Secretary

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

Dear Coroner Jamieson

Re: COR 2018 005721 Inquest into the passing of Mathew James Luttrell

Thank you for your letter dated 16 May 2023 regarding findings into the death of Mathew Luttrell. I apologise for the delay in sending this response to your findings and recommendations.

I was saddened to read of Mr Luttrell's passing. I extend my sincere condolences to his family, loved ones, and Community.

I note that you have made two recommendations to my department. You also requested updates on the implementation of eleven related recommendations from the *Royal Commission into Victoria's Mental Health System*. Please find my response to each recommendation below.

4. ***To the Secretary to the Department of Health, via its Mental Health and Wellbeing Division or as otherwise appropriate**, I recommend:*
   a) *That the Department of Health ensures the rollout of the World Health Organisation QualityRights e-training across all designated mental health services as a matter of priority; and*
   b) *That the recommendations of the Royal Commission continue to be implemented in full, through the Mental Health and Wellbeing Division of Department of Health or as appropriate, with an update to be provided to the Court in relation to the implementation of recommendations 23, 26, 33, 35, 37, 40, 42, 44, 53, 54, and 55.*

Response to recommendation 4(a)

We have implemented an alternative to this recommendation.

The Centre for Mental Health Learning Victoria provides human rights training delivered by the Victorian Equal Opportunity and Human Rights Commission. The training focuses on the responsibilities of public authorities to promote and protect the rights under the Charter of Human Rights and Responsibilities Act 2006. It is very relevant to the provision of mental health and wellbeing services. This training is available to mental health clinicians of all disciplines and the Lived Experience workforce.

Response to recommendation 4(b)

We continue to implement this recommendation.

Specifically, as detailed in **Attachment A,** the department's Mental Health and Wellbeing Division continues the implementation of the recommendations of the Royal Commission into Victoria's Mental Health System.

5. ***To the Secretary to the Department of Health, via the Chief Psychiatrist or as otherwise appropriate:*** *I recommend that consideration be given to clarifying the definition of 'seclusion' in the context of the new Mental Health and Wellbeing Act (including by way of issuing an updated OCA guideline) in order to crystallise whether seclusion relates to: (i) the confinement of a patient alone to an area in which they cannot leave; (ii) the confinement of one or more patients to an area in which they cannot leave; and (iii) whether the definition of seclusion is met if a staff member is present.*

Response to recommendation 5

We have implemented this recommendation.

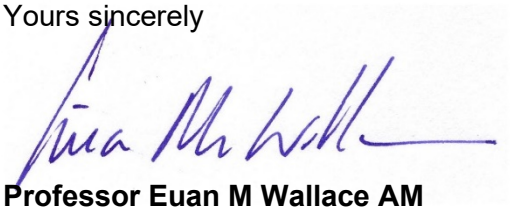
The Chief Psychiatrist issued a Direction in November 2016 regarding staffing requirements for safe practice where patients are in locked areas within mental health inpatient units (Attachment 2). The direction states:

i. If a patient is locked or confined in a room or any enclosed space on their own within an inpatient unit, from which it is not within the control of the person confined to leave, this is seclusion
ii. that if there is a locked space within the inpatient unit where more than one patient is receiving treatment and care, there must be always at least one clinical staff member present. If no staff member is present, it is seclusion.
iii. It is not considered seclusion if a staff member is present.

This Direction, along with the Chief Psychiatrist Restrictive Intervention guideline, is currently being reviewed to align with the new *Mental Health and Wellbeing Act 2022* and will be operational on 1 September 2023. The revised guidance will be consistent with the definition of seclusion in the current directive (please see **Attachment B**).

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 9096 7571 or via email at ocp@health.vic.gov.au for further information and clarification.

Yours sincerely



Professor Euan M Wallace AM
Secretary
03/09/2023

Attachment A

Royal Commission into Victoria's Mental Health System: update on recommendations sought by the Coroner

Recommendation:

4. To the Secretary to the Department of Health, via its Mental Health and Wellbeing Division or as otherwise appropriate, I recommend:

> b) That the recommendations of the Royal Commission continue to be implemented in full, through the Mental Health and Wellbeing Division of Department of Health or as appropriate, with an update to be provided to the Court in relation to the implementation of recommendations 23, 26, 33, 35, 37, 40, 42, 44, 53, 54, and 55.

23. Establishing a new Statewide Trauma Service

The Victorian Government appointed a consortium in October 2022 to design and deliver the new Mental Health State-wide Trauma Service. The consortium led by Phoenix Australia includes 13 partners with expertise relevant to trauma informed care. It includes a breadth of experience and expertise in research, training and trauma-informed service delivery that will drive the best possible mental health and wellbeing outcomes for people with lived experience of trauma.

The Statewide Trauma Service is in its initial design and establishment phase. Key activities across 2023 include formation of governance arrangements, codesign of an initial operating model, formation of a trauma research and practice network, design and development of a trauma research strategy and a capability uplift strategy for the mental health and wellbeing sector.

The Statewide Trauma Service is expected to be fully operational by June 2025 and throughout its design will work in partnership with people with lived experience of trauma in the ongoing coproduction and codesign of systems, services, and processes of the new statewide service.

26. Governance arrangements for suicide prevention and response efforts

Led by a State Suicide Prevention and Response Adviser, the Suicide Prevention and response Office was formally established on 1 July 2022.

The Office drives Victoria's approach to suicide prevention and response, and is responsible for co-producing, implementing and monitoring the new strategy. It is supported by new advisory and government-wide governance structures recommended by the Royal Commission, including:

- The Suicide Prevention and Response Secretaries' Board Subcommittee: which was established in April 2022 and comprises Deputy Secretaries representing all Victorian government departments and executives from Victoria Police, Coroners Court of Victoria and Worksafe.
- The Expert Advisory Committee: which comprises of lived experience and sector experts and reresentatives from research/academia and non-government organisations. It will provide advice to the Suicide Prevention and Response Office and the Subcommittee on approaches to suicide prevention and response.

33. Supporting Aboriginal Social and Emotional Wellbeing

This recommendation is well underway, with work expected to continue until the end of 2026. Progress includes:

- Codesign of two Aboriginal healing centres underway with Aboriginal community, led by VACCHO (Victorian Aboriginal Community Controlled Health Organisation).
- 16 scholarships have been awarded, with a minimum of 30 scholarships to be awarded by 2025.
- The Balit Durn Durn Centre (Centre of Excellence in Aboriginal Social and Emotional Wellbeing) launched in May 2022.
- Establishment of an Expert Advisory Group and Project Control Group to oversee the codesign of a service model for infants and children requiring intensive social and emotional wellbeing support.
- Extensive consultations with Aboriginal Community Controlled Health Organisations (ACCHOs) have supported them to commence establishing or expanding their multidisciplinary Social and Emotional Wellbeing teams, with state-wide coverage by 2025.
- Funding provided to all 13 infant, child and youth mental health and wellbeing services to undertake cultural safety training and other capacity activities to support staff across all organisational levels to improve their cultural safety practice.
- Selected infant, child and youth mental health and wellbeing services provided funding for Koori Mental Health Liaison Officer (KMHLO) positions. Recruitment of KMHLOs underway.

In the 2022-23 State Budget, $3.5 million was allocated over two years for Aboriginal self-determined suicide prevention and response initiatives. This included funding to Balit Durn Durn Centre to support Aboriginal community-led codesign for suicide prevention and response and to establish a suicide prevention panel.

35. Improving outcomes for people living with mental illness and substance use or addiction

In July 2022, the Department of Health published the *Integrated treatment, care and support for people with co-occurring mental illness and substance use or addiction Guidance for Victorian mental health and wellbeing and alcohol and other drug services.* The guidance outlines the principles and expectations for mental health and wellbeing and alcohol and other drug services to provide a shared vision for people living with mental illness and substance use or addiction.

Following publication of the guidance, the sector requested further practical advice on implementing integrated care. Following external stakeholder consultation, the department is drafting the *Practical Guidelines to Implement Integrated Treatment, Care and Support*. Internal and external stakeholder feedback was sought in July with a final draft expected to be completed in September 2023.

37. Supporting the mental health and wellbeing of people in contact with, or at risk of coming into contact with, the criminal and youth justice systems

- Rec 37 (2) (a) - that the Victorian Government enable Adult and Older Adult Area Mental Health and Wellbeing Services to expand the Forensic Clinical Specialist workforce to provide consistency in treatment, care and support to people in contact with, or at risk of coming into contact with, the criminal justice system
- Rec 37 (2) (b) - that a Specialist forensic mental health service be established – now named Regional Forensic Mental Health Teams.

These recommendations were made to reduce the number of people incarcerated across Victoria, reduce demands on high-cost secure inpatient services and improve long term mental health outcomes for clients with complex needs and their families, carers and supporters.

In the 2022-23 State Budget, $1.095 million was allocated to stand up the lead demonstration site (Barwon) for the new Regional Forensic Mental Health Team (RC rec 37.2). This work is underway with recruitment of the clinical team commenced and the service model approved in December 2022.

This intervention is focused on people with serious mental health needs at risk of acts of violence and/or contact with the justice system. The aim of this intervention is to provide better mental health care to this group –via more mental health clinicians having specialist skills to help this group and more options for community-based care –so they are much less likely to be aggressive or violent when unwell. This will allow them to access mental health support in a community setting and reduce their likelihood of having contact with the justice system in the future.

40. Providing incentives for the mental health and wellbeing workforce in rural and regional areas

The Department of Health launched the rural and regional incentive program in July 2022. This program is part of *Victoria's Mental Health and Wellbeing Workforce Strategy 2021-2024* and is supported by investment from the 2021-22 State Budget.

The program aims to attract and retain mental health and wellbeing workers to rural and regional, state-funded area mental health and wellbeing services (AMHWS), community mental health and alcohol and other drug (AOD) services. Workers may be eligible for up to $20,000 in grants to support relocation and settlement costs. Services can also utilise funding to support recruitment. Since the program launched over 60 grants have been approved supporting workers to relocate to rural and regional Victoria.

42. A new Mental Health and Wellbeing Act

The *Mental Health and Wellbeing Act 2022* will replace the *Mental Health Act 2014* on 1 September 2023. The new Act promotes good mental health and wellbeing for all Victorians. It has new rights-based principles that promotes the values, preferences, and views of Victorians with mental illness or psychological distress. The new principles guide how service providers should deliver assessment, treatment, care, and support.

44. A new Mental Health and Wellbeing Commission

The Commission will be established with full powers and responsibilities when the new *Mental Health and Wellbeing Act 2022* commences on 1 September 2023. It will be an independent entity that will monitor and publicly report on the performance, quality and safety of the mental health and wellbeing system and elevate leadership of people with lived experience. The Government has appointed four Commissioners to lead the new Mental Health and Wellbeing Commission, including Commissioners with lived experience.

53. Strong oversight of the quality and safety of mental health and wellbeing services

In addition to the Mental Health and Wellbeing Commission, (see Recommendation 44 above) the Chief Psychiatrist will continue to provide monitoring and oversight of mental health and wellbeing services while Safer Care Victoria will have a quality improvement focus. Under the new *Mental Health and Wellbeing Act 2022*, the Chief Psychiatrist will also have oversight of the provision of specialist mental health services in adult prisons and youth justice centres.

54. Towards the elimination of seclusion and restraint

The Royal Commission recommended the Victorian Government act immediately to reduce the use of seclusion and restraint, with the aim to eliminate these practices within 10 years (by 2031). In doing so, the Royal Commission recognised that much of the work to reduce the rates and impacts of restrictive interventions will involve the implementation of the broader recommendations for service system design and oversight, as well as practice and culture change.

The Department of Health is currently developing a strategy towards elimination of seclusion and restraint (recommendation 54.3). This is one component of work underway that relates to restrictive practices.

Other key components include regulation through the new *Mental Health and Wellbeing Act* (including regulation of chemical restraint, as per recommendation 54.2); the Chief Psychiatrist's statutory role; and Safer Care Victoria's work through *Safety for all: Towards elimination of restrictive practices - Break Through Series collaborative* and with the Safewards model.

Engagement on the strategy is underway, with many opportunities throughout 2023 for people to contribute their perspectives, including via regular engagement with system and sector leaders, interviews, consultation groups and an Engage Victoria submission process.

The Safety for All: Towards Elimination of Restrictive Practices Breakthrough Series Collaborative was conceptualised in response to recommendation 54.4 from the Royal Commission. Safer Care Victoria is partnering with the Institute of Healthcare Improvement (IHI) to deliver this improvement effort.

The aim of the Collaborative is to reduce the use of restrictive practices* in participating mental health inpatient units by 20% in participating services by April 2024. (*physical and mechanical interventions). There are currently 15 units across 13 health services taking part in the Collaborative from across metropolitan and regional Victoria. Participating health services are coached the IHI's Model for Improvement and guided through the breakthrough series model to test, measure, and implement improvement efforts in their respective units.

The Collaborative centres on a tripartite model of partnership which involves clinicians, consumers, and carers from the outset of, and at all levels of the work, to deliver improvement. One of the improvement ideas included in the suite for participating services to test is '*Aboriginal or Torres Strait Islander consumers to be referred to an Aboriginal Hospital Liaison Officer within 8 hours of admission*.'

55. Ensuring compulsory treatment is only used as a last resort

An Independent Review of Victoria's compulsory treatment criteria and decision-making laws commenced in October 2022.

Following completion of a public consultation process led by the review panel in mid-2023, the Department of Health will coordinate the next phase of this work. The department will deliver advice to government by June 2024. This work will inform future legislative reform.

In the meantime, the new *Mental Health and Wellbeing Act 2022* includes decision making principles for treatment and interventions. These principles include: care and transition to less restrictive support, consequences of compulsory assessment and treatment and restrictive interventions, no therapeutic benefit to restrictive interventions, balancing of harm and autonomy.

Victorian Chief Psychiatrist Direction 2016/01

Staffing requirements for safe practice where patients are in locked areas within mental health inpatient units
November 2016

The Chief Psychiatrist has statutory roles and functions under the *Mental Health Act 2014* (s.120 and s.121). This includes the power to issue directions to mental health service providers in respect of the provision of mental health services (s. 121 (j)).

In response to recent serious adverse events involving patients when staff were not in attendance in locked areas of inpatient units, the following direction is issued by the Chief Psychiatrist to mental health service providers under s.121 (j).

Chief Psychiatrist direction under the Mental Health Act s.121 (j)

Preliminary

If a patient is locked or confined in a room or any enclosed space on their own within an inpatient unit, from which it is not within the control of the person confined to leave, this is seclusion and all the statutory responsibilities, including patient support and the required monitoring under Part 6 of the Mental Health Act relating to Restrictive Interventions must occur.

Direction regarding locked spaces where more than one patient is receiving treatment

- If there is a locked space within the inpatient unit where more than one patient is receiving treatment and care, there must be at a minimum one clinical staff member present at all times.
- The practice of observing patients through a window of a staff base is not considered an acceptable level of service provision where more than one patient is receiving treatment in a locked space. Clinical staff need to be physically present in the locked area where the patients are receiving treatment.
- This direction applies to any locked area within an inpatient mental health unit (including high dependency units) where more than one patient is receiving treatment, at all times. In the exceptional circumstances of **an imminent risk to staff health or safety** (such as an emergency situation) other legislation provides for staff to withdraw in order to maintain their own safety and safety of patients.

Recommendations to ensure compliance with the Direction regarding the use of locked areas for high dependency care

- Service providers need to ensure adequate responsiveness to the individual needs and vulnerabilities of patients placed in locked areas. Particular attention needs to be paid to the gender needs of the patient, trauma they may have experienced and any cultural considerations.
- Service providers must support the capacity to increase nursing staff in response to escalation of patient needs, number of patients and for the occupational health and safety needs of staff.
- Senior nursing staff should be rostered to the skill levels required to assist persons with this level of acute psychiatric need.

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- The clinical practice of high dependency care includes an increased level of nursing observation through therapeutic engagement; and increased treatment and support. Health services should implement the *Nursing observation through engagement in psychiatric inpatient care* guideline *(2013)* <https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/service-quality/nursing-observation-through-engagement-in-psychiatric-inpatient-care>.
- Assessment, planning, interventions and observations should be clearly documented and communicated.

Background

Victorian public mental health services provide inpatient mental health care across a number of age-specific settings. At times inpatient units may be locked due to assessed level of need of patients, staff and the community.

Sometimes areas within these inpatient units are locked to ensure a secure environment, such as 'high dependency areas'.

High dependency treatment and support of acutely unwell individuals, with a profile of behavioural risk and/or sexual vulnerability, is a component of mental health service provision.

The main purpose of high dependency care is the provision of an increased level of therapeutic engagement, intervention, safety and supervision in an environment with a higher nurse-to-patient ratio. Staffing levels should be consistent within a framework of recovery oriented, trauma informed and gender sensitive practice, and staffing numbers increased in relation to the assessed vulnerability and risk of patients within the environment.

Compliance

Mental health service providers are required to comply with this Direction of the Chief Psychiatrist.

Service providers should include this advice in their local policy and procedure related to restrictive interventions and ensure that it is communicated to staff and ensure that training is provided to make sure practices are consistent with this Direction.

Dr Neil Coventry
Chief Psychiatrist

14 November 2016

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