

Mental Health Law Briefing

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Solicitors

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Mental Health Law Principles

The amendments to the Mental Health Act (and Code of Practice) implementing the principles came into force on 3rd November 2008.

The principles are an important aspect of mental health law and practice and we therefore set out below as an easy reference the five principles.

1 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 wellbeing (mental and physical) of patients and promoting their recovery and protecting other people from harm.

2 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.

3 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.

4 Participation Principle

Patients must be given the opportunity to be involved, as far as is practicable in the circumstances, in planning and developing their own treatment and care to help ensure 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.

5 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

patient and achieve the purpose for which the decision was taken.

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