



for patient safety and justice

Mrs Daphne Birkby

Code A

15 May 2009

Dear Mrs Birkby

I am writing to thank you for your letter of 21st April and other enclosures. I am sorry for the delay in replying.

I will keep the information together with other material connected with diamorphine use and the events at Gosport. We hope to ensure that there are better safeguards as a result of the Gosport findings.

Yours sincerely

Code A

Peter Walsh
Chief Executive

23 APR 2009

21st April 2009**Code A****Code A**

Mr Peter Walsh
Action against Medical Accidents
44, High Street
Croydon
Surrey
CRO 1YB

Dear Mr Walsh,

Having watched the recent events, which brought back unhappy memories, I just thought I would send this clutch of correspondence which I was engaged in during 2004. You no doubt get inundated with such information, but it would be interesting to see whether any tightening up of procedures had been implemented since then. The anguish of those relatives who have fought so long and hard for justice regarding Gosport War Memorial Hospital was very real and unfortunately has been replicated up and down the country for so long, but one hopes that because of their determination and fortitude things will change and the old and frail will be better represented and afforded more respect.

Yours sincerely,

Code A

Mrs Daphne Birkby

20th June 2004

Code A

Rt Hon Dr John Reid MP
Minister for Health
House of Commons
London SW1A 0AA

Dear Dr Reid,

In light of the recent case of a nurse administering diamorphine to hasten the death/kill patients, and also concerning the many cases over the last few years of diamorphine being routinely given to elderly hospital patients and also because it has real personal relevance to me and my brother, I am requesting answers to the following:

Who, in hospital, decides when diamorphine will be administered whether this patient wants it or not ?

Are next of kin informed when this drug will be used and is it dependent on the next of kin giving written consent and said consent forms logged and audited?

On a yearly basis is there an audit of the amount of diamorphine used in each hospital and also what percentage is used primarily on elderly patients?

I would be most grateful for a speedy reply to this concern.

Yours sincerely,

Daphne Birkby
Mrs

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HOUSE OF COMMONS
LONDON SW1A 0AA

Mrs. D. Birkby,

Code A

22nd June, 2004.

Dear Mrs. Birkby,

Thank you for sending me a copy of your letter to Dr. Reid. I will follow this up to ensure that you get a reply to your queries.

Yours sincerely,

Code A

The Rt. Hon. Michael Mates, MP

25th July 2004

Code A

Dame Janet Smith
The Shipman Enquiry
Gateway House
Piccadilly
South Manchester
M60 7LP

Dear Dame Janet,

In light of the Shipman Enquiry and also of the recent case of a nurse administering fatal doses of diamorphine in hospital, I trust you will not mind me forwarding a copy of a letter I recently sent to Dr John Reid Minister for Health dated 20th June 2004. Up to press I have received no acknowledgment to my letter and will pursue this. However, from personal experience, I feel that the 'custom and practice' element which appears to have attached to the treatment of older people in hospital with regards to many drugs, especially diamorphine, is in urgent need of scrutiny.

Yours sincerely,

Daphne Birkby
Mrs

**THE
SHIPMAN INQUIRY**

Chairman: Dame Janet Smith DBE

Mrs Daphne Birkby

Code A

29 July 2004

Dear Mrs Birkby

Shipman Inquiry – Controlled Drugs

I refer to your letter of 25 July 2004 addressed to the Inquiry Chairman, Dame Janet Smith. She has asked me to respond on her behalf.

The Chairman has asked me to express her thanks for your letter. However, the Inquiry's Report in respect of controlled drugs was published on Thursday, 15 July and is now in the hands of Government. A copy of the Report can be seen on the Inquiry website at www.the-shipman-inquiry.org.uk. I have passed a copy of your letter to the Department of Health and to the Home Office Drugs Inspectorate who will no doubt consider this when looking at our Report.

Thank you once again for your helpful comments.

Yours sincerely

Code A**HENRY PALIN
SOLICITOR TO THE INQUIRY**

From the Minister of State
Rt. Hon John Hutton, MP



Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 3000

PO1051373

The Rt Hon Michael Mates MP

4 - AUG 2004

Dear Michael,

Thank you for your letter of 22 June to John Reid, enclosing correspondence from Mrs Daphne Birkby of [Code A] about the administration of diamorphine in hospitals.

Controlled drugs, a classification which includes diamorphine, are regulated under the Misuse of Drugs Act 1971. Their use in medicine is permitted by the Misuse of Drugs Regulations 2001, as amended. Controlled drugs may only be supplied to a patient in hospital against the written directions of an appropriate practitioner. Appropriate practitioners include doctors, dentists and nurse prescribers. Medicines such as diamorphine may be administered to a patient by an appropriate practitioner or by any person acting in accordance with their directions.

Within hospitals, the safe and secure handling of medicines, including controlled drugs, is monitored through the process of Controls Assurance. This covers all aspects of the way in which the drugs are prescribed, supplied, administered, kept in safe custody and destroyed. There are also safeguards in place to reconcile quantities of medicines stored on wards against records of quantities supplied to the ward and records of medicines administered to patients.

Additionally under controlled drugs legislation, hospitals are required to keep a controlled drugs register, the purpose of which is to detail all transactions involving such drugs, including diamorphine, in the hospital.

Mrs Birkby refers to the issue of patient consent. Patients have a fundamental legal and ethical right to determine what happens to their own bodies. Valid consent to treatment is therefore central to all forms of healthcare, from providing personal care to undertaking major surgery. Patients may indicate consent non-verbally (for example by presenting their arm for their pulse to be taken), orally, or in writing.

For consent to be valid, the patient must be competent to take the particular decision, have received sufficient information to take it and not be acting under duress

5



People have the right to consent to or refuse treatment and healthcare professional will therefore discuss possible treatment options with them. This should, where an individual's condition makes it appropriate, include how they would like to be treated if or when they become incapacitated. Decisions about whether or not a treatment is in the best interests of a patient who is incapacitated will depend on the specific circumstances of that person. It is a matter of clinical judgement and should include discussions with those close to the patient.

A person may be quite certain that they would not want a particular treatment in the future. In that case they may consider making a written record of their wishes (a document sometimes called a Living Will), and make sure close friends or relatives know.

NHS Trusts must have a clear consent policy, which sets out how and when they obtain a patient's consent and consent details should be recorded in a patient's medical records. The Department of Health leaflet *Consent – what you have a right to expect* is a detailed guide on consent, in versions for adults, children, parents, carers/ relatives and people with learning disabilities. It is available from clinics and hospitals, and can be ordered from the NHS Responseline (08701 555 455). It is also available on the Department of Health website.

Mrs Birkby asks about the issue of auditing the amounts of controlled drugs given to patients, and particularly older people, in hospitals. At the present time the Department of Health does not carry out audits of this nature.

Once the recommendations of the Shipman Inquiry are published, this Department and the Home Office will be reviewing safeguards to ensure the safe and appropriate use of controlled drugs, such as diamorphine, both in hospitals and other settings.

Yours

Code A

JOHN HUTTON



HOUSE OF COMMONS
LONDON SW1A 0AA

Mrs. D. Birkby,

Code A

11th August, 2004.

Dear Mrs. Birkby,

Further to my letter of 29th July, the Minister's reply has today come to hand and I am sending this on to you in Mr. Mates' absence to avoid more delay.

I will bring Mr. Hutton's letter to the attention of Mr. Mates on his return.

Yours sincerely,

Code A

Janice Dust,
Secretary to The Rt. Hon. Michael Mates, MP

22nd August 2004

Code A

Rt Hon John Hutton MP
Minister of State
Department of Health
Richmond House
79, Whitehall
London SW1A 2NS

Dear Mr Hutton,

Responding to your reply on behalf of Dr John Reid to my letter 22 June 2004,
Your ref: PO1051373.

I have several concerns and will try to be concise and explicit.

Firstly paragraphs 4 & 5. Valid consent becomes meaningless if the patient, for whatever reason, is in no mental, physical or emotional state to convey wishes or consent. They might even have been admitted to hospital through adverse reactions to drugs prescribed to them. Therefore they will not have received sufficient information in order to take any decision and any rights they may have to consent or otherwise (para 6) are rendered meaningless.

What records are kept of patients who are 'sectioned' to facilitate the administering of drugs that the patient might otherwise refuse? What signed records are kept which clearly show that 'those close to the patient' have been 'included in the discussions' (para 6) and any drugs treatments?

Para 8 The Department of Health leaflet *Consent- what you have a right to expect* is not something I have been made aware of and I have been hospitalised twice recently, so I am sure many older people will be totally unaware of its existence or its relevance to them.

Para 9 I am speechless that no auditing of controlled drugs given to older people in hospital is carried out and I hope that the Shipman Inquiry, to which I have also written, will suggest urgent changes to the present system which gives little or no protection.

Yours sincerely,

Mrs Daphne Birkby

8



HOUSE OF COMMONS
LONDON SW1A 0AA

Mrs. D. Birkby,

Code A

16th September, 2004.

Dear Mrs. Birkby,

I enclose a further reply from the Minister regarding consent to treatment. I hope this covers all your outstanding queries and concerns.

Yours sincerely,

Code A

The Rt. Hon. Michael Mates, MP

9

From the Minister of State
Rt. Hon John Hutton, MP



PO5002530

The Rt Hon Michael Mates MP

Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 3000

5 SEP 2004

Dear Michael,

Thank you for your letter of 24 August enclosing further correspondence from your constituent, Mrs Daphne Birkby of [redacted] Code A [redacted] about patient consent. Mrs Birkby has also copied her letter to me separately (our ref: TO1064450) and I hope she will accept this reply to both letters.

Mrs Birkby has further concerns following my earlier reply to you (reference PO1051373). She mentions consent in relation to those situations where a person is not able to communicate their wishes. This covers many possible situations. In some cases, the possibility that a person will lose mental capacity can be anticipated and in such circumstances health professionals should discuss a person's views and treatment preferences before this happens. In situations that cannot be anticipated such as emergencies, health professionals must make treatment decisions in the person's best interests and should take the views of a person's relatives and friends into account.

I am sorry that Mrs Birkby has not received a copy of the Department's leaflet *Consent* before now. This leaflet can be viewed at the following web address, <http://www.dh.gov.uk/assetRoot/04/06/69/93/04066993.pdf>, and I have enclosed a copy with this letter for Mrs Birkby's convenience. We have asked trusts to set up local policies to make sure people have access to all of the information they need before they give their consent to treatment.

I hope this reply will be helpful.

Yours

Code A

JOHN HUTTON