

# Foreword

Those who have been following the progress of the mental health law reforms in England and Wales may be forgiven for experiencing a sense of déjà-vu during the Queen's Speech last year, as the much anticipated Mental Health Bill was (perhaps not surprisingly) absent from the Government's parliamentary agenda for the second year running. It would seem that ministers are unable to reach agreement on the exact direction of the new Bill. There are also rumblings that the much needed Mental Health Act reforms are not being afforded sufficiently high priority by the Government. John Reid, the Health Secretary, was quick to respond such criticisms in November, confirming the Government's intention to bring forward a revised Bill for pre-legislative scrutiny by Parliamentary Committee "as soon as possible". For the time being however, it remains to be seen when the new reforms will be introduced.

In this issue of the Journal our first article, "Mental Health Inquiries – Views from the Chair", by Professor Herschel Prins will be of interest to those who have chaired or who are interested in the procedures surrounding mental health inquiries. Professor Prins' article solicits views from a number of inquiry chairs and highlights their experiences of chairing mental health inquiries and how they view the problems they encounter. The author hopes that the observations made will reveal a number of matters that are of particular concern to those who chair mental health inquiries, and in particular, those who chair homicide inquiries.

At the end of November, the Joint Committee appointed by both Houses to examine the draft Mental Incapacity Bill published their detailed report. Camilla Parker examines the Draft Mental Incapacity Bill in this issue of the Journal, and highlights the need for greater clarification of a number of the draft Bill's proposals. Our third and fourth articles are taken from papers which were presented at the North of England Mental Health Law Conference in June last year. Paul Bowen's article looks at the impact of the Human Rights Act in the field of Mental Health Law and the way in which the European Convention on Human Rights continues to shape the law in this field. Kris Gledhill's article takes a detailed look at the consequences of acting unlawfully and the various ways legal challenges are being brought within the context of mental health. Both pieces are of significant practical importance for professionals working in the area of mental health.

Finally, Mat Kinton's article considers the Mental Health Act Commission's Tenth Biennial Report "Placed Amongst Strangers" and explains the context surrounding the Report and discusses some of its core themes.

In our case notes section, Peter Bartlett reviews the latest in a number of cases which examine the scope of the Human Rights Act and compulsory treatment under the Mental Health Act

in *R (PS) v G(RMO) and W (SOAD)*[2003]. David Hewitt and Kristina Stern review the current state of the law surrounding the re-detention of patients after tribunal discharge, following the recent House of Lords' judgment in *R v East London and the City Mental Health NHS Trust and another, ex parte von Brandenburg* [2003]. The Court of Appeal judgment in *R (on the application of Colonel Munjaz) v Mersey Care NHS Trust; S v Airedale NHS Trust* [2003], reviewed by Anna Harding, examines the current legal status of the Mental Health Act Code of Practice following this high profile conjoined appeal last year.

In our Book Review section, Professor William Bingley reviews the second edition of Bartlett and Sandland's seminal text, *Mental Health law: Policy and Practice*, published by Oxford University Press, and John Horne reviews 'Decisions and Dilemmas – working with mental health law' written by Jill Peay and published by Hart Publishing.

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Editor