

The Editor

*Justice of the Peace*

Dear Sir,

In his article on the Mental Capacity Act 2005 entitled "Mental Health and Offender Control" (JP 16 April 2005) Zia Akhtar mentions my letter in *The Times* complaining about what was clause 24 of the Bill (now section 24 of the Act). This enables a person (P) to make an advance direction that if at any time in the future he lacks capacity to consent to specified treatment it is not to be carried out.

In my *Times* letter I objected that no one can tell what their circumstances will be years ahead, or what decision they would take about medical treatment at some future date, because they cannot know what all the circumstances will be.

I am glad to say that this objection is now met by section 25(4)(c) of the new Act, which says that an advance direction is not applicable if "there are reasonable grounds for believing that circumstances exist which P did not anticipate at the time of the advance direction and which would have affected his decision had he anticipated them".

Yours faithfully,

Francis Bennion