

Kate Luscombe: Ruling will shine a light on mental health system

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The Upper Tribunal took a landmark decision by ordering that the First-tier Mental Health Tribunal hold a public hearing of AH's application for discharge from hospital, establishing the important principle that open justice should extend to the usually private setting of mental health tribunals.

AH's case is simple. Convicted of two counts of attempted wounding, he has been deprived of his liberty for more than 24 years, often in high security at considerable public expense. Over time, he has expressed concerns about the legal grounds for detention, specifically his diagnosis of mental illness and the administration of medication by force.

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AH's competent wish is to be discharged. He is willing to comply with any condition imposed by the Tribunal to regain his liberty, including residency in specialist 24-hour supported accommodation and surrendering to medical and social supervision. He seeks an opportunity to reintegrate into society and yet feels stuck in a vicious circle: the longer the detention, the greater the stigma and the risk he shall be forever institutionalised.

It is not uncommon to come across persons detained for many years or with differing diagnoses – psychiatry is not an exact science. It is less common to encounter a patient who for 16 years was treated within medium security but did not progress towards conditional discharge or trial leave.

This important decision shines a light on previously closed proceedings and ensures public confidence is maintained in the administration of justice in mental health cases. This is a matter of considerable public interest, given one in four of us may suffer from a mental health problem.

The author is Head of Mental Health Department at Duncan Lewis solicitors

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