

Draft Mental Health Bill, Letter From Campaign Headquarters, Number 9

I presume most of you will have heard the news. The Government have announced that the Mental Health Bill, announced in the Queen's speech, has been abandoned and that they will introduce a Bill to amend the Mental Health Act 1983. The new 'amending' Bill is to be introduced this Parliamentary session (i.e. before the next Queen's speech in November). Have our patients won or lost, or have the goal-posts just been moved? The information we've been given is very sketchy. One concern is the Government's statement that there will not be any further consultation. It is quite possible we will have no further hard information prior to publication of the Bill. However, there are 'briefing' meetings planned by the DoH and if further information is given I will update this letter.

I have listed some of the issues, as I see them, below:

1. There will be no principles on the face of the Bill, as recommended by the College, Mental Health Alliance and the Joint Parliamentary Scrutiny committee, despite previous agreement with this proposal by the Government.
2. Criterion for compulsion
 - a. The four categories of mental disorder are to be replaced with a wide definition of mental disorder, presumably as in the draft Bill.
 - b. The 'treatability' test in relation to psychopathic disorder and mental impairment (improve or prevent a deterioration in the patient's condition) will be removed. It is to be replaced with a "test that appropriate treatment must be available" for all detained/compelled patients. It is unclear what this means. The College, Alliance and Parliamentary Scrutiny committee all recommended the phrase 'therapeutic benefit'. This phrase continues to be rejected.
 - c. There is no mention if the grounds for detention "in the interests of the patient's health or safety or for protection of others" are to be changed. They were changed in the 2004 draft Bill to "protect the patient from suicide or serious self-harm or for the protection of others". This was said to be in order to limit the number of people who would be made subject to compulsion, given, on the one hand, the broad definition of mental disorder etc and, on the other hand, the Government's stated policy objective "it is not our intention to increase the number of people subject to compulsion".
 - d. Exclusions in the current Act, in relation to drugs or alcohol dependence, remain (but not extended to substance misuse as recommended by the College, Alliance and Parliamentary Scrutiny committee).
 - e. There is no statement in relation to the current exclusions "promiscuity or other immoral conduct or sexual deviancy".
 - f. People with learning disability will be subject to compulsion only with the current Act's additional condition of "abnormally aggressive or seriously irresponsible" conduct.

- g. The College, Alliance and Parliamentary Scrutiny committee wish for 'impaired decision-making by reason of mental disorder' to be a criterion (as in Scotland) is not to become a necessary condition for compulsion.
- 3. Treatment
 - a. Compulsory treatment in the community is to be introduced but only after compulsory admission for treatment. This is in line with College policy.
 - b. There are no other changes to treatment provisions as far as we know.
- 4. Process and personnel
 - a. The draft Bill's provision for anyone to be able to require an assessment of anyone else has gone.
 - b. The safeguard of advocacy for all compelled patients has gone.
 - c. The compulsory consultations have gone.
 - d. Also gone is the safeguard of Tribunals authorising compulsion after 28 days. There will be a compulsory review tribunal at 6 months (this time limit to be reduced as resources permit). No mention has been made as to whether or not the medical member of the Tribunal will be replaced by a clinical member as in the draft Bill.
 - e. Assessment by two doctors and an 'approved mental health professional' (the latter replacing the current ASW), as in the draft Bill, remains.
 - f. The medical RMO will be replaced with a Clinical Supervisor, from any clinical discipline, as in the draft Bill.
 - g. The draft Bill's requirements in relation to information sharing are not mentioned.
- 5. Children
 - a. Safeguards for children treated on the basis of parental consent will be addressed by amendment of the Children Act 1989. Children detained under the Mental Health Act will continue to receive the same safeguards as adults.
- 6. Compatibility with European Convention on Human Rights
 - a. Bournemouth, provisions still awaited, will be dealt with through amendment to the Capacity Act.
 - b. Patients will be given a means to remove their Nearest Relative (for example if their NR has abused them). Whether or not the current rights of the NR, to discharge a patient and to object to a section 3, will also be removed isn't clear. Also the definition of Nearest Relative will be amended to recognise the Civil Partnership Act 2004.
- 7. The draft Bill was extremely difficult to understand – we have yet to read the amending Bill.

8. The amended Act will come into force in 2008.

So where do we go from here? We are unlikely to get any advance warning about the wording of the amendments, so the first time we will see what is proposed will be when the Bill gets its first reading (almost certainly in the House of Commons). In my second newsletter I outlined the Parliamentary process. Should we wish to suggest changes to the Bill (and we will so wish) we can do so only if an MP or Peer agrees to table amendments we have drafted. Our meetings with Parliamentarians and work with the Mental Health Alliance are as important as ever. Contacting your own MP, either in the constituency in which you live or work, may be very helpful. His/her name and address can be found from the web address below:

<http://www.locata.co.uk/commons>

Please contact Agnes Wheatcroft, College Parliamentary Officer at:

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if you wish to express your views or seek further guidance.

I will keep you posted.

Tony Zigmond

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