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27 November 2006

MENTAL HEALTH BILL – MENTAL HEALTH ALLIANCE LOBBY OF PARLIAMENT – 28 NOVEMBER

I wrote ten days ago to inform you about the introduction of this Bill and to provide you with a summary guide. I hope you found the information helpful.

Over eight years of consultation with a wide range of stakeholders it has become obvious how difficult it is to find a consensus over a number of issues. However, there are changes which we need to make in order to modernise mental health legislation. It has now become urgent that these necessary changes are made.

Following some of the comments that have been made since introduction, and in view of the lobby of Parliament by the Mental Health Alliance this week, I hope the information below might be helpful.

There have been claims that this Bill would mean that people could be detained in hospital without a clinical purpose. This is not the case. Nothing in this Bill permits – let alone requires – people to be detained under the Mental Health Act 1983 (which is the main Act that the Bill amends) except for assessment and treatment.

There have also been misleading claims that the Bill is introducing new powers to detain people in hospital who have not offended, and that these new powers would mean that people with mental health problems would have fewer rights than suspected burglars. The power to detain people who have not offended, but who need treatment to protect themselves or others from the harmful effects of their disorder, has been with us since 1959. It is very important that, if someone has a serious mental disorder which makes it likely that they are going to harm someone else, we do not wait until they have offended – often with tragic consequences – to help them. And, of course, the Mental Health Act 1983 has a range of safeguards to ensure that no-one is inappropriately detained, and the Bill introduces new ones.

I am pleased that considerable support has been expressed for the general principle of supervised community treatment (SCT). This is a very important policy, designed to make sure that people with serious mental health problems can be effectively treated in the community, and relapse prevented. This is good for patients, for carers, and for the public. There have been suggestions that the criteria for the use of SCT are too wide. However, it is important to stress that the responsible clinician can make a community treatment order only if the criteria are met. These are set out in clause 25. The Government believes that these are tight enough to prevent inappropriate use of SCT. In addition, an approved mental health professional must agree that SCT is appropriate.

The Government knows that there has been some disappointment expressed about some items being dropped when we moved from the 2004 draft Bill, a replacement Bill, to a shorter Bill to amend the 1983 Act. We had to take seriously the criticisms about the length and complexity of the 2004 Bill. However, the Government is confident that the advantages of the shorter Bill greatly outweigh the disadvantages. Many of the items that are not being pursued through legislation are being taken forward in other ways. For example, we have a programme of development for advocacy services and we have covered the importance of taking account of advance statements, listening to carers and sharing of information between professionals in the draft revised Code of Practice. The Code of Practice also sets out the principles which should underlie the use of the Act.

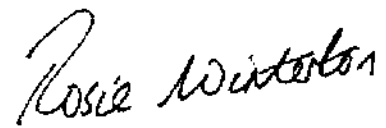
As you may know, we issued a draft revised Code of Practice with the Bill, and we have made clear to stakeholders that, if there are any suggestions for strengthening the Code to reflect concerns that have been raised, the Government will be happy to consider them.

It is important to emphasise that this legislation is part of the Government's strategy to reform and develop mental health services. We are in total agreement with commentators who say that what is important is to have the services which mean that people get the treatment and care they need to avoid crises, which could lead to the need to use compulsory powers. That is why we now have over 700 new community mental health teams, including 343 new home treatment teams, 262 assertive outreach teams and 118 early intervention teams. But, however good the services are, there will always be a small minority of people for whom compulsory powers will be necessary, and it is essential that we get the legislation right for them. The Bill is not about service provision: it is purely about the legal processes governing the detention in hospital and treatment of the small number of people who need to be under compulsory powers to protect themselves and others from harm.

Finally, the Government would like to emphasise that the Bill does not just make amendments to the Mental Health Act 1983. It is also about introducing safeguards – through the Mental Capacity Act 2005 - for people who lack capacity to make decisions about their care and are deprived of their liberty, but who are not under the Mental Health Act – the so-called Bournemouth safeguards. These provisions are very important, and I very much hope that discussion about the Mental Health Act aspects of the Bill will not overshadow this.

Please do get in touch if you would like any further information.

Yours sincerely,

A handwritten signature in black ink that reads "Rosie Winterton". The signature is written in a cursive, flowing style.

ROSIE WINTERTON