

Mental Health Law Briefing

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Revised Code of Practice

The final version of the revised Code of Practice has now been published. On 7 May the Government announced that the amended Code of Practice has been laid before Parliament and, subject to Parliamentary approval, will come into force on Monday 3 November 2008, at the same time as the majority of the main changes made by the Mental Health Act 2007 to the Mental Health Act 1983.

Copies of the Code of Practice may be obtained from the Department of Health website. This also includes a summary of the changes from the current Code of Practice.

The Code is clearly an important document. The House of Lords have held that the Code must be followed unless there are cogent reasons to depart from this. It will therefore be important to ensure that staff are aware of the changes and that policies and procedures are amended to reflect these.¹

Guiding Principles

One of the key revisions to the Code of Practice includes the adoption of principles in accordance with the requirement in Section 118 of the Act.

¹ Training seminars on the amendments and assistance with policies is available from RadcliffesLeBrasseur

The principles are set out at Chapter 1 of the revised Code. They provide as follows:

- (a) **Purpose principle**
Decisions under the Act must be taken with a view to minimising the undesirable effects of mental disorder, by maximising the safety and well being (mental and physical) of patients, promoting their recovery and protecting other people from harm.
- (b) **Least restriction principle**
People taking action without a patient's consent must attempt to keep to a minimum the restrictions they impose on the patient's liberty, having regard to the purpose for which the restrictions are imposed.
- (c) **Respect principle**
People taking decisions under the Act must recognise and respect the diverse needs, values and circumstances of each patient, including their race, religion, culture, gender, age, sexual orientation and any disability. They must consider the patient's views, wishes and feelings (whether expressed at the time or in advance), so far as they are reasonably ascertainable, and follow those wishes wherever practicable and consistent with the purpose of the decision. There must be no unlawful discrimination.

(d) **Participation principle**

Patients must be given the opportunity to be involved, as far as is practicable in the circumstances, in planning, developing and reviewing their own treatment and care to help ensure that it is delivered in a way that is as appropriate and effective for them as possible. The involvement of carers, family members and other people who have an interest in the patient's welfare should be encouraged (unless

there are particular reasons to the contrary) and their views taken seriously.

(e) **Effectiveness, efficiency and equity principle**

People taking decisions under the Act must seek to use the resources available to them and to patients in the most effective, efficient and equitable way, to meet the needs of patients and achieve the purpose for which the decision was taken.

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