# Correspondence

## *Interpreting the Mental Health Act*

DEAR SIR

I am sure there will be much discussion in the future regarding Section 5 (3) of the Mental Health Act 1983 and its interpretation.

Our Division of Psychiatry for Wigan Health Authority has decided that the deputy of the responsible medical officer will be the duty SHO or registrar, and the Regional Legal Adviser of the North Western Regional Health Authority has replied to the District, pointing out that: 'the method outlined seems to comply with the letter of Section 5 (3) of the Act of 1983 . . .'

I feel that I should explain the reasons why the psychiatric doctor on call should be the deputy of the responsible medical officer, and not another consultant, an associate specialist or a registrar with Membership, as some Mental Health Act Commissions might suggest. I am sure their suggestions will be easy to apply in big hospitals and university departments, but most of the psychiatric services in this country are provided by peripheral general hospitals with psychiatric units attached to them, and there are only consultant psychiatrists running them with help from SHOs and one or two registrars (if they are lucky enough to have two registrars). Even if they have got a registrar who has obtained his/her Membership, the next thing they do is to move to university departments.

The only person who is constantly in the hospital is the doctor on call. Administrators come and go, nurses come and go, consultants come and go, but the duty medical officer is available for 24 hours.

Quite often it is difficult to find the consultant on call urgently because most consultants in peripheral hospitals are doing a great deal of domiciliary work.

Suggesting that the deputy should be another consultant is actually suggesting that two consultants should be on call. Some psychiatric units only have two consultants. As a result, problems will appear when one of them is on holiday or off sick.

However, the main reason for our Division to suggest that the duty psychiatric SHO or registrar should be the deputy is because they have more experience in psychiatry, compared to the average GP, who, in spite of lack of psychiatric experience, is entitled by law to sign one of the Sections.

We must not forget that most of these cases will be known to the consultants. The doctor on call will be discussing the case with the consultant on call, on the phone, and when in doubt the consultant on call will be coming to see the case personally. Only a fool would not do so.

When nurses have the holding power, when psychiatrically inexperienced GPs have the right to sign Sections, when any inexperienced police constable can, 'remove that person to a place of safety within the meaning of the Section 135', it is, to our way of thinking, unjustifiable not to allow a junior doctor, after discussion with his consultant, to act as his deputy.

In the last meeting of the North West Division of the College, this motion was passed with an overwhelming majority and the Chairman promised to write to the College for its opinion.

I felt that Members of the College should be informed of this important interpretation of Section 5 (3) of the Mental Health Act, 1983, which will spare unnecessary anxiety to patients and nurses.

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DEAR SIR

Now that we seem to have tacitly accepted the erosion of clinical freedom for consultant psychiatrists explicit in the Mental Health Act of 1983, are we also expected to humbly submit to the dissolution of the cherished tenet of 'no power without responsibility', also clearly written in the Act?

The Act states that in certain every-day circumstances the consultant can be forced to refer the case for a second opinion, and that second opinion has the power of veto over the opinion of the responsible medical officer. In those circumstances, should not the College improve its charisma by altering the accepted code of conduct to ensure that the consultant giving the second opinion, when that opinion seriously differs from the first opinion, should be responsible for the treatment of that patient to the latter's satisfaction?

Finally, we arrive at the worm in the apple—it's psychiatrists today, but it's going to be other consultants tomorrow.

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## *Consultant psychiatrists in mental handicap*

DEAR SIR

The fact that Dr Singh's reasonable and moderate letter (*Bulletin*, June 1983, **7**, 110) has stimulated a long reply from Professor Bicknell (*Bulletin*, September 1983, **7**, 168) demonstrates the fact that commitment to community care to the exclusion of all other provisions is becoming more and more widespread. It is high time that someone (even though only a long-retired Consultant in Mental Handicap) commented on Professor Bicknell's letter and pointed out that the Emperor has no clothes on.