

# Protecting your NHS



**To:** All LSMSs  
**Cc:** All SMDs  
**From:** NHS Security Management Service (NHS SMS)  
**Date:** 11 April 2007

## BRIEFING FOR LSMSs – THE ACCOUNTABLE OFFICER FOR CONTROLLED DRUGS

### 1. Introduction

- 1.1. The Controlled Drugs (Supervision of Management and Use) Regulations 2006 came into force in England and Scotland in January and March 2007 respectively (Statutory Instrument 2006 no. 3148). This briefing will deal with the regulations as they apply to England only. This is part of the post-Shipman policy agenda.
- 1.2. The regulations set out the requirements for designated bodies to appoint an **Accountable Officer (AO)** and the AO's duties and responsibilities to improve the management and use of controlled drugs (CDs) within their health body. For the purpose of these regulations, a designated body is a PCT, NHS Trust, Foundation Trust, health board or independent hospital.
  - 1.2.1. Additionally, in NHS PCTs, AOs must ensure that their contractors, such as GP practices and pharmacies, have appropriate arrangements in place.
- 1.3. Specified bodies within the regulations are required to cooperate with each other and share information in relation to concerns about the use and management of CDs and to co-operate generally with regard to cases where intervention may be necessary.
- 1.4. The introduction of the regulations is part of the government's response to the Fourth Report from the Shipman Inquiry, which focused on the use and management of CDs. The aim is to improve the overall security and monitoring of CDs and their movements.
- 1.5. The aim of this briefing is to introduce LSMSs to the role and responsibilities of an AO, and their relationship with the NHS SMS and other specified responsible bodies. LSMSs are the NHS SMS's nominated advocates within the trust (**see 3.1 below**).

### 2. Accountable Officers

- 2.1. An AO must be an executive member of the board or executive committee of the health body, or a person answerable directly to such a member, and cannot be involved routinely in the supply, administration or disposal of CDs as part of their duties. An AO can be jointly nominated or appointed for two or more health bodies provided they satisfy the conditions already stated and all health bodies involved agree that the full requirements of the role will be met.

- 2.2. Under the regulations, AOs have certain duties, responsibilities and powers to ensure the safe management and use of CDs. These include:
- 2.2.1. the establishment, operation and review of standard operating procedures (SOPs) in relation to CDs within the health body
- SOPs must cover the following matters:
- (a) who has access to the CDs
  - (b) where the CDs are stored
  - (c) security in relation to the storage and transportation of CDs, as required by the current Misuse of Drugs Act (MDA) legislation
  - (d) disposal and destruction of CDs
  - (e) who is to be alerted if complications arise, and
  - (f) record-keeping, including the maintenance of relevant registers and records as per the MDA
- 2.2.2 monitoring and auditing their organisation's management and use of CDs, in accordance with the SOPs
- 2.2.3 ensuring relevant training is received by individuals involved in the supply, prescribing, administering and disposal of CDs
- 2.2.4 when appropriate and relevant, conducting periodic inspections of premises used in connection with the management or use of CDs
- 2.2.5 assessing and investigating concerns about the use of CDs **(please also refer to paragraph 3)**
- 2.2.6 taking appropriate action if there are well-founded concerns about the management or use of CDs
- 2.2.7 ensuring all appropriate records are kept of concerns raised, investigations undertaken and any other relevant information related to their duties
- 2.2.8 establishing arrangements for sharing information with the responsible bodies named within the regulations in the form of a local intelligence network. These being:
- (a) designated bodies (PCTs, NHS Trusts (including Foundation Trusts) or SHAs)
  - (b) the Healthcare Commission
  - (c) **the Counter Fraud and Security Management Division of the NHSBSA (please also refer to paragraph 3)**
  - (d) Commission for Social Care Inspection (CSCI)
  - (e) police forces
  - (f) regulatory bodies
  - (g) local authorities.
- 2.3. Whilst discharging their responsibilities, an AO must have regard to best practice in relation to the management and use of CDs.
- 2.4. An AO can be removed from post by his/her health body should he/she be deemed unfit to be an AO or no longer meet the conditions specified for the post. If the AO wilfully, negligently or through incompetence breaches the duties of the AO as set out under the regulations, they shall be deemed unfit.
- 2.5. A list of AOs will be published by the Healthcare Commission from time to time.

### 3. The NHS CFSMS

- 3.1. As stated in 2.2.8, the NHS CFSMS is a named responsible body within the regulations. This means that the AO can share information directly with the NHS SMS or the LSMS in relation to matters involving the security of CDs, security breaches involving CDs, or the theft of CDs within the health body. *In matters relating to fraud, the AO will liaise with the NHS CFS and/or LCFS.*
- 3.2. If, after the AO has assessed a concern expressed involving the use and management of CDs, they decide that an investigation should be carried out, they can do so in the following way:
- (a) conduct the investigation themselves
  - (b) submit a written request for another officer in their health body to undertake the investigation
  - (c) submit a written request for a person or team of people from one or more of the responsible bodies to undertake the investigation
  - (d) **use their powers under the regulations to request an investigation by the NHS SMS, solely or jointly with another responsible body. The LSMS, as the nominated advocate for the NHS SMS, would be responsible for conducting such an investigation on behalf of the NHS SMS.**
- 3.3. The LSMS **must** co-operate with an AO, and any other responsible body, in regards to relevant persons when they are trying to:
- (i) identify cases where action may need to be taken
  - (ii) consider the issues which may arise from such actions
  - (iii) take action in respect of the use and management of CDs.
- 3.4. The LSMS has a duty to co-operate in the disclosure of information about relevant persons and **may** disclose any information in their possession or control for the purposes of 3.3(i) to 3.3(iii) above.
- 3.5. When information needs to be disclosed, and the information contains confidential information which can identify a patient the following basic rules must be applied:
- 3.5.1. Where practical to do so, the confidential information must be removed prior to disclosure; providing such confidential information is not required for the purposes of 3.3(i) to 3.3(iii) above.
  - 3.5.2. If the confidential information needs to be disclosed, then, where practical, the patient's consent must be obtained.
  - 3.5.3. The patient's consent is not required if obtaining it would prejudice or be likely to prejudice an investigation being conducted by any responsible body under any enactment or any civil or criminal investigation.
- 3.6. Further information on the disclosure of information, relevant persons and cases involving fitness to practise and the responsible bodies powers can be found in the full SI 3148.

### 4. Reference

The full Statutory Instrument, with explanatory notes, can be found at <http://www.opsi.gov.uk/si/si200631.htm> (go to **SI no. 3148**).

