

## 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