

Notifying the Commission

Guidance for Staff in NHS/local authority/independent sector services

We are often asked about what issues and incidents should be reported to the Mental Welfare Commission. It is difficult to be prescriptive as each and every circumstance will be different. However, the following guidance is intended to assist staff in the NHS/local authority/independent sector services in determining whether an incident or issue should be notified to us and the form that notification should take. It is not directed at the Police or Crown Office with which we will be developing separate information sharing protocols as part of an MOU. Any such notification is in addition to any other notification required by, for example, the Care Inspectorate, Adult Support and Protection Officer, or Health Improvement Scotland Suicide Reporting Officer. The term “individual” is used throughout this guidance to refer to a person with mental illness, learning disability or a related condition. On receipt of such a notification, the Commission will determine whether any further information is required or any action is to be taken.

Despite this guidance, it is not possible to be prescriptive about all cases which should be reported to the Commission as circumstances vary so much. Anyone in doubt as to whether a matter is significant enough to report to the Commission should contact the commission (0131-313-8777) to discuss the situation.

Specific

- The death of any individual who is subject to compulsory treatment
- The death of any individual where there is a significant concern regarding any aspect of their care and treatment prior to death.
- Where it is felt that a Fatal Accident Inquiry should or will be held
- All cases where an individual who is receiving care from mental health or learning disability services is accused of or convicted of, a serious crime, e.g. homicide, serious physical assault or sexual assault.
- Where it appears that an individual is being/has been detained in any care setting without appropriate legal authority

General

Incidents where it appears there has been a deficiency in care or treatment and, as a result, an individual suffers a serious injury or adverse physical effects, including as a result of restraint, or where the injury has been caused deliberately by another person.

- Where an individual is living alone or without care and is unable to look after him or herself or his or her property or financial affairs and no intervention is taking place to remedy the situation.
- Incidents or circumstances in which a deficiency in care has led to the property of an individual suffering significant loss or damage or has led to it being at risk of significant loss or damage.

In addition to the above, local authorities should notify the Commission of:

- Any significant investigation the local authority carries out under Section 33 of the Mental Health(Care and Treatment)(Scotland) Act 2003 or Section 10(1)(c) of the Adults with Incapacity Act 2000 or where a Protection Order under the Adult Support and Protection(Scotland) Act 2007 has been taken out in relation to an individual.

Information required by the Commission

The information provided to the Commission should be relevant and proportionate to the circumstances of the case and would normally include:

- A brief account of the circumstances of the incident or situation, its antecedents and any other relevant information
- Information on the diagnosis, treatment and the mental state of the person
- Information on any other person involved
- What further action is being taken or considered, including any changes in procedure, policy or the physical environment
- An indication of any further investigation, enquiry or review that is being carried out or considered, and a copy of the outcome of these when available.

Note

All suicides of people who have been in touch with mental health services in the 12 months prior to their death should be reported to:

Suicide Reporting Officer
Clinical Governance Support and Development Unit
Health Improvement Scotland
FREEPOST SCO5432
Edinburgh
EH7 0BR

However, if the circumstances meet the criteria noted above then a report should also be forwarded to the Mental Welfare Commission.

Mental Welfare Commission for Scotland
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