

For the Record – Press Statement

Publication	Daily Mail
Date of article	Saturday 15 th March 2013
Reporter	Paul Bentley
Headline	Despite the Government’s vows to protect whistleblowers, NHS boss who spoke out about locking up patients is sacked
First paragraph	A hospital manager who spoke out about staff locking up vulnerable patients said last night that he faces ruin despite a government pledge to protect whistleblowers.
Press enquiry	Daily Mail reporter Paul Bentley said they had spoken to the Trust’s security manager David Ore who said he faces potential redundancy for whistle blowing. Paul asked The Dudley Group to go through each allegation and give a response.

Comment from Paula Clark, Chief Executive of The Dudley Group NHS Foundation Trust

I’m writing a story for Saturday’s Daily Mail on David Ore’s potential redundancy after blowing the whistle about restraint at Russells Hall. This seems to be going ahead despite Jeremy Hunt writing to trusts last week to make sure whistleblowers are being protected.

This claim is not true. Mr Ore has never used the whistle blowing policy to raise concerns about restraint. The post of security manager is one of three posts that will be affected by a proposed organisational restructure of our Estates and Facilities Department. We will be seeking to offer the three staff affected, including Mr Ore, redeployment within the Trust. Our intention is to avoid making staff redundant.

We encourage our staff to raise genuine concerns at the earliest opportunity using our whistle blowing policy. We are part of the Nursing Times’ national Speak Out Safely campaign and our whistle blowing policy has been in existence since 2007. It sets out a clear procedure for raising concerns and the process of investigation that follows. We have many examples where staff have used this. Mr Ore has never used this whistle blowing policy to raise concerns about restraint.

Mr Ore claims security staff were ordered to restrain and lock up vulnerable patients, including children and elderly people. Some were held illegally for up to 12 hours,

often with no food or drink, he says.

As in any healthcare setting there are occasions where patients have required restraint to be used for their own safety and the safety of our staff and other patients. However, we emphatically refuted the Sunday Telegraph suggestion that we unlawfully restrain patients at The Dudley Group. We have robust policies and procedures for the temporary restraint of patients.

Mr Ore claims he raised genuine concerns for patient safety a number of times with his bosses and these were ignored.

This is not true. Although Mr Ore is the Dudley Group's security manager, our security is provided by our PFI partners Summit Healthcare via their contract with Interserve FM. Two years ago security staff working for Interserve FM expressed concern about being asked to restrain patients without a mental capacity assessment being carried out. We took their concerns seriously and assured them at the time that dynamic mental capacity assessments were always undertaken, and that no doctor, nurse or security guard was ever asked to restrain a patient without a proper assessment. We also revised our policy on restraint in consultation with our security teams, including Mr Ore, to make the process more explicit. Dynamic mental capacity assessments are routine practice in the NHS.

A colleague then sought legal advice which stated emphatically that what was going on left the trust open to civil and criminal prosecution. He says this was passed on to bosses and was again ignored.

The legal advice you refer to was sought by Interserve FM and we were pleased to fully support them in seeking assurance around restraining patients. However, we do not agree with Interserve FM's assertions on which the legal advice was given. We maintain the legal advice was based on inaccurate information.

He was subsequently suspended and sacked after a disciplinary hearing on charges of supposed 'aggressive behaviour' towards a thief on site and for apparently misusing car parking spaces, which he denies. He won an appeal and was reinstated but was ordered out on special leave two days after an article on restraint at the hospital was published in the Sunday Telegraph in January. This decision was made by a number of his bosses, including the CEO.

This is misleading. In April 2013 Mr Ore's contract with the Trust was terminated on the grounds of gross misconduct following a disciplinary hearing in which allegations were made against him about potential act of dishonesty or fraud. He appealed this decision because he felt it was unduly harsh. Based on the evidence at the appeal hearing a decision was made to commute Mr Ore's dismissal to final written warning which will remain in place for 24 months from 11th June 2013. Mr Ore's employment was reinstated on 11th June 2013.

In March 2013 Mr Ore lodged an employment tribunal claim against the Trust for reasons of unfair dismissal. As part of this tribunal submission, he submitted whistle blowing documents about fraud and corruption. This allegation was fully investigated by NHS Protect (the NHS counter fraud service) and was found to be unsubstantiated. In December 2013, he then expanded his employment tribunal claim to include restraint of patients. This was the first time he claimed he had made "whistle blowing" allegations around patient restraint. We want

to restate that Mr Ore has never used the whistle blowing policy to raise concerns about restraint.

There is no connection between Ore's special leave and the article that appeared in the Sunday Telegraph on restraint. The allegation in the Sunday Telegraph was made by John Marchant not David Ore. John Marchant was employed by Interserve FM. As security advisor for the Trust, Mr Ore is often part of the investigation team on sensitive and confidential matters affecting patients. We felt there was a potential conflict of interests between his trusted position and his submission about patient restraint in support of his employment tribunal. It was also felt there was a high risk of a breach of patient privacy and confidentiality in the public domain. Our priority is our patients and their privacy and confidentiality must come first. Mr Ore was therefore placed on special leave in January 2014. This special leave is due to be reviewed at the end of March 2014.

He has now been informed he may face redundancy, with a decision due early next month.

Please see response above.

He claims the trust wants to get rid of him for whistle blowing.

Please see response above.

ENDS

For more information, please contact Jackie Dietrich, Communications Manager for The Dudley Group NHS Foundation Trust on (01384) 456111 extension 3403.