

The College

Data Protection Act

The College was recently asked for its views on the DHSS' proposals for an Order to be laid under Section 21 (9) of the Data Protection Act, enabling a request to be made on behalf of any individual who is incapable by reason of mental disorder of managing his own affairs. There was concern that inappropriate requests for information on the data subject might be made, and the College recommended ways in which the application procedure might be strengthened. The DHSS have now written reporting the outcome of consultations, as follows:

'There was general acceptance of the proposal that anyone acting under an Order of the Court of Protection or under an Enduring Power of Attorney should have an automatic right to apply for subject access on behalf of the Data subject.

However there were misgivings about the medical certificate/statutory declaration procedure proposed where there is no person already authorised as above. The main misgivings were that:

- (a) the proposed procedure did not provide sufficient safeguard against access to the personal data of temporarily or permanently mentally disordered people by persons who had no good reason to have such access but who would not be adverse to making a statutory declaration that they did;
- (b) there was no one in the procedure with the responsibility

of looking after the interests of the mentally disordered person.

At present it does not seem possible to find a way of strengthening the statutory declaration/medical certificate procedure which would meet the concern expressed about the possibility of its misuse. Further consideration can be given to the matter if it appears that significant problems arise which cannot conveniently be met by application from persons acting under an Order of the Court of Protection or within the terms of an Enduring Power of Attorney.

Applications by persons so authorised can be made whether or not an Order under Section 21 (9) of the Act were to come into force. Consideration is being given to whether an Order without Article 2 (1) (d) [statutory declaration/medical certificate procedure] would confer any power that does not already exist, and whether there is any need for it to be made.

Consideration would also be given to suggestions for a simple to operate procedure to meet foreseeable requirements which would minimise the risk of misuse.'

The Executive and Finance Committee agreed that College members should be invited to contact the Registrar with examples of situations where there might be misuse, and to make suggestions for an improved procedure.

PROFESSOR R. G. PRIEST
Registrar

See page 181.

Special Interest Groups

In June 1987 Council approved the establishment of 'Special Interest Groups'.

Procedure for establishing a Special Interest Group:

- (1) Any Member wishing to establish a Special Interest Group shall write to the Registrar with relevant details.
- (2) The Registrar shall forward the application to Council.
- (3) If Council approves the principal of establishing such a Special Interest Group then it will direct the Registrar to place a notice in the *Bulletin*, or its equivalent, asking Members of the College to write in support of such a Group and expressing willingness to participate in its activities.
- (4) If more than 50 Members reply to this notice, then Council shall formally approve the establishment of the Special Interest Group.

- (5) The administrative support provided will be similar to that enjoyed by College Divisions. It should be noted therefore, that the College will maintain the list of members, prepare and distribute notice of meetings but will not provide staff to attend meetings, organise conferences etc.

In accordance with this procedure, Council has approved the establishment of a Special Interest Group on Philosophy and Psychiatry. Members are invited to write in support of this Group and express willingness to participate in its activities. Members should write to Mrs Jean Wales at the College. If 50 members reply to this notice for each Group, then Council shall formally approve the establishment of this Special Interest Group.

PROFESSOR R. G. PRIEST
Registrar