



Department of Health

50 Lonsdale Street
Melbourne Victoria 3000
Telephone: 1300 650 172
GPO Box 4057
Melbourne Victoria 3001
www.health.vic.gov.au
DX 210081

BAC-CO-39399

Coroner Magistrate Audrey Jamieson
Coroners Court of Victoria
Via e-mail: cpuresponses@coronerscourt.vic.gov.au

Dear Coroner Jamieson

Re: COR 2017 004582 Inquest into the death of Catherine Williamson

Thank you for your letter dated 22 June 2023 regarding the findings into the death of Catherine Williamson.

I was saddened to read of Ms. Williamson's passing. I extend my sincere condolences to her family, loved ones and community.

I note that you have made two recommendations to me and my office.

- 1. With the aim of preventing like deaths and promoting public health and safety within mental health in-patient units I recommend that the Chief Psychiatrist/Office of the Chief Psychiatrist seek legal advice around the feasibility of implementing "pat-down" searches, including when "pat-down" searches would be appropriate, such as when a patient returns from leave. Such advice should include:*
 - The legal basis on which pat-down searches are conducted*
 - The implications of completing pat-down searches for staff (role changes, training, protection from litigation etc.)*

- *The feasibility of pat-down searches across the various inpatient settings within the public mental health sector (for example, PARC (Prevention and Recovery Care), CCU (Community Care Unit) etc.)*
- *The implications of Victoria's proposed new Mental Health and Wellbeing Act 2022*
- *And regarding the impacts outlined above.*

Response to recommendation 1

- In light of the commencement of the Mental Health and Wellbeing Act 2022 (the Act) on 1 September 2023, the Chief Psychiatrist is working to review all clinical guidelines including the 'Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff'. As part of this review, legal advice will be obtained on the content of the updated 'Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff,' including advice on any issues relating to pat-down searches. It should be noted that the Chief Psychiatrist's clinical guidelines only apply to public mental health service providers and are not required to be followed by private health services.

In the meantime, I can provide the following comments on the specific issues raised in recommendation 1:

- *The legal basis on which pat-down searches are conducted*
 - As outlined above, legal advice will be obtained on the update of the Chief Psychiatrist's 'Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff' which includes pat-down searches.
- *The implications of completing pat-down searches for staff (role changes, training, protection from litigation etc.)*
 - Searches in designated mental health services, should be conducted by clinical staff, i.e. authorised mental health practitioners, or other authorised persons under the Act. Security staff should not conduct searches.
 - To conduct a pat-down search senior clinicians must be engaged, and two clinicians must be present. This is feasible in acute inpatient units but conducting routine pat-down searches would place additional strain on staffing levels, potentially adding to other risks and pressures in the inpatient environment.

- Staff conducting searches must be appropriately skilled to make a clinical risk assessment, make decisions informed by human rights, provide trauma informed care, and be responsive to gender and cultural safety considerations. These are all expected competencies of clinical staff in designated mental health services, although these competencies may not be well developed in junior staff and senior clinicians must be involved in deciding to conduct and conducting pat-down searches.
- Documentation, reporting, and handover processes must be followed to demonstrate that practice guidance was followed, searches were conducted based on a clinical risk assessment, and that the least invasive kind of search practicable for the circumstances was used.
- *The feasibility of pat-down searches across the various inpatient settings within the public mental health sector (for example, PARC, CCU etc.)*
- The current Chief Psychiatrist's guideline 'Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff' applies only to acute inpatient services. Other service types including PARCs (Prevention and Recovery Care) and CCUs (Community Care Units) generally provide a less restrictive environment and are designed to support consumers who are less acutely unwell. Consumers in these settings are not on inpatient treatment orders, stay at the service on a voluntary basis, and in most circumstances can come and go without restrictions.
- Direct consumer support in PARCs is often provided by support workers employed by non-government organisations rather than clinical staff employed by the health service. Under current practice guidance these staff do not conduct searches.
- Routine searches are not generally practiced in these service settings, and typically a search would only be conducted if there was a clear and known risk to safety.
- *The implications of Victoria's proposed new Mental Health and Wellbeing Act 2022*
- The Act deals with searches in circumstances where a person is taken into the care and control of an authorised person for the purpose of transport to or from a designated mental health service or as a result of a mental health crisis. Under section 247 of the Act, an authorised person may search a person if they reasonably suspect that the person is carrying anything that presents a danger to the health and safety of the person or another person. When conducting a search under the Act, an authorised person must

comply with the requirements for preserving privacy and dignity under section 248 and the mental health and wellbeing principles set out in Part 1.5 of the Act. The mental health and wellbeing principles include the dignity and autonomy principle, the least restrictive principle, the supported decision making principle, the family and carers principle, the lived experience principle, the dignity of risk principle, the diversity principle, the gender safety principle, and the cultural safety principle.

2. *And I further recommend that the Chief Psychiatrist review relevant guidelines in light of the outcomes of the advice provided, as outlined above.*

Response to recommendation 2

As outlined above, the Chief Psychiatrist's guideline 'Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff' is currently scheduled for review. When this review occurs, the aim will be to find the right balance between ensuring patient safety, and upholding human rights, such as the right to privacy, and the mental health and wellbeing principles outlined in Part 1.5 of the Act. The scope of this guideline in relation to what service types it applies to will also be considered.

The advice and findings of this inquest, as well as previous recommendations from Coronial investigations will form part of the evidence that informs the guideline. These findings will provide valuable information about the potentially tragic consequences of contraband items being brought into mental health services.

The Act, which has a strong emphasis on providing care in line with mental health and wellbeing principles including upholding the rights and dignity of a person living with mental illness or psychological distress, and providing treatment in the least restrictive way possible, will also be used to inform the guideline.

Finally, the guideline review will be completed in consultation with people with a lived experience of mental illness or psychological distress, or a lived experience of caring for someone with mental illness or psychological distress; mental health and wellbeing clinicians; and legal advisors.

The Office of the Chief Psychiatrist will ensure that a rigorous consultation process is conducted to balance these views and provide practice guidance that upholds both consumer rights and safety.

I hope this has provided reassurance that the intent of the coronial recommendations above will be addressed. Please contact the Office of the Chief psychiatrist on 1300 767 299 or via email at ocp@health.vic.gov.au for further information and clarification

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Huppert', written in a cursive style.

Dr David Huppert
Acting Chief Psychiatrist of Victoria
Mental Health and Wellbeing Division

13 / 03 / 2023