UK government scraps mental health bill

Clare Dyer *legal correspondent, BMJ*

The UK government is to scrap a controversial draft bill to reform mental health law in England and Wales after eight years of opposition by psychiatrists, lawyers, and mental health charities. As set out by the *BMJ* in February (2006; 332:444, 25 Feb), the lengthy and complex draft mental health bill is to be dropped and a much shorter bill introduced to amend the existing Mental Health Act, which dates back to 1983. The decision to scrap the draft bill was welcomed by campaigners, although many voiced anxiety about what was to be put in its place.

The proposed reforms were triggered by the killing of Lin Russell and her daughter Megan by Michael Stone in a country lane in Kent in 1996. Mr Stone was diagnosed as having a dangerous severe personality disorder but could not be detained for the protection of others because the 1983 act allows compulsory detention only for the treatment of a mental disorder. The draft bill provided for compulsory detention of people who had committed no crime to prevent them harming others.

Outlining the proposals for the new shorter bill, health minister Rosie Winterton said that it would introduce a new simplified definition of mental dis-

order and remove the "treatability" test. Anyone for whom "appropriate treatment" is available could be detained if doctors feel that they pose a risk to themselves or others.

A second controversial proposal allowing compulsory treatment in the community will, under the new bill, apply only to people who have already been detained in hospital and released. Ms Winterton said that this was aimed at "revolving door" patients who fail to continue their treatment and have to be readmitted to hospital.

Lucy Scott-Moncrieff, a leading mental health solicitor, said that by amending the Mental Health Act, the government would be restoring the medical discretion that was absent from the draft bill.

"The really huge difference as far as I'm concerned is the maintenance of medical discretion. Under the draft mental health bill if certain criteria were met then certain consequences had to follow which entirely took away medical discretion."

She said that treatment did not have to mean treatment for the underlying condition but could include treatment for the manifestations, such as anger management training.

The new bill will also amend the Mental Capacity Act 2005 to close the "Bournewood gap," through which people with dementia and learning disabilities may be kept in hospitals and nursing homes indefinitely because they are unable to communicate their wishes (See p 737). □

PETER MOSZYNSKI

AIDS robs millions of their childhood

Millions of children in Africa have been orphaned by AIDS while countless more spend their youth caring for sick relatives with little formal help, warned the charity Save the Children in a report issued last week. "The AIDS pandemic robs millions of children of their childhoods as well as their mothers," said Jasmine Whitbread, the charity's chief executive, when launching the report. "Children are caring for their mothers, missing school, and having to work because their mothers are too sick to look after them."

The agency estimates that 90% of the 19 million women living with HIV worldwide are parents. Ms Whitbread said, "The more support that can be provided, the longer HIV positive mothers can care for their children. It's time for donors... to come forward with the resources to support children whose childhoods are being lost."

Unicef says that since 1990, 12 million children have been orphaned by AIDS in Africa and 15 million worldwide. Only 10% have access to formal help. Most orphans, like the two above from Ndola in Zambia, are cared for by siblings, grandparents, or informally within the community, with very few finding placements in orphanages or foster homes.

Peter Moszynski *London*

The report, *Missing Mothers: Meeting the Needs of Children Affected by Aids*, is available at www.savethechildren.org.uk.

Assisted conception business should be better regulated

Andrew Cole *London*

Infertility treatment in the United Kingdom is in danger of turning into an exclusive market for rich people unless it is more tightly regulated, a Harvard Business School professor has warned. Assisted reproduction is big business, but it is not regulated as such, said Debora Spar, author of *The Baby Business*, a detailed study of economics and market behaviour in treatment for infertility.

Clinics should be obliged to

provide information on the cost of in vitro fertilisation cycles. Without some form of regulation, she warned, prices would soar and we would move to a situation "where the rich infertile will be able to respond while the poor and infertile will be left childless," she said.

In the UK, the business was reckoned to be worth at least £500m (£720m; \$880m) with 80% of treatment now being given in the private sector. That

market was set to expand enormously. There had always been a demand from the estimated 15% of the population who were infertile, but this was now extending to same sex couples, couples with genetic defects, and single women, who make up as many as two thirds of sperm bank customers in the United States.

Professor Spar was speaking in advance of the Human Fertilisation and Embryology Authority's annual conference, which was held in London earlier this week, after the *BMJ* went to press.

"When people learn they are infertile the diagnosis is received as harshly as a diagnosis of

cancer," she said. "When people want children and can't produce they will do virtually anything in order to get these children. That means from a commercial point of view this is great. You have customers that will do anything to get that product."

No one in this transaction wanted to acknowledge that they were in a commercial relationship. "Doctors don't want to see themselves as part of a commercial industry. Parents also don't want to see themselves as consumers. They see themselves as parents. They're creating a child, not purchasing a product."

"People tend to wind up in this slightly incestuous relationship with their providers." ■