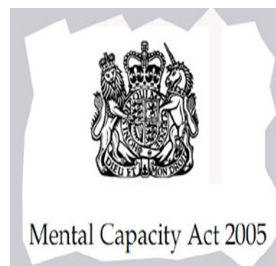


Mental Health Legislation



Volume 6 Issue 6

December 2023

This bulletin is published for all groups of staff working within our Trust. Please share with members of your team. The bulletin is best viewed online to enable users to click onto the links.

Mental Capacity Act case law summary sheet

This handy case law sheet from Edge provides examples of recent case law involving the Mental Capacity Act based around different decisions and issues including accommodation, ADRTs, alcohol use, contraception, fluctuating capacity, accessing the internet, covert medication and many more.



[Download the summary here](#)

Mental health reform left out of King's Speech

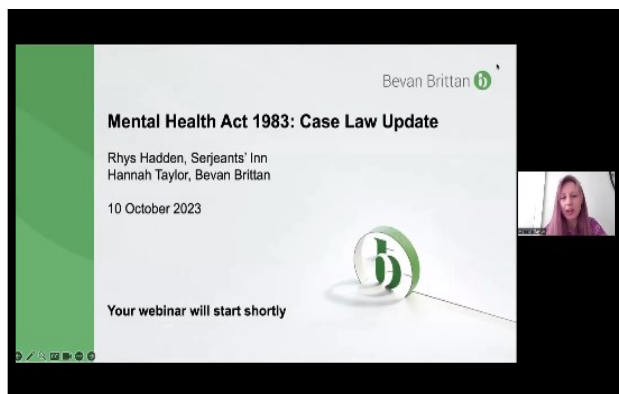
At the state opening of Parliament in November there was no mention of the reform of the Mental Health Act, despite this being a key manifesto commitment from the Conservative party. But why was it left out? And what has the reaction from the mental health sector been?



[Read the mental health sectors reaction here](#)

A round up of Case Law and important updates relating to the MHA over the past 12 months

If you would like to catch up on recent developments relating to the Mental Health Act then the webinar below (approx. 1 hour in length) will prove helpful.



[Click here to view](#)

Who's who in the Court of Protection

This helpful guide on the Open Justice Court of Protection Project website, explains the key roles and terminology used in the Court of Protection.



[Click here to view](#)

- if you need further information or have a comment or query, please contact the Mental Health Legislation Team on 024 7693 2520
- Head of Mental Health Legislation - Steve Trunk 024 7693 2530 or 07748 321939 steven.trunk@covwarkpt.nhs.uk
- Newsletter Author - Steve Trunk

From the Web:

Patricia, In the Matter Of [2023] EWCOP 42.

Judgment concerning Patricia's capacity to decide on medical treatment where she is seriously ill with anorexia nervosa. A 23-year-old woman, who suffered from anorexia nervosa, lacked capacity to make decisions in relation to her future medical treatment, notwithstanding that she retained litigation capacity. However, she should have autonomy since it was not in her best interests to force-feed her against her wishes; it would be futile and would only distress her. Read the judgement [here](#).

Questioning our presumptions about the presumption of capacity – in conversation

In this 'in conversation', Alex Ruck Keene, Isabel Astrachan and Dr Scott Kim talk about the paper they recently published together looking at the ways in which the presumption of capacity in the Mental Capacity Act 2005 (and many other equivalent legislative frameworks in other countries) can be misunderstood, and why 'suspending' the presumption in the face of legitimate reason to be concerned about a person's ability to make a decision is not only the legally, but the ethically correct thing to do. You can watch the discussion [here](#).

The legalisation of assisted suicide?

The Isle of Man is on course to legalise assisted dying for terminally ill and mentally competent people by 2025, after its Parliament (the House of Keys) voted by a 70% majority to pass an Assisted Dying Bill on 31 October 2023. A debate and vote on next steps took place on 7 November 2023 in the self-governing British dependency and the Bill will now be considered by a committee who will report back by the end of February 2024. If the process continues as anticipated, the Isle of Man will be the first place in the British Isles to legalise assisted death. Read more [here](#).

University Hospitals Southampton NHS Foundation Trust v T & Ors [2023] EWCOP 54.

Judgment giving reasons for decision to allow the applicant Trust to sedate T for three days to carry out an urgent invasive medical procedure. Read the judgement [here](#).

Manchester University NHS Foundation Trust v Y [2023] EWCOP 51.

Application by an NHS Trust to treat Mr Y's fractured and dislocated shoulder. The application was granted. Read the judgement [here](#).

Sandwell and West Birmingham Hospitals NHS Trust v GH [2023] EWCOP 50.

Application by the NHS Trust for declarations that GH lacked capacity to make decisions about treatment for breast cancer. The declarations were made. Read the judgement [here](#).

DoLS rights film available

This new film from Edge explains the duty to inform patients under an urgent or standard DoLS authorisation of their rights. It is less than 2 minutes long and free to access. View the film [here](#).

Distinguishing unwise decision-making from lacking capacity

The speakers considered: Exploration of the law and significant cases; Decision making in general and assessing the difference; How incapacitous decisions may be masked as unwise ones; Case studies and examples; The role of the inherent jurisdiction in unwise decision-making. Watch the webinar [here](#).

East Suffolk and North Essex NHS Foundation Trust v DL and Norfolk and Suffolk NHS Foundation Trust [2023] EWCOP 47 (Henke J) Best interests – medical treatment

Justice Henke, considered the sad case of DL, a woman in her 30s who was detained in a psychiatric intensive care unit under s.3 Mental Health Act 1983. As Henke J noted, "DL has a mild learning disability, complex PTSD, a dissociative disorder and an Emotionally Unstable Personality Disorder at a borderline level. She has a history of violent behaviours towards herself and others, including those caring for her". The judgment records at paragraph 7 that "since about August 2023 DL has been restricting her intake of nutrition and hydration. Her current intake is incompatible with life...." Read the judgement [here](#).

Mental health legislation policies

To support staff finding mental health legislation related policies in a timely manner a subfolder has been created, which holds all Mental Health Act and Mental Capacity Act related policies.

To access the policies:

Please access the [policies page](#).

Narrated presentations

We have placed narrated presentations and films on the [learning and latest news section](#) of our intranet page:

DoLS, using the Mental Capacity Act, Inpatients—consent to treatment, CTOs, Scrutiny of MHA papers, What is section 135 of the MHA?, Provision of Rights, The role of the IMHA and the IMCA

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