Correspondence

Mental Health Review Tribunals and 'restricted' patients

DEAR SIR

In the August issue of the *Bulletin* (p. 153) there is a list of the College's recommendations about changes in the law affecting the consideration of Section 65 cases by Mental Health Review Tribunals. It is stated in Paragraph 1 that 'psychiatrists, particularly in Special Hospitals, should have confidence, as far as possible, in the new procedures'. I am writing to say that the psychiatrists in this hospital do not have confidence in what the College has recommended.

The problems are to be found in Paragraph 5. Here it is stated 'In cases where there is conflicting medical opinion ... the Tribunal would have the power to order a conditional discharge to operate once appropriate arrangements are made'. What does the phrase 'conflicting medical opinion' mean? Does it mean a conflict between the patient's Responsible Medical Officer and the medical member of the Tribunal or between these two doctors and a doctor giving an opinion on behalf of the patient, or is the College thinking about the many cases where the diagnosis has been obscure and various opinions have been given over the course of a long illness? If the conflict is between the current Responsible Medical Officer and the medical member of the Tribunal, does this mean that the views of the medical member must henceforth take precedence not only over the Responsible Medical Officer but also over the lay member of the Tribunal and that the Chairman must always listen to his advice?

The phrase 'once appropriate arrangements have been made' has an air of innocence about it which is quite deceptive, and it opens the way for difficulties the College appear to have ignored. The crux of the matter is deciding who is to make the 'appropriate arrangements'. Presumably in these disputed cases the Responsible Medical Officer will consider that the patient is still dangerous and it is likely that his social worker colleagues will agree with him. It is hard enough these days for us to persuade our colleagues to look after patients we consider to be quite safe. How then does the College suggest we should arrange accommodation, supervision and psychiatric after-care for those patients who, we will have to say, are in our view too dangerous to be in the community? If the Responsible Medical Officer is not to make these discharge arrangements, who should? And who would be responsible if the Responsible Medical Officer's predictions about the patient's dangerousness turn out to be accurate?

Finally, we feel it in order to comment on Paragraph 6. The College is recommending that the Tribunal should have the option of removing restrictions imposed under Section 65 of the Act. Clearly there may be cases where this would be appropriate, but in our view this is a power which should be used sparingly. It must be remembered that since 1960 the courts have imposed restriction orders on an increasing proportion of patients sent to this hospital, and this has enabled Responsible Medical Officers to recommend discharge or transfer for patients who can benefit from long-term treatment, care and supervision in the community or in conventional hospitals. Without these powers proper long-term supervision cannot be imposed and unrestricted patients may find their stay in maximum security unnecessarily prolonged because Responsible Medical Officers, and indeed Tribunals, lack the confidence to discharge patients whose insight is often the first casualty of their mental disorder.

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'Detention' and 'treatment'

DEAR SIR

After reading Professor Bluglass's article (*Bulletin*, August p. 151) I cannot help wondering whether the recommendation of the Special Committee of Council on the Review of the Mental Health Act if implemented will, by increasing the strength of the Mental Health Review Tribunals and so the degree of scrutiny of the grounds for detention under the Act, magnify the present difficulties in deciding what cases can and cannot be detained under Part V.

The public naturally expects the law to protect its members from dangerous persons whether mentally disordered or not, but there seems little provision for detention of persons who are and will continue to be dangerous but who do not come under the Act because their condition is not thought to warrant detention in hospital for medical treatment.

There are cases coming before the courts where there is doubt on this point, and whether or not a Court Order is made will depend to a great extent on which particular psychiatrists are called upon to make assessments of mental state and whether they feel the patient will respond to treatment. The type of case which leads to the most difficulty and controversy is, of course, that which is classified Psychopathic Disorder, and the problem revolves around treatability.

Is detention in hospital itself sufficient to rank as treatment for these patients or should hospital admission be resisted if there is little or no chance of success, even though the patient could be dangerous?

Should a Mental Health Review Tribunal faced with