

ONLINE SUPPLEMENT DS1

I, Dr John Smith, Consultant Psychiatrist, Fictional Mental Health NHS Trust, Anytown SAY AS FOLLOWS:

- 1. I am the consultant psychiatrist in charge of the treatment of Joseph Bloggs.*
- 2. Joseph Bloggs is currently an in-patient on Creek Ward, subject to a Treatment Order (Section 3 of the Mental Health Act 1983). He has a diagnosis of paranoid schizophrenia.*
- 3. I believe that Joseph Bloggs is fit to be detained in police custody and to be interviewed in the presence of an Appropriate Adult.*
- 4. Whilst I can understand why questions could be raised about the use of public resources involved in the prosecution of detained patients, the Trust has considered this matter in detail and our view is that there are a number of reasons why it is essential that this option is retained in appropriate cases.*
- 5. All our patients suffer from mental disorders and, where they do have a criminal record, there is very often a direct link between their mental disorder and the offences they have committed. However, that does not mean our patients are not responsible for their own actions.*
- 6. The vast majority of criminal offences with which we are concerned are assaults on our staff or on other patients. Staff working for the Trust were subject to in excess of xxx assaults last year. These resulted in xxx days off sick. The cost of this sick leave was in excess of £xxx. The additional replacement costs for cover resulted in a total cost to the Trust in excess of £xxx.*
- 7. The Trust has a duty of care to its staff and patients and does not accept that any member of staff should accept being assaulted as part of their work at the Trust. Equally, it is unacceptable that a detained patient who does not have the option of leaving the hospital should be assaulted by another patient during his period of detention here. Last year there were some xxx assaults by one patient on another.*
- 8. We accept that there is a constant risk that staff and patients will be assaulted and seek to put in place management regimens to minimise that risk so as to ensure the safety of our staff and other patients. We also want to do everything we can to dissuade patients from making the choice to assault others, and part of that approach is to show our patients that an assault on a member of staff or another patient has adverse consequences for the assailant. Thus, where staff or patients are subject to a criminal assault by a patient with capacity we consider that it is important that the police are called in to investigate for the following reasons.*
- 9. The Trust is committed to treating people suffering with mental disorder as responsible individuals who should be treated as normal citizens as far as that is possible. This means they should, when appropriate, be held accountable when they commit criminal offences. Hence, where a person with a form of mental disorder deliberately decides to commit an assault, that person should be treated sensitively, but no less robustly, than a person without a mental disorder who committed the same crime.*

10. *Also, a key part of the medical treatment for persons with a dangerous mental health condition is to change the way that the patient sees the world, interacts with other people and to get the patient to take responsibility for their own actions. Part of this process is encouraging patients to see a world where other people have feelings, interests and rights and that actions by the patient which infringe the rights of others lead to adverse consequences for the patient. These must be adverse consequences that matter to that patient.*
11. *Therefore when a patient deliberately or recklessly assaults a member of staff or another patient, in some cases it is important therapeutically that the patient learns that his choice leads to an adverse consequence. A prosecution, as well as addressing offending behaviour, can be a powerful learning tool irrespective of whether an individual is already the subject of a hospital order or a restriction order, or is already serving a prison sentence and transferred for treatment during that sentence.*
12. *It is important to appreciate that of the in excess of xxx assaults on staff reported within the Trust last year, less than xxx were reported on to the police for consideration for prosecution: we are selective in how we seek criminal justice intervention in this area.*
13. *The court may be concerned as to whether it has any adequate powers of punishment in such circumstances. We accept that imposing a prison sentence on someone with major mental disorder is likely only to be appropriate in very rare circumstances, but other interventions such as a fine, a community order with a mental health treatment requirement, or a hospital order with or without a restriction order may be enormously beneficial (and the last is also a provision that is available in a case where the defendant is found to be unfit to plead and unfit to stand trial or is found not guilty by reason of insanity).*
14. *If criminal assaults on our staff or on other patients are not prosecuted then, in practice, our patients will know that they can assault whoever they wish without any adverse consequences for them. That will inevitably increase the number of assaults and thus put both staff and patients at greater risk of assault. This situation cannot be therapeutic.*
15. *Our patients have the right to seek an order from the First Tier Tribunal (Mental Health) that they should be released. At such hearings the level of risk posed by the patient can often be crucial to the decision-making. Assaults committed by a patient can be good evidence of ongoing risk. However the facts underlying an assault can often be challenged by those acting for the patient before the Tribunal. Where an incident has been investigated independently, and the patient has been convicted of an offence, this establishes the facts of the assault, allowing the Trust to rely more robustly on this evidence before the Tribunal.*
16. *The prosecution of any offence committed by a patient detained at this hospital is considered on an individual basis and the decision is not taken lightly. A decision to pursue a criminal investigation is in general only made where we consider that the patient possessed the requisite mental capacity at the time of the alleged offence. Even if capacity is disputed, there are alternative findings available under the Domestic Violence, Crime and Victims legislation to resolve such differences, and to deal with cases where the perpetrator is considered to be*

under disability. It is likely that prosecution in such cases would only be proposed for the most serious offences.

- 17. I hope that this statement explains the wider circumstances and why the Trust invites the Court to continue with this particular prosecution.*
- 18. This statement (consisting of x pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.*