



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01849

Name of petitioner

Barry Gale, Ruth Hughes and Tracey Gibbon on behalf of Mental Health Rights Scotland

Petition title

Independent review of non-forensic detentions within high and medium secure psychiatric hospitals

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to launch an independent review of the detention of all non-forensic patients within high and medium secure psychiatric hospitals, with a focus on:

1. the necessity and appropriateness of the care and treatment provided;
2. exploring all reasonable options for early rehabilitation, with the full participation of the patient and family carers;
3. the practice of admitting patients unnecessarily to high and medium secure hospitals and then requiring them to appeal in order to get out; and
4. the conditions under which courts may impose restriction orders.

Action taken to resolve issues of concern before submitting the petition

We have contacted Alexander Burnett MSP and Kenneth Gibson MSP. The latter requested a meeting with the Minister for Mental Health. We have also contacted the Mental Welfare Commission.

Petition background information

Non-forensic psychiatric patients requiring assessment in a secure unit can be admitted to The State Hospital (TSH) or a medium secure hospital if a suitable bed in a lower security unit is not available. These are patients who have not harmed anyone (except themselves) and are not likely to do so; they have not been charged with any criminal offence before admission.

If secure hospitalisation is detrimental or does not promote recovery and the hospital disputes the fact, the patient must win an appeal to the Mental Health Tribunal in order to be released to a lower level of security, even though it was not necessary for them to

be at the higher level of security in the first place. There are several obstacles in the way of winning an appeal. Those who succeed often have to wait months or years before they are transferred. Long detentions in secure hospitals can make patients institutionalised; rehabilitation is then considerably more difficult.

Patients diagnosed with autism, intellectual disability or ADHD are at particular risk of becoming 'entrapped' in this way and deteriorating. Several psychiatrists have expressed the opinion that The State Hospital is not suitable for people with such diagnoses. Restrictive conditions and loss of habitual routines can be very challenging for them. We believe that staff are sometimes attributing aggressive behaviour to the patient rather than the environment, or to undiagnosed conditions such as schizophrenia or bipolar disorder which can mean some patients are medicated. The side effects of this medication include lethargy, delirium, tics, weight gain, hair loss, etc.

If such patients are restrained and hit out in self-defence they are sometimes charged with assault, and a Restriction Order may be imposed on them. This allows them to be detained indefinitely, without mandatory periodical reviews by the Mental Health Tribunal, and the consent of the Scottish Ministers is required before they can be released to a lower level of security. It is another obstacle in the way of them getting out of a deleterious situation.

Restriction Orders were intended for patients who pose a significant risk of harm to the public, such as life-threatening violence. We believe these Orders are being imposed inappropriately in some cases, and without giving the patient or named person a fair opportunity to challenge them.

A successful appeal to the Mental Health Tribunal requires a favourable report from a forensic psychiatrist with an appropriate specialism. There are few such psychiatrists in Scotland; not all are willing to act or to visit high security hospitals. They are inclined not to challenge the views of the hospital's psychiatrist. When they do, the Tribunal is nevertheless inclined to give the benefit of doubt to the hospital. Family carers who dispute the hospital's assessment believe that their own expertise is side-lined, both by the hospital and the Tribunal, and that only medical opinions are given any weight.

The lockdown has significantly increased the difficulties of gaining access for assessment and making effective use of a statutory process of appeal which is heavily biased towards the detaining hospital.

The Mental Welfare Commission is aware of these injustices but has done nothing more than express its concerns. In its response to the Call for Evidence by the Review of Forensic Mental Health Services, dated January 2020, it reported that some patients who had won appeals against excessive security have been waiting for many months - in some cases years - to be transferred to conditions of lower security. Several have been forced to apply for Judicial Review in order to make progress. This is an enormous emotional burden on families and very time consuming. It is also a huge financial burden on the families or the State and should not be necessary.

The Commission concluded:

"We suspect that, even without the specific right of appeal [against excessive security], it would only be a matter of time before someone entrapped in a service which is wholly inappropriate for their needs successfully raises an appeal based on a breach of the European Convention on Human Rights."

It appears to us that the only route being considered out from high/medium security is to transfer down through security levels. Other options such as direct rehabilitation in supported housing or with the family are not looked at, possibly due to excessive risk-aversion. Whether a proposed move is appropriate seems to be a narrow medical decision without any meaningful participation by the patient or family carers.

The average cost per patient at The State Hospital is at least £150,000 per annum. A highly specialised package of 24/7 supervision, care and accommodation in the community could easily be obtained for less. If patients were supported to live at home with a family carer, the cost to the State would be a tiny fraction of that amount.

Our petition calls on the Scottish Government to bring about an open dialogue between the detaining hospital, the patient, the family, the local authority, and a suitable mediator, to discuss the necessity of detention and treatment for each non-forensic patient in high or medium secure hospitals, who does not pose a significant risk to the public, and to explore all reasonable options for rehabilitation as soon as possible.

The Reviews of the Mental Health Act and of Forensic Mental Health Services might eventually lead to reforms which would resolve these problems. However, law reform is likely to be some years in the future, whereas the patients who are trapped and deteriorating in secure hospitals need a solution today.

Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/securehospitalreview>

Related information for petition

Get Me Out of The State Hospital! (facebook group)

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

NO

How many signatures have you collected so far?

0

Closing date for collecting signatures online

N/A

Comments to stimulate online discussion