

## Submission to the Petitions Committee re Petition PEO 1494

A family member has been in the Mental Health sector for many years, unfortunately, and I have experience, as this person's "named person" and next of kin, of both the Tribunal System and the previous Court System.

It is fair to say that under the previous Court system, we did not have extensive evidence to present, but we were confident that the system then in place would allow both sides of the argument to be heard openly and without prejudice. Moreover, if statements made were found to be false, there was a legal penalty.

Our experience of the Tribunal system was a real shock. First of all the Mental Health Officer (MHO) and the Responsible Medical Officer (RMO) were in a room with the panel, without my family member's legal team. We were then told that as I had not been acting in this person's best interest, I would not be allowed to appoint his solicitor. We were not allowed to ask for the evidence for this, or to refute this. This action allowed the solicitor who had been present at all the meetings with the Medical director and at the Care Programme Approach (CPA) meetings to be kept out of the way.

In the interval between the next tribunal, our expert witness was approached by the Health Board and advised that if he appeared for my family member, his contract would not be renewed.

When the important Tribunal was held in November 2010 we were faced with statements from a forensic psychologist and also from another psychiatrist stating that my family member had committed sexual offences and had "been jailed". We were able to prove by showing his police report that these statements were false statements- offences under the Mental Health Act. The Tribunal proceeded and those who committed these offences have remained unscathed. Although it was clear from the amount of productions at this Tribunal that this was going to be a complicated matter, the Tribunal had only allowed two hours in the morning. In the event, we got the afternoon as well, but had to drop a witness because of time constraints. On the morning of this Tribunal, my family member did not wish to attend because he was so affected by the drugs, but in the afternoon he tried to gain entrance, accompanied by a nurse, but was refused. We had told the panel how severe the tremors were from the drug. Both RMO and MHO claimed there were none. Had he been allowed in the panel could have seen for themselves.

We produced enough evidence from highly qualified experts to persuade the panel that there were grounds for investigating my family member for complex medical conditions which could produce his symptoms.

They granted the Section but we got Recorded Matters that a clinician should investigate my family member. These instructions were either poorly written or deliberately obtuse because they allowed the Health Board to bring in a Clinical Speech and Language Therapist, who of course has no medical training, and then claim that they had carried out the instructions.

When a joint report was presented to the Tribunal, from two very eminent Professors, the name of the Professor of Psychiatry had been omitted. One report came from a GMC recognised expert in Autistic Spectrum Disorder, who recommended investigation at Newcastle University. We were told by the Health Board and the MHO that none of our experts had medical qualifications!

We complained regarding all of this to the MWC, also indicating that my family member had been restrained from leaving a ward without a Section, but they wrote back to say that they would not investigate and that they noted that I was taking "further legal action". I had written that the advice I had from a Professor of medical ethics was to take legal action. None had been taken prior to this.

My lawyer spoke to the MWC and she is willing to go on record that they said that they were not investigating because they did not agree with the Tribunal's decision. It is not within their remit to overturn Tribunal decisions but to make sure that they are carried out. The patient's wellbeing should have come first regardless of any possible future action.

Also in the complaint was the fact, verified by two Professors, that my family member has extremely poor detoxification abilities, making it difficult to process the drugs he has been given and warning of the dangers of giving drugs without special monitoring. This was all ignored by NHS staff and he became very ill, compounded by being given another patient's drug.

I have been through all the hoops except the health Ombudsman, who said that if there were to be legal action they could not be involved.

Clearly false statements are breach of the Act, and as such are illegal. Both Kenny McAskill and The Lord Advocate say that it is a Health issue.

A reply to a letter written to Alex Neil says he was told by his civil servants that I never made an official complaint!

We now live in another Health Board area and they agree that my family member has a complex medical condition which should have been picked up years ago. We now have a private diagnosis from an eminent Professor of Psychiatry which details the diagnoses. It does not contain ASD or schizophrenia. My family member has Parkinsonism and an abnormal ECG from drugs that he never needed in the first place. The drugs he has been given exacerbate the original condition that he has.

The current mental health system is totally loaded FOR the psychiatrists, no matter how incompetent they may be. When you add in a Health Board who knew by this time that they had neglected and abused my family member for years, we saw the depths that could be plumbed.

NONE of the checks and balances will work where there is determination to cover up the mess. God help the poor people who get caught in the nasty system who are not articulate or have no outside support. Our experience of the advocacy system is very poor. They needed to understand my relative's condition to argue for him, but instead aligned with the psychiatrist.

Human Rights have no place in this morass. The only people with rights are psychiatrists.

Justice needs to be seen to be done - in Court without prejudice.

I am happy to provide further details to the Committee.

Christine MacVicar