

My Ref: JP5/CG

3<sup>rd</sup> June 2003

Dear Tony,

**Section 117 of the Mental Health Act 1983**

I refer to my letters of the 20<sup>th</sup> and 30<sup>th</sup> May 2003.

I am sorry that our representations are being submitted incrementally, but I have now been approached by the County Solicitor of Leicestershire County Council, who has provided me with the attached copy of Counsel's Preliminary Observations on the Draft Guidance.

I will not rehearse the arguments put forward by Counsel, but it seems to me that the Ombudsman must pay careful attention to the advice on the status of the Code of Practice because, if Counsel is correct in her analysis, this will have a direct impact upon paragraphs 74 and 77-81 of the Draft Guidance.

It is clear from the representations that we have submitted to you from my colleagues, that your Draft Guidance gives rise to some complex issues, and I sincerely hope that you will give very careful consideration to our representations before you issue the final Guidance.

Yours sincerely,

JOHN POLYCHRONAKIS.  
Vice-President of ACSeS.

Mr. T. Redmond,  
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