

Draft Mental Health Bill, Letter From Campaign Headquarters, Number 7

The Joint Committee of both Houses of Parliament scrutinizing the second version of the Bill requested written evidence of no more than 1,500 words. The College's evidence didn't quite keep to this. It was just under 17,000 words (and even then we had to write three supplementary pieces at the Committee's request, all may be read from the College web-site). However I know at least the chairman read it all, he spotted, and commented on, a double negative buried deep in the text! The Committee received over 450 written submissions.

In October Greg O'Brien, Sue Bailey, John O'Grady and I went to give oral evidence to the Committee. Altogether oral evidence was taken from 124 witnesses. The hearings were held in Portcullis House. This is a relatively new Parliamentary Office block with very expensive fig trees in the foyer. Our session seemed to go well. The following day I addressed the cross-bench Peers, in the House of Lords, at the request of Lord Rix. Again this seemed to be well received. We also arranged a number of private meetings with many members of the Committee.

The report is available along with most of the written and oral evidence from the Committee's website:

<http://www.publications.parliament.uk/pa/jt/jtment.htm>

It is damning of the Government's proposals for law reform. The College's evidence is cited over 100 times – more than any other source. There are 107 recommendations, almost all supportive of the evidence given by the Royal College of Psychiatrists and the Mental Health Alliance.

The Committee accepted the importance of the likely impact of the draft Bill on stigma and the need for an ethical and practical framework for a new Act. They praised the new Scottish Act and suggested it serve as a model for England and Wales. They recognized that public protection “must never be allowed to predominate as the primary objective of reform” and that fundamental principles should be on the face of the Bill, rather than in the Code of Practice.

The recommendations include:

- No-one should be made subject to compulsion unless they have “significantly impaired decision-making”.
- That there is a “therapeutic benefit test”. People with “serious mental disorders who cannot benefit from treatment” should be dealt with under separate legislation. The Committee's press release used the term “DSPD”.
- A list of exclusions from the broad definition of mental disorder: substance misuse, including dependence on alcohol or drugs; sexual orientation (rather than sexual deviancy, the term in the current Act, which the College preferred); and people with learning disability or autistic spectrum unless also demonstrating “seriously aggressive or severely irresponsible behaviour”. They also recommended exclusion on the grounds of cultural or political beliefs.

- “Protection of others” should be changed to “protection of others from significant risk of serious harm”.
- Restrictions on the freedom of the patient must be the minimum necessary in the circumstances.
- Sixteen and seventeen year olds to have the same protections as under 16s and CAMHS specialists must be involved. Minors should not be detained on ‘adult’ wards.
- Tribunals to be able to recommend transfer and leave for restricted patients.
- Medication above BNF levels only with authorisation of a Tribunal “in exceptional circumstances” “when all other options have been exhausted”
- Only two emergency ECT.
- Community treatment orders (non-resident orders) should normally be imposed only after hospitalisation; with evidence of previous responsiveness to, and co-operation with, proposed treatment; should only be able to specify place of residence and medical treatment and should have a maximum time limit of 3 years in any 5 year period.

Whilst I have picked these recommendations as being particularly significant all the recommendations are worth reading.

The Committee is scathing about the Government’s suggested workforce consequences. It “expects the Government to publish realistic plans detailing exactly from where the increased number of members of Tribunals will be drawn”. “We recommend that no new Act be brought into force until the Government can demonstrate that sufficient resources are available ...”.

The battle is won. As for the war? The Government has already made it clear that it disagrees with the findings of the Committee and plans to continue with its proposals.

Subject to the outcome of the Election we expect a Mental Health Bill towards the end of the year. It is currently planned that both this Bill and the Mental Capacity Bill will come into force in the spring of 2007.

Plans for our attendance at the Party Conferences are in hand. We have arranged for our new President, Sheila Hollins, to host a dinner at one of the conferences. We will not know if we have booked the dinner at the correct conference until the result of the Election is known!

Tony Zigmund
March 2005