

Ref. A089/195

PRIME MINISTER

Bureaucracy in the NHS

My neighbour, Anthony Lester QC, was appearing last week in proceedings to remove a consultant from the NHS. He told me that the complaints against the consultant concerned had been going on for some 15 years without effective action being taken. The cost was astronomical.

I asked him to write a note about the bureaucracy involved.

--- It is attached. He tells me that he does not think that the Department of Health could gainsay any of it.

R.R.B.

ROBIN BUTLER

23 January 1989

THE REMOVAL OF INCOMPETENT AND DEFAULTING DOCTORS FROM THE NHS

1. For reasons summarised below, in my view, the present arrangements for removing incompetent or defaulting doctors from the NHS are unwieldy, cumbersome, inefficient and in urgent need of radical reform.
2. Medical practitioners in the NHS now have included in their contracts of employment detailed and complicated terms and conditions of service (the Red Book) as well as general conditions of service agreed by the Whitley Councils for the Health Service (the Blue Book). In addition there are Ministerial circulars which overlap with the Red Book and the Blue Book: eg HC(81)5 Health Service Complaints Procedure, HC(82)13 Prevention of Harm to Patients resulting from Physical or Mental Disability of Hospital etc Staff; and HM(61)112 Disciplinary Proceedings in cases relating to Hospital etc Staff.
3. The procedures in these various documents are complex and cumbersome. They do not fit well with each other. They require a High Court Judge (or at least a QC) to make sense of them. Even then they do not make much sense in the modern world.

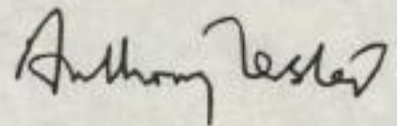
4. It is widely believed by Health Authorities and senior medical practitioners that a consultant or hospital practitioner is virtually unsackable. This belief is well founded in practice because time and again Health Authorities have found themselves defeated by the complexity of the procedures and the unwillingness of doctors to give evidence against each other when the Authorities have tried to remove an incompetent or defaulting member of the profession. Years pass and hundreds of thousands of pounds are wasted in trying to tackle the problem.

5. Quite apart from the over-complicated disciplinary procedures and ministerial circulars dealing with action short of dismissal, the final appeal procedure to the Secretary of State (para 190 of the Red Book) is extremely elaborate. Five senior members of the medical profession sit at Hannibal House, together with a shorthand writer, and three or four other officials to hear the practitioner appeal against his or her dismissal. At this stage it is open to the BMA to persuade the professional committee to advise the Secretary of State not to confirm the dismissal but to send it back for exhaustion of the internal disciplinary procedures. I understand that this happened in one case after the Health Authority had spent some £300,000 trying to dismiss a senior consultant from their employment.

6. I do not see any good reason for treating hospital doctors more favourably than company directors, yet that is the

present position. In my view unfair dismissal and wrongful dismissal protection should be sufficient.

7. No doubt the existing situation is the result of antique collective agreements negotiated at the birth of the NHS, and the considerable power of the medical profession in resisting change. However, it is not in the best interests of a safe and efficient health service, nor ultimately of a competent and healthy medical profession. If the system cannot be radically improved by voluntary agreement, in my view, it should be tackled by legislation - for the sake of patients, nurses, Health Authorities, the taxpayer and doctors.



20th January 1989

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