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NHS Chief Executives
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HSCP Chief Officers
Chief Social Work Officers

24 January 2023

Dear Colleagues,

Guidance on Choosing a Care Home on Discharge from Hospital

The sustained extreme pressure in the Health and Social Care system is impacting delivery of care. The National Response Groups and the Ministerial Advisory Group have been working with local systems to take immediate action to ensure that the system is not overwhelmed.

We know that individuals who are clinically fit for discharge are occupying much needed capacity within hospital settings and can be, with the right care, moved to alternative care settings. Given these extreme pressures, my officials have carried out a rapid review of Guidance on Choosing a Care Home on Discharge from Hospital (the Choice Guidance) to be deployed by local systems to support the current position.

This guidance provides detailed advice on managing the choice of care homes for people assessed as requiring on-going long-term care in a care home, following a hospital stay. It should be considered as an essential tool for frontline staff who are supporting patient discharge as well as to clinicians, nursing and social care professionals.

It is important that this guidance is implemented as early as practicable in the patient's hospital journey to ensure sufficient time for choices to be made and to avoid unnecessary delays in hospital.

The Scottish Government National Response Group discussed the Choice Guidance and have highlighted three essential points local areas should focus on. These are:

- Consistent application by Multidisciplinary teams (MDT) including making families and carers aware of the choice protocol as early as possible in the discharge planning process;

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- Consistent approach to escalation as is set out in the choice protocol - where there is disagreement about moving to an interim placement;
- Ensuring that the choice protocol is aligned closely to existing oversight arrangements.

The Choice Guidance has now been reviewed with updated language, and reflects policy changes since it was published in 2013. However, the key principles have not changed, namely:

- The potential for **recovery, rehabilitation** and **reablement** will be fully considered before any decisions are made on long term care plans;
- Moving into a care home is a major decision for a person and their family, so preparation and planning needs to commence as early as possible in the patient's journey;
- **A person is not entitled to remain indefinitely in hospital once they are ready for discharge.** Failing to make a choice of care home, or reluctance to co-operate with the discharge process **should not prevent discharge taking place.** The NHS and local authorities will take robust action to ensure that people are not inappropriately delayed in hospital if a placement more appropriate to their needs is available elsewhere. To make it clear, a patient does not have a right to 'choose' to stay in hospital where this goes against best clinical practice.

The Choice Guidance contains clear advice on when to escalate cases where patients, family or proxy are unwilling to engage with the Choice Process. To assist with this process, a template letter, for issue by the Medical Director, is also included in annex B of the refreshed Guidance.

Where the preferred choice(s) of care home is not immediately available, the person will be required to make a temporary (interim) move to another home with a suitable vacancy to wait. These patients should be proactively managed to ensure a move to their choice of home is facilitated as soon as possible. However, there may be cases where a person will choose to stay in their interim choice, which should also be supported.

I appreciate that challenges remain in relation to the discharging of adults who lack capacity, particularly where the proxy is reluctant to discharge to a care home not of their choice. These cases will require sensitive conversations with the patient and proxy to help them understand the choices available, and why remaining in hospital is not an option.

Care home staff can help support this process by supporting the family during home visits, and explaining/showing the range of support and enrichment to daily life that care homes can provide.

As always in these cases, the principles of the Adults with Incapacity Act must be followed, these include:

- Any action or decision taken **must benefit the adult** and only be taken when that benefit cannot reasonably be achieved without it;
- Any action or decision taken should be the minimum necessary to achieve the purpose. It should be the option **that restricts the person's freedom as little as possible.**

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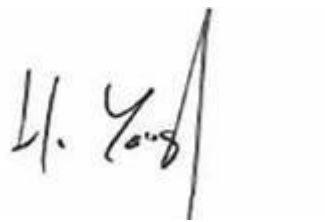


This power does not extend to insisting that the patient remains indefinitely in hospital, once they are clinically ready for discharge. In situations where a proxy refuses to agree to discharge the patient, on grounds of choice, they should be reminded of the above principles, and their duty to follow them. If the disagreement continues, they should be informed of their right to seek directions from the Sheriff, as to whether or not their powers allow them to block the discharge.

My officials are now working to develop a range of public facing material that will support frontline staff having these difficult discussions with patients and their families, around choice and future care needs. Work will also be carried out to develop a flowchart detailing the key stages in the choice process. Suggested timescales for completing each step in the process will also be developed.

As part of oversight arrangements, officials will follow up with Health and Social Care Partnerships and NHS boards to gain assurances that they are implementing the Guidance.

Yours sincerely,



HUMZA YOUSAF

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