

Draft Mental Health Bill, Letter From Campaign Headquarters, Number 2

This continues to be a largely England and Wales issue. Colleagues in Scotland continue to be broadly satisfied with their legislative developments.

I am sure you are all aware that the Bill was not announced in the Queen's speech last November. Nonetheless, the next day, Alan Milburn announced both on the radio and in Parliament that a Bill would be introduced this session of Parliament. A spokesperson from Mr Millburn's private office gave, as the main reason for the absence of the bill from the Queen's speech, the opposition of the Royal College of Psychiatrists. The Department of Health added that they needed additional time to analyse the 2000 responses that they had received during the consultation period (we were assured that the Department would publish details of the responses but so far they have not done so). A further factor which may have caused consternation in government circles was the report issued by the Joint Committee on Human Rights (this is a committee of both Houses of Parliament which scrutinizes proposed legislation for compliance with the European Convention on Human Rights) which expressed many concerns about the Bill's compliance with ECHR.

The remit of the committee can be found on:

www.parliament.uk/parliamentary_committees/joint_committee_on_human_rights.cfm

The report can be found on:

<http://www.markwalton.net/draftresponses/181.pdf>

Until the end of last year there seemed to be a fairly constant flow of news items or statements about the Bill. At times there now feels to be an eerie silence. This is the current position.

There are "Stakeholder" meetings lasting about an hour in which Louis Appleby (National Director for Mental health) or Sarah Mullaly (Chief Nursing Officer) or Adrian Seiff (the new senior official at the Department of Health dealing with the Bill) meet a large group of people from a range of organisations. The College has been represented by the President or Roger Freeman. Many of those attending have found the meetings unhelpful.

The Department of Health has invited the College, amongst others, to work with them to look at the workforce implications of the Mental Health Bill. It is unclear as to how seriously this work is to be undertaken as the timescale within which the group have to report is extremely brief.

Also over the last two months there have been meetings both within the College and within the Mental Health Alliance to try and turn the Agenda from the negative one of what we think is wrong with the Bill to a more positive approach looking at specific clauses and amendments we would wish to see. It was at this point that I thought there would be serious difficulties within the Alliance as I felt it was much easier to agree on what we did not want than on what we do want. I am pleased to report that so far I have been proved incorrect. There is remarkable unanimity both in policy and process in

relation to the development of a Mental Health Act which would aid patients, their carers and the rest of society rather than do damage to all three groups. Our attempts to involve either the Department or Government in this work have not so far born fruit. The President and I have a meeting with Hillary Benn and Jacqui Smith at the beginning of March.

Some of you may be aware that one organisation which was outside the Alliance was the Zito Foundation. Again I am pleased to report that our President met both Jane Zito and the Chief Executive of the Foundation and the College is to set up a working group looking at the needs of victims. Discussion revealed little difference between the views of the Foundation and our own.

One of our successes is that the Government has announced it is to introduce 'Incapacity' legislation. This is something we have been arguing for since the whole review process started. An 'Incapacity' Alliance is to be set up to monitor the Bill (when it arrives). Tony Holland is leading for the College on this issue.

When will the Bill be introduced? Rumours abound. It may have been introduced by the time you read this. It may be some distance away. Will the Bill be very different from the Draft Bill? My guess is that it probably will not be but it is no more than a guess. There is one constant feature throughout the process. I am unable to say whether the issue rests with the Government or the Department of Health but I can report that Glasnost remains a concept foreign to those with whom we are trying to establish a dialogue.

Finally I thought it might be helpful/interesting to explain how Bills become law (taken from the Parliamentary website).

The Parliamentary Process

A Bill is a draft law. It has to be approved by both Houses of Parliament before it receives the Royal Assent and becomes an Act.

Public Bills

These are Bills of general effect and relate to public policy. Bills may start in either House. The title of a Bill which starts in the House of Lords is followed by the initials [HL] during its passage through the two Houses.

Most major Bills are introduced by Ministers and are outlined in the Queen's Speech which sets out the Government's plans for each parliamentary session. Public Bills introduced by a backbench member are called *Private Members' Bills*. They must not be confused with *Private Bills*. Members of the House of Lords have an unrestricted right to introduce Private Members' Bills and time is normally found for them. However, because time is limited in the Commons, only Bills which command general support will succeed in reaching the Statute Book.

Private Bills

These Bills contain provisions which explicitly apply to only part of the community rather than the community as a whole. Most are local in character, promoted by bodies such as local authorities or statutory bodies seeking special powers. Private Bills are prompted by outside interests and begin in either House in equal numbers. Procedure is broadly the same in each. Almost all of their consideration takes place **off** the floor of the House, where those whose interests are adversely affected by a Private Bill can have their case for redress heard by a Select Committee.

Hybrid Bills

These are a cross between a Public and a Private Bill i.e. Public Bills which affect private interests. A Hybrid Bill initially goes through the same procedures as a Private Bill where, if petitions are presented, it is then sent to a Select Committee; it is subsequently treated as a Public Bill.

HOUSE of COMMONS

First Reading • Formal reading out of title of the Bill by Clerk.

- Ordered to be printed.

Second Reading • Usually two weekends after First Reading.

- Main opportunity to debate the Bill. A division represents a direct challenge to the principle of the Bill.

- After Second Reading, Government Bills are timetabled in the form of Programme Motions.

Committee Stage • Usually starts two weeks after *Second Reading* and can take anything from one meeting to several months.

- Chance to vote on the detail, clause by clause.

- Amendments **selected** by Chairman (advised by Clerk).

- All Bills go to one of four Committee types:

(i) *Committee of Whole House*:- for constitutional Bills and parts of the Finance Bill;

(ii) *Standing Committee* – most usual procedure. 16- 50 Members, in proportion to overall party strengths.

(iii) *Select Committee* [Infrequently used].

(iv) *Special Standing Committee* [Rarely used] - has powers to send for persons, papers and records; holds 4 sittings and hears oral evidence in private and public. **Note: We are hoping the Mental Health Bill will have a Special Standing Committee so that we may give evidence.**

Report Stage • Usually two weekends elapse between end of *Committee Stage* and *Report Stage*.

- A further chance to consider amendments, new clauses and, for MPs not on the Committee, to propose changes.

Third Reading • Usually immediately after *Report Stage*.

- Final chance to debate the Bill.

- A vote gives chance to show dissatisfaction with amended Bill.

- The Bill now goes to the Lords

HOUSE of LORDS

First Reading • Formal. The Bill is reprinted in the form finally agreed by the Commons.
(see note below)

Second Reading • Two weekends after *First Reading*.

- Debate on general principles of the Bill.
- Government Bills included in the election manifesto are, by convention, not opposed at the Second Reading, but “reasoned” amendments may be tabled as a means of indicating dissent and can be voted on.

Committee Stage • Fourteen days after Second Reading and often spread over several days.

- Bills usually go to a Committee of the Whole House; but sometimes to Committees off the floor. (*See over*). Detailed line by line examination.
- Unlike the Commons, there is no selection of amendments – all can be considered. No guillotine, unlike the Commons, and debate on amendments is unrestricted.

Report Stage • Fourteen days after the end of Committee Stage for all Bills of considerable length and complexity. Further chance to amend Bill. May be spread over several days.

Third Reading and • Unlike in the Commons, amendments can be made provided the issue has not been voted on at an earlier stage.

Passing • The final opportunity for peers to comment and vote on Bill.

Consideration of • Depending on which House the Bill started in, each House now considers the other’s amendments.

Amendments • Bills with contentious amendments pass back and forth between the Houses until agreement is reached. If each House insists on its amendments, a Bill is lost.

- Bills with agreed amendments await Royal Assent.

Royal Assent • Queen’s assent formally notified to both Houses.

- Bill becomes an Act.

I hope this is helpful.

Please let me know if you need further information or wish to express views.

Tony Zigmond