

# Self-harming behaviours in inpatient care: to treat or not to treat .....or when to treat?

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# Introduction



# Summary

- Defining Self Harm
- What we know about self harm
- Managing self harm- clinical, ethical and legal dilemmas

# Self Harm: Definition

Intentional self-poisoning or self-injury, irrespective of type of motivation

(Self Harm in over 8s: long term management 2011, NICE)



*Image courtesy of jk1991 at FreeDigitalPhotos.net*

# Why talk about this?



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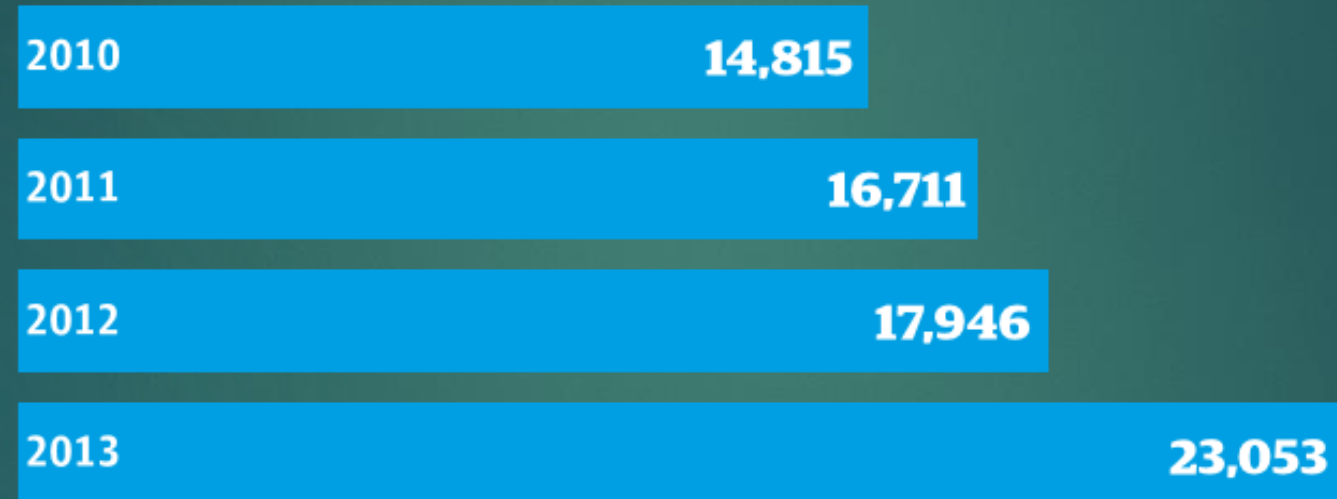
## Self-harm by mental health patients in NHS has risen by 56%, figures show

**Labour links rise in self-harm and suicide attempts to 'intolerable' pressure from staff and budget cutbacks**

# Self Harm: Statistics

## Self-harm and suicide attempts

Incidents of self-harm and suicide attempts among patients in mental health units in England



DATA BASED ON RESPONSES FROM 29 MENTAL HEALTH TRUSTS TO FOI REQUESTS SUBMITTED BY LABOUR

# Self Harm: Statistics

- In England and Wales there are at least 200,000 general hospital presentations for self-harm (intentional self-poisoning or self-injury) per year
- Multi-centre study of self harm in England



# Self Harm: Statistics

- Acute services: 65%
- Forensic Services: 29%
- Older Adult: 5%
- Rehabilitation services: 1%

- James et Al, 2012, International Journal of Nursing Studies

# Self Harm: Statistics

Type of Ward	Rate/ 100 available bed days
Adult Mental Health	2.54
Forensic Mental Health	4.12
Mental Health Rehab	0.28
Older Adult	0.23

James et Al, 2012, International Journal of Nursing Studies

# Self Harm in prisons

- 120 self-inflicted deaths in prisons in 2016, the highest number on record
- 40,161 self-harm incidents reported in prisons in 2016, the highest on record

(National Audit Office: June 2017)

CHS female secure wards: Jan to  
Dec 2017

395 episodes of self harm

# CHS female secure wards- Jan to Dec 2017

- Ligatures 132
- Head banging 67
- Swallowing 51
- Self harm others 39
- Cutting 30
- Striking self with object 23
- Inserting objects 15
- Attempted self harm 34
- Overdose 4

# Self harm: Costs

- Average cost for each episode of self-harm = £809
- Higher costs for adolescents than adults
- Overall cost to the NHS amounts to £162 million each year

- Apostolos et al, October 2017, The Lancet Psychiatry

# More facts

- ▶ Most episodes of self harm by women
- ▶ Most common form of self harm involved breaking skin
- ▶ Women more likely to restrict breathing
- ▶ Men more likely to use aggressive methods
- ▶ Self harm is a private act
- ▶ More in evening hours

James et Al, 2012, International Journal of Nursing Studies

# Self Harm Impact: Patients

- Risk: Physical damage, accidental death, completed suicide
- Prolonged admission
- Restrictive practices: Enhanced Observations, Seclusion, Restraint (physical, mechanical and chemical)



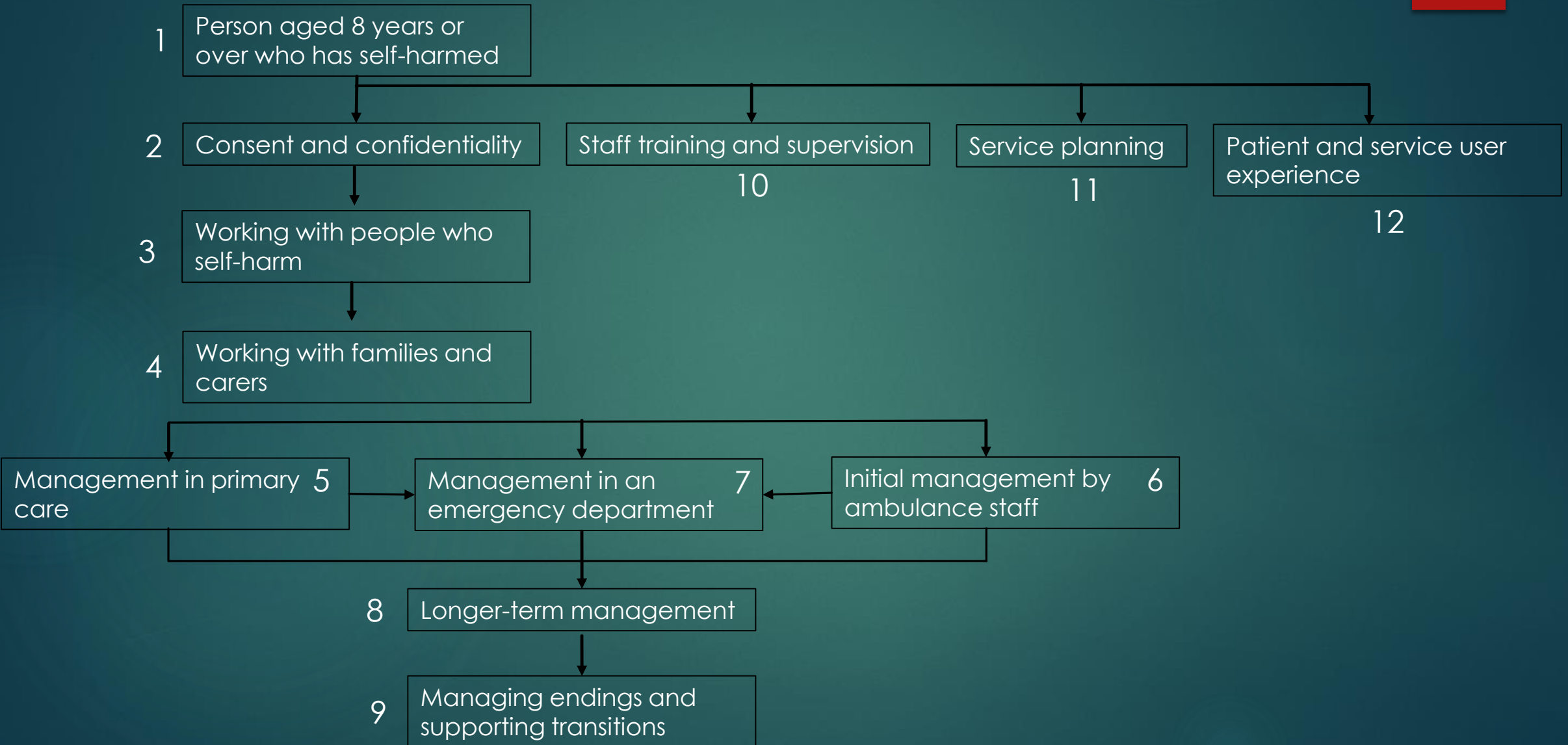
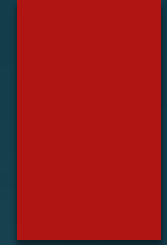
# Self Harm Impact: Staff

- Challenging and frustrating (O'Donovan 2007)
- Feeling of uncertainty and fear
- Feeling powerless
- Loss of control of emotions
- Burn out
- Sickness
- Poor staff retention

# Self Harm Management: NICE Pathways (last updated: April 2017)

- ▶ Planning of services
- ▶ General principles of care
- ▶ Assessment, treatment and management
- ▶ Longer-term treatment and management

# Self-harm overview



# Key priorities for implementation

- ▶ Capacity, Consent and Confidentiality
- ▶ Working with people with self harm
- ▶ Working with families and carers
- ▶ Management by ambulance staff
- ▶ Management in emergency department
- ▶ Long term management
- ▶ Staff training and supervision
- ▶ Service planning

# Self harm management

- ▶ Verbal deescalation and manual restraint (Most common)  
(James et Al, 2012, International Journal of Nursing Studies)
- ▶ Physical treatment
- ▶ Medications
- ▶ Enhanced observations
- ▶ Long term- Skills group, DBT, trauma work

# Clinical, ethical and legal issues:

- **Capacity**
- **Consent**
- **Advance decisions**

# Clinical, ethical and legal issues: Case report

- 20 year old female
- Diagnosis: EUPD
- Frequent self harm by swallowing foreign objects
- Required surgical intervention to remove foreign objects
- Continues to interfere with the surgical wound
- Repeated infections
- Refuses to comply with medical treatment, including antibiotics
- Has capacity to make decisions regarding her treatment

# Clinical, ethical and legal issues: Case reports

- Diabetic patient refusing to have metformin and diabetic diet
- Tachycardic patient refusing to comply with beta blocker
- Patient with head injury (following head banging), refusing to have neuro-obs and other medical interventions
- Kiwi allergic patient eating Kiwi
- Patient swallows foreign objects, but refusing to have them removed
- Patient restricting food and fluid intake



*Self harming behaviours in in-patient care:  
To treat or not to treat .... or when to treat?*



*Self harming behaviours in in-patient care:  
To treat or not to treat .... or when to treat?*



“She had capacity to consent to treatment which, it is more likely than not, would have prevented her death. She refused such treatment in full knowledge of the consequences and died as a result.”

*Self harming behaviours in in-patient care:  
To treat or not to treat .... or when to treat?*

Overview

Legal considerations

1. Protection of hospital patients
2. Treatment of hospital patients

Mental Health Act  
Mental Capacity Act (incl. AD)

## Article 2, European Convention on Human Rights

Article 2: Everyone's right to life shall be protected by law.

Three principal aspects:

- Duty to refrain from unlawful deprivation of life;
- General protective measures to secure health & well-being of detained persons - general duty;
- Positive obligation, in certain circumstances, to take steps to prevent avoidable losses of life, including protection of life of specific individual - “Osman” duty.

## Protection of the public

### **Osman v UK (2000)**

*“ ... the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.”*

Does obligation extend to those whose lives are at risk from themselves?

## Protection of prisoners

### **Duty to protect prisoners**

*Edwards v United Kingdom* (2002)

“a systemic collapse of the protective mechanisms that ought to have operated to protect this vulnerable prisoner”

### ***Duty to protect against suicide among prisoners***

*Keenan v United Kingdom* (2001)

“persons in custody are in a vulnerable position and ... authorities are under a duty to protect them. .... There are general measures and precautions which will be available to diminish the opportunities for self-harm, without infringing on personal autonomy.”

# Protection of hospital patients

## Article 2's obligation for general protective measures

### Right to Health

The state's obligations to respect, protect, and fulfil "*the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*"

International Covenant on Economic, Social and Cultural Rights, 1966

### The AAAQ model of healthcare

**Availability    Accessibility    Acceptability    Quality**

Exworthy et al (2012) Psychiatric Services

## Protection of hospital patients

### **At common law**

*“as a matter of general principle, a hospital is under a duty to take precautions to avoid the possibility of injury, whether self-inflicted or otherwise, occurring to patients who it knows, or ought to know, have a history of mental illness.”*

*Thorne v Northern Group Hospital Management Committee 1964*

### **In the European context**

*“The Court considers that the position of inferiority and powerlessness which is typical of patients confined in psychiatric hospitals calls for increased vigilance in reviewing whether the Convention has been complied with.”*

*Herczegfalvy v Austria [\(1992\)](#)*



## Protection of hospital patients

### *Savage v South Essex Partnership NHS FT [2008]*

In addition to the general obligation to provide a safe environment, there is a distinct and additional operational obligation.

*“The operational obligation arises only if members of staff know or ought to know that **a particular patient presents a "real and immediate" risk of suicide**. In these circumstances article 2 requires them to do all that can reasonably be expected to prevent the patient from committing suicide.”*

## Protection of hospital patients

### ***Rabone & Anor v Pennine Care NHS FT [2012]***



*“the trust owed the operational duty to her to take reasonable steps to protect her from the real and immediate risk of suicide. . . . [I]f there was a real and immediate risk of suicide at that time of which the trust was aware or ought to have been aware, then in my view the trust was under a duty to take reasonable steps to protect Melanie from it”.*

Lord Dyson

## Protection of hospital patients

*Real and immediate risk ... to do all that can be reasonably expected*

### **Real**

- substantial or significant risk,
- not remote or fanciful one
- less than 'fairly high degree of risk'

**Immediate** - present and continuing.

## Protection of hospital patients

***Real and immediate risk ... to do all that can be reasonably expected***

***'reasonably be expected'***

“.. need to take account of competing values in the Convention ... The steps taken must be proportionate ... the objectives of (hospital) detention are therapeutic and protective rather than penal. Developing a patient's capacity to make sensible choices for herself, and providing her with as good a quality of life as possible, are important components in protecting her mental health. Keeping her absolutely safe from physical harm, by secluding or restraining her, or even by keeping her on a locked ward, may do more harm to her mental health”.

# Treatment of hospital patients

## Right to refuse treatment

Basic rule: no treatment without consent

*“Every adult has the right and capacity to decide whether or not he will accept medical treatment, even if a refusal may risk permanent injury to his health or even lead to premature death .... it matters not whether the reasons for the refusal were rational or irrational, unknown or even non-existent”.*

Re T (Adult: refusal of treatment) [1992]

See also Re C (Adult: Refusal of treatment) [1994]

# Treatment of hospital patients

## Right to refuse treatment

Applies to all those with capacity and whether informal or detained, if the treatment is unrelated to the mental disorder.

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If lacking capacity and treatment is for a physical condition, then Mental Capacity Act operates.

# Treatment of hospital patients

## Mental Capacity Act

*'For the purposes of this Act, a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.'*

Time and situation specific

# Treatment of hospital patients

## Mental Capacity Act

### Best Interests principle:

*'An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.'*

*Encourage participation*

*Identify all relevant circumstances*

*Person's views: wishes & feelings, beliefs & values*

*Avoid discrimination*

*Is person likely to regain capacity?*

*Consult others*

*Avoid restricting person's rights*



# Treatment of hospital patients

## Mental Health Act

### Treatment related to a mental disorder

Governed and regulated by Part IV.

General rule :

Detained patients can be treated for mental disorder without consent.

*“The consent of a patient shall not be required for any medical treatment given to him for the mental disorder from which he is suffering  
....”*

Section 63

Section 58 limits general rule to first three months of detention.

# Treatment of hospital patients

## Mental Health Act

*Medical treatment includes nursing, psychological intervention, specialist mental health habilitation, rehabilitation and care.*

*Purpose of medical treatment is to alleviate, or prevent worsening of, the disorder or one or more of its symptoms or manifestations.*

### **B v Croydon Health Authority [1995]**

Personality disorder and refusal of food.

*“Nursing and care concurrent with the core treatment or as a necessary prerequisite to such treatment or to prevent the patient causing harm to himself or to alleviate the consequences of the disorder are in my view all capable of being ancillary to a treatment calculated to alleviate or prevent a deterioration of the psychopathic disorder”.*

# Treatment of hospital patients

## Mental Health Act

Section 63 and medical treatment

See also *R v Collins and Ashworth Hospital, ex parte Brady* (2001)

- forced feeding covered by section 63
- B lacked capacity and treatment could be given under best interests principle.

# Treatment of hospital patients

## Mental Health Act

### Section 62 and urgent treatment

Section 62 states that sections 57 and 58 do not apply to a treatment

- (a) Which is immediately necessary to save a patient's life;
- (b) Which (not being irreversible) is immediately necessary to prevent a deterioration of his condition; or
- (c) Which (not being irreversible or hazardous) is immediately necessary to alleviate serious suffering by the patient; or
- (d) Which (not being irreversible or hazardous) is immediately necessary and represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or others.

# Treatment of hospital patients

## Mental Health Act

*Use of force*

*Pountney v Griffiths [1976]*

Powers of control and discipline are necessarily implied when patient is detained under the MHA for medical treatment

Power of control and discipline flows from the power of detention for treatment. *R v Broadmoor Special Hospital Authority, ex p S & Ors (1998)*

*B v Croydon Health Authority [1995]*

Feeding by force comes within 'medical treatment'.

# Treatment of hospital patients

## Mental Capacity Act

### *Use of force*

Is permissible to restrain a person who lacks capacity provided the following are met:

- (i) the person taking action must reasonably believe that restraint is *necessary* to prevent *harm* to the person who lacks capacity,  
and
- (ii) the amount or type of restraint used and its duration must be a *proportionate response* to the likelihood and seriousness of harm.

Section 6 MCA

# Treatment of hospital patients

## Mental Capacity Act

### *Advance Decisions*

Enables someone aged 18 and over, while still capable, to refuse specified medical treatment for a time in the future when they may lack the capacity to consent to or refuse that treatment.

Has to be valid and applicable to the situation.

### Effects

May not be effective for detained patients

# Treatment of hospital patients

## Mental Capacity Act

*Advance Decisions and life sustaining treatment*

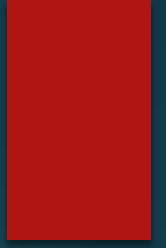
Advance decision must:

- be in writing (it can be written by a someone else or recorded in healthcare notes)
- be signed and witnessed, and
- state clearly that the decision applies even if life is at risk.





# Discussion/ Questions



Thank You