original papers

Psychiatric Bulletin (2003), **27**, 367–370

ALEX MEARS, RICHARD WHITE AND PAUL LELLIOTT

Consultant child and adolescent psychiatrists' knowledge of and attitude to the use of legislation concerning young people with psychiatric disorder†

AIMS AND METHOD
This study aimed to examine in-patient child and adolescent consultant psychiatrists' knowledge of and attitude to the Mental Health Act 1983 (MHA), the Children Act 1989 and issues around consent. A questionnaire form was sent to all in-patient consultants in England and Wales.

RESULTS
The consultants who responded (*n*=51, 67%) reported a desire for more training in legal issues. Knowledge of the MHA was better than for the Children Act 1989; those who used the MHA at least once every 6 months scored more correct answers to questions about the MHA than did those who used it less frequently or never.

CLINICAL IMPLICATIONS
Although the study indicates specific gaps in knowledge, the main message is that training should consider the legal framework as a whole, with an emphasis on practical issues about its application in the in-patient setting.

A complex legal framework affects young people with mental health problems. The issues concerned have been the subject of legal dispute and, not surprisingly, some practitioners find them difficult to understand. This is particularly so for those who work with young people who are admitted to hospital against their will. In this context, practitioners work at an interface between the Children Act 1989, the Mental Health Act 1983, common law and judge-made precedent. Mears & Worrall (2001) reported that some in-patient child and adolescent psychiatrists are uncertain about when to use the Children Act 1989 as opposed to the Mental Health Act (MHA), and sometimes struggle with the issue of consent where common law and precedent have to be considered, as well as the person's status under the Children Act 1989 or MHA.

These findings suggest that some consultants would benefit from additional training about these issues. This paper reports a survey that we used to identify more precisely what these training needs are.

Method

The sample

A questionnaire was sent to the 76 consultant psychiatrists identified by the National In-patient Child and Adolescent Psychiatry Study (O'Herlihy *et al*, 2001) as working in an in-patient child and adolescent unit.

The questionnaire asked about the following:

1. Training and activities related to the legal aspects of mental health care.
2. Attitudes to legislation and other aspects of the legal framework. These were tested by presenting a series of statements and asking for a response on a five-point scale ranging from 'strongly agree' to 'strongly disagree'.
3. Knowledge about the Children Act 1989 and the Mental Health Act 1983. This section asked a series of questions; the permissible responses were 'true', 'false' or 'I would have to look the answer up'. The latter response was to minimise the likelihood of the respondent consulting a text before responding to the question.

As well as piloting the questionnaire with a small group of consultant psychiatrists, the questions relating to legal matters were scrutinised by a solicitor with specialist knowledge in the law relating to young people (R.W.).

Results

Returns were received from 51 consultant psychiatrists, which is a 67% response rate.

Training and activity related to legal aspects of mental health care

Forty-one respondents (80%) were approved under Section 12 of the MHA. However, two-thirds (*n*=27) of those who were approved only engaged in the type of MHA work that required approval every 6 months or less

†The views expressed do not necessarily reflect those of the Royal College of Psychiatrists.

https://doi.org/10.1192/pb.27.10.367 Published online by Cambridge University Press

original papers

frequently. Twenty-four (47% of all consultants) had participated in an MHA review tribunal in the past year; only one had ever acted as an MHA commissioner.

In terms of other law-related activity, 35 consultants (69%) had prepared at least one court report during the previous year and 20 (39%) had made at least one court appearance during the same period.

Thirty-two respondents (63%) reported having received one day's training, or less, in mental health law during the previous 2 years. Consistent with this, only 19 consultants (37%) rated themselves as being fully up-to-date with changes in the law that affected young people; a further 29 (57%) thought that they were partly up to date. Ninety per cent (n=46) rated their access to legal advice as adequate or better.

Attitudes to legislation and related issues

The consultants' responses to the attitudinal statements are shown in Table 1. For some statements there was a fairly even spread of responses, indicating a range of views; for others, there was more concordance. The latter include a strong endorsement for a multi-disciplinary approach to mental health care, the need for guidance in clarifying when to use the MHA and when to use the Children Act 1989, the need for more training about legal issues and the importance of child and adolescent psychiatrists being approved under the MHA.

Knowledge about the Mental Health Act 1983 and the Children Act 1989

Tables 2 and 3 show the consultants' responses to the questions about knowledge of the MHA and Children Act 1989, respectively. The mean correct response rate for questions about the MHA was 2.7/4 (68%), with a standard deviation of 1.0. For the Children Act 1989, the mean correct response rate was 4/9 (45%), with a standard deviation of 2.0. The most striking difference was that a much higher proportion indicated that they would have to look up the answers for questions relating to the Children Act 1989 (a mean of 49% for each question), compared with those relating to the MHA (9%).

Table 1. Consultants' attitudes to legislation use (percentage of sample)

Statement	Strongly agree (%)	Agree (%)	Neither agree nor disagree (%)	Disagree (%)	Strongly disagree (%)
I find the current legal framework easy to understand	0	33	27	35	4
I appreciate the flexibility of having two statutes to use	4	43	27	18	8
Use of the Mental Health Act 1983 should be avoided on those under 18 years old	2	8	20	43	27
The Children Act 1989 is time-consuming and ponderous	6	20	53	20	2
I am confused as to when to use the Children Act 1989 or the Mental Health Act 1983	4	8	22	61	6
I would tend to use the Mental Health Act 1983 in preference to the Children Act 1989 because of the safeguards it has	14	31	33	20	0
I would tend to avoid the Mental Health Act 1983 because of the stigmatising effect it has	2	27	27	31	10
Guidelines are needed to clarify which Act to use when	29	45	18	6	0
I would be in favour of an all-encompassing 'Incapacity Act' for children	16	25	37	18	2
I am confused by the issue of consent and refusal, and when parents can overrule their children's wishes	2	16	20	57	6
Training for psychiatrists should include more information on legal issues	27	61	10	0	2
Approved social workers are generally better informed about the use of the Mental Health Act 1983 than are psychiatrists	8	41	37	12	0
Do not feel that it is really necessary for child and adolescent psychiatrists to be Section 12 approved	0	6	6	45	43

Table 2. Consultants' knowledge of the Mental Health Act 1983

Question	Right answer	% True	% False	% Look up
A child detained under the Mental Health Act 1983 can be treated without giving consent	True	69	24	8
To admit a child for assessment under the Mental Health Act 1983, the child must have a treatable psychiatric condition	False	29	63	8
The Mental Health Act 1983 can be used only if there is no alternative way to bring about admission	False	8	90	2
Mental illness is defined within the Mental Health Act 1983	False	33	50	16

https://doi.org/10.1192/pb.27.10.367 Published online by Cambridge University Press

Table 3. Consultants' knowledge of the Children Act 1989

Question	Right answer	% True	% False	% Look up
A child detained under Section 25 of the Children Act can be treated without consent	False	0	57	43
The Children Act does not apply to those over 16 years old	False	4	80	16
A Section 25 Order is valid indefinitely	False	0	75	25
If a child under 13 years old is to be detained under Section 25, it is necessary to obtain the approval of the Secretary of State	True	35	14	51
A Care Order under Section 31 can only be made in favour of the Local Authority	True	18	18	61
When a child is under a Section 31 Care Order, the local authority can order a doctor to use 'reasonable force' to administer treatment	False	8	49	43
Under Section 20, local authorities are required to provide accommodation for orphaned and abandoned children	True	24	4	73
A child can be detained under Section 25 of the Children Act *only* if he/she has a history of absconding	False	6	63	31
Section 40 of the Children Act deals specifically with mental illness	False	0	2	96

Table 4. Consultants' knowledge of consent

Question	Right answer	% True	% False	% Look up
A child's consent to treatment can be overridden by a parent's refusal	False	33	55	10
A parent's consent to treatment will override the child's refusal	True	77	18	2
Children under 16 years old can only give consent for treatment if parental consent cannot be obtained	False	2	96	2
It is necessary to obtain consent for behavioural management techniques	True	71	16	14
A child under 16 years old can give consent to treatment only if they are deemed 'Gillick' competent	True	84	12	4

Responses to the questions about consent are shown in Table 4. The mean correct response rate was 2.8/5 (77%), with a standard deviation of 0.9.

Relationship between use of the Mental Health Act 1983 and knowledge

Those who used the MHA at least once every 6 months (n=21) scored more correct responses to questions about the MHA than those who used it less frequently or never: 3.1 (s.d.=0.9) *v.* 2.4 (s.d.=1.0) (t-test: t=2.6, d.f.=49, $P<0.05$). The difference remained significant when the consultants who were not approved under Section 12 of the MHA (n=10) were excluded.

Discussion

It is likely that knowledge, as tested by this questionnaire, does not accurately reflect how a psychiatrist would actually apply the legislation or the principles of consent. In clinical practice, these types of decisions are not taken in isolation. This is supported by the responses to the attitude questionnaire, which suggest that this group of psychiatrists is committed to multi-disciplinary teamwork that, presumably, would include social workers. Also, it is likely that in complex cases they would seek advice from the Code of Practice or from their organisations' legal advisers – most seemed satisfied with their access to legal advice.

Despite this, the results do suggest that there are significant deficits in the knowledge about legislation and legal issues concerning consent. This is acknowledged by the psychiatrists themselves, who are strongly in favour of more training. In particular, many consultants either do not understand or report uncertainty about key aspects of the Children Act 1989. It is likely that there is a cycle at play whereby lack of knowledge causes psychiatrists to favour the MHA over the Children Act 1989, and a lack of exposure to the Children Act 1989 increases unfamiliarity with it.

There are significant differences in knowledge between those who use the MHA relatively frequently compared with those who use it rarely or never. This might suggest that psychiatrists should either use the MHA frequently or not at all. Alternatively, training should be targeted particularly at those who use the MHA infrequently, to help them overcome deficits associated with lack of practice.

The survey highlights specific areas of strength and weakness in consultants' knowledge of the legal framework. However, perhaps the main conclusion is that training should consider the legal framework as a whole and practical issues about its application in child and adolescent mental health services.

Declaration of interest

Funded by the Department of Health as part of the National In-patient Child and Adolescent Psychiatry Study (NICAPS).

https://doi.org/10.1192/pb.27.10.367 Published online by Cambridge University Press

original papers

References

MEARS, A. & WORRALL, A. (2001) A survey of psychiatrists' views of the use of the Children Act and the Mental Health Act in children and adolescents with mental health problems. *Psychiatric Bulletin*, **25**, 304.

O'HERLIHY, A., WORRALL, A., BANERJEE, S., *et al* (2001) *National In-patient Child and Adolescent Psychiatry Study*. London: Department of Health.

***Alex Mears** Research Fellow, College Research Unit, 83 Victoria Street, London SW1H 0HW, **Richard White** Solicitor, White and Sherwin Solicitors, London, **Paul Lelliott** Director, College Research Unit, London

https://doi.org/10.1192/pb.27.10.367 Published online by Cambridge University Press