

Press release

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Detained patients give their views on the mental health tribunal process

A ground-breaking report is published today on the experiences of patients who appealed to a tribunal against their detention under the Mental Health Act.

First-hand information has been obtained from patients of their personal experiences of appearing before the First-tier Tribunal (Mental Health), formerly the Mental Health Review Tribunal.

This type of information has never been gathered before to this extent because of the practical difficulties in gaining access to mental health patients.

The report was commissioned by the Administrative Justice and Tribunals Council (AJTC) and the Care Quality Commission (CQC).

The CQC's Mental Health Act Commissioners carried out more than 150 interviews with patients who volunteered to participate in the study.

In 2009-10 the First-tier Tribunal (Mental Health), which serves England, dealt with just over 25,000 appeals, almost 5,000 more than the previous year. The introduction of community treatment orders in November 2008 accounted for a significant part of this increase.

Key points in the report:

- Patients' experiences of tribunals were diverse, ranging from positive to strongly negative.
- Those whose appeals were allowed were, not surprisingly, much more positive about the system than those who received a negative outcome.
- Patients are not always well placed to ensure their lawyers are providing a good standard of advice and representation.
- Delays are a substantial factor in many patients' negative experiences of the tribunal process.
- A large part of the distress caused by delays was due to a lack of information about how long the process would take.
- The way pre-hearing medical examinations are carried out is very variable.
- Patients had positive experiences of some parts of the tribunal hearing, but there were concerns about the provision of information and access to medical reports.
- A significant minority said they were not given enough time to be heard by the tribunal.
- Nearly all said they received a very rapid decision. However, follow-up information was lacking and patients felt poorly informed of any further right to appeal.

The report makes recommendations for improvement aimed at those bodies and individuals involved in the tribunal process, including hospital managers and staff, the Tribunals Service, the tribunal judiciary, mental health clinicians and other health care professionals, the CQC, the Legal Services Commission and the Law Society.

In their joint foreword to the report, the respective Chairs of the AJTC and CQC, Richard Thomas and Jo Williams, express the hope that the recommendations will be considered carefully and acted upon and that its methodology will form a blueprint for future similar studies.

Richard Thomas said: “This is the first time the voice of patients themselves has been heard. Whilst we recognise and welcome the considerable efforts made by the Tribunals Service and the judiciary, particularly in the last 18 months, to introduce a number of measures to secure improvements in the tribunal process, we trust that the findings of this study will enable further improvements to be made.”

Jo Williams said: “People who exercise their right to apply to the tribunal place a great deal of hope in the process as a means of being able to participate in their care and potentially to have their liberty restored. It is important for their well-being that they come out of the tribunal hearing – whether successful or not – feeling that they have been treated fairly and given every opportunity to make their case.”

end

Notes to Editors

The First-tier Tribunal (Mental Health) is the primary mechanism in England for appeal against the use of the Mental Health Act 1983's powers of detention, guardianship or supervised community treatment (using community treatment orders). It is an independent judicial body administered by the Tribunals Service (an agency of the Ministry of Justice) and provides one of the key safeguards under the Act.

Each year, there are more than 45,000 detentions of men and women in hospital for assessment and treatment for mental disorder under the Mental Health Act 1983. At any point in time, around 16,000 people are being detained by NHS and independent hospitals and a further 4,000 people are on community treatment orders or subject to guardianship powers.

The Administrative Justice and Tribunals Council

Formerly the Council on Tribunals, the AJTC is an independent advisory body, which was established by the Tribunals, Courts and Enforcement Act 2007 (TCE). The AJTC's statutory functions include keeping under review the overall administrative justice system and the tribunals designated as being under its oversight.

The TCE Act defines ‘*the administrative justice system*’ as: ‘*the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including the procedures for making such decisions, the law under which such decisions are made, and the systems for resolving disputes and airing grievances in relation to such decisions*’.

Richard Thomas CBE, formerly the Information Commissioner, was appointed as Chairman of the AJTC in September 2009.

On 14 October 2010 the Government announced its intention to abolish the AJTC as part of its Review of Arm's Length Bodies.

For further information about this report or the work of the AJTC, please contact Paul Smith on 020 7855 5206.

The Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of all health and adult social care in England. Our aim is to make sure that better care is provided for everyone, whether it is in hospital, in care homes, in people's own homes, or anywhere else that care is provided. We also seek to protect the interests of people whose rights are restricted under the Mental Health Act. We promote the rights and interests of people who use services and we have a wide range of enforcement powers to take action on their behalf if services are unacceptably poor.

Under a new regulatory system introduced by government, the NHS, independent healthcare and adult social care must meet a single set of essential standards of quality and safety for the first time. We register health and adult social care services if they meet essential standards, we monitor them to make sure that they continue to do so and we respond quickly if there are concerns that standards are not being maintained. We do this by closely monitoring a wide range of information about the quality and safety of services, including the views of people who use services, and through assessment and inspection. The feedback from people who use services is a vital part of our dynamic system of regulation which places the views, experiences, health and well-being of people who use services at its centre.

For further information please contact the CQC press office on 0207 448 9401 or out of hours on 07917 232 143.