



## Advisory report on long-term hospital orders, Council for the Administration of Criminal Justice and Protection of Juveniles

### Summary

The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as 'the Council') has issued recommendations for resolving the stagnation in the through- and outflow of those detained under hospital order (in Dutch called "terbeschikkingstelling"). Due to a range of bottlenecks, some of those detained under hospital order remain in forensic psychiatric treatment clinics for a long time without any prospect of through- or outflow.

Some of those detained under hospital order are ineligible for outflow as a result of their persistent risk of recidivism. Other detainees under hospital order might be eligible for outflow, but their treatment has stagnated due to a series of bottlenecks. This situation poses a problem given the importance of proper through- and outflow to the effectiveness as well as the future of the forensic psychiatric treatment system, in addition to its value in preventing recidivism. To this end, the Council has identified the bottlenecks and makes a number of recommendations for improvement.

### Long-term hospital orders

Nearly 400 detainees under hospital order have remained in a forensic psychiatric treatment clinic for over eight years with hardly any prospect of through- or outflow. While many of them have the potential for through- and outflow, the progress of their treatment has stagnated for a number of reasons.

Complex and multiple problems are characteristic of this specific group. This means that they struggle to comply with rules and that they are not able to foresee the consequences of their actions. Treating this group requires a personalised and tailored approach by experienced practitioners.

### Personnel and financial issues

Well-trained and experienced staff are required for forensic psychiatric treatment to be effective. However, the reality is that the system is suffering from a lack of capacity, personnel and structural funding. Staff are subjected to a high workload and administrative burden. They also suffer from the negative image of working in the forensic sector.

Due to the shortage of competent and experienced personnel, there is a lack of continuity and a long waiting time for treating those detained under hospital order. These issues also lead to dangers to staff and patients.

### Obstructive measures

Incidents in the forensic psychiatric treatment sector give rise to generic policy measures. Such measures severely restrict the required space to provide customised treatment and to learn from mistakes.



For example, those detained under hospital order may lose the right of leave for a year if they are late returning from leave or if they are suspected of committing a criminal offence such as dealing soft drugs. Treatment will stagnate during this year.

Changing legislation also continues to increase the detention period prior to forensic psychiatric treatment. However, the longer it takes to start treating a person, the lower the chances of success.

### Pressure from politics, media and society

The forensic psychiatric treatment system faces strong pressure from politics, media and society. Incidents in the forensic psychiatric treatment sector generate a lot of attention. The same is true for minor instances classified as incidents that do not lead to dangerous situations.

Some media and politicians create unrealistic expectations, suggesting that it is always possible to prevent incidents. Avoiding every risk imaginable, even risks with little impact on the security of society, stifles the effectiveness of those responsible across the chain.

### Facilities for through- and outflow

The proper through- and outflow of those detained under long-term hospital order requires facilities with specific expertise and sufficient attention to risk management. Not enough institutions meet these requirements. The negative perception of hospital orders impedes outflow as well. Municipalities also play a key part in this respect. There are large differences in support base and funding among municipalities.

### Recommendations

The Council submits the following recommendations:

1. Do not just report the median length of forensic psychiatric treatment, but also monitor the treatment period of those detained under hospital order who have been treated within this framework for over eight years. Investigate the characteristics and specific problems of this group.
2. Along with the sector, invest in personnel capacity (workforce, training and working conditions, reducing bureaucracy) and ensure that there is structural funding to facilitate the recruitment and retention of sufficient and experienced staff, sufficient places within institutions and innovation. Review the financial situation as well as the rates and maintain a limited capacity buffer to accommodate any fluctuations.
3. Reconsider the generic policy measures and legislation mentioned above, which impede the necessary customisation in individual treatment as well as the professionalism of the practitioners. In this context, abolish the obligation to report and the removal of leave for a year, in the event that someone absconds or is suspected of a criminal offence. Give trust to the professionals in the chain to do their work and monitor the quality of decisions in hindsight.
4. Ensure structural reduction of waiting time of those detained in prison to begin treatment under hospital order, after the implementation of the amended regulations on conditional release, in order to increase the treatment perspective and hence



- decrease the treatment period. Consider starting treatment after serving a third of the sentence by reintroducing the Fokkens regulations.
5. Reconsider the direct responsibility of the Minister in case of individual decisions on leave and progress, conferring independent decision-making authority to the Advisory Board on Review of Leave from Detention under a Hospital Order (Adviescollege Verloftoetsing TBS, AVT) and the National Advisory Committee for Placement in Long-term Forensic Psychiatric Care (Landelijke Adviescommissie Plaatsing Langdurige Forensisch Psychiatrische Zorg, LAP). The Minister will hence bear system responsibility and political pressure will be alleviated.
  6. Ensure continuous investment by all stakeholders (clinics, Minister, mayors) in a positive relationship with politics and media. Promote the emergence of a realistic view on the forensic psychiatric treatment system within society. Provide proper information on hospital orders, conveying a realistic narrative (the important work, the good results, the low recidivism as well as the inherent risks), and be transparent in case of incidents.
  7. Redefine Long-term Forensic Psychiatric Care (Langdurige Forensisch Psychiatrische Zorg, LFPZ) in part or in full to create a 'perspective department' (without the pressure of treatment and with suitable leave options) for those detained under hospital order whose treatment has come to a standstill, where they can stay for reflection and inspiration (on a temporary basis). The framework for leave and the procedure for placement must be amended to this end.
  8. Facilitate and organise a care conference (either or not slimmed down) at a relatively early stage of stagnating treatments to resolve the impasse, ensuring that there are no budgetary impediments to the achievement of a solution. In case of stagnation, arrange more tripartite meetings with a lawyer and an external expert.
  9. Among other things, use the care conferences to take stock of and establish the missing through- and outflow places within institutions. Ensure that forensic and regular institutions are willing and able to take the responsible risk of innovation through the procurement policy.

You may access the Dutch advisory report on the RSJ [website](#)

