Date: 19th November 2020

Your Ref: [redacted]
Our Ref: [redacted]

The Leeds Teaching Hospitals NHS Trust

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Mr Kevin McLoughlin
Senior Coroner
West Yorkshire (Eastern)
Coroner's Office and Court
71 Northgate
Wakefield
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Dear Mr McLoughlin

INQUEST TOUCHING THE DEATH OF MACLOUD NYERUKE (Deceased)

I refer to your correspondence of 18th September 2020, regarding the inquest touching the death of Mr Macloud Nyeruke and the Regulation 28 Report to Prevent Future Deaths in respect of this case.

I can confirm that the contents of your Regulation 28 Report have been shared with the relevant staff to enable us to provide you with a comprehensive response.

In your report you highlight that your matters of concern were as follows:

(1) *Mr Nyeruke's medical conditions were not made known to the Trust. In consequence, he had worked on wards where patients had infections involving multi-resistant organisms. Given his compromised immune state, this situation involved risk to both patients and Mr Nyeruke himself. In the absence of information concerning a particular staff member's medical condition there is a risk of transmission of infections either to or from the staff member.*

(2) *There is scant evidence as to whether Mr Nyeruke underwent appropriate training in respect of PPE such as masks before being permitted to work on a ward involving infectious diseases. The difficulties involved (where a support worker supplied by a nursing agency is only in the hospital for a brief period) are acknowledged. Nonetheless, the risk of an adverse transmission of infection either to, or from, the staff member necessitates stringent standards being enforced, with appropriate records preserved.*

(3) *Nursing agencies which supply support workers to hospitals without knowledge of their particular health vulnerabilities, or where they will be working, give rise to a risk that they may be adversely affected or may give rise to adverse effects on patients or colleagues.*

We have considered the contents of your report very carefully and our response is set out below. We have not responded to point 3 as we believe this matter rests with the Reed agency.

In response to point one, our investigations have established that all the suppliers of our bank and agency staff members are responsible for ensuring the occupational health screening of their workers is completed

[redacted]

in line with an agreed national framework. The results of this screening are not disclosed to the organisation where the bank or agency member of staff is placed. The Trust is therefore reliant on the agency and the worker assessing the risk to the individual and other staff and patients prior to placement. It should be noted however there is no enforceable obligation on a member of staff be they bank, agency or a Trust employee to disclose information about their health. The exception to this would be where the condition poses a direct threat to the health of others, but even in these cases we are very much reliant on the member of staff's openness despite the fact that the failure to disclose is a potential breach of Health and Safety legislation.

As a consequence, the Trust has a number of infection control measures in place aimed at mitigating the risk of cross infection. For example, there are standard precautions in place, (also known as universal precautions) which are intended to reduce the risk of transmission of blood borne and other pathogens from both recognised and unrecognised sources. They are the infection control precautions which are to be used, as a minimum, in the care of all patients. Hand hygiene is a major component of these standard precautions as is the wearing of personal protective equipment, the use of which is guided by risk assessment and the extent of contact anticipated with blood and bodily fluids, or pathogens. In addition to practices carried out by our healthcare staff when providing care, all individuals, (including patients and visitors), are required to comply with infection control practices in wards/departments.

As well as the standard infection control precautions outlined above, the Trust has a range of supporting guidelines in place to underpin the provision of safe care and treatment of patients with specific infectious diseases, including TB and Covid-19.

The Trust's Guideline for the Management of Tuberculosis (Including Multi drug and Extensively Drug Resistant Tuberculosis) explains that there is no clear evidence on the value / efficacy of face masks in preventing the acquisition of tuberculosis infection; and there is conflicting guidance as to their appropriate use in the health care setting. However, there is some evidence that there is a decreased risk of transmission when masks are worn. The wearing of masks by patients with respiratory TB disease is to directly protect others; the wearing of masks by staff and visitors is to protect themselves - which is why the category of mask recommended differs.

The guideline recommendations that fitted FFP 3 masks are recommended for staff:

- Providing care for any suspected or confirmed respiratory TB in hospital in-patient over the age of ten when sputum smear status awaited or is positive in single room, until the patient has completed a minimum of two weeks of anti-TB treatment.

- In situations where respiratory TB is a possibility / confirmed, & exposure to large numbers of M. tuberculosis bacilli is possible, e.g. bronchoscopy, cough inducing procedures including chest physiotherapy and sputum induction; until the patient has completed a minimum of two weeks of anti-TB treatment and drug-resistant TB is not suspected.

- When entering the negative pressure room of a Multi-Drug Resistant TB patient

The guideline includes instructions on the correct wearing of a FFP 3 mask but states that the correct fit of the FFP 3 mask needs to be confirmed prior to use. This is achieved by a process called "fit testing". All staff that care for TB patients should ensure that they have been successfully fit tested on the FFP3 masks currently available in the Trust.

The FFP3 mask must be fit tested by a competent person (HSE 2012). All areas are required to have an identified fit test trainer available to fit test staff if a suspected or confirmed TB patient is admitted. You will recall that when Mr Nyeruke attended the ward, prior to commencing work he was asked if he had been fit tested and he confirmed that he had been. It was only subsequent to becoming infected with TB that he then said he could not recall if he had been.

The TB guideline makes it clear that staff who have suppressed immunity **MUST** avoid contact with known or suspected cases of TB. This includes students of medicine, nursing and locum staff etc. If unsure of their status, staff should refer to the Trust's Occupational Health Service (or other occupational health provider where relevant.). As you heard in evidence, the Trust had no knowledge of Mr Nyeruke's immunosuppressed status.

Ultimately the Trust relies on the agency and their staff member risk assessing whether it is appropriate for them to be placed in a specific clinical area.

In response to point 2 the Trust acknowledges that there was no documentary evidence to support Mr Nyeruke's confirmation that he had been fit tested prior to working on J20. Following receipt of your PFD report the Trust has been in discussions with Reed with a view to obtaining more robust assurance that an agency staff member has undergone Fit testing prior to working in an area where FFP 3 masks are required.

For the booking of bank and agency staff there is a computer system called Health Roster which relevant staff within the Trust can access. Reed have been adding "fit tested" as a skill to the system as and when their staff have been tested. Previously this information was not available to Trust staff to view. Reed have confirmed that they can make this skill visible so that anyone with Health Roster access on the shift can verify if the bank or agency candidate has been fit tested.

All bank and agency workers will be asked to inform Reed once they have been fit tested so that the skill can be added to their profile. This action has already commenced, and additional fit testing is being provided outside of the usual Clinical Service Unit provision.

In addition to the above, some wards are adding 'bank notes' to shifts that need covering specifying that the bank or agency staff member must be fit tested prior to attending the shift. Bank notes are accessible by bank and agency workers when booking the shift. We plan to standardise this approach Trust-wide so that high risk areas routinely add this to any shifts going out to bank and agency staff. To reassure ourselves that this is working we plan to audit the number of staff with the fit tested skill attached to Health Roster in the high-risk areas, including Infectious Diseases.

During our discussions we explored whether there was any way we could prevent high risk/vulnerable workers from viewing available shifts where a 'general skill' such as being fit tested or having IV drug competency is attached. We concluded that the system would not allow us to do this; however, all bank and agency staff assessed as being high risk or vulnerable have been advised to call Reed to check the status of a ward during Covid. All bank and agency staff classed as vulnerable or high risk have been advised to carry with them a copy of their risk assessment in case of any potential ward moves once their shift commences.

The contract with Reed ends on 31st March 2021 and the staff bank will come back under the Trust. When this happens, we will have the opportunity to introduce more robust methods of recording training and competencies within our Electronic Staff Record system as bank only staff will be Trust employees.

Thank you for bringing these matters to my attention. I do hope that this response has assured you that the Trust has given careful consideration to the matters of concern you have raised.

If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

Dr [redacted]
Chief Medical Officer
Leeds Teaching Hospitals NHS Trust