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Supervised Community Treatment

Revolving door patients have long been a source of concern for those providing mental health services. The Government's most recent attempt to address the problem is set out in the amended Mental Health Act 1983 (the Act), and is the introduction of Community Treatment Orders (CTO) [1].

From the 3rd November 2008, when a Responsible Clinician (RC)[2] considers granting Section 17 leave for more than 7 days[3] they will have an obligation to consider whether the patient would be better treated by receiving Supervised Community Treatment (SCT) pursuant to a CTO under Sections 17A-G of the Act.

SCT is only an option for patients receiving treatment under detention and does not include patients detained for assessment under Section 2 or restricted patients under Sections 37/41. Before it can be granted the patient's RC and Approved Mental Health Professional (AMHP) must agree that the patient meets the following criteria:

(i) The patient is suffering from a mental disorder of a nature or degree which makes it appropriate for them to receive medical treatment;

(ii) It is necessary for the patient's health or safety or for the protection of others that the patient should receive such treatment;

(ii) Subject to the patient being liable to be recalled, as mentioned below, such treatment can be provided without the patient continuing to be detained in a hospital;

(iv) It is necessary that the RC should be able to exercise the power under Section 17E(1) of the Act to recall the patient to hospital; and

(v) Appropriate medical treatment is available for the patient.[4]

As set out above, the AMHP must agree that the criteria is met,[5] the RC cannot obtain an alternative opinion should the AMHP not agree with his recommendation, and where an AMHP disagrees the Community

[1] Sections 17A-G Mental Health Act 1983 as amended by the Mental Health Act 2007. It should be noted that the legal provision ordering the treatment is referred to as a Community Treatment Order. The treatment the patient receives in the community under such an order is called Supervised Community Treatment.
[2] The approved clinician who has overall responsibility for the patient's care. The effect is that this is the new name given by the amended Act to former RMOs.
[3] Mental Health Act 1983 as amended by the Mental Health Act 2007, Section 17 (2A).
[4] Code of Practice Mental Health Act 1983, 25.5
[5] Ibid Para. 25.24.

info@rlb-law.com
www.rlb-law.com

5 Great College Street
Westminster
London SW1P 3SJ
Tel +44 (0)20 7222 7040
Fax +44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU
Tel +44 (0)113 234 1220
Fax +44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA
Tel +44 (0)29 2034 3035
Fax +44 (0)29 2034 3045
DX 33063 Cardiff 1

Treatment Order (CTO) cannot then go ahead.[6] If no AMHP is prepared to act, the Code of Practice to the Act confirms that it will be the responsibility of the Local Social Services Authority who would become responsible for the patient's s117 aftercare if the patient were discharged.[7]

Conditions will be attached to the CTO such as a condition requiring the patient to live at a specified address and conditions concerning when and where the patient is to receive medication in the community. Again the conditions must be agreed by the RC and the AMHP and any conditions imposed should be for:

- Ensuring that the patient receives medical treatment for mental disorder;
- Preventing a risk of harm to the patient's health or safety;
- Protecting other people.

Perhaps surprisingly the provisions of Section 17A-G do not provide for treatment to be given to SCT patients by compulsion. Treatment can be given in specific emergency situations but in general terms there is no power to compel a patient to have medication in the community against his or her wishes. We assume that one of the reasons for this omission is because of the very real safety risk that would otherwise be imposed on community staff in forcibly giving medication in a non-ward environment.

Responsible Clinicians do however have the power to recall SCT patients back to hospital. However, before a recall can take place the RC must be satisfied that:

- The patient needs to receive treatment for mental disorder in hospital either as an inpatient or an outpatient; and
- There would be a risk of harm to the health or safety of the patient or to other people if the patient were not recalled.

Notice of the recall needs to be either handed to the patient in person or sent to their address or last known address. If the patient refuses to return, they can be treated as being absent without leave (AWOL) and can thereafter be taken and conveyed back to hospital. Once the patient is back at hospital, there is a period of 72 hours in which they must be assessed and, if need be, treated. The legal provisions concerning treatment during the 72 hour period are one of the more complicated parts of SCT. In general terms if a treatment was approved in the community with the requisite certificate then it can be given in the 72 hour period with or without consent.[8] If the patient recovers within the 72 hour period, they can be sent back out on their CTO. If it is felt that they need further inpatient treatment, then the CTO will be revoked by the RC (in agreement with the AMHP). If revoked, the patient is then placed back under their original Section which has, in effect, been suspended whilst they are receiving SCT. The patient therefore goes straight back onto their original Section, the difference being that the period for detention is amended so that it lasts for an initial period of 6 months, as it would under a fresh Section 3.

The similarities between Supervised Community Treatment and Supervised Discharge (under the now repealed Sections 25A-G) are obvious and it will be interesting to see how often the new provisions are utilised. Perhaps one of the biggest hurdles will be actually setting up an appropriate package of care in the community. Notwithstanding this, no doubt detained patients will be eager to get their RCs and AMHPs to agree to a period of SCT. Indeed, where professionals refuse to grant a CTO there may be instances where patients challenge this via the courts. In such cases legal advice should obviously be sought, however the presence of good records concerning the decision taken and the reasoning behind any such refusal will be of assistance.

Oliver Donald

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[6] Ibid Para. 25.27
[7] Ibid Para. 25.26

[8] Ibid Para. 25.63 and for further detail on the provision of treatment to recalled SCT patients see paras. 17.33 - 17.44 of the *Reference Guide to the Mental Health Act 1983*