

**WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES
BY SENATOR S.C. FERGUSON
ANSWER TO BE TABLED ON TUESDAY 19th FEBRUARY 2013**

Question

Given that the General Medical Council Guidelines for doctors working in mental health have been updated to take account of modern law and practices, will the Minister advise whether there are conflicts between them and the Mental Health (Jersey) Law 1969 and, if so, explain how these guidelines are then applied?

Answer

Firstly, it is important to note that the last General Medical Council Guideline update was in 2006, and there is compliance across those doctors working in the field of mental health.

The Minister can confirm that there are conflicts between modern mental health law and practice, in regard to comparing mental health legislation in England and Wales to the Mental Health (Jersey) Law 1969.

There are two significant issues that the Department are aware of, and work hard to mitigate this conflict:

1. Community Treatment Orders.

Community Treatment Orders were introduced in England and Wales in November 2008, by new sections 17A-G in the UK Mental Health Act 2007. In the Code of Practice it is called Supervised Community Treatment; in the Act those subject to CTOs are called community patients.

In Jersey every effort is made to work to best practice, working with a person in the least restrictive way, which in itself means wherever possible in the community. Our present legislation does not allow our mental health services to direct work in the community under an Article, and, therefore, can only be achieved through working in collaboration and agreement with the person on a voluntary basis, when requiring continued treatment but not necessarily in a psychiatric ward.

2. Mentally Disorder Offenders Law

Under the UK Mental Health Act 2007 the Crown Prosecution Service uses the term "mentally disordered offender" to describe a person who has a disability or disorder of the mind and has committed or is suspected of committing a criminal offence. This term covers a range of offences, disabilities and disorders. A mental disorder may be relevant to:

- The decision to prosecute or divert;
- Fitness to plead; and

- Sentencing/Disposal.

Each case must be considered on its merits, taking into account all available information about any mental health problem, and its relevance to the offence, in addition to the principles set out in the Code for Crown Prosecutors. The Code explains that there is a balance to be struck between the public interest in diverting a defendant with significant mental illness from the criminal justice system and other public interest factors in favour of prosecution including the need to safeguard the public.

Under the Mental Health (Jersey) Law 1969 there is no facility to send people from prison directly to a secure hospital under a Hospital Order or an Interim Hospital Order.

Presently, work is underway jointly between the Chief Ministers Department, H&SS and the Law Office to set out the work plan to update and amend the present mental health legislation in Jersey, to proactively include the options for including the use of Community Treatment Orders and the introduction of the Mentally Disordered Offenders Law