

## **Draft Mental Health Bill, Letter From Campaign Headquarters, Number 5**

The Report of the Joint Select Committee of both Houses of Parliament scrutinising the Draft Mental Incapacity Bill has been published and is available either from the Stationery Office or at: [http://www.parliament.uk/parliamentary\\_committees/jcmib/jcmib\\_reports\\_and\\_publications.cfm](http://www.parliament.uk/parliamentary_committees/jcmib/jcmib_reports_and_publications.cfm)

The Government's response to the recommendations has just been published and may be found at the same web address.

I am pleased to report that the Committee supported many of the College's recommendations, perhaps the most significant being that the Incapacity Legislation should be dealt with before the Mental Health Legislation.

Meetings with DoH officials have continued – albeit much less frequently. The Minister almost always attends. She visited my unit in Leeds and listened to the views of patients. On the other hand, in her evidence to the Joint Committee on the Incapacity Bill, she said, of the two Bills, “Of course they do address two quite separate issues, one dealing with people who have lost the capacity to consent to treatment and the other dealing with people who do not wish to consent to treatment but for whom treatment is felt to be a necessity.” How many of us believe a Mental Health Act is primarily for dealing with the latter group? More recently she has repeated her view that the reason for all the opposition to the draft Mental Health Bill is our lack of understanding of the proposals.

The draft Mental Health Bill was again not mentioned in the Queen's Speech. However later that day it was announced that the draft Bill would be put before a Joint Select Committee of both Houses of Parliament for pre-legislative scrutiny (as was the draft Mental Incapacity Bill). Prior to this a revised draft Mental Health Bill will be published. No timing has yet been given either for the publication of the revised draft Bill nor of the Joint Select Committee. Rumour has it that the new draft Bill will be published “in the spring”.

All organisations will be welcome to submit written evidence to the Committee. We assume (I hope not too confidently) that the College will also be called to give oral evidence. I am currently in the process of preparing our written submission.

It has been put to me that the submission should be circulated widely prior to completion and should incorporate the views of all. I am sure you will appreciate that there are two significant difficulties with this. The first is that the usual guidance for submissions to Select Committees is that they should be no longer than 2,000 words. The current draft document is over 10,000 words. The second difficulty is that we continue to have a number of disparate views. Where there are clear differences, with each opinion having broad support, these will be reflected in the document. In other circumstances I, along with colleagues on the Parliamentary Liaison and Mental Health Law Committees of the College, will make editorial decisions.

Our submission will be largely, although not wholly, in line with that of the Mental Health Alliance. It is important to remember that my own world in relation to mental health law is confined to England and Wales. Scotland, of course, has its new Mental Health (Care and Treatment) (Scotland) Act that is due to come into force in 2005. Ireland has a new Mental Health Act and the process of review of the Mental Health Act in Northern Ireland has started. I was honoured to be asked to speak at a meeting in Northern Ireland to help formulate their ideas. It was a pleasure to hear about the process, which is clearly one of discussion and inclusion and so very different from that which has happened in England and Wales. I wish them every success.

I will keep you informed.

**Tony Zigmund**  
**March 2004**