

# Book review

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It is perhaps unfair to begin the review of a text by splitting hairs over the title, but given the enthusiastic foreword stating that the guide is written by a psychiatrist for the “use of psychiatrists”, and that the imprimatur is the Royal College of Psychiatrists, this text is not really a guide for CAMHS “clinicians” but a psychiatrist’s brief guide to children’s mental health law.

That out of the way, the guide opens with the helpful caveats that the book is not about court-related work nor how to act as an expert witness; but is focussed on “essential elements” of children’s mental health law. Specifically, the guide attempts to bring together what should be known about the Mental Health Act (MHA), the Children Act 1989 and 2004, the Mental Capacity Act (MCA), the Human Rights Act (HCA), the United Nations Convention on the Rights of the Child as well as relevant case law and guidance in 122 pages. This is ambitious, and no mean feat. But does it do it? I think, in short, the answer is yes although I remain unconvinced that it would fully equip clinicians (psychiatrist or not) when wading through highly complex and challenging situations without needing a much longer couple of books and hopefully a lawyer at your side. An adjunct and support however, it surely would be.

Chapter 1 begins with a helpful, albeit somewhat tricky-to-follow, summary of recent, legal major developments. Tricky because, without a good deal of prior knowledge/expertise, there is a lack of context that makes this somewhat difficult to follow. There is a useful description of the court system structure (in England and Wales) and a very brief critique of the state of the family justice system. Chapter 2 discusses the HCA (1998) and explores that how the articles enshrined within it (particularly that of

deprivation of liberty) may directly challenge a decision made under alternative legislation (e.g. the MHA). The chapter helpfully focusses on five specific articles from the HRA that is of most relevance to CAMHS clinicians.

Chapter 3 begins by introducing that the Children Act (1989 and 2004) describing it as being “intended to bring together various pieces of legislation about children and to assimilate private law with public law”. In the honest discussion of the issues around this act, I am not sure Chapter 3 convinces me it was successful in achieving this! Once again the author has helpfully distilled out the main parts of the act that relate to children’s mental health law, in particular beginning with the welfare checklist. The section on parental responsibility is particularly good. There are also excellent descriptions of Section 8 orders, the child in need, care and supervision and child protection. The chapter finishes with a brief summary of the amendments introduced by the 2004 Act.

Consent to treatment issues are summarised in Chapter 4 with a helpful section on the significant legal challenges that arise when children and young people refuse treatment.

Chapter 5 addresses a cornerstone of British medical practice – confidentiality. The chapter begins by explaining how confidentiality is not an absolute duty and outlines the reasons as to when and why confidentiality may be breached. The chapter specifically refers to medical confidentiality and General Medical Council guidance, again here highlighting who the target audience is for this text: many CAMHS clinicians are social workers, psychologists or psychotherapists bound by different professional bodies for whom such frame working may be less helpful and relevant; and indeed there are occasions where the professional guidance for a psychologist in relation to therapeutic work may be at odds with that of the GMC. A paucity of clearer elaboration for other disciplines is disappointing. Another missing area of discussion here (perhaps a victim of word count limits) is when the principle of sharing

## **A Clinician’s Brief Guide to Children’s Mental Health Law**

information is not adhered to by all professionals working with a family and what should be done in that situation.

The MHA 1983 and 2007 amendments specific to children and young people are summarised succinctly in Chapter 6.

The chapter focusses on the principles of the Act, and is a splendid introduction for anyone unfamiliar with it. Furthermore it helpfully discusses its place in detention and treatment, and pragmatically reviews its various sections in practice. Disappointingly, there is only a single sentence to acknowledge the great challenge of children with mental distress being placed in beds a great distance from their homes, when further advocacy and elaboration would have been welcome.

Chapter 7 reviews the role of the MCA which only applies to young people over the age of 16 lacking capacity who do not fall within the scope of the MHA. There is a helpful paragraph differentiating between capacity and competence (not interchangeable although often used as such) followed by a somewhat tortuous discussion of the Deprivation of Liberty Safeguards – referencing the reader back to Chapter 1 and the HCA. Again the author has valiantly extracted the section that is relevant to young people and summarises each of these sections effectively. The section on assessment of capacity is clear and also clarifies that lack of capacity is not the same as being “overwhelmed by the moment”. In case the changes associated with understanding the application of the MCA were not enough, the chapter concludes with a summary of the extremely complicated relationship between the MHA and MCA – though to be honest, these complex pages left me reeling somewhat and demanded a couple of re-reads before I could grasp the key points. The author concludes by acknowledging the MCA is difficult to both implement and

understand; and has moreover failed to meet “the expectations it raised”.

The last 14 pages of this brief guide are devoted to juvenile justice and perplexingly refer to the roots of child psychiatry being connected to “the delinquent child”.

The chapter cross-references many of the acts already discussed with special reference to particular aspects of the juvenile justice system such as overnight detention, secure accommodation, control and restraint and the age of criminal responsibility (and issues for those under the age). It also discusses the police interview and the trial system, considering both the rights to a fair trial and whether a child or young person is fit to plead or stand trial and sentencing. There is also a brief section on the role of the youth offending team – a welcome exploration of an important component of the team around young people in these settings. The forensic sections of the MHA have been summarised in a really useful table with brief discussion of each section.

Overall, this brief guide does not make easy reading. It requires re-reading at times, though this reflects the complexity of the laws and the systems that this book addresses. It is however a scholarly work, which has been meticulously written, and is well referenced so that the reader can explore other sources of information should they need to. I shall keep my copy close by, for in addition to being a valuable tour de force of a complex area, it will be a helpful reference in my practice. With the flux in law and government, let us hope it does not become out of date too soon!

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