



Scrutiny of Court Orders by Hospital Managers

Previous case law has confirmed that orders made by a Court of Record (such as the Crown Court) must be complied with unless and until they are set aside. But does that apply to hospital orders under the Mental Health Act made by a Magistrates Court?

The issue arose in a recent case. [1]

Facts

The Claimant was convicted of various offences and brought before Brent Magistrates Court for disposal. The Court made an interim hospital order under Section 38 of the Mental Health Act. A further interim order was subsequently made followed by a hospital order under Section 37.

The validity of the three orders was challenged by way of application for judicial review. Although the court felt there was some force in the challenge to the first interim order (which had not been based upon a report from a registered medical practitioner employed at the relevant hospital), permission for judicial review was refused on the basis that the application should have been by appeal or case stated.

However, in addition to the challenge to the validity of the orders made by the Magistrates Court, it was asserted on behalf of the Claimant that the hospital managers had a duty to scrutinise the hospital orders made by the Court and to consider their validity. It was suggested that the defects complained of should have been identified and the hospital managers should have refused to admit the patient pursuant to those orders.

Court Decision

This argument was rejected by the Court. The Court approved the decision in the Ex-Parte Ax London Case. [2] The Court confirmed that a hospital is entitled to take admission documents on face value. It said that it would be "unreal" to expect hospital managers to take detailed legal advice on all documents submitted. The hospital must carefully ascertain that the documents submitted to them are in order but that does not involve an investigation into the validity of the order unless there are specific circumstances that should put the hospital managers on notice.

The application for judicial review was therefore refused.

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Further Information

For further information on this or any other mental health issue, please contact Andrew Parsons in our Health department.

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Footnotes

1. R(LS) v Brent Magistrates Court and the Hospital Managers of Chadwick Lodge RadcliffesLeBrasseur acted for the Hospital

2. R v Central London County Court Ex-Parte Ax London [1999 3 ALL ER 991.



Disclaimer

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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