Walter Buchanan

Mental Health (Scotland) Bill

My responses to the six questions appear below. I have taken part in at least six Mental Health tribunals as well as previous consultation processes, and would like to draw attention to the fact that serious problems are being overlooked by the present proposals, which seem to assume that only relatively minor tinkering is required. Legislators are seemingly unaware of numerous documented complaints of medical and legal abuses of patients, though evidence of these complaints has already been given to a parliamentary body in petition PE01494. These serious complaints are linked and summarised briefly below:


SUMMARY OF INDIVIDUAL COMPLAINTS SUBMITTED TO PETITION PE01494 (see above link for details)

All cases: patients wishes not taken into account, completely ignored.
Almost all cases: family wishes completely ignored.
Almost all cases: patients drugged almost immediately.

There were multiple occurrences of the following complaints:

Misleading evidence given to Tribunals (at least 10 complaints)
Tribunal ignoring or dismissing contrary evidence (at least 10 complaints)
Tribunal accepting innuendo as fact (at least 7 complaints)
Breaking the main provisions of the Act
Apparent errors in law and/or tricks to overcome legitimate challenges Mental Health act
Criteria challenged but not tested
False claims made to Tribunals

The following were all reported at least twice:

Preventing witnesses appearing for patient and named person
Tribunal documents not produced
Denial of symptoms of medication
Reason for section not given, medical reports favourable to patient suppressed or not-admitted to
Diagnosis later contradicted

Other extremely serious complaints included one patient never being examined before being sectioned, yet being unable to get redress afterwards; and a
medical professor warned by his health board that if he presented contrary evidence for a patient, his contract would not be renewed.

Reponses to the consultation questions

Question 1  Do you agree with the general policy direction set by the Bill?

No. The call for written evidence states that the overarching objective of the Bill is “to help people with a mental disorder to access effective treatment quickly and easily”. However, the verb ‘help’ here actually means ‘force’ as the Mental Health Act concerns compulsory treatment, usually involving psychotropic drugs.

The statement of objective refers presumptively to ‘effective treatment’ but there is no reference in the policy or the Bill to any process by which the effectiveness of treatment is evaluated. As psychotropic drugs are the leading cause of death in the mental health system (see the submission by Professor David Healy, a psychiatrist) it is difficult to see how accelerating blindly in this direction can possibly be said to ‘help’ patients. This alone suggests an alarming disconnect between those ‘providing’ forced treatment via mental health legislation and its recipients.

Further evidence of this disconnect can be seen by examining the submissions with the word ‘rights’ in the title and comparing them with the complacent assumptions underpinning the proposed bill. For example, under the ECHR a detained person has an absolute human right to challenge their detention in a process akin to a fair trial. The complaints above indicate that Mental Health Tribunals are far from fair. For example, a recurring complaint that was borne out in the hearings I attended was that the Tribunals regarded as ‘reliable evidence’ whatever the MHO and RMO said - even if it had been factually refuted by patients or their representatives. A court would of course test such disputed matters.

The submission by Hunter Watson details many other respects in which Tribunals breach Human Rights. Issues of such fundamental importance to patients clearly have great difficulty in remaining on the agenda of government bodies, if indeed they ever get there. Rather than address these issues, government and professional bodies appear to be relying on the difficulties that a patient would face in order to bring a case before the EC.

I have no comment to make on Questions 2, 3 and 4.

Question 5 asks about the McManus Report. According to this 2003 report, review of the inclusion of learning disability (and autism) in Mental Health legislation was then 8 years overdue, yet consideration of these disabilities is yet again absent from the proposals. If such consideration is still not planned then it is difficult to see the point of Question 5. The submission by Autism Rights
outlines the problems resulting from the historical inclusion of autism in mental health legislation, and details steps that should be taken to address this glaring gap.

**Question 6** Do you have any other comment to make about the Bill not already covered in your answers to the questions above?

(i) In my view, the Committee must acknowledge the evidence of abuses from patients, carers and representatives, as these challenge the claim that mental health tribunals are fair. It should take evidence of some of these abuses in person.

(ii) It should take steps to make RMOs and MHOs responsible (in reality, not just in theory) for any false or misleading statements made in order to section patients.

(iii) If the Parliament is serious about improving the human rights of mental health patients, it should take firm steps to address human rights questions arising from compulsory mental health treatment *proactively*, in accordance with the ECHR.

(iv) Opposing voices should be invited to address the Health and Sports committee. In particular, Professor Healy should be invited to speak on the substantial and serious downsides to forced psychiatric medication, as these seem to go unacknowledged.

(v) The special situation of patients with autism and learning disabilities should also be acknowledged, and campaigners heard.

**Walter Buchanan**