Title : *Long stay in the context of a hospital order (tbs*
Issued to : *The State Secretary of Justice*
Date : *1 February 2008*

The acronym tbs stands for *terbeschikkingstelling*, 'placement under a hospital order'. Tbs is a treatment measure the court imposes on people who have committed serious offences and suffer from a psychiatric illness or disorder, which influences their behaviour to a greater or lesser extent.
On 1 February, the Council for the Administration of Criminal Justice and Youth Protection [*Raad voor Strafrechtstoepassing en Jeugdbescherming*] issued a recommendation to State Secretary of Justice Albayrak focusing on the amendment of policy in respect of long stay within the context of a tbs.

Wards for chronic patients (long stay wards) are intended for offenders under a hospital order for whom the aim of re-integration into society does not constitute a realistic prospect. These patients are no longer treated with the aim of being reintroduced into society. Leave is not an option for these patients.

In 1999, twenty so-called long stay places were introduced at the forensic psychiatric centre in Veldzicht. The Netherlands now has a long stay capacity of 164 places. A further increase to approximately 250 places is expected to take place.
This number massively exceeds the initial expectations of many — also those of the Council — with regard to the size of the long stay population amongst the total number of offenders under a hospital order. Is there really such a large group of offenders under a hospital order who no longer have any prospect of rehabilitation, and are there no other possible solutions for these individuals than to have to spend the rest of their lives in a high security custodial clinic? The recommendation focuses on this question.

The development of the long stay system cannot be regarded as separate from that of the tbs and of forensic psychiatry as a whole. The parliamentary inquiry carried out in 2006 incorporated a detailed analysis of this background. Forensic psychiatry, in turn, operates within a broader social context. The problems currently faced by custodial clinics could have been partly avoided at an earlier stage if more rapid and effective action had been taken. The growth in the population of offenders under a hospital order is not just a result of the increase in the number of offenders being placed under such orders, but also of the decrease in the number of offenders being released from hospital orders. The population of offenders under a hospital order is not the same as it was a few decades ago, and these offenders are now more likely to suffer from numerous disorders that are more difficult to treat. This situation, together with the 'powerlessness' of emergency accommodation and social care, constitutes an obstruction to re-integration, i.e. the return of offenders under a hospital order to society. The social context, which has also placed severe restrictions on the granting of leave, and the lack of follow-up provisions pose a problem with regard to the release of offenders from hospital orders, resulting, amongst other things, in the rapid growth in the number of wards for chronic patients.

The Council concludes that policy in respect of long stay is now standing at a crossroads. The original policy objective has not been met in either a quantitative or a qualitative sense. The Council regards the general situation with regard to long stay as so critical that it would not suffice to simply maintain the status quo in policy and legislation. At the same time, the matter appears to be of such a complicated nature that there are no simple solutions that do not involve any drawbacks. By outlining two lines

of reasoning, the Council wishes to encourage discussion with regard to the implementation of a new policy in order to ensure that it is possible to take well-considered decisions. It is of the utmost importance that any changes to the hospital order system are kept in line with developments in respect of treatment.

In order to reverse the trends with regard to long stay, there are two possible approaches that could be adopted:
1. to curb the number of offenders being placed on wards for chronic patients by means of increasing the level of legal protection afforded to offenders who have been placed under a hospital order during the decision-making process in relation to whether or not these individuals should be placed on a ward for chronic patients or should continue to be subject to a hospital order;
2. to abandon the long-stay policy, and follow other developments in relation to hospital orders that makes a greater level of customisation possible in the context of care and security.

Increasing the level of legal protection afforded to patients in the event of placement on a ward for chronic patients and on extension of the hospital order will place the intake into, and accommodation on, wards for chronic patients under a greater amount of pressure. On the other hand, the government could continue with its current levels of treatment and security and abandon policy in respect of long stay. This recommendation explores both options, looking at the advantages and disadvantages of each approach. Insight, wisdom and also power of persuasion are required in order to choose between these courses of action. The Council advises the Minister to research and discuss both of the options in further detail. The '*De Jaren Tellen*' [The Years Count] conference on long-term deprivation of liberty that the Council is organising to take place on 6 March 2008 could function as a building block in this regard.

Research has recently provided more information on the 'profile' of patients who are permanently likely to reoffend. There is no homogenous group: the level of care and security varies. The treatment, nursing and handling of the long-stay group demand a high level of both security and care. The best way to achieve a sufficiently multiform range of services is by making use of various facilities. In this context, it should not be forgotten that, even if treatment does no longer focus on re-integration into society, the long stay population is made up of patients with serious disorders who require long-term treatment and/or care — in many cases for the rest of their lives. This also means that 'long stay', regardless of the precise form, must not be regarded as an 'inexpensive' version of the hospital order. Differentiation should not just be sought as a solution to the problem within the hospital order sector, but also outside of this, in the form of additional facilities.

The recommendation can be obtained from the secretariat of the Council
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