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REVOLVING DOORS AGENCY GENERAL COMMENTS ON DRAFT MENTAL HEALTH BILL

Revolving Doors Agency is an independent charity with over ten year's experience of developing, testing and promoting new ways of working with people with mental health problems and multiple needs in contact with the criminal justice system. We are the UK's only national charity exclusively devoted to working with this client group.

Revolving Doors Agency recognises the need to replace the existing Act (the Mental Health Act 1983) and welcomes the government's focus on this issue. In responding to the proposals in the Act our primary focus has been on the needs of offenders with mental health issues. Current estimates suggest that 72% of male and 70% of female sentenced prisoners suffer from two or more mental health disorders¹. This is therefore an issue of considerable significance.

General Comments

It is our view that despite significant positive aspects, such as the improved scrutiny and advocacy arrangements, the Bill as it stands remains significantly flawed. In broad terms, we share many of the problems and concerns identified by the Mental Health Alliance.

Our particular concerns include the following.

1. The changed definition of mental disorder. In a therapeutic context, the Revolving Doors Agency would welcome a clearer and broader definition of mental illness or mental disorder, such as that set out in the draft bill. For many of our clients an unduly restrictive definition of mental illness acts as a barrier to accessing appropriate services. However, given that many of the proposals set out in the bill are primarily focussed on the use of compulsory powers, the broader definition may have the perverse effect of increasing the likelihood of our clients being subjected to compulsory forms of treatment without enhancing their access to support services. Public order and welfare concerns might best be reconciled in the bill by adopting two separate definitions of mental disorder: a broad and inclusive definition for access to services and a narrow definition, based on capacity and risk to self and others, for subjection to compulsion.

¹ N Singleton, H Meltzer, R Gatward, J Coid and D Deasy, Psychiatric Morbidity among Prisoners in England and Wales, ONS 1998.

As the definition stands, the danger is that 'net-widening' will lead to far more widespread use of compulsory powers. Such an outcome would appear to be in contradiction with the thrust of the government's mental health strategy.

2. Compulsory treatment in the community. The proposals relating to compulsory treatment in the community raise a number of serious concerns. While there may be a case for making an additional disposal available in order to reduce the number of individuals liable to sectioning, the proposals, as set out, seem destined to increase the numbers falling under some form of compulsory treatment.

On a practical level, many of our clients find it difficult to accept that they have mental health problems. If mental health services are making more extensive use of compulsory powers, or there is a perception that they are doing so, it will inevitably make an already 'hard to reach' group less likely to engage with services.

There are considerable practical obstacles to compulsory treatment in the community. Clients with mental health problems and multiple needs are frequently extremely chaotic. For a large proportion of our client group, if not the majority, compliance would be a particularly problematic issue. The danger under the current proposals is that those who failed to comply with compulsory treatment in the community might then be faced with some form of institutionalisation, possibly for a long period, which would be entirely inappropriate therapeutically.

3. Compulsory treatment in Prison. We are opposed to the suggestion that prison can be considered to be part of the community. Prison is not a therapeutic environment; it is therefore an entirely inappropriate place to treat anyone sufficiently mentally unwell as to require compulsory treatment.

Conclusion

It is our view that there ought to be a far greater emphasis in the bill on ensuring that compulsion is a last resort. In general it is both unreasonable and counter-therapeutic to force treatment on individuals capable of making decisions for themselves.

Pre-legislative scrutiny gives us the opportunity to get the balance right: to ensure that the rights of individuals are protected and enhanced while protecting the public from those who are genuinely dangerous.

The Government's promise to develop the Code of Practice simultaneously is also important. A robust Code of Practice will be vital to spelling out how a new Mental Health Act will work on the ground. It will also be essential in ensuring that any new powers are not extended to inappropriate groups.

We look forward to playing our part, as members of the Mental Health Alliance, in producing a better Mental Health Bill, backed up by robust guidance.

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