prevention and Mental Health*

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Your Ref: 312214
Our Ref: PFD-1222239

Ms Alison Patricia Mutch
HM Senior Coroner, Manchester South
HM Coroner's Court
1 Mount Tabor Street
Stockport SK1 3AG

7 July 2020

Ms Mutch,

Thank you for your letter of 4 May 2020 about the death of Barry Wayne Preston. I am replying as Minister with responsibility for mental health.

Firstly, I would like to say how saddened I was to read the circumstances of Mr Preston's death. It is important that we take the learnings from his death so that people continue to receive the highest quality, safe care from the NHS.

I have noted your concerns about the care Mr Preston received while in hospital, including the co-ordination of that care and that it failed to meet his needs. It is deeply concerning to read from your report that Mr Preston's placement at Laburnum Lodge was made without a clear understanding of his needs and that he fell twice within 24 hours.

I expect the Bolton NHS Foundation Trust, the Greater Manchester Mental Health NHS Foundation Trust and Bolton Council to carefully consider and respond to the specific concerns highlighted by your report. I am advised that Bolton NHS Foundation Trust and Greater Manchester Mental Health NHS Foundation Trust have apologised for the lack of co-ordination in Mr Preston's care while he was in hospital and the failure to conduct a formal assessment of Mr Preston's mental capacity. You will know from the responses of the NHS trusts and Bolton Council to your report that they have worked together to resolve the matters of concern highlighted, with several actions taken to improve the co-ordination and quality of care for people with physical and mental health problems. I am pleased to see that learnings are being taken from the circumstances around Mr Preston's care. My response will focus on the national level aspects of the concerns you have raised.

The Government is committed to preventing and reducing the risk of harm to adults in vulnerable situations. Under the Care Act 2014, we expect local authorities to ensure that the services they commission are safe, effective and of high quality. We also expect those providing the service, local authorities and the Care Quality Commission (CQC) to take swift action where anyone alleges poor care, neglect or abuse.

The Care Programme Approach¹ has been key guidance for health and social care agencies working in partnership within community mental health services since 1992. It is designed to ensure that a lead mental health professional coordinates the care and support of people with mental health needs and this should include support across health, social care and housing services. This includes meeting the rights of adults with eligible needs under the Care Act. Under this model, it should have been clear who was leading on the coordination of care for Mr Preston, particularly as he had both physical and mental health needs.

I am advised that local authorities within Greater Manchester, including Bolton, are working with Greater Manchester Mental Health NHS Foundation Trust to assess, develop and improve their integrated care arrangements and the role of social work in line with the Social work for better mental health programme², published by the Department of Health and Social Care in 2016.

Last year, the Greater Manchester Mental Health NHS Foundation Trust finalised a 2019-2022 Social Work Strategy, agreed with local authorities in Salford, Trafford and Bolton³, to support improvements in integrated arrangements, including the need to develop access to the Care Act, and greater collaborative working.

In light of your report, the Chief Social Workers for Adults office will make contact with the Principal Social Worker for Bolton and the Director of Nursing and Governance at the Greater Manchester Mental Health NHS Foundation Trust to discuss the progress that both organisations have made in developing and implementing changes to their integrated care model and protocols for people with physical and mental health issues.

You may also wish to note that NHS England and NHS Improvement (NHSEI) has recommended a review of the effectiveness of the Care Programme Approach and its links to the Care Act as part of the community mental health review in the NHS Long Term Plan⁴. Twelve areas of the country are piloting new models of care based on the principles outlined in the Community Mental Health Framework for adults and older adults⁵, designed to improve how health and social care agencies work together to deliver joined-up, multi-agency care for community mental health services.

¹ <https://www.nhs.uk/conditions/social-care-and-support-guide/help-from-social-services-and-charities/care-for-people-with-mental-health-problems-care-programme-approach/>

² <https://www.gov.uk/government/publications/social-work-improving-adult-mental-health>

³

<https://www.gmmh.nhs.uk/download.cfm?doc=docm93jijm4n4379#:~:text=We%20want%20social%20workers%20to,soci al%20work%20as%20a%20profession.&text=This%20Social%20Work%20Strategy%20hopes,in%20mental%20health%20service%20practice.>

⁴ <https://www.longtermplan.nhs.uk/>

⁵ <https://www.england.nhs.uk/wp-content/uploads/2019/09/community-mental-health-framework-for-adults-and-older-adults.pdf>

Officials have shared the concerns in your report with NHSEI so that they can be considered as work to deliver improved, co-ordinated community mental health services progresses, in particular, guidance to mental health trusts on partnership working and use of the Care Programme Approach, especially when the person has mental and physical health issues.

I have noted your concern that no new assessment on capacity and no best interests meetings were held to consider Mr Preston's care in hospital. As set out in the Mental Capacity Act (2005)⁶ (MCA), every person must be assumed to have capacity unless it is established that they lack capacity in relation to the specific decision. This recognises the need to respect personal autonomy but equally, where there are good reasons for concern, the presumption cannot be used to avoid taking responsibility and determining capacity. Moreover, if it is established that the person lacks the relevant capacity, then the person will receive important safeguards.

While a formal best interests meeting is not a statutory duty, under section 4 of the MCA the decision maker must take into account, if it is practicable and appropriate to consult them, the views of anyone named by the person as someone to be consulted, anyone engaged in caring for the person or interested in their welfare, any person with lasting power of attorney or a deputy appointed by a court. The MCA Code of practice also recognises that there will be times when a joint decision must be made. Best interests' meetings are particularly useful when the decisions are complex or involve serious consequences for the person.

The person should also be consulted, and the Code of Practice⁷ recommends that all possible and appropriate means of communication should be tried. A best interests meeting may be required if there is a dispute or a decision is required concerning a long-term move or serious medical treatment. Section 4 (9) of the MCA confirms that if someone makes a decision, having complied with all the relevant subsections, that they reasonably believe is in the best interests of the person who lacks capacity they will have complied with the best interests' principle set out in the Act.

If anyone is unhappy with a service provided by their local authority, they have the right to make a complaint using the statutory local authority complaints procedure, and to refer that complaint to the Local Government Ombudsman if they remain unhappy with the local authority's response.

In some situations, a person whose needs are being assessed or met under the Care Act has the right to an advocate to support them to ensure that their voice is heard within the care planning process. Equally, for certain best interest decisions under the MCA, an advocate must represent and support the person who lacks capacity.

⁶ <http://www.legislation.gov.uk/ukpga/2005/9/section/4>

⁷ <https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

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

A handwritten signature in blue ink, appearing to read 'ND', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

NADINE DORRIES