HCSCC REPORT ON THE USE OF RESTRAINT OF PEOPLE WITH MENTAL ILLNESS IN SOUTH AUSTRALIAN PUBLIC HOSPITALS

APRIL 2013

INTRODUCTION

The South Australian Health and Community Services Complaints Commissioner (HCSCC) is an independent statutory authority that works under a piece of law to deal with individual complaints and systemic issues to improve the safety and quality of SA health and community services – this includes government, non government and private services.

Statutory role of the Health and Community Services Complaints Commissioner (South Australia)

The Health and Community Services Complaints Commissioner (South Australia) (HCSCC) is an independent statutory authority that operates under the provisions of the Health and Community Services Complaints Act 2004.

HCSCC can deal with issues relating to the safety and quality of South Australian health and community services – government, non government services and private. The Health and Community Services Complaints Act 2004 (the Act) states HCSCC should:

- improve the quality and safety of health and community services in South Australia through the provision of a fair and independent means for the assessment, conciliation, investigation and resolution of complaints; and

- identify, investigate and report on systemic issues concerning the delivery of health or community services.

The HCSCC Charter of Health and Community Services Rights set out the following rights for people who use South Australian health and community services:

1. Access – right to access services
2. Safety – right to be safe form abuse
3. Quality – right to high quality services
4. Information – the right to be informed
5. Respect – right to be treated with respect
6. Participation – right to actively participate
7. Privacy – right to privacy and confidentiality
8. Comment – the right to comment and/or complain

The Act states the Commissioner must take into account the position of persons within special needs who are described as particular classes of persons who, because of the nature of the classes to which they belong, may suffer disadvantage in the provision of services unless their needs are recognised. The Commissioner has determined that this includes people living with mental illness.

BACKGROUND

Restraint refers to 'any device or action that interferes with the ability of a person to make decisions or restrict their free movement'. Restraint can be verbal, physical, mechanical or chemical. Nationally and internationally, some health services have eliminated use of involuntary restraint in favour of less intrusive practices. Restraint is

practised in SA Health services, particularly on patients with mental illness. Restraint is legally endorsed, with limitations, under the Mental Health Act 2009.

Chemical Restraint refers to the use of medication to restrain. The distinction between medication given to restrain and medication given for treatment of an illness that may have a *restraining effect* is a fine one. The Chief Psychiatrist (SA) has reported that, nationally, Chief Psychiatrists do not have an agreed definition of what constitutes chemical restraint.

Seclusion is: confinement of a patient alone in a room or area from which free exit is prevented.

De-escalation: (also referred to as 'defusing' or 'talk-down') involves the use of various psychosocial short-term techniques aimed at calming disruptive behaviour and preventing disturbed/violent behaviour from occurring.

MENTAL HEALTH FOCUS

HCSCC has concerns about the use of restraint, in a general sense and in a particular sense, with regard to disability services and in non-mental health hospital settings. HCSCC is working with these sectors to address the relevant issues.

The focus of this report relates to the experience of people with mental illness in the public hospital system - because the overwhelming proportion of mental health hospital services are provided in the public system.

SA Health, which has overall responsibility for public mental health services, is committed to a national plan aimed at the 'reduction and where possible, elimination of restraint and seclusion'.

HCSCC is issuing this report to record HCSCC's concern at the current use of restraint in our public hospitals – this can include dedicated mental health services and general health services such as emergency departments.

STANDARDS

HCSCC considers that the United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care are the appropriate standard to measure practice against.

Principle 11 says that:

> *Physical restraint or involuntary seclusion of a patient shall not be employed except in accordance with the officially approved procedures of the mental health facility and only when it is the only means available to prevent immediate or imminent harm to the patient or others*

CURRENT HCSCC WORK TO ELIMINATE USE OF RESTRAINT

In preparing this report, HCSCC made inquiries of:

- Chief Psychiatrist
- Then Acting Director, Adelaide Metro Mental Health Directorate
- Executive Director for Mental Health and Substance Abuse, SA Health
- Reducing Restraint and Seclusion Senior Project Officer (Office of the Chief Psychiatrist)
- Director of Safety and Quality, SA Health.

From these discussions, HCSCC notes:

- That senior mental health staff and safety and quality practitioners have concerns about the use of restraint in SA Health services

- There appear to be limitations on the ability of mental health services to influence practice in 'non-mental health' settings, for example, in general public hospitals including Emergency Departments (see next point)

- That from 28 February 2013**,** each of SA Health's four Local Health Networks took over responsibility for mental health services provided within its region - from the Adelaide Metro Mental Health Directorate

- That, from 1 July 2013, restraint incidents will be 'notifiable events' through the SA Health reporting system

- The Chief Psychiatrist has drafted standards (binding under the Mental Health Act) on the use of restraint

- A review of the Mental Health Act is planned

- The SA Health Safety and Quality Unit is leading work aimed at reduction in use of restraint in general (non-mental health services)

HCSCC'S CONCERNS

HCSCC acknowledges the work being done by SA Health and others, including the Chief Psychiatrist, to reduce the use of restraint. HCSCC remains concerned that there is currently a disparity between the aspiration to reduce use of restraint and the reality for many people with mental illness who access treatment in South Australian public hospitals. HCSCC also believes that the relevant issues should be addressed with the greatest sense of priority and urgency.

In particular, HCSCC is concerned that restraint:

- Is inconsistent with rights based and person-centred approaches to treatment, including the HCSCC Charter of Rights and the United Nations Principle referred to, above

- Is sometimes used before serious attempts at prevention, de-escalation or less intrusive approaches based around Non-Violent Crisis Intervention

- Does not have evidence-based therapeutic value

- Is applied at a lower threshold than intended by the United Nations Principle, above, which refers to physical restraint only being justifiable when it is *the only means available to prevent immediate or imminent harm to the patient or others*

- Leads to harm to patients and likely harm to workers who restrain and others who witness restraint

- Use is disproportionately among Aboriginal people relative to the non-indigenous population; and

- There is a lack of clarity about what constitutes **chemical restraint**. HCSCC is concerned that medication use may in some cases constitute chemical restraint but may not be defined as such. HCSCC is concerned that attempts to reduce use of other forms of restraint may lead to increased inappropriate use of medications, rather than other alternatives.

HCSCC PROPOSED ACTIONS

In continuing to raise awareness of these issues, HCSCC will:

1. Continue to promote the HCSCC Charter of Health and Community Services Rights

2. Review individual complaints

3. Monitor development and implementation of the shift of responsibility for Mental Health Services to Local Health Networks

4. Monitor SA Health strategies to reduce/eliminate use of restraint, including:

    i) Review of the Mental Health Act

    ii) Implementation of the Chief Psychiatrist Restraint standards

    iii) Monitoring of development (national) and implementation of an agreed definition of *chemical restraint*

5. Consider use of s76 powers under the Act to require certain reports from relevant service providers

6. Work with the Australian Health Practitioner Regulation Agency (AHPRA) to articulate a Code of Conduct for registered health service providers regarding use of restraint

CONCLUSION

HCSCC has a clear role in contributing to improving the safety and quality of health services provided to vulnerable people and looks forward to forming partnerships with others who also have a role.

Please contact Matthew Dempsey, HCSCC Complaint and Capacity Development Officer, on 8226 8652 with any suggestions, comments or criticisms of HCSCC efforts.

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2012-07472
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Mr Steve Tully
Health and Community Services Complaints Commissioner
PO Box 199
ADELAIDE SA 5000

Dear Mr Tully Steve

RE: USE OF RESTRAINT AND SECLUSION IN MENTAL HEALTH SETTINGS

Thank you for your letter of 19 April 2013 enclosing the HCSCC's investigation report into the use of restraint on mental health patients within SA Health services.

SA Health Mental health services continue to promote person-centred approaches to treatment and SA Health agrees with the HCSCC that there is no evidence of therapeutic benefits in the use of restraint or seclusion and the potential for harm increases for all when these practices are used.

The use of restraint and seclusion is a last resort option only, when the risk of not using restraint outweighs the risk of using restraint because harm to a person is imminent or actual.

Following our meeting on 8 May 2013 I can reassure you the Office of the Chief Psychiatrist (OCP) has been developing a suite of documents for release later this year including a policy, guideline, toolkit and education package for reducing the use of restraint and seclusion. Additionally, mandated under legislation will be the following Chief Psychiatrist Standards:

- Reporting the use of restraint and seclusion
- Observations of persons restrained or secluded

The Restraint and Seclusion suite of documents will be released mid-year for consultation and feedback from consumers, carers, service providers and stakeholders.

The OCP is currently working with the national Safety and Quality Partnerships Subcommittee on the issue of chemical restraint. The Mental Health Unit through the OCP has employed a Project Officer since 2009 and contracted to October 2013 to promote reduction strategies and improve data collection practices as they relate to restraint and seclusion.

In addition, the review of the *Mental Health Act 2009* will commence in July 2013 and will involve broad public consultation as well as focussed feedback from specific stakeholders including the HCSCC.

If you have any further queries regarding these matters, please do not hesitate to contact

Yours sin

DAVID SWAN
Chief Executive

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