

Mental Health Law Briefing

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The Liability of Hospitals for Patient Assaults on Staff

Care Staff working in the field of psychiatry often suffer assault from patients, either because of the mental disorder or for other reasons unrelated to healthcare. To what extent is the hospital employer responsible for compensating staff injured as a result of such assaults?

The issue has recently been considered by the Courts¹

The Facts

Six members of nursing staff employed at Rampton Special Hospital brought proceedings against the Trust for breach of the duty owed by the Trust to its staff to take reasonable care for their safety. In this particular case, the patient was detained at Rampton on a hospital Order without restriction under the Mental Health Act. She was virtually unmanageable, regularly assaulting patients and staff, and self harming. She suffered from a severe degree of personality disorder.

Legal Issues

The staff contended that because of the patient's history, she should have been confined to her room at night and that the Trust had failed to provide adequate staff members. They relied upon the recommendations

contained within the Tilt Report² which had made various recommendations, one of which was to consider locking high risk patients in their room at night and another was to carry out comprehensive risk assessments on such patients. The recommendations were subsequently subject to a formal Direction issued by the Health Secretary in November 2000³.

Unfortunately, the Trust did not have an appropriate policy in place at the time of the incidents. If there had been such a policy, this particular patient would almost certainly have been so confined and if she had, the court held that the assaults would not have occurred. Nor had there been a rigorous risk assessment as contemplated by the 2000 Directions. The Court therefore held that the Trust was in breach of its duty to its staff and was thus liable to compensate them for the injuries suffered.

Comment

Employers have a duty to take reasonable care for the safety of their employees. It is often impossible to prevent all assaults in psychiatry. However, this case makes it plain that it is nevertheless essential to have an

¹ Buck and Others –v- Nottinghamshire Healthcare NHS Trust [2006] EWCA CIV 1576

² Report on the review of security at the high security hospitals, Sir Richard Tilt, 2000

³ Safety and security in Ashworth, Broadmoor and Rampton Special Hospitals Directions 2000

appropriate policy and procedure for risk assessment in place if employers are to seek to avoid liability for the actions of patients where staff are injured.

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