

The College's Recommendations*

The Royal College of Psychiatrists recommends the formation of a Mental Health Commission or Commissions. These will be independent bodies to look after the welfare of individual mentally disordered persons. They may be the appropriate bodies to deal with matters of individual patient care which are not the responsibility of other bodies, such as the Health Advisory Service, which deals with hospitals and some community services, Mental Health Review Tribunal's which are concerned with detained patients only, the National Development Team which deals with the mentally handicapped and the Court of Protection which is concerned with the administration of patients' affairs and property.

A number of Mental Health Commissions will be required for England and Wales, each Mental Health Commission could serve more than one National Health Service Region, and will include the Special Hospitals. Membership should comprise psychiatrists and members of other health care professions, as well as lay members. The Chairman should be an experienced and senior lawyer. Members should be appointed by the Lord Chancellor and psychiatric members should be selected from nominations made by the Royal College of Psychiatrists. Membership would be for periods of five years. A permanent secretariat would be needed and central co-ordinating machinery would be necessary. The relationship between members of the secretariat and commissioners and whether there would be a need for full-time members will be discussed separately.

Functions of the Commissions

- (a) Mental Health Commissions should keep under review the use of compulsory powers under the Mental Health Act, the care and treatment given to individual patients and the protection of patients' rights. They should have powers to publish guidelines on practice in these matters.
- (b) Mental Health Commissions should receive and monitor all compulsory admission documents made under the Mental Health Act. (Medical recommendations on

compulsory admission documents should distinguish facts observed by others from facts determined by the examining doctor and should state the reasons why compulsory admission is deemed necessary.)

- (c) Mental Health Commissions should declare invalid documents giving insufficient reasons for detention under Part IV of the Mental Health Act. They should report errors in compulsory admission documents which are capable of rectification to hospital managers or the Court.
- (d) Mental Health Commissions should have the duty to visit patients who are subject to guardianship. On any behalf of, a detained patient or as often as they think appropriate. They should also similarly have a duty to visit patients that are subject to guardianship. On any such visit they should afford an opportunity on request for private interview to any such patient or where the patient is in a hospital to any other patient in that hospital.
- (e) Mental Health Commissions may advise patients of their rights, under established complaints procedures. Where necessary, and as a last resort they should have powers of enquiry similar to those of the Scottish Mental Welfare Commission as established under the National Health Service (Scotland) Act 1972.
- (f) Mental Health Commissions may advise Responsible Medical Officers on the care and treatment for individual patients at the request of the Responsible Medical Officers.
- (g) Mental Health Commissions should arrange for second opinions to be provided in cases which may be required by legislation.
- (h) Mental Health Commissions should advise for which treatments and under which circumstances second opinions should be obtained and arrange for such opinions by legislation.
- (i) Mental Health Commissions will publish regular reports on their activities. They would have the authority to have direct access to an approved statutory Health Authority or directly to the Secretary of State as appropriate.

*These recommendations of the Special Committee of Council on the Review of the Mental Health Act were approved by the Executive and Finance Committee on 8 May 1981 and are now subject to approval by Council.

Mental Health Commissions will have no jurisdiction over the assessment of new treatments, which would be the responsibility of the Committee on the Safety of Medicines or local Ethical Committees.