Foreign national restricted patients

Guidance on repatriation

25 March 2009
Introduction

The purpose of this guidance is to provide advice about the repatriation of foreign national restricted patients.

While each case needs to be considered individually, patients may be dealt with just as effectively in their country of origin as they can be here. Even if the overseas clinical facilities are not as developed as in this country, this factor may be outweighed by the benefit to the patient of being in a familiar environment and speaking their first language. It is also worth bearing in mind that foreign national restricted patients – as offenders – may be liable for deportation from the UK by the immigration authorities as long as they are fit to travel, and that the immigration authorities may not be able to arrange for care to be available to the patient in the destination country.

It may therefore be appropriate for each Responsible Clinician (RC) who has responsibility for a restricted patient whom the Home Office confirm might be liable to deportation, to consider whether it would better to consider that patient for repatriation to their home country, either voluntarily or under section 86 of the Mental Health Act.
Voluntary repatriation

Voluntary repatriation is an arrangement whereby the Ministry of Justice conditionally discharges the patient, subject to the condition that the patient is taken directly to a port of embarkation and from there to their home country. The process is largely in the hands of the RC, and allows the RC the opportunity to contact and liaise with psychiatric services abroad to ensure that suitable care would be available for the patient on his or her return home. In order for a patient to be repatriated in this way the RC needs to be satisfied that:

- The patient is willing to return;
- The authorities in his home country are prepared to accept him;
- There are acceptable arrangements for continued treatment, including detention if appropriate;
- There are suitable transport arrangements.

If all of these provisions were met, a request for repatriation should be made to the Mental Health Casework Section. Once he is satisfied that the conditions are met, the Justice Secretary can issue a conditional discharge under section 42 of the Mental Health Act. The patient can then be conveyed, in accordance with the conditions of the discharge, to their destination country.
Formal repatriation under s. 86

If the Responsible Clinician feels that repatriation would be in the best interests of the patient but the patient does not wish to return to their home country, he/she can consider repatriation under section 86. This section can only be used where a patient is detained for in-patient treatment (use of s.86 is not appropriate where the patient is likely to be discharged within 6 months) and is suffering from a mental illness.

Under the provisions of s.86, the consent of the patient is not required for repatriation where the patient is either irrationally opposed to their removal or unable to express a view. Repatriation under section 86 must however be approved by the Mental Health Review Tribunal. Repatriation is again effected by way of conditional discharge by the Justice Secretary under section 42 of the Act.