
Correspondence

In-patient v. out-patient status

Sir: In his article, 'New community mental health law: the conditional discharge model' (*Psychiatric Bulletin*, April 1999, **23**, 195–198) Dr Phillip Sugarman states that the Hallstrom case (1986) established that the renewal of detention of patients on (Section 17) leave was illegal. Readers should be aware of Mr Justice Richards ruling in the case *R v. The Managers of Warley Hospital* (Brentwood, Havering and Barking Community Healthcare Trust) and Dr Jason Taylor (May 1998).

In this case, the patient, who was admitted with a drug-induced psychosis and following setting fire to her home, was granted extended periods of Section 17 leave while being reviewed weekly on the ward round and being detained under Section 3 of the Mental Health Act on the grounds of mental illness and psychopathic disorder. The patient was in receipt of oral antipsychotic medication and agreed to take this. Restraint from alcohol and recreational drug usage were stipulated by the Section 17 leave form. At the time of renewal of the Section 3 order the patient was having four nights a week leave and staying with reliable friends in the community, having no independent accommodation. The Section 17 leave was gradually extended to seven days over a six-week period. Efforts were made to find an appropriate staffed hostel. Almost four months after the renewal of her Section 3 order the patient again took amphetamines and was readmitted, floridly psychotic.

There was an unsuccessful legal challenge to the renewal of the Section 3 order. In his judgement, Mr Justice Richards took the view that the Hallstrom and Gardner cases (1986) represented an extreme end of a spectrum and that in these circumstances the patients were clearly best regarded as out-patients rather than in-patients. He stated: "whether a patient who has temporary leave of absence is an in-patient or out-patient will often be one of fact and degree." The patient concerned was being prepared as part of a programmed approach to gradually reintroduce her into the community while attempting to reduce the risk factors. Mr Justice Richards also expressed the view that the matter must be looked at broadly and that the presence of the patient overnight on the ward prior to the ward round, the urinalysis and the availability of in-patient therapies could not be whittled away piecemeal in such a manner as to

produce a result in which there is, in truth, no in-patient treatment at all.

The ruling is interesting in that it attempts to help delineate the nature of what constitutes in-patient (whereby a patient continues to be detained and is not merely liable to be detained) versus out-patient status and takes a global view of a treatment approach targeted at gradual community reintegration while accepting that in such circumstances renewal of Section 3 orders while a patient was on moderately substantial Section 17 leave with weekly ward round review was lawful.

References

- R v. Hallstrom and another ex parte W* (1986) QB, 1090.
- R v. Gardner and another ex parte L* (1986), ALL ER, 306.
- R. v. The Managers of Warley Hospital ex parte Barker* (1998) COD, 309.

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Institutional racism in psychiatry

Sir: Hickling & Hutchinson (*Psychiatric Bulletin*, March 1999, **23**, 132–134) have provoked a debate in the commentaries on their paper about the influence of racism on mental health. Irrespective of causal links between the two, there remains the issue of how racism in psychiatry and the wider health service can be combated. The definition used in the report of the Stephen Lawrence Inquiry (MacPherson, 1999) may help in clarifying the nature of institutional racism: "the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin." Using this definition, institutional racism has been shown to exist both in the delivery of mental health services and within the medical profession (Parkman *et al.*, 1997; Esmail *et al.*, 1998). Surely the Royal College of Psychiatrists must have a role to play: can the College demonstrate that it is taking the issue of institutional racism seriously and if not, why not? A simple first step would be for the College to determine if there is any racial bias in the awarding of fellowships.