

Reviews

A Practical Guide to the Mental Capacity Act 2005: Putting the Principles of the Act into Practice

By Matthew Graham and Jakki Cowley
Jessica Kingsley Publishers 2015, £17.90, pb, 192 pp.
ISBN: 9781849055208

The Mental Capacity Act 2005 (MCA) – which applies specifically to England and Wales – pervades several aspects of daily clinical care within many clinical as well as non-clinical environments, such as care homes.

The authors of *A Practical Guide to the Mental Capacity Act 2005* – whose backgrounds are social work and advocacy – observe that ‘Seven years on [. . .] the MCA is still not being adhered to nor fully embraced within practice’. Their aim was to produce a ‘theory-to-practice breakdown of the MCA’ and this was readily achieved with a fluent and erudite style of writing and continued emphasis on the practical aspects of implementing the MCA. There were useful case studies and checklists for practice, as well as practical top tips such as videotaping advance statements. A minor gripe would be that, if anything, such checklists and top tips could have been used more often throughout the book; for example, at the end of each chapter. The most useful chapter was that on best interests – very salient practical advice was afforded on the best interests process and assessments, including how to chair meetings and using documentation. This chapter tried to demystify the abstract concept of best interests by conceptualising such decisions as complex and less complex. Another strong chapter – probably reflecting the authors’ expertise in this area – was on advocacy and empowerment, which examined the various roles of the independent mental capacity advocate within the MCA process.

The undoubted highlight was the evocative account of the 2004 case of *HL v UK* which was the catalyst for the introduction of Deprivation of Liberty Safeguards (DoLS) legislation, to plug the now legally infamous ‘Bournewood gap’. HL was a patient with autism and challenging behaviour who was admitted to hospital on an informal basis. He was regarded as being compliant with care but unable to consent to admission; however, this was found to be a contravention of Article 5 of the European Convention on Human Rights (the right to liberty). The account is written by HL and his carers Mr and Mrs E. Although events regarding HL and his carers began in 1993, the account is a fascinating perspective of one of the most, if not the most, important mental health cases in legal history in terms of its potential impact on tens of thousands of people, carers and clinicians on a daily basis. The authors provide useful views on how and why the DoLS legislation has not been implemented well so far.

Overall, this is an excellent short text which should be required reading for those involved in care touching upon the use of the MCA, and would be ideal for medical and nursing students. But with the Court of Protection seemingly currently engaged in trying to crystallise the core essence of DoLS

legislation – and with further recent key judgments emerging in the areas of best interests, end-of-life care and DNACPR (do not attempt cardio-pulmonary resuscitation) – it seems likely that this, as well as other similar guides, will need to be updated again in the near future to keep the readership up to date with key developments.

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A Clinician's Brief Guide to the Mental Capacity Act (2nd edn)

By Nick Brindle, Tim Branton, Alison Stansfield
and Tony Zigmond
RCPsych Publications 2015, £18 (£16.20 for College members),
pb, 144 pp.
ISBN: 9781909726420

This book aims to provide a comprehensive overview of the Mental Capacity Act 2005 (MCA) – which applies specifically to England and Wales – and its implementation in practice.

The authors are all practising psychiatrists and although the style and content is tailored for a medical readership, the guide is suitable for all grades of doctors and all specialties, not just psychiatry. It is also ideal for medical and nursing students. With a punchy and concise writing style, the book has copious amounts of practical advice for clinicians throughout, and at times uses a common sense question-and-answer format with questions that clinicians are likely to pose, which reflects real-life practice.

Importantly, this work sought to translate lengthy and wordy court judgments into concise and simplified reviews outlining key basic principles for clinicians to use in daily practice. Possibly the most interesting chapter was that regarding the role of the Court of Protection. This busy court – which according to the authors hears approximately 23 000 cases annually, a figure that will surely inevitably rise – is often referred to in the media as the secretive court. However, this excellent chapter goes a long way in debunking various perceptions. It also explains the court process and is infused with sage, detailed and practical advice, from how to handle requests for assessments, writing reports and interviewing patients to giving evidence in court and even finding your way there if you need to! The authors suggest that Court of Protection proceedings tend to be more ‘informal and inquisitorial than formal and adversarial’ but that they can

still be stressful, which is why they wish readers 'good luck'. But despite the suggestion that a degree of luck might be needed, anyone new to such court proceedings will be far more prepared having read this chapter than not.

Needless to say, the thorny issue of implementing Deprivation of Liberty Safeguards (DoLS) was discussed at length in a chapter that provided important context by describing the evolution of this legislation and case law. Notwithstanding, owing to a glut of more recent key DoLS judgments, the book is already a little out of date as DoLS case law and guidance have evolved rapidly. It seems likely that an update will be needed soon to keep readers informed of key developments. Nevertheless, there was a good description of practical issues in using and applying DoLS since the *Cheshire West* case in 2014, a case which triggered an upsurge in the use of this legislation. The authors aptly summed up the state of DoLS understanding from further case law since *Cheshire West* by saying it did 'little to ease the quandaries of health and social care staff in their decision-making in relation to deprivation of liberty'.

Another notable chapter was the one on the assessment of capacity, which provided comprehensive and practical advice, breaking the process down into its components and getting into its minutiae, thus challenging the reader to re-evaluate their own methods for assessing capacity. Other useful sections included advice on how to resolve conflict emanating from complex best-interests meetings and on seeking consent. Although not concluded at the time of publication, the latter resonates with the 2015 seminal Supreme Court case of *Montgomery v Lanarkshire* which has redefined the rules of seeking consent and has implications for how clinical negligence will hence be assessed.

All in all, this is an excellent guide which would aid those involved in care touching upon the use of the MCA.

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Motivational Interviewing: A Guide for Medical Trainees

Edited by Antoine Douaihy, Thomas M. Kelly
and Melanie A. Gold

Oxford University Press, 2015, £34.49, pb, 280 pp.
ISBN: 9780199958184

I first encountered motivational interviewing as a trainee when I read Miller and Rollnick's classic 1991 book *Motivational Interviewing: Preparing People to Change Addictive Behavior* and the key concepts have always resonated with me. Although it seems obvious that a man requiring major surgery due to cardiac disease should stop smoking, it is rarely helpful to insist that he does so. People have ambivalent feelings when it

comes to changing entrenched behaviours and it is often better to elicit their own reasons for change. After all, it has been said that people believe what they hear themselves say. Perhaps because of its apparent simplicity, motivational interviewing has become an important technique for most UK addiction therapists and its influence has gradually spread to other areas of practice. Therefore, does the world need another book on motivational interviewing?

This book is written by a group of trainees spanning all specialties of medicine, with the goal of demonstrating how motivational interviewing can fundamentally improve the doctor–patient relationship. Motivational interviewing is a way of being rather than an intervention and the book reminded me of its roots in Carl Rogers' person-centred approach to therapy, based on building empathy, congruence and positive regard. As someone who bemoans the biomedical nature of British psychiatry, I was surprised that it succeeded in reawakening my interest in interviewing skills that not only elicit information but also provide therapeutic insights and direction.

Like the practice of psychiatry, motivational interviewing is straightforward to do but hard to do really well. It is not easy to learn from books and so the editors provide lots of dialogue to illustrate key points, and a series of videos on a linked website. They add personal reflections, as well as illustrations of the integration of motivational interviewing into electronic case records and its use in less familiar settings such as paediatrics. There is also a practical emphasis on how to teach and supervise motivational interviewing in the real world. Their enthusiasm for the subject was infectious and I was left in agreement that learning motivational interviewing should be a priority in medical education.

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Waking Up: Searching for Spirituality without Religion

Sam Harris
Bantam Press, 2014, £20, hb, 245 pp.
ISBN: 9780593074015

Sam Harris has been waiting to write this book for over a decade. This may surprise some. The subject matter – dealing reverently with human spiritual experience – is at odds with Harris' (in)famous public persona as a strident critic of religion. Yet, for the past 20 years Harris, who has degrees in philosophy and neuroscience, has been on a personal quest in search of 'transformative insights about the nature of one's own consciousness'.

Harris defines spiritual practice as the efforts people make, through meditation, use of psychedelics or other means,