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Guardianship under the Mental Health Act 1983

AIMS AND METHOD
To describe the extent and variation in the use of Guardianship nationally. The Directors of Social Services were asked to provide details about Guardianship cases on two separate occasions one year apart.

RESULTS
There were 428 new Guardianship cases in 12 months. At the second enumeration, 73% of cases were within the mental illness category and 47% of these had serious mental illness.

CLINICAL IMPLICATIONS
There is much variation in the use of Guardianship. Further developments of this study will explore the reasons for this variation and will ascertain clinicians' views on Guardianship, supervised discharge and other community treatment orders.

In recent years, the progressive reduction in psychiatric hospital beds has meant that patients who would formerly have been detained in hospital now live in the community with varying degrees of support and supervision. A series of high profile public inquiries (Ritchie, 1994; Blom-Cooper, 1995) have fuelled concerns about risks posed, and led to renewed demands for a statutory order to enforce treatment adherence in the community. However, two community orders (Guardianship and Supervised Discharge) already exist under the Mental Health Act, although neither allow for compulsory medication.

Guardianship was embodied in the Mental Health Act 1959, following the recommendation of the Percy Commission (Campbell, 1957). The powers were defined in a wide and inexact way and subsequently under the Mental Health Act 1983, Guardianship was amended. It applied to those over 16 years of age, subject to the consent of the nearest relative, suffering from one of the four forms of mental disorder (mental illness, severe mental impairment, psychopathic disorder, mental impairment). The powers of Guardianship were defined as: (a) "The power to require the patient to reside at a place specified by the . . . guardian"; (b) "The power to require the patient to attend at places and times to be specified for the purpose of medical treatment, occupation, education or training"; (c) "The power to require access to the patient to be given, at any place where the patient is residing, to any registered medical practitioner, approved social worker or other person".

It was hoped that Guardianship would provide "long-term guidance, supervision, influence and support to assist vulnerable and handicapped individuals to continue to live their lives in the community" (Bluglass, 1984).

Much has been written about the problems posed by Guardianship (Bedi, 1985; Barry, 1987), including the lack of 'real' power (Gunn, 1986), practical problems with implementation and processing (Wattis, 1990) and inadequate guidelines for use (Grant *et al*, 1992).

Success in the use of Guardianship has been described with the elderly (Wattis, 1990), the mentally impaired (Craig, 1988) and a younger group of patients with functional psychosis (Wattis, 1990). However, there has not been a systematic examination of the use of Guardianship nationally.

The aims of the current study were to examine a national sample and to study variation in use of Guardianship by local authorities.

The study

The Directors of social services in all 132 local authorities in England were contacted and asked to provide the following information:

(a) the total number of patients subject to Guardianship in the year from 1 April 1997;

(b) characteristics of Guardianship patients including age, Mental Health Act category and the number with severe mental illness (i.e. schizophrenia, other psychoses, major affective disorder).

Findings

One hundred and thirty authorities participated in the study (98.5%). On 1 April 1997 there were 552 Guardianship cases in those authorities. The mean number of cases per authority was 4.35 (range 0–25); 30 authorities had no cases. On 31 March 1998 there were 690 Guardianship cases with a mean for all authorities of 5.31 (range 0–27); 27 authorities had no cases. Between the

The study is being undertaken by the Institute of Psychiatry, University of Manchester School of Psychiatry and Behavioural Sciences and St George's Hospital Medical School, who received funding from the Department of Health.

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Table 1. Mental Health Act category of Guardianship cases in England & Wales on 31 March 1998

Mental disorder (Mental Health Act category)	*n (%)*
Mental illness	474 (67)
Mental impairment	119 (17)
Severe mental impairment	35 (5)
Psychopathic disorder	17 (3)
Not recorded	45 (7)
Total	690

two enumeration dates, there were 428 new Guardianship cases, 309 discharged cases and 103 cases taken on and discharged from Guardianship.

Two hundred and ninety-seven patients (43%) were aged under 50 and 157 (26%) were aged over 75 on 31 March 1998. The category of mental disorder is shown in Table 1.

The source of the order was by application in 650 (94%); the remainder were made by courts. There was a requirement to reside in 443 (64%) cases, to attend in 182 (26%), and for access in 177 (26%).

Two hundred and thirty (50%) of those in the 'mental illness' legal category were identified as having serious mental illness (either psychosis or major affective disorder). Only 59 cases (12%) were patients aged over 65 years with organic psychiatric disorders, including dementia and 154 had mental impairment/severe mental impairment.

Comment

The national study has identified that Guardianship is generally not widely used. There is, however, marked variation in use with some authorities being more proactive. The category of mental disorder was mental illness in two-thirds of cases, but few of these were elderly patients with organic psychiatric disorder. Indeed in a third of cases the order was used for patients with severe mental illness and a level of 'short-term' use was also identified.

The reasons for variation in the use of the order and further exploration of the outcome and satisfaction with the use of Guardianship is being explored in the second phase of this current study. Additionally, we are canvassing clinicians' views as to whether the powers available under the current Mental Health Act are sufficient to manage all groups of people in the community or whether a community treatment order is also required.

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In the light of Bournewood

Changes in the management of elderly incapacitated patients

AIMS AND METHOD

A postal audit of practice in the South-East Thames Region of England before and after the Bournewood judgements.

RESULTS

There was a trebling in the rate of admission under section of elderly incapacitated patients occurred prior to the House of Lords' ruling. By the time of the ruling many consultants had not changed their practice. There is now, however, no impact of the ruling upon clinical practice. The majority of consultants remain concerned about the lack of safeguards for mentally incapacitated elders at the present time.

CLINICAL IMPLICATIONS

Although the Bournewood judgement was expected by some to have a permanent impact upon the management of the mentally incapacitated this has not happened. There is a need for effective and resource efficient safeguards for the mentally incapacitated to be developed.