Mental Health Review Tribunals

A case for delayed discharge?

D. F. BERMINGHAM, Consultant Psychiatrist, Hinchingbrook Hospital, Huntingdon, Cambridgeshire (formerly Senior Registrar in Psychiatry, St Thomas's Hospital, London SE1)

Prior to the 1983 Mental Health Act (MHA), Mental Health Tribunals (MHRTs) did not have the power to order delayed discharge of a patient appealing against a section, although there was evidence that tribunals used the power of adjournment to allow time for follow-up to be arranged. This power was used more often with patients in special hospitals where the option of remaining on an informal basis did not exist.[1,2] Hepworth[3] and others advocated giving tribunals the power of delayed discharge. This was supported by the White Paper (1978) and subsequently became part of the 1983 MHA, together with some increase in the responsibility of the local authorities to provide after care for Section 3 and 37 patients. But the new Act also allowed the appeal of patients on Section 2, while giving no responsibility to the local authority for their after-care. It was difficult to see how delayed discharge could be implemented as an after-care safeguard for Section 2 patients who would often have only two weeks or so of their Section to run in any case. With this in mind, I studied all cases appearing before the MHRT in a general psychiatric hospital in the two years following the new Act.

The case notes of all patients appearing before the MHRT were studied and the following were noted: age; sex; section of MHA; case note diagnosis; recommendation of the Responsible Medical Officer (RMO); recommendation of the approved social worker (ASW); result of the tribunal, and follow up arrangements. In all there were 24 patients, one patient having had two tribunals.

Table I shows the percentage of Section 2, 3 and 37 patients who appeared at a MHRT compared with the national figures for general psychiatric hospitals in 1984 (DHSS Mental Health Division, August 1985). Although the figures for discharge by MHRT's tend to be higher in the local sample, it should be noted that the local numbers are small and the difference does not in fact reach statistical significance, (Chi Square Test $P>0.050$). The infrequent use of delayed discharge should also be noted (1.4% of decisions nationally, 0% locally).

Table II shows a breakdown of the local figures comparing the discharged group (D/C) with the non-discharged group (non D/C).

It may be seen that patients who are discharged are more likely to be female, on Section 2, suffering from affective disorder and to be lost to follow-up—although none of these characteristics reach statistical significance, which is not surprising given the small numbers of the sample (Fisher's exact test). It is hoped to expand this study to take in results from other centres and test whether these characteristics remain and whether they reach statistical significance.

Table III looks more closely at the discharged group and includes the individual case note diagnosis, the recommendation of the RMO and ASW and detail of the follow-up.

Discussion

Early impressions of the 1983 MHA indicated few problems.[4] While others commented that there had been little recorded professional medical reaction to tribunal hearings, it was acknowledged that there had been great fears expressed by the medical profession prior to the introduction of the Act concerning the new Section 2 rights.[5] Others predicted that patients whose symptoms allowed them to appeal might be denied the right of brief compulsory admission or might be placed on a relatively long term order as doctors would be reluctant to invoke Section 2 and risk a hasty and inadequate presentation at a tribunal.[6] In this context the higher incidence of successful appeals among

TABLE I

Comparison of percentage of Section 2, 3 and 37 patients who appeared at a MHRT with the national figures for general psychiatric hospitals in 1984

	Local 1.10.1983–30.9.85			*National 1984*			
Sections	MHRTs	D/C	Delayed D/C	Sections	MHRTs	D/C	Delayed D/C
Section 2 273	16(5.9%)	5(31.3%)		6,804	708(10.4%)	135(19.1%)	
Section 3 17				1748			
Section 37 23	9(22.5%)	1(11.1%)	0	964	513(18.9%)	34(6.6%)	17(1.4%)

https://doi.org/10.1192/S0140078900024512 Published online by Cambridge University Press

those with affective disorder in this study should be noted.

From the figures, it would appear to be very rare for the RMO and ASW to disagree strongly with the opinion of the MHRT as to the need for detention to be continued (one case in 25 over two years). It would also appear that patients discharged by the MHRT have a greater chance of being lost to follow-up than those discharged by the RMO alone. In four cases (Table III), although the RMO did not oppose discharge, in each case there was a recommendation that this would take place at a later date. This recommendation could be complied with by the MHRT ordering delayed discharge—a right which up to now it has exercised sparingly (less than 2% of cases nationally and none of the cases in this study). The disadvantage of such a delay for Section 2 patients would be that because of the brief period of the Section any delay of discharge would be proportionately greater than it would on a longer Section. This may be a small price to pay overall for insuring that the multidisciplinary team had time to make firmer arrangements for follow up for patients who have no statutory right to follow up in the community.

References

[1]Greenland, C. (1970) *Mental Illness and Civil Liberty*. London: G. Bell & Sons.

[2]Hepworth, D. (1983) The decision process of the Mental Health Review Tribunal—(1) Review of literature and research. *Medical Science Law*, **23**, 131–140. (2) Analysis of research findings. *Medical Science Law*, **23**, 171–182.

[3]—— (1975) Tribunal discharge from Rampton. *Social Work Today*, **6**, 1.

[4]Fenton, T. W. (1984) The aftermath of the Mental Health Act 1983: Some preliminary impressions. *Bulletin of the Royal College of Psychiatrists*, **8**, 190–193.

[5]Bingley, W. (1985) The Mental Health Act 1983—the safeguards for patients. *Journal of the Medical Defence Union*, Summer 1985, 15–16.

[6]Farmer, A. (1984) Tribunal Nouveau 1983: A first taste of the Mental Health Act. *Bulletin of the Royal College of Psychiatrists*, **8**, 23–24.

Table II

Breakdown of the local figures comparing the discharged group (D/C) with the non-discharged group (non D/C)

		Non D/C (N = 19)	*D/C* (N = 6)
Age (years)	Range	20–74	28–61
	Average	42	47
Sex	Male	11	2
	Female	8	4
Section	2	11	5
	3	6	1
	37	2	0
Diagnosis	Schizophrenia	11	2
	Affective disorder	4	3
	Personality disorder	1	1
	Mental impairment	1	0
	Dementia	2	0
Follow up	Inpatient	10	2
	Out-patient	2	1
	Day Hospital	3	0
	Lost	3	3
	RIP	1	0

Table III

Discharge Group (N = 6)

	Age	*Sex*	*Section*	*Diagnosis*	*Recommendation*	*Follow-up*
A.	59	F	3	Schizophrenia	On leave at time of MHRT. RMO and ASW thought D/C appropriate but asked to review first. (i.p. delay)	Readmitted informally
B	60	F	2	Hypomania	RMO and ASW agreed with D/C. Asked for delay	Attending OPD
C	36	M	2	Bipolar affective	RMO and ASW agreed with D/C. Asked for delay	Lost to follow up
D	61	F	2	Hypomania	RMO and ASW agreed with D/C. Asked for delay	Lost to follow up
E	28	M	2	Schizophrenia	RMO and ASW recommended continuing Section	Readmitted on Section 3
F	36	F	2	Personality disorder	No recommendation	Lost to follow-up

https://doi.org/10.1192/S0140078900024512 Published online by Cambridge University Press