

# The Draft Mental Health Bill – Is it a cause for Concern?

## Jon Abrams

A few weeks ago, I decided to read up on the Draft Mental Health Bill and try and make up my own mind as to whether it's a piece of public order legislation or a bill designed to promote and improve the well-being of people experiencing mental health problems. I therefore turned to my trustee research assistant: Google who, first of all, directed me to the Department of Health Website. My good intentions soon disappeared. It is a long and complex Bill - 306 pages to be precise plus 140 pages of explanatory notes

So, instead I'm going to comment on the Bill without having read it from cover to cover which is an apt moment to make my first point. There has been a lot of strong feeling against the Bill and most of us like to frame issues as either 'good' or 'bad' rather than examine the complexities. Mind you 300 plus pages of legalese does make it very difficult to think about the intricacies of the Bill. Therefore, I'm going to concentrate on one of the more controversial aspects: Compulsory Treatment.

It is not hard to understand the fears of those who believe the draft bill will be used as a controlling agent to increase compulsory treatment orders. Why? First of all, we all have a tendency (professionals included) to see things as either safe or risky. And, we also tend to be risk averse especially if we are making decisions that impact on ourselves. Subsequently, we will be much more concerned about the rare case that may go wrong and the potential adverse consequences, for instance, who will get the blame. These anxieties, at times, will impact on our decision making to the detriment of the people we are looking after. I want to make it clear that risk management has an important place but at times we can place too much emphasis on it at the expense of treating and supporting service users.

One of the principles behind the Bill is to protect patients and other people from harm that may result from a mental disorder. Forecasting violent behaviour, however, is difficult. According to the American Psychiatric Association its "best estimate is that two out of three predictions of long-term future violence made by psychiatrists are wrong."<sup>1</sup> Moreover, acts of violence committed by people experiencing psychosis are extremely rare. George Szumukler, Dean of the Institute of Psychiatry, has argued that homicide and even suicide, are such rare events, that they are impossible to predict accurately. For serious violence it is 2 in 1000. For homicide, it is 1 in 15,000.<sup>2</sup>

Even if we were to accept that violence could be accurately predicted is it still right to detain people? The analogy often used is that Chief Constables are aware of the serious criminals on their patch. However, without sufficient evidence to convict they remain at liberty. Why treat people with mental health problems any differently? Especially when studies show that young men drinking in a pub or driving a car are

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<sup>1</sup> Reckoning with Risk, Gerd Gigerenzer, Learning to Live with Uncertainty

<sup>2</sup> J Laurance, Pure Madness, How Fear Drives the Mental Health System, 2002

much more likely to end up hurting someone. But I don't see the police, armed with actuarial risk tables, targeting pubs and locking up young drinkers and drivers.

I've already touched upon how we are inclined to tell and listen to memorable and dramatic stories. And the media is particularly guilty. Far more papers are sold with scare stories such as: 'NHS freed psycho to kill' than articles relating to positive outcomes. These negative stories impact on a tendency to always believe the worst about the human condition and they also fuel anxieties and concerns. We are also guilty of wildly exaggerating the chances of some unwanted event happening to us. How many of the general public do you think know that the risk of [being killed by a psychotic stranger] is around the same as that of being killed by lightning ...about 1 in 10 million?<sup>3</sup>

So, despite having only glanced briefly at the 306 pages of the Draft Bill what's my take on the Bill? I can't help but feel the government, in an election year, is pandering to society's concerns about public safety and general ignorance of risk. I also feel that there is a political agenda to manage risk and minimise the chances of adverse media stories. However, we live in an uncertain and unpredictable world and yes, I'm certain people with mental health problems will continue to commit crimes but no more so than other sections of society. Nevertheless, it is wrong to focus on people experiencing ill-mental health just as it is wrong to single out doctors, nurses or social workers for blame.

So this leads me to my final point. In practice, the actual benefits and harm of the Draft Bill will be much more complex. Yes, at times, it will be misused. But, at the same time the vast majority of mental health professionals are caring, hardworking and committed. And, in the final analysis it is not governments, society, culture or Mental Health Acts that treat patients it is individuals and it is up to us to do so with dignity and respect.

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**This is still a draft bill which can be amended by both the House of Lords and House of Commons. If you feel strongly about it you can write to you MP at:**

**The House of Commons, London SW1 0AA**

**If you don't know who your MP is you can ask at your local public library or at the Town Hall or Telephone the House of Commons Information office on: 020 7219 4272**

### **Information**

To register interest in the scrutiny of the draft Bill contact the secretariat of the Pre-legislative Scrutiny Committee on: [scrutiny@parliament.uk](mailto:scrutiny@parliament.uk) (type Mental Health Bill in the subject box). Information will be on the parliamentary website: [http://www.parliament.uk/parliamentary\\_committees/jcdmhb.cfm](http://www.parliament.uk/parliamentary_committees/jcdmhb.cfm)

If you would like to read the Draft Mental Health Bill in full you can go to [www.dh.gov.uk/publications](http://www.dh.gov.uk/publications) and type in Draft Mental Health Bill 2004. The DoH has also produced an easy read version which is only 34 pages which can be downloaded at the same site.

Mind have produced a brief guide to the Draft Mental Health Bill which can be downloaded at [www.mind.org.uk/DMHB/guidetobill/](http://www.mind.org.uk/DMHB/guidetobill/)

The Royal College of Psychiatrists also have a comprehensive set of comments and analysis of the Draft Bill at [www.rcpsych.ac.uk/press/parliament/MHBill.htm#revised](http://www.rcpsych.ac.uk/press/parliament/MHBill.htm#revised)