

his reluctance to prepare for and attend 'another "hopeless" Tribunal'.

R. J. KERRY

*Barnsley District General Hospital
Barnsley S75 2PS*

HERSCHEL PRINS
*Lay Member, MHRT, Trent Region
Midlands Centre for Criminology and
Criminal Justice
Loughborough University,
Loughborough LE11 3TU*

Use and abuse of Section 4/Section 2, Mental Health Act 1983

DEAR SIRS

The Mental Health Act Commission and Code of Practice are quite specific that Section 4 should only be used in an emergency, and that Section 2 must be used, as far as possible, to admit patients who need such admission. This, of course, is reasonable and rational. However, the other side of the coin is that Section 2 could be mis-used and in certain circumstances Section 4 is appropriate and desirable rather than Section 2. This is valid in cases of "mental impairment" rather than "mental illness" as both conditions come under "mental disorder" in Mental Health Act 1983. This distinction is important as mental illness, particularly in its acute form, is amenable to chemotherapy and can be rapidly controlled, whereas mental impairment may or may not be amenable to medication, particularly the severe behaviour problems which would require time and different therapies, like behaviour therapy and counselling, to get effective control.

May I quote my experience in one situation where an approved Social Worker was insisting at about midnight that a patient was severely disturbed and that she must be admitted only on Section 2 and, therefore, the second doctor must visit to see the patient to implement this Section. I had to point out that this appears to be an emergency, that Section 4 is valid in this case as the second doctor is only 'on call', and not the regular doctor, and that as soon as the patient is admitted Section 4 will be reviewed and appropriate changes, and if necessary Section 2 implemented. The ASW was not happy with this explanation and found another second doctor to complete and implement the Section 2 requirement. The day after admission when I saw the patient I could find no evidence of mental illness or dangerousness on the part of the patient who was willing to stay in hospital voluntarily, and settled down well in the ward. Moreover, psychotropic medication was not necessary. I discovered the motive for admission was not a genuine emergency, but a social reason. If this patient had been admitted on Section 4, there

would have been no reason to use Section 2. The legal means of admissions should be flexible enough for the doctors and ASWs to use the appropriate sections of the Mental Health Act.

The Mental Health Act Commission may like to comment about these occasional difficult situations which may lead to unnecessary friction between professional colleagues and detrimental patient care.

T. HARI SINGH

*Hersol Hospital
Near Pontychnun CF7 8YS*

References

Code of Practice, Mental Health Act (1983) Department of Health and Welsh Office. HMSO.
Mental Health Act (1983) Chapter 20. HMSO.

Fitness to appeal

DEAR SIRS

During a recent visit of Mental Health Act Commissioners, a Hospital Manager complained about the large number of appeals by patients against their detention under the Mental Health Act, and asked whether it would be possible to "... do something about reducing the number of appeals required to be heard." The Commissioners were sympathetic but unimpressed. All patients liable to be detained, they advised, had the right to appeal against their detention, even if it was obvious that they had no idea what they were doing.

In the past year, when I have asked patients why they had appealed against their detention, many of them were too psychotic to understand what the appeal was about, let alone put together a coherent reason for appealing – even on the day of the hearing! One Hospital Manager told me how, within minutes of several hearings, the Managers have asked for the patient to be returned immediately to the wards on account of their behaviour.

These experiences argue strongly for the introduction of 'fitness to appeal' criteria which would determine whether a patient is fit to appear before the Hospital Managers or a Mental Health Review Tribunal, and understands what the appeal is about, is able to instruct his legal advisers (if applicable), and can apsymptomatically challenge the evidence of the Responsible Medical Officer (RMO) or the Approved Social Worker. This would help to filter out – without prejudice to the patients' civil rights – those too disturbed to appear as well as those too psychotic to understand the transactions or marshal meaningful arguments against their detention.

I would suggest that the assessment of a patient's fitness to appeal should not be carried out by his RMO, since the RMO is an interested party. This could be work for an approved doctor not associated with the hospital (and not involved in the original