

Mental Health Law Briefing

Number 134

What amounts to an assessment for detention?

The Courts have recently had to consider the validity of an assessment of a patient for the purposes of detention under Section 3 when the patient refused to co-operate.

Facts

A patient had a previous history of mental disorder. She was initially detained under Section 2 Mental Health Act at one hospital but she was taken to the A&E Department at a different hospital because of abdominal pain and diagnosed with pancreatitis. Whilst at that hospital she was assessed by two further doctors for detention under Section 3 of the Act. The patient maintained that she was not well enough to be assessed and objected to this. Nevertheless the two doctors formed the view that she was suffering from mental illness and diagnosed bi-polar affective disorder. They concluded that detention under the Act was necessary.

On the same day the patient was also interviewed by an ASW. She was hostile and suspicious and reluctant to talk to him. He also found that detention under Section 3 was necessary and that the patient was intimidating and threatening.

The patient applied to the court for discharge from detention on the basis that she had not co-operated with the medical examination or the interview by the social worker. She disputed that any proper examination or assessment had taken place.

The Court's Decision

The application was dismissed by the Judge at first instance. The patient appealed to the Court of Appeal, alleging that the Judge was wrong to dismiss the application and should have heard oral evidence as to the factual dispute regarding the extent of the examinations and assessment.

The appeal was rejected by the Court. The Court of Appeal held that it would be rare for oral evidence to be needed in such cases, and that this would only be necessary where it was needed for a fair determination of the issues.

The Court held that there was no defined time that had to be taken either for a medical examination or an assessment interview in order for this to qualify as such under the Mental Health Act. It was up to the individual professional judgment of the doctors and ASW as to how long an assessment or interview needed to last. Whether to delay the assessment or interview because of a request from the patient was also a matter of professional judgment.

In the particular case, the Court held that there was no reason to doubt that there had been a proper interview and examinations, and no reason to think that the

decision to proceed was unreasonable. That process was compliant with the requirements of the Mental Health Act.

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