Mental Health (Scotland) Bill

Dr Andrew Watson (Individual)

- Do you agree with the general policy direction set by the Bill?

Yes.

Although in my view the overall direction of mental health law in Scotland should be to merge the adults with incapacity act with the mental health act. Starting with an assessment of capacity, and then proposing individual care plans overseen by the tribunal and MWC, would be a much easier system to understand and end the stigma that a subset of disorders are targeted by one law: the MHA.

- Do you have any comments on specific proposals regarding amendments to the Mental Health (Care and Treatment) Scotland Act 2003 as set out in Part 1 of the Bill?

I have concerns that in practice extending the 5 day extension period to 10 working days will mean that many patients will be in effect under a 6 week order. I have a number of patients who rightly allege that the current law means that a stdc is not just a 28 day order, and this will worse in under these amendments. On the other hand, if the extra time means that intern orders, in my experience usually granted because the solicitor representing the patient says that they have not had enough time to either get instructions or an report, are reduced then the increase in the extension period might be justified. If new guidance accompanying the amendment made clear that 10 workings days is enough for a lawyer to take instruction and obtain a report, if needed, in almost all cases I would support this in order to reduce the number of intern orders made.

Currently if a patient on a community CTO is admitted to hospital under a STDC, there is no extension period allowed at the end of the STDC for a tribunal to hear an application to vary the community order: it has to happen within the 28 days. It is not uncommon that the decision to vary the order is made after a couple of weeks of the STDC and this can cause real problems arraigning a hearing in time. I think the committee should consider whether to extend the provisions of section 68(2)(a) to applications to vary a community CTO to a hospital based one.

I support the other amendments offered, especially the ability to choose not to have a named person and the extension of nurses holding power to 3 hours and efforts to increase the uptake and availability of advance statements.
- Do you have any comments on the provisions in Part 2 of the Bill on criminal cases?

No

- Do you have any comments to make on Part 3 of the Bill and the introduction of a victim notification scheme for mentally disordered offenders?

I support this.

- Is there anything from the McManus Report that’s not been addressed in the Bill and that you consider merits inclusion in primary legislation? If so, please set out why.

No

- Do you have any other comment to make about the Bill not already covered in your answers to the questions above?

As stated above I would keen to see a full review of both the mental health act and the adults with incapacity act to investigate whether having two laws that cover the care of people who lack decision making capacity due a mental disorder is necessary (see http://bjp.rcpsych.org/content/188/6/504.long for more details regarding this idea).

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